



Memo:

Date: February 1, 2019 – Revised- February 19, 2019 / **Revised March 6, 2019**

To: Olivia Glantz

From: Mark B. Ferris

Re: Wren Heights (Salem Heights) Subdivision - #18-125034-LD

RESPONSE TO LETTER OF INCOMPLETENESS – JANUARY 14, 2019 / Email Dated 2/11/19

Item #1 – Validation of a Unit of Land:

Applicant's Response: *A supplemental Land-Validation Application addressing the city's approval criteria is attached as requested. The plat will be revised to reflect the validation of Tax Lot 10400.*

Item #2 – Future Development Plan:

Applicant's Response: *Lot 23 is .42 acres. A future development plan is not required as the lot is under ½ acre.*

Item #3 – Property Owner Signature:

Applicant's Response: *The Applicant will be providing verification of his ability to sign on behalf of the Harvey Trust.*

Item #4 – Tentative Subdivision Map:

Applicant's Response: *The sidewalk adjacent Lot 8 has been revised to a setback sidewalk. The Applicant will provide a sidewalk adjacent to tax lots 10200 and 10300. This change has been reflected on the revised plan set.*

Item #5 – Written Statement (Revised):

Applicant's Response: *The sidewalk on the north side of Felton Street has been revised to a setback sidewalk.*

Sec. 250.005. – Adjustments - Lot #23 - Findings

(a) *Applicability.*

(1) *Classes.*

(A) A Class 1 adjustment is an adjustment to any numerical development standard in the UDC that increases or decreases the standard by not more than 20 percent.

Applicant's Response: *Lot 23 has been reconfigured with an average depth of 108-feet and a width of 69-feet. The lot depth is 90% of the required 120-foot depth and therefore qualifies as a Class 1 adjustment. This criterion is met.*

- (c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a Class 1 or Class 2 adjustment shall include the following:
- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing all information necessary to establish satisfaction with the approval criteria. By way of example, but not of limitation, such information may include the following:
 - (A) The total site area, dimensions, and orientation relative to north;
 - (B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;
 - (C) All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;
 - (D) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
 - (E) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808; and
 - (F) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

Applicant's Response: *A revised Site Plan addressing items 1A through F has been provided as part of the Applicant's resubmittal. These criteria have been met.*

- (2) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
 - (A) The total site area, dimensions, and orientation relative to north;
 - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines;
 - (C) The location of the 100-year floodplain, if applicable; and
 - (D) The location of drainage patterns and drainage courses, if applicable.

Applicant's Response: *An Existing Conditions Plan addressing items 2A through D has been provided as part of the Applicant's resubmittal. These criteria have been met.*

(d) **Criteria.**

- (1) An application for a Class 1 adjustment shall be granted if all of the following criteria are met:
 - (A) The purpose underlying the specific development standard proposed for adjustment is:
 - (i) Clearly inapplicable to the proposed development; or
 - (ii) Clearly satisfied by the proposed development.
 - (B) The proposed adjustment will not unreasonably impact surrounding existing or potential uses or development.

Applicant's Response: *This criterion outlined in this subsection are clearly satisfied. As previously stated, the proposed lot depth for Lot 23 is 108-feet which is within 10% of the current standard and allowed under a Class 1 Adjustment. The proposed adjustment will have absolutely no impact on surrounding existing or potential uses or development. Access will be off Doughton Street in keeping with all adjacent lots and the lot depth is comparable to adjacent lots as well. This criterion is met.*

Lot 7 has an average depth of 215-feet measured from the center-line of the lot. Since it is a dog-leg lot, we took an average width of each leg which comes out to 79.5-feet. Using this computation, the lot depth is 270% of the average width. No adjustments are necessary.

Sec. 803.065. - Alternative Street Standards and Section SRC 803.035(I)(2)(B) - Findings.

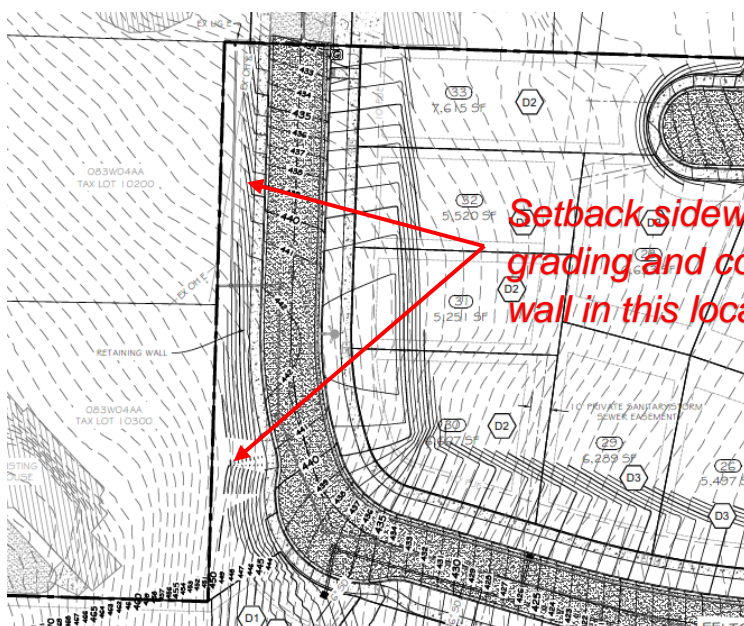
- (a) The Director may authorize the use of one or more alternative street standards:
 - (1) Where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable;
 - (2) Where the development site is served by fully developed streets that met the standards in effect at the time the streets were originally constructed; or
 - (3) Where topography or other conditions make the construction that conforms to the standards impossible or undesirable.

- (b) Authorization of an alternative street standard may require additional or alternative right-of-way width, easements, and improvements to accommodate the design and construction using the alternative standard.

Applicant's Response: Pursuant to Section 803.065, the Applicant is requesting the Planning Director's approval of a curb-tight sidewalk adjacent to Tax Lots 10200 and 10300. Given the topography of the area adjacent these lots, providing a setback sidewalk has significantly more impact on these lots and requires the construction of a retaining wall to accommodate the elevation difference. Requiring a setback sidewalk and constructing a retaining wall at this location is definitely a less desirable alternative than keeping the sidewalk curb-tight and minimizing grading and construction impacts on the adjacent lots. For these reasons, the Applicant respectfully requests the director's concurrence.

SRC 803.035(1)(2)(B) If topography or other conditions make the construction of a sidewalk impossible or undesirable in a location required by this subsection, a different location may be allowed.

Applicant's Response: As previously stated, the Applicant is requesting a curb-tight sidewalk adjacent to lots 10200 and 10300. The example below clearly shows that there would be significantly more impacts to the adjacent property requiring the construction of a retaining wall in order to accommodate a setback sidewalk. Pursuant to this section, a different location may be allowed by the planning director if the topography makes building a setback sidewalk undesirable. Allowing the curb-tight sidewalk minimizes impacts to these lots. This requirement is met.



Setback sidewalk requires excessive grading and construction of a retaining wall in this location.

Item #6 – Tree Conservation Plan

Applicant's Response: *The Tree Conservation Plan and table has been updated. Please see attached Tree Conservation Plan.*

Item #7 – Digital Copies:

Applicant's Response: *A digital copy of the storm water (report) and geotechnical report are included in this submittal (see attached).*

Item #8 – Street Improvements:

Applicant's Response: *The plans have been adjusted and the sidewalk along Doughton Street has been revised as setback sidewalk. As stated earlier, the sidewalk adjacent tax lots 10200 and 10300 is proposed to be curb-tight and the Applicant has requested the planning director approve an alternative street design standard as requested.*

Item #9 – Existing Driveway:

Applicant's Response: *The Applicant has been in discussions with the owner of tax lot 10300 to establish an easement across the westerly portion of lot 7. This has been noted and shown on the attached exhibit for your information (see future easement exhibit).*



Land Division Application Narrative

for

Tentative Plan Subdivision - Class 1 Adjustment

&

Tree Conservation Plan

Salem Heights Subdivision

Salem, OR 97302

Prepared for the

Tom Kay Company

Submitted December 31, 2018

TABLE OF CONTENTS

Table of Contents	2
Site Information	5
Written Statement	7
SRC 205.010(d) - 1.....	7
SRC 205.010(d) - 2.....	9
SRC 205.010(d) - 3.....	10
SRC 205.010(d) - 4.....	11
SRC 205.010(d) - 5.....	11
SRC 205.010(d) - 6.....	12
SRC 205.010(d) - 7.....	13
Traffic Impact Analysis (TIA) Determination	14
SRC 205.010(d) - 8.....	14
SRC 205.010(d) - 9.....	15
SRC 205.010(d) - 10.....	15
Conclusion.....	15

FIGURES

Figure 1: Aerial Vicinity Map	5
Figure 2: Marion County Assessor's Tax Map	6
Figure 3: Site Aerial	7
Figure 4: Excerpt from SRC Chapter 511-3	9
Figure 5: Flag Lot Accessway Standards.....	12
Figure 6: Proximity to Activity Centers	13

PLANS

PLAN A – COVER SHEET
 PLAN B – EXISTING CONDITIONS
 PLAN C – PRELIMINARY SITE PLAN
 PLAN D – PRELIMINARY GRADING PLAN
 PLAN E – PRELIMINARY UTILITY PLAN
 PLAN F – TREE CONSERVATION PLAN
 PLAN G – STREET SECTIONS

APPENDICES

APPENDIX A: Preliminary Drainage Report
 APPENDIX B: Geotechnical Report
 APPENDIX C: Preliminary Title Report
 APPENDIX D: Title Commitment
 APPENDIX E: Trip Generation Estimate
 APPENDIX F: Pre-Application Conference Waiver

TABLE OF CONTENTS (II)

APPENDICES

Appendix G: Subdivision Name Request

Appendix H: Tax Map

APPLCATIONS

SITE INFORMATION

This application is for Tentative Plan approval to divide approximately 7.7 acres into 33 proposed lots ranging in size from 5,251 square feet to 12,603 square feet. Additionally, the Applicant is requesting a Class 1 administrative adjustment for lots #22 and #23, a through lot, to reduce the required lot depth from 120-feet to 104-feet – a 14% reduction.



Figure 1: Aerial Vicinity Map

The site is generally located west of Liberty Road S, east of Crestview Drive S, and north of Salem Heights Avenue S. The development site is made up of five tax lots: 083W04AA 10400, 10600, 10601, 10700, and 10800. All five properties have a City of Salem Comprehensive Plan designation of Single Family Residential (SFR) and a complimentary zoning designation of Single Family Residential (RS).



Figure 2: Marion County Assessor's Tax Map

The site is generally rectangular in shape and includes approximately 7.7 acres. The topography of the site slopes with the terrain descending toward the east and northeasterly portions of the site (See Existing Conditions Plan). The topography presents some challenges for site development which will be addressed throughout this narrative.



Figure 3: Site Aerial

WRITTEN STATEMENT

A written statement shall be submitted describing the proposal and how it conforms to the following approval criteria for a Subdivision Tentative Plan and Class 1 Adjustment.

SRC 205.010(d) - 1

(1) The tentative subdivision plan complies with the standards of this Chapter and with all applicable provisions of the UDC, including, but not limited to the following:

- (A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;*
- (B) City infrastructure standards; and*
- (C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.*

APPLICANT'S RESPONSE: The Applicant is proposing a 33-Lot subdivision. As previously stated, the subject site is zoned RS. Single-family detached dwellings are an outright permitted use within this zone. The SRC includes information regarding lot standards for the RS zone. The minimum lot area is 4,000 square-feet for a single-family home. All lots proposed exceed the lot standard minimum and range in size from 5,251 sq. ft. to 12,603 sq. ft. The existing house has been scheduled for demolition. The SRC does not include lot size maximums. There is a provision, however, that a future development plan must be included with a land division application when a remaining property is a half-acre, or more. None of the proposed parcels within this subdivision are equal to, or more than, a half-acre. Therefore, this provision does not apply.

All lots will front on an internal public street except for lots 1-3 which will have access off Salem Heights Avenue. Lots 4-6 are flag lots and will have access to the public street via a 25-foot cross-access and utility easement. (See Tentative Plan). The proposed flag lots will meet the provisions of SRC Chapter 800.020(a)(4) for front lot lines which states,

“for a flag lot, the front lot line shall be outside the property line that is an extension of the flag lot access way or the property line separating the flag portion of the lot from the lot between it and the street from which access is provided to the flag lot, unless the Planning Administrator otherwise directs, in which case the front lot line shall be set forth in the conditions of approval for the tentative plan of the plat which shall be recorded on deeds conveying lots.”

Additionally, the Applicant will follow the provisions of SRC Chapter 800.020(b)(1) for rear lot lines which states,

“For all lots, except those identified in paragraph (2) of this subsection, the rear lot line shall be the property line that is opposite and most parallel to, and located the greatest distance from, the front lot line.”

The proposed subdivision complies with the City of Salem infrastructure standards. Utilities will be extended within the proposed public streets to serve the proposed subdivision as shown on the attached Preliminary Utility Plan. A storm water quality and detention facility has been provided in a separate tract adjacent to Doughton Street near the north east corner of the property. Provisions for storm water management are outlined in the attached Preliminary *Storm Water Management Report* prepared by Project Delivery Group, the Applicant's representative.

The Applicant is not aware of any special development standards for the subject site. The Local Wetland Inventory (LWI) map does not indicate the presence of wetlands on the site. The geotechnical report included with this application indicates that soils are adequate for residential home construction. According to the City of Salem Floodplain Map, the site does not fall within any of the FEMA Flood Zones. The adjoining properties are zoned RS and do not require any special setbacks. Additionally, the proposed public street access complies with the provisions of Chapter 805 of the SRC for Vision Clearance for an uncontrolled intersection.

SRC 205.010(d) - 2

(2) The tentative subdivision plan does not impede the future use or development of the property or adjacent land.

APPLICANT'S RESPONSE: The tentative subdivision plan proposed creates 33 lots (plus the water quality facility tract). The surrounding properties to the east, north, south and west are developed with single-family homes. The lot configuration provides for the extension of roads within this subdivision to adjacent property and does not impede the development of adjacent land. Table 511-3: Setbacks in SRC Chapter 511 in Figure 4 below, provides information for setbacks for single-family residential lots.

Abutting Street	Min. 20-feet	Applicable to buildings along collector or arterial streets.
Interior Front	Min. 12-feet	Garage Setback to be 20'.
Interior Side Yard Setback	Min. 5-feet	Applicable to buildings not more than 35-feet in height where the interior side setback abuts lots zoned RA and RS.
Interior Rear	Min. 20-feet	Applicable to buildings greater than one-story in height.

Figure 4: Excerpt from SRC Chapter 511-3

The lot line setback requirements can be met on each newly created parcel and are shown on the Tentative Plat. Approval of this proposed subdivision will not impede the future use or development of property or adjacent land.

SRC 205.005 – Adjustments – Lot #23

SRC 205.005(d) – Criteria

(1) An application for a Class 1 adjustment shall be granted if all of the following criteria are met:

(A) The purpose underlying the specific development standard proposed for adjustment is:

(i) Clearly inapplicable to the proposed development; or

(ii) Clearly satisfied by the proposed development.

(B) The proposed adjustment will not unreasonably impact surrounding existing or potential uses or development.

APPLICANT'S RESPONSE: The Applicant is requesting an administrative Class 1 adjustment for the required 120-foot lot depth for lot #22 and lot #23. The proposed 104-foot depth is within the 20% allowable deviation from the code standard. This is necessary due to the configuration of the access to the northern lots off of Earhart Street and the geometry of proposed Doughton Street alignment to the north. The average lot depth for lot 22 is approximately 130-feet and 108-feet for lot #23. It is clearly apparent that the proposed adjustment will not unreasonably impact surrounding existing or potential uses or development, therefore, this criterion is met.

SRC 205.010(d) - 3

(3) Development within the tentative subdivision plan can be adequately served by City infrastructure.

APPLICANT'S RESPONSE: The subject property has approximately 465-feet of frontage on Salem Heights Avenue. Existing Doughton Street will be extended through the property and connect with Salem Heights Avenue. Felton Street will connect to Doughton and Earhart Street will connect to a hammerhead located adjacent the site's north property line.

Utilities are available to be extended through the site. An 8-inch water main is located within Salem Heights Avenue according to the City of Salem As-Builts. The Applicant will extend water service from this line through the proposed public streets and individual laterals will serve the proposed lots as shown on the utility plan (See Preliminary Utility Plan). The proposed water line will tie into an existing 6-inch line located within an easement located adjacent the property's east property line.

A 10-inch sanitary sewer is available in Doughton Street. The Applicant proposes to extend sanitary service from its connection at the terminus of Doughton Street through the proposed public streets and construct individual laterals to serve each parcel (See Preliminary Utilities Plan).

A 10-inch storm line will be constructed with the improvements along Salem Heights Avenue and continued down Doughton Street where it will connect to an existing 12-inch storm line located in an easement at the northeast corner of the property. Storm water will be routed to a storm

water quality and detention facility located north of lot 21 where it will be detained and released at a controlled rate. Included with this application submittal is a preliminary storm water management report for review by city staff. (See Preliminary Drainage Report). This proposed 33-lot subdivision can be adequately served by City infrastructure, therefore this requirement is met.

SRC 205.010(d) - 4

(4) The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.

APPLICANT'S RESPONSE: The goal of the Salem Transportation Plan is “to provide a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people.”

Vehicular access to and within the subdivision is proposed to be provided from Salem Heights Avenue S and the extension of three streets, Felton Street S, Earhart Street S, and Doughton Street S, which are currently dead-end streets that terminate at the northern boundary of the subject property.

All the proposed lots within the subdivision, with the exception of Lots 1 -6 will take vehicular access from the internal streets proposed within the subdivision; Lots 1-3 will take access from Salem Heights Avenue. Also, as three of the lots within the subdivision are flag lots, their access to the street will be provided by way of flag lot accessways (See Tentative Plan).

This proposed subdivision complies with the goal stated above as it reflects and supports land-use patterns identified in the Comprehensive Plan. The development of 33 lots along with the proposed public street infrastructure identified on the site plan (see Tentative Plan meets this goal and provides both connectivity to existing streets and a circulation system that provides access to the local neighborhood, shopping, schools, and other activity centers. This requirement is met.

SRC 205.010(d) - 5

(5) The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through and out of the subdivision.

APPLICANT'S RESPONSE: The proposed street system is efficiently designed to provide safe, orderly access to all lots within the development as well as access to Salem Heights Avenue. An additional ten-feet of right-of-way will be dedicated along Salem Heights Avenue by the developer for the construction of half-street improvements consisting of curb, gutter, sidewalk

and storm drain improvements. The proposed internal public street is designed as a 30-foot (curb-to-curb) local street within a 60-foot right-of-way. The cul-de-sac coming off Earhart Street functions as a hammerhead turnaround which meets both city and fire department standards. A 5-foot set back sidewalks provide pedestrian access from the development to Salem Heights Avenue and to the existing streets to the north. Lots 4-6 take access onto the public street via a 20-foot drive within a 25-foot pedestrian access easement which meets the standards of Section 800.025 Flag Lots as illustrated in Figure 5 below. The length of the flag is approximately 232-feet which is well within the 400-foot maximum length. A hammerhead turnaround has been provided to allow for emergency access to these lots.

**TABLE 800-1
FLAG LOT ACCESSWAY STANDARDS**

Table 800-1: Flag Lot Accessway Standards			
Number of Lots Served by Accessway	Maximum Length	Total Width	Paved Width
1-2 Lots (Residential Zoned Property)	150 ft. ⁽¹⁾	Min. 20 ft.	Min. 15 ft.
3-4 Lots (Residential Zoned Property)	400 ft. ⁽¹⁾	Min. 25 ft.	Min. 20 ft.
1-4 Lots (Non-Residential Zoned Property)	400 ft. ⁽¹⁾	Min. 25 ft.	Min. 20 ft.
<p align="center"><u>Limitations and Qualifications</u></p> <p>(1) Maximum flag lot accessway length shall not apply where geographic features make it impractical, and when approved by the Planning Administrator following review and recommendation by the Fire Marshal.</p>			

Figure 5: Flag Lot Accessway Standards

Access onto Salem Heights Avenue is offset approximately 50-feet from Winola Avenue and it has unobstructed sight distance for traffic moving both east and west of the property.

SRC 205.010(d) - 6

(6) *The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.*

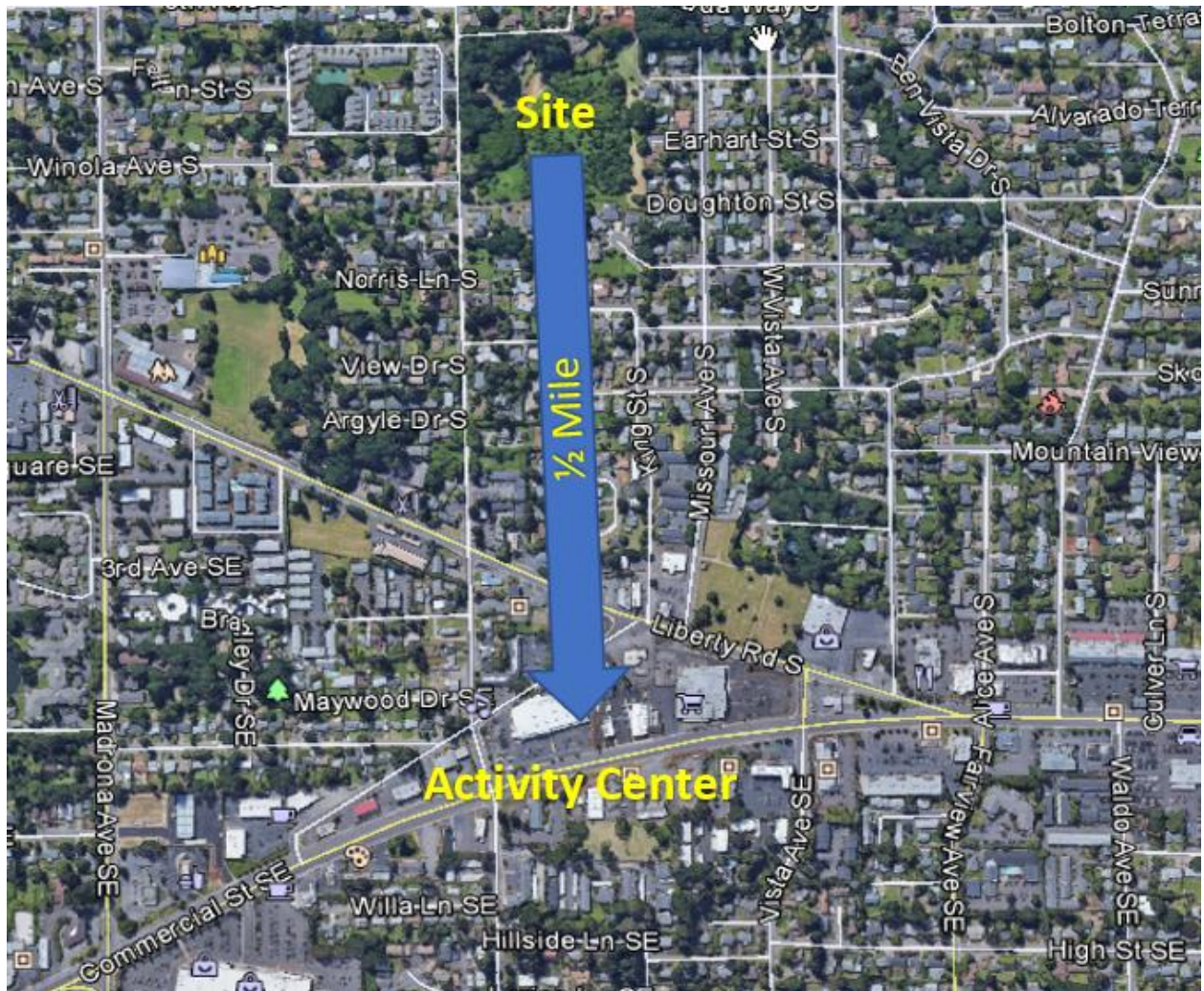


Figure 6: Proximity to Activity Centers

APPLICANT'S RESPONSE: The proposed subdivision is ideally situated within ½ mile Commercial Street S.E. although there are no sidewalks on either side of Salem Heights Avenue except for those provided by this proposed development. Bicycle and pedestrian access is available from the subject site along Salem Heights Avenue to the neighborhood activity center and further along Commercial Street. This criterion is met.

SRC 205.010(d) - 7

(7) The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis, where applicable.

APPLICANT'S RESPONSE: The proposed public street (Doughton Street) will intersect with Salem Heights Avenue. The portion of Salem Heights Avenue that the proposed development fronts on is designated a collector street. According to the Trip Generation Manual, 9th Edition, Volume 2, single-family dwellings generate 9.52 trips per day. This 33-lot subdivision will generate

approximately 315 trips per day. The traffic impact from this development to the adjacent street system is negligible and the adjacent street system is designed in a manner which will provide for an orderly, and efficient circulation of traffic into, through and out of the proposed subdivision.

Traffic Impact Analysis (TIA) Determination

The following information is required in order to assess the need for a Traffic Impact Analysis (TIA) and to calculate the Transportation Systems Development Charge (TSDC) to be levied on a proposed new development.

The City of Salem may require that a TIA be prepared as part of the approval process for major new development. The purpose of a TIA is to estimate the traffic impacts created by a new development on the surrounding street system. Any significantly adverse traffic impacts identified in the TIA must be mitigated by the applicant.

The estimated daily traffic generation of a new development is used as the criteria for determining whether a TIA is needed. If the new development access is located on an arterial or collector and the estimated daily traffic generation is more than 1000 trips, a TIA may be required. If access is located on a local street or alley and the generated trips exceed 200, a TIA may be required. Other criteria such as site access issues, driveway restrictions, and existing facilities deficiencies may also be used, if recommended by City Traffic Engineering staff.

APPLICANT'S RESPONSE: The Applicant has submitted the required Trip Generation Estimate form as part of this application. Given that the proposed development is located on a collector street and the threshold for requiring a Traffic Impact Analysis is 1000 trips per day, it does not appear that a TIA will be required as part of this application.

SRC 205.010(d) - 8

(8) The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances or adjustments is minimized to the greatest extent practicable.

APPLICANT'S RESPONSE: This subdivision has been designed to maximize the developability of the property while providing safe access to and from the development. Given the geometry of the parcel boundary, the location of the public street, lot locations and building envelopes, there is little room for adjustment.

The design of this subdivision has considered both the topography and vegetation on the site and has kept the need for variances and adjustments to the minimum necessary to practically develop this property. This requirement is met.

SRC 205.010(d) - 9

(9) The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

APPLICANT'S RESPONSE: As previously stated, the design of this proposed subdivision has considered both the topography and vegetation on the site. The property slopes from Salem Heights Avenue at a slope which varies between 10% to 25% which requires some grading in order to accommodate the placement of the public street, access to the flag lots and to facilitate construction of the homes. Existing trees and vegetation will be retained as much as is practical to meet development objectives. This requirement is met.

SRC 205.010(d) - 10

(10) When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC Chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.

APPLICANT'S RESPONSE: All city facilities are available to the property. This condition does not apply.

CONCLUSION

This application for approval of a Land Division Tentative Plan compliant with the plan of the City of Salem and is support of, and response to applicable requirements from the City's development code. Based upon the information provided herein, the Applicant hereby requests approval of this application.

April 10, 2019

Olivia Glantz, Planner III
City of Salem Community Development Department

Re: Comments Case No. SUB-ADJ19-02 Wren Heights Subdivision Tentative Plan

Ms. Glantz,

The SWAN board is in agreement with the comments provided by the neighbors who live near the area of the proposed subdivision and recommend that no development should be approved until conditions regarding the criteria below are improved.

5) SRC 205-010(d) The street system in and adjacent to the tentative subdivision is designed so as to provide for the safe, orderly and efficient circulation of traffic into, through and out of the subdivision.

6) SRC 205-010(d) The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops and to neighborhood activity centers with one-half mile of the development.

The Wren Heights development does not meet these criteria as Salem Heights Ave. is currently not built to “urban standards” for a collector street which would normally include “two travel lanes, turn lanes where necessary, curbs, sidewalks, drainage, illumination, and bicycle lanes, where needed” according to the 2016 Transportation Plan (TSP). Salem Heights Ave. has narrow lanes, limited vehicular visibility in certain areas, no sidewalks, no bike lane and inadequate lighting. With these unsafe conditions, funneling onto Salem Heights Ave. as a “collector street” as the subdivision plan does will only make these conditions worse. The design should be altered so that traffic is not directed to Salem Heights Ave. until the street is brought to urban standards.

It should also be noted that Salem Heights Ave. is designated for a future Uphill/Downhill Shared Bike Lanes Pathway on the Salem Transportation Plan (TSP) which further supports bringing Salem Heights into compliance with urban standards for bicycle lane safety.

7) SRC 205-010(d) The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis.

The applicant estimates that the subdivision will generate approximately 315 vehicular trips per day on Salem Heights which it considers “negligible”. Salem Heights does not meet this criterion given the unsafe and noncompliant “urban standards” conditions that currently exist as mentioned above. This extra traffic will make conditions worse for bicycles on the narrow shared road and for pedestrians who must walk where there are no sidewalks, in particular children walking to and from nearby Candalaria and Salem Heights schools. The subdivision plan should be redesigned to divert traffic away from Salem Heights, or any through street connecting to Salem Heights should be postponed until collector urban standards are met on Salem Heights.

JUN 21 2019

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

COMMUNITY DEVELOPMENT

SUB-ADJ19-02
Case # Being Appealed

June 6, 2019
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
Appellant's E-mail Address

503-991-0283
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 Erchus Date: 6-21-19

Printed Name: RON ERCHUS

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 incongruity 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 Euckes".



LAND USE APPEAL APPLICATION

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

Case No: SUB-ADJ19-02

June 6, 2019

Case # Being Appealed

Decision Date

500 to 600 Blocks of Salem Heights Avenue S. Salem, Oregon 97302

Address of Subject Property

475 Salem Heights Ave. S. Salem, Oregon 97302

Appellants Mailing Address with zip code
nathan@rietmannlaw.com

503-551-2740

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: _____

Date: June 21, 2019

Nathan R. Rietmann

Printed Name: _____

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: _____

Date: _____

Receipt No: _____

Appeal Deadline: _____

Case Manager: _____

RIETMANN LAW, P.C.

June 21, 2019

City of Salem Planning Division
Attn: Olivia Glantz
555 Liberty Street SE, Room 305
Salem, Oregon 97301

RE: Subdivision / Class 1 Adjustment Case No: SUB-ADJ19-02
Application No: 18-125034-LD & 18-125035-02
Applicant: Thomas Kay Co.

Ms. Glantz:

My name is Nathan R. Rietmann. I reside at 475 Salem Heights Ave. S., Salem, Oregon 97302 along with my wife and two young children. Our home is located on 1.3 acres immediately bordering the eastern boundary of the subject property. A picture taken from our deck earlier this week showing the relationship between our property and the subject property is attached as Exhibit 1. The subdivision proposal Thomas Kay Co. is asking you to approve would replace the trees and wildlife habitat depicted in the photo with thirty-three (33) houses, six (6) of which would be within feet of our property line. I therefore have standing to make this appeal.

REQUEST FOR CITY COUNCIL REVIEW

City Council has authority to stop this appeal and undertake its own review of the Notice of Decision. SRC 300.1050. I encourage anyone reading this appeal to immediately contact every member of the City Council and request that they vote to conduct its own independent review of the Notice of Decision. This Notice of Decision allows Thomas Kay Co. to destroy eight (8) acres of trees and unique wildlife habitat in the heart of Salem. If the Notice of Decision is affirmed, **55% of the impacted significant white oaks will be destroyed**. Instead of proposing a development that is compatible with the existing community, Thomas Kay Co. is seeking to move forward with an overcrowded and outmoded cookie-cutter subdivision that diminishes surrounding property values, destroys the character and livability of the neighborhood, and exacerbates existing street safety problems. Much like the Costco land use approval the City Council recently rejected, the Notice of Decision disregards bends over backwards to allow Thomas Kay Co.'s development by making strained legal interpretations and factual findings unsupported by substantial evidence. City Council review is warranted to ensure the Salem Revised Code is properly applied and that Thomas Kay Co. is required to comply with all applicable laws.

Rietmann Law, P.C. • Nathan R. Rietmann • 1270 Chemeketa St. NE • Salem, Oregon 97301

Ph: 503-551-2740 • Fax: 1-888-700-0192 • nathan@rietmannlaw.com

GROUNDS FOR APPEAL

The grounds of appeal set forth below are organizationally presented to track with the Notice of Decision and the numerical order of the applicable requirements set forth in the Salem Revised Code. They are not presented in order of importance.

1. SRC 205.010(d)(1): Findings that tentative subdivision complies with all applicable lot standards and city infrastructure standards are not supported by substantial evidence and wrong as a matter of law.

A. Class 1 Zoning Adjustment for Lot 7 should be denied

Double frontage lots with street frontage adjacent to both their front and rear property lines are required to have a minimum lot depth of 120 feet pursuant to SRC 511.010(a). Lot 7 does not meet the 120-foot depth requirement. Thomas Kay Co. has requested a class one adjustment to allow this non-conforming lot. Pursuant to SRC 250.005(d)(1)(A), the adjustment should only be granted if the purpose underlying the specific development standard proposed for adjustment is:

- i. Clearly inapplicable to the proposed development; or
- ii. Clearly satisfied by the proposed development.

The Notice of Decision asserts the purpose underlying the 120-foot depth requirement is to ensure that double frontage lots have “increased lot depth to provide potential for additional privacy and separation from the street...” Notice, Pg. 30. The Notice of Decision then goes on to opine that privacy “is of greater importance for lots abutting collector and arterial streets which convey greater levels of traffic.” Id.

There is no substantial evidence in the record to support the City’s contention that the purpose of the 120-foot depth requirement was predominately aimed at enhancing privacy for double frontage lots on collector and arterial streets, as opposed to other types of streets. Nor is there any legal basis for the City’s suggestion that the legal privacy interests of people living on busy arterial streets are greater than the privacy interests of people who have chosen to live on local streets. Furthermore, if the purpose of the 120-foot requirement was to protect the privacy of people living in double frontage lots on arterials, but not the privacy of people living in double frontage lots on local streets, the City Council could have said as much in the Salem Revised Code. It didn’t. Similarly, if the City Council thought 111-foot lot depth was sufficient for people living on local streets, it could have said so. It didn’t.

In short, there is no substantial evidence to support the City’s factual finding that a 111-foot lot depth clearly satisfies the purposes that caused City Council to set the

minimum lot-depth at 120-feet instead of 111-feet. As a result, the City's approval of the Class 1 adjustment is arbitrary.

The one and only reason for authorizing the Class 1 adjustment is to accommodate Thomas Kay Co.'s desire to place more houses on the property than its desired development design would allow under the code. Accommodating a developer's desire to cram more houses onto a piece of property than the requirements of the code permit is not a legitimate basis for granting a Class 1 adjustment. If this were the basis for granting exceptions (and it is not), the exception would swallow the rule.

B. Designation of front lot line for Lot 16 does not comply with SRC 800.020(a).

The requirements for designating the front property line for various types of lots is set forth in SRC 800.020(a). Pursuant to those standards, Lot 16 in the tentative plan is a corner lot. "For corner lots, the front property line shall be the property line abutting a street designated by the building permit applicant, provided that lot dimension standards are met. The Notice of Decision states on page 16 that "[t]he front lot line of Lot 16 shall be the *east* property line." (emphasis added). However, there is no street abutting the east property line and therefore the front of Lot 16 should not be the east property line.

C. The Notice of Decision finds criteria compliance with City infrastructure standards using conditions of approval without any showing of feasibility, which is a basic LUBA requirement.

- **Storm water requirements**

The proposed subdivision is subject to the storm water requirements of SRC Chapter 71 and the revised Public Works Design Standards (PWDS) adopted in Administrative Rule 109, Division 005. These requirements limit runoff from the development to levels not exceeding pre-existing conditions. *See*, Notice Pg. 19. The Notice of Decision states that "[t]o demonstrate that the proposed lots within the subdivision can meet the PWDS, the applicant shall provide an engineered tentative storm water design to accommodate the future impervious surface on all proposed lots. *Id.* The Notice of Decision also requires the Thomas Kay Co., to demonstrate that the proposed lots within the subdivision can meet the PWDS by complying with Condition 4, which requires the design and construction of storm water facilities pursuant to SRC Chapter 71 and PWDS. *Id.* However, there is no substantial evidence showing that it is feasible for Thomas Kay Co., to comply with the requirement that run-off from the development be limited to pre-existing levels through fulfillment of Condition 4. Nor is there any finding regarding the feasibility of developing a storm water facility on land currently zoned as RS.

- **Sewer connection requirements**

SRC Chapter 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and PWDS. The Notice of Decision highlights that the existing sewer main in Salem Heights is in poor condition and may not be able to accommodate new connections. Notice, Pg. 19. The Notice of Decision therefore seeks to ensure that the requirement of SRC Chapter 802 is satisfied by imposing Condition 5, which requires the Thomas Kay Co. to “Construct water and sewer systems to serve each lot.” With this condition, the Notice of Decision concludes that the requirement of SRC Chapter 802.015 is satisfied. However, there is no finding supported by substantial evidence that it is feasible for the Thomas Kay Co. to satisfy this condition (which is nothing more than a requirement that the Applicant somehow comply with SRC Chapter 802.015).

- **Tree removal issues**

The Notice of Decision finds that the conditions of SRC Chapter 803 and the City’s Transportation System Plan are satisfied based on Conditions 6-10. *See*, Notice, Pg. 22. However, satisfaction of Conditions 7-8 is contingent upon the issuance of tree removal permits, tentative approval for removal of trees labeled as 10001 – 10004, and 10012, and a tree preservation and protection plan pursuant to SRC Chapter 86 and Administrative Rule 109-500, signed by a certified arborist. There is no substantial evidence or legal findings demonstrating that it is feasible for the Applicant to obtain the necessary permits and approvals - or secure final approval of trees labeled as 10001 – 1004, and 10012. In this regard, several of these trees are significant white oaks. In addition, trees within the City right-of-way may only be removed due to construction pursuant to SRC 86.090(8) “if there is no reasonable alternative.” In this situation, where the City’s removal of a tree to accommodate a development is completely optional, there are obviously reasonable alternatives and removal is not appropriate under SRC 86.090(8). In addition, myself and others will appeal the issuance of any permit and pursue litigation, code changes, and any other available action to prevent the removal of the trees in question. Consequently, there is no substantial evidence to support a finding that it is feasible to comply with SRC 803 through Conditions 7-8.

- **Urban growth preliminary declaration required**

See discussion in section 10.

//

2. SRC 205.010(d)(2): Finding that tentative subdivision plan does not impede the future use or development of the property or adjacent land is not supported by substantial evidence and wrong as a matter of law.

The Notice of Decision finds that “the only adjacent land on the perimeter of the subject property that has the potential for further development are two properties located adjacent to the northwest corner of the subject property.” Notice, Pg. 6. This finding is erroneous. Our 1.3-acre property at 475 Salem Heights is zoned as rural residential and capable of being divided and further developed. While we have no intention of further developing our property at the present time, we or a future owner may desire to do so in the future if the livability and character of our property is substantially changed by an incompatible neighboring subdivision. Completely barricading our western boundary with a row of houses and depriving our property of any access to Doughton or Felton would impede the future use or development of our adjacent land.

Additionally, the record does not contain substantial evidence showing that the storm water run-off from the impervious surface contemplated for the proposed subdivision will not result in trespass upon our property, interfere with or overwhelm our existing storm drainage, or result in other encroachments upon our property.

3. SRC 205.010(d)(3): The Notice of Decision improperly finds compliance with city infrastructure requirements based on conditions without any finding of feasibility.

The Notice of Decision finds that the tentative subdivision plan can be adequately served by City infrastructure “as conditioned.” Notice, Pg. 25. The conditions include the construction of water and sewer systems to serve each lot and an engineered storm water design to accommodate future impervious surfaces. However, as elsewhere noted in this appeal, there is no substantial evidence showing that compliance with these requirements is feasible or that fulfillment of these conditions will result in compliance with city infrastructure with other sections of the Salem Revised Code, such as the requirement that runoff from the development will not exceed pre-existing conditions.

4. SRC 205.010(d)(4): There is no substantial evidence to support finding that street *system* in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan and this finding is wrong as a matter of law.

The proposed subdivision is adjacent to Salem Heights Ave S, which is designated as a collector street in the Salem Transportation Plant (“TSP”). The proposed subdivision contemplates that this street *system* will provide access into the subdivision. Salem Heights does not conform to the Salem Transportation System Plan in terms of dimensions, lanes,

signaling, in-fill etc. There is no substantial evidence showing the required improvements to the miniscule portion of Salem Heights actually abutting the proposed subdivision will cause the street *system* adjacent to the subdivision to conform to the Salem Transportation System Plan. This is to say: once these improvements are made, Salem Heights will still fail to meet collector street standards. However, if the City were requiring Thomas Kay Co. were required to obtain a Preliminary Urban Growth Declaration in accordance with the Salem Revised Code, Thomas Kay Co. would be required to bring Salem Heights to collector street standards and the requirements of SRC 205.010(4)(d) would be satisfied.

5. SRC 205.010(d)(5): There is no substantial evidence to support the finding that the street system in and adjacent to the tentative subdivision is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

The Notice of Decision concludes this requirement is satisfied because “the subdivision, as proposed and condition, is served with adequate transportation infrastructure in conformance with the Salem Transportation Plan.” Notice, Pg. 27.

There is not substantial evidence to support this finding. The Notice of Decision states, and the record plainly shows, that the Salem Heights Street system does not conform to the Salem Transportation Plan. Furthermore, there is no evidence that satisfaction of the conditions set forth in the Notice of Decision (requiring improvements abutting the development) will cause the street *system* in and adjacent to the subdivision (i.e., Salem Heights) to conform to the Salem Transportation Plan so as to allow safe, orderly, and efficient circulation of traffic into and out of the subdivision.

The record of this proceeding is replete with evidence that Salem Heights is terribly unsafe. The proposed subdivision will worsen the safety situation by increasing the amount of traffic. The proposed subdivision will increase the number of people in the area, which in turn, will increase the number of pedestrians and bicyclists using Salem Heights. This means an increased number of vehicles will have to navigate an increased number of bicyclists and pedestrians trying to navigate Salem Heights without proper sidewalks or bicycle lanes. Increasing the vehicle, bicycle, and pedestrian usage of an already highly dangerous collector street that admittedly does not meet collector street standards will not provide safe, orderly and efficient circulation of traffic in and out of the subdivision. Moreover, there is no substantial evidence showing that it is feasible for the miniscule changes to the portion of Salem Heights immediately abutting the subdivision to mitigate the real and substantial dangers that increased traffic, pedestrians, and bicyclists on Salem Heights will present for vehicles coming in and out of the subdivision.

//

6. SRC 205.010(d)(6): Finding that tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development is unsupported by substantial evidence and wrong as a matter of law.

The record shows and the Notice of Decision concedes that “existing bicycle and pedestrian access in the vicinity of the subdivision is limited. However, the Notice of Decision contends that the subdivision will incrementally improve bicycle and pedestrian access” by virtue of the “required boundary street improvement of Salem Heights.” Notice, Pg. 27.

As a threshold matter, the relevant standard is not whether the proposed subdivision “will incrementally improve bicycle and pedestrian access” as the Notice of Decision finds. Rather, the standard is whether the “subdivision plan provides safe and convenient bicycle and pedestrian access...to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.” SRC 205.010(d)(5). Quite plainly, if a street is extremely dangerous and a subdivision makes the extremely dangerous street 1% less dangerous, it does not follow that the street is now “safe.” However, that is precisely what the Notice of Decision concludes. This conclusion is wrong. Regardless of the relative safety and convenience of Salem Heights before and after the subdivision, there is no substantial evidence in the record showing that Salem Heights provides safe and convenient access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

Secondly, SRC 205.010(d)(6) notably requires that the tentative plan provide safe and convenient bicycle access *to* locations one-half mile away – not merely within the subdivision or on portions of streets immediately abutting it. The placement of a sidewalk immediately abutting the subdivision that stops does not provide safe or convenient access *to* the neighborhood safety activity center if the remainder of the path to the activity center is highly dangerous.

While the question of whether the tentative plan marginally improves pedestrian and bicycle safety and access to certain locations one-half mile away is not the issue, there is no substantial evidence to support the City’s finding that the proposed subdivision provides any degree of marginal improvement. For example, there is no substantial evidence in the record showing that putting sidewalks on the portion of Salem Heights immediately abutting the proposed subdivision will reduce the overall chance of getting killed biking or walking from the subdivision to the neighborhood activity centers on Liberty St. and Commercial. To survive the trip from the subdivision to the neighborhood activity centers on Liberty/Commercial by walking or bicycle, a person has to make it the entire way. Just because there is sidewalk and wider road immediately outside the

subdivision, it doesn't necessarily follow that the total risk derived from making the walk to Liberty/Commercial is any less than it was before. In fact, it could be just the opposite. For example, the wider road might give vehicles a false sense of security, cause them to drive faster, and actually increase the risk to pedestrians and bicyclists on the trip from the subdivision to Liberty/Commercial. Similarly, on the portion of Salem Heights abutting the subdivision might give people (and children) a false sense of security and increase the number trying to walk or bicycle along Salem Heights. There is certainly no evidence in the record to show this is not the circumstance.

Finally, to the extent the list of Neighborhood Activity Centers listed on Page 27 of the Notice of Decision is purported to be exclusive, there is no substantial evidence to support that finding as there are also neighborhood activities centers (e.g. shopping/employment) on Liberty St.

7. SRC 205.010(d)(7): Finding that tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis because traffic impact analysis is not required is arbitrary and capricious, violates the Equal Protection Clause of the 14th Amendment, and violates SRC 803.015.

SRC 803.015(a) sets forth the purpose of the traffic impact analysis requirements as follows:

The purpose of a traffic impact analysis is to ensure that development generating a significant amount of traffic provides the facilities necessary to accommodate the traffic impacts of the proposed development.

SRC 803.015(b) sets forth the requirements for when a traffic impact analysis is required, stating as follows:

An applicant shall provide a traffic impact analysis *if one of the following conditions exists* (emphasis added):

1. The development will generate 200 or more daily vehicle trips onto a local street or alley, or 1,000 daily vehicle trips onto a collector, minor arterial, major arterial, or parkway. Trips shall be calculated using the adopted Institute of Transportation Engineer's Trip Generation Manual. In developments involving a land division, the trips shall be calculated based on the proposed development that will occur on all lots that will be created by the land division.
2. 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.

3. The City has performed or reviewed traffic engineering analyses that indicate approval of the development will result in levels of service of the street system that do not meet the adopted level of service standards.

The Notice of Decision finds that a traffic impact analysis is not required because Salem Heights is a collector street and the subdivision will not generate more than 1000 trips per day. Notice, Pg. 28. This finding is legally incorrect for several reasons and not supported by substantial evidence.

First, the assertion that the development must generate 1000 trips per day to trigger a traffic impact analysis is based on the contention that Salem Heights Ave. S. is a collector street. However, Salem Heights Ave. S *does not* meet the requirements for a collector street in point of fact. The City cannot treat Salem Heights Ave as a collector street for purposes of determining whether a traffic impact statement is required when, in fact, it does not meet the requirements of a collector street.

“The purpose of a traffic impact analysis is to ensure that development generating a significant amount of traffic provides the facilities necessary to accommodate the traffic impacts of the proposed development.” SRC 803.015(a). The 1000 trip per day threshold for requiring a traffic impact statement on collector streets is based on the assumption that collector streets are in fact collector streets and can handle a 1000 trip per day increase in traffic without endangering lives. This is not the circumstance with Salem Heights Ave. The street is highly dangerous, does not afford the safety of a collector street, and any increase in traffic upon it directly threatens lives. Using the collector street designation to determine whether a traffic impact analysis is required when the record shows the designated collector is really more akin to a local street makes the requirements for a traffic impact analysis arbitrary. This violates the equal protection requirements of the 14th Amendment by providing different safety protections to similarly situated people without any rational basis.

Second, there is no substantial evidence in the record establishing that a traffic impact statement is not required by virtue of SRC 803.015(b). The record is replete with testimony from neighborhood residents identifying Salem Heights as a location where pedestrian and bicyclist safety is a concern due to traffic volumes and speeds and the fact that Salem Heights does not meet collector street standards. In addition, the City recently collected data that would show that the volume and elevated speed of traffic is a concern given the fact that Salem Heights does not meet collector street standards. However, it is not known whether the City has seen fit to put this evidence in the record. In short, there is

no substantial evidence in the record to support the City's erroneous legal conclusion that a traffic impact analysis is not required by virtue of SRC 803.015(b).

Third, there is no substantial evidence in the record showing a traffic impact analysis is not required by SRC 803.015(b)(3).

8. SRC 205.010(d)(8): Criterion is not satisfied because the Class 1 Zoning Adjustment for Lot 7 should be denied.

This requirement is only satisfied if the conditional the Class 1 zoning adjustment for Lot 7 is granted. As elsewhere asserted herein, the Class 1 Zoning adjustment should be denied.

9. SRC 205.010(d)(9). There is not substantial evidence to support the finding that the tentative subdivision takes into account topography and vegetation such that the least disruption will result from the reasonable development.

The tentative plan contemplates the cutting of significant white oaks on both the subject property and property that would be conveyed to the City. There is no substantial evidence in the record demonstrating that the cutting of significant white oaks is necessary to reasonably develop the property. Quite plainly, Thomas Kay Co., could reasonably subdivide the property into fewer lots and thereby avoid cutting the significant white oaks. The Salem Revised Code does not state that a development is only reasonable if it provides the developer with the precise number of lots the developer wants. A development such as this one, which results in the cutting of white oak, even though the property could be reasonably subdivided without cutting any white oak, does not take into account the vegetation of the site "such that the least disruption of the site will result." The City's contrary conclusion may only be achieved by interpreting the phrase "the least disruption" to mean "any disruption necessary to carry out the developer's desired plan." This interpretation deprives the requirement of SCR 205.010(d)(9) of all meaning and is therefore not a correct interpretation as a matter of law.

In short, there is no substantial evidence showing that Thomas Kay Company cannot reasonably develop the property without cutting significant white oak. Additionally, as noted elsewhere, there is not substantial evidence establishing the feasibility of removing white oak on the City's property along Salem Heights.

//

//

10. SRC 205.010(d)(10): Finding that Urban Growth Preliminary Declaration is not required is legally wrong.

SRC 803.035(r) provides that “[w]here a subdivision...is located in...the Urban Service Area, and the construction of street improvements by the City has not yet occurred, the street improvements and dedications shall meet the requirements of SRC Chapter 200.” In turn, SRC 200.010 states that “[d]evelopment proposed...inside the USA, if development precedes city construction of *required facilities*, shall require an urban growth area development permit and must conform to the requirements of this chapter.” (emphasis added). SRC 200.020 and 200.025 provide similarly. “Required facilities” are defined as “all major and minor facilities necessary to provide adequate...transportation...for a development for which an Urban Growth Preliminary Declaration must be obtained.” SRC 200.005. In turn, a “major facility is defined as “an arterial or collector street as shown in the Salem Transportation System Plan.” *Id.*

The Notice of Decision acknowledges, and the record establishes, that Salem Heights is designated as a collector street in the Salem Transportation Plan. Therefore, Salem Heights is a “required facility” within the meaning of SRC 200.005. The Notice of Decision also concedes, and the record establishes, that Salem Heights “does not meet collector street standards.” Notice, Pg. 6. Consequently, the proposed development located inside the USA precedes city construction of required facilities and “shall require an urban growth area development permit” pursuant to SRC 200.005; 200.020; 200.025; and ORS 803.035(r).

The Notice of Decision contends that an Urban Growth Preliminary Declaration is not required because the Urban Service Area “is comprised of two distinct area: (1) the boundary formerly called the ‘Current Developed Area’ prior to the establishment of the USA; and (2) boundaries added to the CDA through USA amendments pursuant to SRC.015.” Notice, Pg. 12. According to the City, Urban Growth Preliminary Declarations “are not required for areas within the original CDA boundary because that area was not subject to the USA amendment criteria in SRC 200.015.”

The Notice of Decision is wrong. The City’s Comprehensive Planning Code (SRC chapter 64) defines the “urban service area map” as “the map of that certain area originally referred to as the ‘Current Developed Area’ originally delineated on the official zoning map by Ordinance No. 129-70, enacted July 23, 1970, and subsequently amended, and readopted by Ordinance No. 6-13, enacted June 10, 2013.” As may be seen, the Current Developed Area and the Urban Service Area are legally defined as the same thing and the distinction the City seeks to draw between the Current Developed Area and the Urban Service Area is a false one. Moreover, if development of any property within the Current Developed Area, which is one and the same as the Urban Service Area, was not required to have a Urban Growth Preliminary Declaration, the provisions of SRC 200.005, 200.020,

and 200.025 would be completely meaningless. These code provisions stating that “[d]evelopment proposed...inside the USA, if development precedes city construction of *required facilities*, shall require an urban growth area development permit” will not be interpreted to be meaningless. Moreover, if the City wanted to draw a distinction between land originally included in the USA and land subsequently added to the USA, the City could have written this distinction into the Salem Revised Code. However, it plainly didn’t. The City’s finding that an Urban Growth Preliminary Declaration is not required is arbitrary, capricious, an abuse of discretion, and results in unequal protection of the laws without rational basis in violation of the 14th Amendment to the United States Constitution.

An Urban Growth Preliminary Declaration is required to “list all required facilities necessary to fully serve the development and their timing and phasing which the developer must construct as conditions of any subsequent land use approval for the development.” Among other things, Thomas Kay Co. should be required to submit a Urban Growth Preliminary Declaration providing for how it is going to fully improve Salem Heights Ave to collector street standards consistent with SRC 200.035. In addition to meeting the fundamental standards, this should include, but not be limited, providing the sidewalk/infill provided for along Salem Heights in the Pedestrian System of the Salem Transportation Plan.

11. Conclusion

The Notice of Decision make makes numerous findings that are unsupported by substantial evidence and contains erroneous legal conclusions. For this reason, the Notice of Decision should be reversed and Thomas Kay Co.’s tentative plan should be denied.

Sincerely,

Nathan R. Rietmann

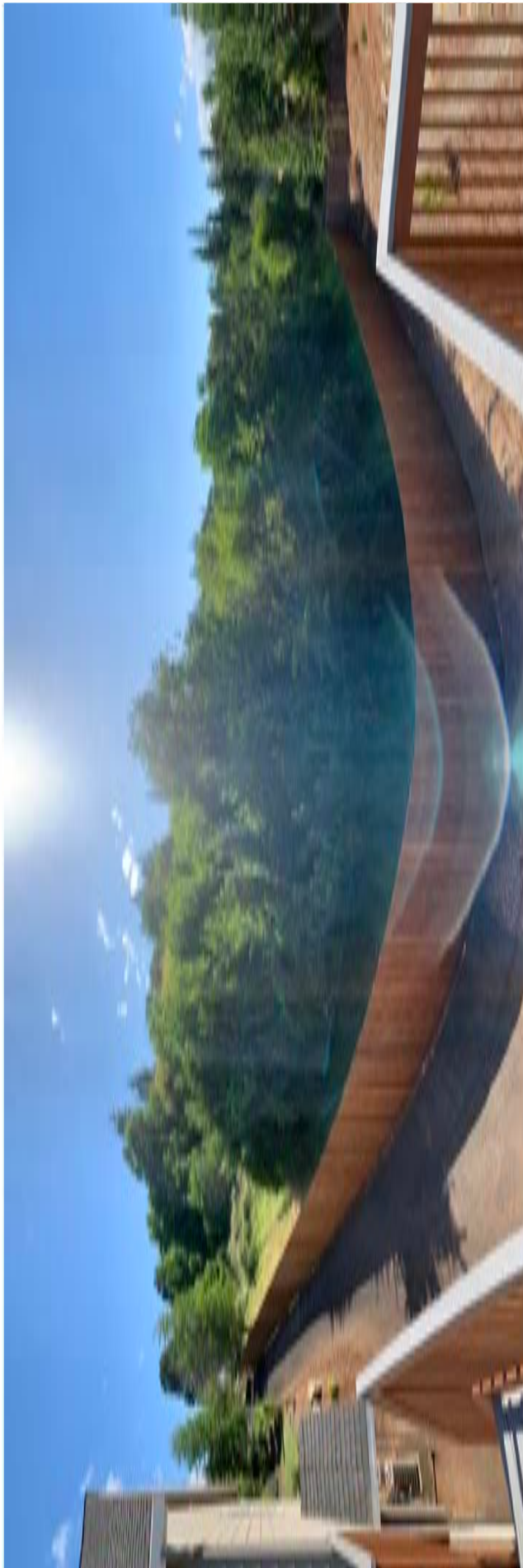


EXHIBIT 1

Comments Submitted prior to
Planning Administrator's June
6, 2019 Decision

Olivia Glantz

From: Steve <sdannecker1960@gmail.com>
Sent: Wednesday, April 10, 2019 11:01 AM
To: Olivia Glantz
Subject: Case Number: Subdivision/Class 1 Adjustment Case No. SUB-ADJ19-02

AMANDA Application No.: 18-125034-LD & 18-125035-ZO

I am a resident property owner of a home immediately adjacent to the proposed development area.

I have reviewed the proposal and have the following comments and questions:

A. A variety of migratory bird species have established breeding populations within the proposed development. These include (among others):

- Northern Flicker
- Nuthatch
- Black-Capped Chickadee
- Lesser Goldfinch
- House Finch
- Purple Finch
- Scrub Jay
- Grosbeak
- Juncos
- Hummingbirds (Rufous and Anna's)
- American Crows

While none of these species are endangered, they are all protected by international treaties and by US law (Migratory Bird Treaty Act -- MBTA).

As part of permitting conditions will the City of Salem restrict construction and vegetation removal activity that could cause "takes" (as defined by MBTA) to periods when protected species are not actively nesting or is this an issue that needs to be raised with the Federal authorities with jurisdiction?

B. The required vegetation removal, grade work, infrastructure work and other construction activities will be extremely close to established residential dwellings and will be quite noisy and will likely cause significant dust if not properly managed. Will the City of Salem impose reasonable dust control requirements and require construction activity to be limited to normal work hours during weekdays to avoid excessive impact to existing residents?

Thank you for the opportunity to comment and pose questions.

Steve Dannecker
3255 Cooke St S
Salem, OR 97302

Cell Phone: 209-938-9585

April 10, 2019

Olivia Glantz

From: Sadie Longood <saintsadie@yahoo.com>
Sent: Wednesday, April 10, 2019 4:25 PM
To: Olivia Glantz
Subject: SUB-ADJ19-02

Greetings: Please register my objection to the proposed subdivision. I understand that a TIA is not required for the increased number of car trips expected. However, Salem Heights does not conform to collector street standards. There are no considerations for pedestrians on either side of the street in the most hazardous stretches.

If the developer has sidewalks in mind for the development, that is welcome, but does nothing for pedestrian (and non-motor) safety on the narrow, sight-restricted hills.

Before this development is approved, pedestrian safety should be addressed. I offer this suggestion not only for myself, but for the other neighbors I see using Salem Heights for exercise, recreation, and car-trip-saving visits to the local markets, restaurants, and other services.

Best,

Sadie Longood

www.facebook.com/VisibilityBeadworks

April 10, 2019
Salem Planning Department
% Olivia Glantz, Planner III

Dear Salem Planning Department,

I am glad to have this opportunity to provide a practical perspective on the adverse effects and impacts that will affect my home, property and private access should the Wren Heights subdivision be approved as proposed.

I will also attempt to comment on the significance this development will have on my surrounding neighborhood, its current qualities and character, along with the potential environmental consequences on vegetation, stormwater management, erosion control, soil and hillside stabilization, wildlife corridor protection, public safety, lighting, traffic, and transportation; issues that if not carefully considered and mitigated, could prove contrary to planning and community development goals and objectives, or worse, could prove permanently detrimental to the environment and its natural systems, especially sensitive wildlife habitat.

As a lifelong Salem resident, a current Salem Hospital nurse, mother of 4 and grandmother of 6, I consider myself grounded, intelligent, practical and patient.

I have lived at this residence nearly 28 years, and have witnessed many local development projects that I have not opposed.

Furthermore, I do not object to growth done well, but feel I am compelled to object to this one because of specific concerns.

I believe it is our mutual goal to preserve and enhance the quality of the existing residential character with good planning and development, made even greater through community input. Communication is a process and I believe in honest, transparent discussions and consensus.

It was disconcerting to be contacted by the developer, Thomas Kay Jr, insistent that I correct an easement that has existed since 1955. I felt pressured by several texts and emails from this developer to pay for my private access issue.

Now, not only was I concerned about the environment, wildlife, noise, safety, and development compatibility in my backyard, but apparently this development has reached my front yard as well.

I will focus my public input however, on the greater issues, as follows:

1. Wildlife - There are families of deer that fawn near my lot, in the close proximity of Lot #5. "Does" bring their fawns morning and evening to graze on my back lawn and return to Lot #5 to hide in the bramble.

My concerns are that this herd of very vulnerable wildlife be allowed a corridor for fawning and safe passage without harassment or impedance. This would likely require a special biological

study to determine if Lot #5 is an important, strategic, safe and perennial habitat for birthing and the natural rearing of fawns.

2. Traffic - Your traffic study and analysis indicates ingress and egress is within safe parameters.

I don't agree with your conclusions.

Instead, I believe that you are now creating a shortcut for once separate neighborhoods and for additional motorists to now access Salem Heights Avenue and utilize the traffic light at the Liberty Road, to then continue straight through to wholly inadequate, poor visibility intersections through a mixed use neighborhood to access Commercial Street.

I have traveled this route at various times of the day. There is a dance school that can be very congested with students being picked up by parents causing great concern of parked cars and darting children.

I highly recommend that the Planning Department request a second Traffic Study to review the impacts of more than the initial circulation estimates that fall short of determining the traffic load of additional neighborhoods accessing Salem Heights Avenue to reach both Liberty and Commercial Streets.

3. Pedestrian and Bicycling - I realize that reaching a perfect balance to promote all modes of transportation can be difficult. Salem Heights Avenue is a long, straight, fast moving stretch of road where Wren Heights subdivision will be placed.

What concerns me are the pedestrians, now and in the future, walking along narrow dirt shoulders of the road, including and especially children.

It's highly unrealistic that road improvements along the Wren Heights subdivision will be enough to ensure safety for pedestrians when they are in fact needing to walk the entirety on Salem Heights Avenue.

I would recommend the Planning Department create a Transportation Impact Mitigation Fee specifically to assist the City of Salem in making future improvements to Salem Heights Avenue.

4. Natural Environment, Vegetation and Stormwater Management -

As a prime objective, for any development, I would expect that not only the critical examinations and studies show positive improvements before being approved by the City, but that they also protect the essential characteristics of residential environments, including and especially the natural environment.

While it may be easier for a developer to remove large trees in order to position homes within setbacks and according to plans, there runs a great risk not only for view shed but the character and ecology of the community.

As I mentioned previously, wildlife is dependent upon proper habitat for survival. The topography and foliage along much of the perimeter of this project is a critically important buffer for wildlife wherein to travel, hide, nest, birth and forage.

I do not believe the City has invested enough attention and analysis into the potential impacts on

wildlife .

I recommend a study by the Oregon State Fish and Wildlife Department to determine the short and long term effects on wildlife and to make recommendations on vegetation retention, access to water and food, wildlife buffer zones and migration to address the maximum benefit for wildlife.

I also believe that beyond the effects on wildlife, tree and vegetation removal will have adverse effects on water quality, stormwater management, pollutant loads, and erosion control.

The topography next to and near my property is steep and what retains soil currently are large trees and dense vegetation.

Vegetation is a natural erosion mitigating component of up-slope runoff. There is a great potential for the proposed water quality improvements to fail when extreme climate conditions occur.

5. Public Safety - Salem Heights Avenue, as I have mentioned, is a long and downsloping avenue to a stop at Liberty Road stoplight. Vehicles travel at high speed even with pedestrians walking along a narrow dirt shoulder. There is a sign in place already, put there by concerned parents and neighbors, asking motorists to please drive as if their own children lived there.

Adding vehicle trips to already hazardous conditions for cyclists and pedestrians is not how I think Salem wants to grow.

This kind of scenario, I believe, is contrary to the overall promotion of multi-modal transportation, not to mention the additional risk placed on children and families who are already concerned.

The City of Salem could co-contract with Wren Heights subdivision to conduct a study as part of impact mitigation and better determine improvements needed beyond the construction site but where this subdivision and the new traffic generated will negatively impact the public safety of Salem Heights Avenue travelers.

6. Development Compatibility - I recognize that the housing type and density of the Wren Heights subdivision plan integrates and transitions well enough with the surrounding built environment, and I want to assume that the mutual goals of the planners and developer are to reduce impacts on the adjacent neighborhoods by providing proper setbacks, screening, vegetation, erosion control, lighting and landscaping that complements our Salem Heights Avenue community.

I would ask that the Planning Department please take considerable time assessing the lighting design and proposed vegetation removal plans. What was once a lot filled with trees and vegetation will now become 3 dozen, potentially brightly illuminated residences bordered by street lights. Because my home is above this subdivision, I look out over most of what will soon be entirely rooftops and exterior lighting.

There are many communities, cities and counties that have adopted exterior lighting ordinances that not only preserve the night sky for all to enjoy, but enhance and complement their surroundings with less invasion on others' evenings.

7. Noise - I have mentioned already that as a 28-year resident at this location I have seen many changes, including construction happening around my home. Because my home is on the hill, construction sounds carry. In fact, all sounds will carry to the surrounding homes; barking dogs, vehicles, and activities of backyard social events. I realize the peace and repose to which I am accustomed having an orchard as a neighbor will dramatically change.

What I ask of the developer and his contractors to be as good neighbors and to please adhere to the noise abatement regulations. This will be an extended period of construction and disruption. I hope this transition be with sensitivity to minimizing the disturbance that will affect the quality of life for myself and adjacent neighbors.

In conclusion, I realize that planners and developers are accustomed to and well versed in professional responses to the standard issued "Not in My Back Yard" complaints. I strive somehow, to stand out in this crowd, to compel upon you that developers and contractors have the luxury of presenting favorable economic arguments in favor of their projects while adjacent neighbors seem smaller and less significant.

I am counting on the City of Salem to focus on the common good and to provide a sense of confidence that our interests and comments are indeed heard and requests are facilitated.

It is ultimately the City, it's elected and appointed officials, working with recommendations by the planning staff, who make the final decisions on projects, amendments and appeals.

I encourage you to seek the greatest degree of oversight to assure that natural systems, wildlife, water quality, erosion control, minimum tree vegetation removal, noise abatement, lighting, development compatibility and public safety for motorists, pedestrians and cyclists are carefully studied with qualified input.

I truly appreciate your efforts on my behalf and appreciate this chance to offer what I hope is additional insight for creating a project Salem can be proud of.

Sincerely,

Peggy Taylor

639 Salem Heights Avenue S
Salem, Oregon 97302

[Peggy Taylor 541-639-9493](tel:541-639-9493)



RIETMANN LAW, P.C.

April 10, 2019

City of Salem Planning Division
Attn: Olivia Glantz
555 Liberty Street SE, Room 305
Salem, Oregon 97301

RE: Response to Notice of Filing “Wren Heights – Case No. SUB-ADJ19-02.

Ms. Glantz:

My wife Crystal Rietmann and I are the owners of the real property located at 475 Salem Heights Ave. S., Salem, Oregon 97302. This letter is provided in response to the Notice of Filing of Land Use Request dated March 27, 2019 for Amanda Application No. 18-125034-LD & 18-1250345. We strongly oppose the Tentative Plan the Class 1 adjustments for the reasons set forth below.

1. A developer is required to obtain an Urban Growth Preliminary Declaration if the development “is within the urban service area (USA), but precedes city construction of required facilities...” SCR 200.020(a). “Required facilities” are defined as “all major and minor facilities necessary to provide adequate...transportation...for a development for which an Urban Growth Preliminary Declaration must be obtained.” SCR 200.005. In turn, a “major facility is defined as “an arterial or collector street as shown in the Salem Transportation System Plan.” *Id.*

The construction of Salem Heights (i.e. a “required facility”) will not be complete until, *inter alia*, the sidewalk/infill provided for along Salem Heights in the Pedestrian System Element of the Salem Transportation Plan is completed. Because Salem Heights is not a completely constructed collector street until the sidewalk/infill provided for in the Pedestrian System Element of the Salem Transportation Plan is complete, a “required facility” is lacking. Therefore an Urban Growth Preliminary Declaration is required.

2. The Applicant is wrong in asserting a traffic impact analysis is not required under SRC 803.015 because it does not think the development will generate more 1000 trips per day. The assertion that the development must generate 1000

trips per day to trigger a traffic impact analysis is based on the contention that Salem Heights Ave. S. is a collector street. However, Salem Heights Ave. S *does not* meet the requirements for a collector street. The Applicant cannot treat Salem Heights Ave as a collector street for purposes of determining whether a traffic impact statement is required when, in fact, it does not meet the requirements of a collector street. The 1000 trip per day threshold for requiring a traffic impact statement on collector streets is based on the assumption that collector streets are in fact collector streets and can handle a 1000 trip per day increase in traffic without endangering lives. This is not the circumstance with Salem Heights Ave because, in fact, it does not meet the safety requirements of a collector street, is a highly dangerous street, and any increase in traffic upon it directly threatens lives.

3. The Tentative Plans impedes the future use or development of the property or adjacent land. *See*, SRC 205.010(d)(2). The Tentative Plan proposes to crowd six small incompatible lots along the western boundary of our property. This will have a very substantial impact on the livability (i.e. use) of our property, which we cannot self-mitigate, and devalue our property. Devaluing our property in this manner will have a very significant adverse impact on the use and development of our property.
4. The street system in and adjacent to the tentative subdivision plan does not conform to the Salem Transportation Plan. SRC 205.010(d)(4). Specifically, Salem Heights does not conform because, *inter alia*, it does not have sidewalks.
5. The street system in and adjacent to the tentative subdivision plan is not designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision. *See*, SRC 205.010(d)(5).
6. The Tentative Plan does not provided safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. *See*, SRC 205.010(d)(6). Salem Heights is narrow, does not have sidewalks, and is already very dangerous to bicyclists and pedestrians. The increased traffic from and through the proposed subdivision will substantially exacerbate what is already a very dangerous situation. This is true because the Tentative Plan, insofar as we are aware, does not propose a sidewalk down to Liberty Street or road widening or bike lanes or traffic control devides to facilitate safe pedestrian and bicycle access to schools, shopping areas, parks, and employment centers that may otherwise be accessed from walking at the sidewalks beginning on Liberty street.

Irrespective of whether a traffic impact analysis is required or how Salem Heights or other streets are designated on paper, the adjacent street system is not compatible and the Tentative plan does not provide bicycle/pedestrian access as a matter of fact.

7. The Tentative Plan does not mitigate impacts to the transportation system consistent with the approved Traffic Impact Analysis because the required analysis has not been conducted. *See*, SRC 205.010(d)(7).
8. The street system in and adjacent to the tentative subdivision plan is not designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision. SRC 205.010(d)(5)
9. Applicants are seeking an alternative street standard for Earhart Street S and Felton Street South; in addition, a Class 1 Adjustment to reduce the minimum lot depth for Lot 7 from 120 feet, as required, to approximately 106 feet. These requests should be denied. Applicants have not produced any *evidence* that the property cannot be reasonably developed unless the adjustments being requested are granted. All Applicants have asserted is they can't develop the property exactly like they want if they have to comply with the rules that apply to everyone else. Applicants' desire to develop the property precisely as they want is not an appropriate justification for granting an exception to generally applicable rules. If the rules may be avoided whenever they are inconvenient, the exceptions swallow the rule and the rule is meaningless.

The adjustments/allowances Applicants are seeking are aimed at allowing more development upon the property than would otherwise be permitted if the rules were adhered to without adjustment. In fact, this is the one and only purpose of the proposed adjustments. An applicant's desire to have more development on the property than is otherwise permitted is not a permissible basis for adjusting the applicable rules.

We generally object to all other deviations from the design standards and other requirements which are referenced in Applicant's application (or any other that might be granted). Applicant has not provided sufficient evidence or rationale—other than a desire to develop the project in the particular manner Applicant desires – for the deviations from the general rules and standards.

10. People have reported witnessing bald eagles flying over or around the subject of the application on repeat occasion. Although the bald eagle is no longer listed under the Endangered Species Act, it is still afforded protections under federal law. *See e.g.*, 16 U.S.C. 668-668(d) and 50 CFR 22.26 (and surrounding

regulations). Before granting any approvals, the City and developers should undertake efforts to determine the presence of bald eagles through monitoring and ensure that neither the City, nor the Applicant, are in violation federal laws and have obtained all necessary permits.

11. With this application, similar to the one prior to it, it appears there are real and substantial issues legal issues as to whether the applicant is the proper applicant. If the City grants this application before these types of issues are fully and finally resolved, protracted litigation will be the net result.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Rietmann', with a long horizontal line extending to the right.

Nathan R. Rietmann

April 10th 2019

To Whom It May Concern,

I am writing to offer comments about case number SUB-ADJ19-02. My name is Josie Riggle and I reside at 865 Salem Heights Ave. S., Salem, OR 97302. I have lived in this location along with my husband and two children for the past 5 years.

I have concerns relating to a proposed new subdivision of homes adjacent to Salem Heights Avenue South. This road is subject to a great deal commuter traffic every day. The speed limit is 25 mph, which is rarely adhered to by drivers. Without sidewalks, this causes huge safety concerns for both children and adults. For example, we live within 1 mile of Candalaria Elementary and therefore do not qualify for bus transportation. There is no safe walking route my children to take to school. They must walk close to or on the road, as cars unsafely speed by.

This problem affects several neighborhood children who walk to school or their bus stop along the road each day. During the winter months, the children have to be at their bus stop when it is still dark. I recall a time when I saw a student walking up the hill in the dark. He had to trudge through bushes to avoid being hit by a car.

The new subdivision, if approved, will cause an influx of traffic (an estimated 315 more car trips each day). This will further comprise the safety of children and individuals who have no choice but to walk directly on the road. If the city chooses to approve this subdivision, it must take into account the impact it will have on the neighborhood. Improvements must be made to Salem Heights Avenue South. Not merely the section of road abutting the new development, but the road as a whole. Specifically the road needs a sidewalk, a permanent speed radar, and possibly speed bumps.

According to the strategic plan of Salem, the vision for our city includes safety and livability. The mission also states it should provide services to enrich neighborhoods.

Please take into account the safety of residents of all ages and take measures to improve Salem Heights Avenue South before approving a new subdivision in the neighborhood.

Sincerely,
Josie Riggle
josieriggle@gmail.com

April 10, 2019

Olivia Glantz, Planner III
City of Salem Community Development Department

Re: Comments Case No. SUB-ADJ19-02 Wren Heights Subdivision Tentative Plan

Ms. Glantz,

The SWAN board is in agreement with the comments provided by the neighbors who live near the area of the proposed subdivision and recommend that no development should be approved until conditions regarding the criteria below are improved.

5) SRC 205-010(d) The street system in and adjacent to the tentative subdivision is designed so as to provide for the safe, orderly and efficient circulation of traffic into, through and out of the subdivision.

6) SRC 205-010(d) The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops and to neighborhood activity centers with one-half mile of the development.

The Wren Heights development does not meet these criteria as Salem Heights Ave. is currently not built to “urban standards” for a collector street which would normally include “two travel lanes, turn lanes where necessary, curbs, sidewalks, drainage, illumination, and bicycle lanes, where needed” according to the 2016 Transportation Plan (TSP). Salem Heights Ave. has narrow lanes, limited vehicular visibility in certain areas, no sidewalks, no bike lane and inadequate lighting. With these unsafe conditions, funneling onto Salem Heights Ave. as a “collector street” as the subdivision plan does will only make these conditions worse. The design should be altered so that traffic is not directed to Salem Heights Ave. until the street is brought to urban standards.

It should also be noted that Salem Heights Ave. is designated for a future Uphill/Downhill Shared Bike Lanes Pathway on the Salem Transportation Plan (TSP) which further supports bringing Salem Heights into compliance with urban standards for bicycle lane safety.

7) SRC 205-010(d) The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis.

The applicant estimates that the subdivision will generate approximately 315 vehicular trips per day on Salem Heights which it considers “negligible”. Salem Heights does not meet this criterion given the unsafe and noncompliant “urban standards” conditions that currently exist as mentioned above. This extra traffic will make conditions worse for bicycles on the narrow shared road and for pedestrians who must walk where there are no sidewalks, in particular children walking to and from nearby Candalaria and Salem Heights schools. The subdivision plan should be redesigned to divert traffic away from Salem Heights, or any through street connecting to Salem Heights should be postponed until collector urban standards are met on Salem Heights.

Olivia Glantz

From: e.witchey@comcast.net
Sent: Wednesday, April 10, 2019 4:22 PM
To: Olivia Glantz
Subject: Case Number: SUB-ADJ19-02

Case Number: SUB-ADJ19-02

Regarding the subdivision on Salem Heights Ave. Rd.

After my mailbox on Salem Heights got run over for the third time, I stopped replacing it and routed all my mail through my PO Box. Since the road is straight and often used as a shortcut from Commercial and Liberty to River Road and other roads that circumvent traffic on main streets in Salem, I have to assume that The City of Salem's designation for Salem Heights has not included a full analysis of the traffic over the hill, the speeds of that traffic, and the additional load that will be created by the subdivision. The road is narrow and has no shoulder or sidewalks. In addition, a major building project will displace acorn woodpeckers, hummingbirds, nesting red tail hawks, owls, deer, opossum, racoons, and other urban wildlife. While the subdivision will increase the value of my property, I don't think it will increase the quality of life for anyone surrounding the area to be developed. Salem has very few natural green areas. Reduction in biodiversity will not serve the residents or the city.

Luck and skill to you in all things,

Eric Witchey

PO Box 3640
Salem, OR 97302

Email: eric@ericwitchey.com
Web Site: www.ericwitchey.com
Cell: 503.689.3991
Shared Blog: <http://shadowspinners.wordpress.com/>
Twitter: @EWitchey

Eric Witchey is a writer, seminar teacher, course developer, process analyst, communication consultant, and conference speaker. He has made a living as a freelance writer and communication consultant for over a quarter century. In addition to many contracted and ghost non-fiction titles, he has sold a number of novels and more than 140 stories. His stories have appeared in 12 genres and on five continents. He has received awards or recognition from New Century Writers, Writers of the Future, Writer's Digest, Independent Publisher Book Awards, International Book Awards, The Eric Hoffer Prose Award Program, Short Story America, the Irish Aeon Awards, and other organizations. His How-to articles have appeared in The Writer Magazine, Writer's Digest Magazine, and other print and online magazines.

To: Olivia Glantz, Planning Division, 555 Liberty St. SE, Salem, OR 97301

From: Ron Eachus, 940 Salem Heights Ave S., Salem, OR 97301

RE: Comments Case No. SUB-ADJ19-02 Wren Heights Subdivision Tentative Plan

The application for the subdivision should be denied at this time because it does not meet three of the require criteria. No development of this size should be approved until the conditions of Salem Heights Ave S are improved.

The application does not meet Criteria SRC 205.010(d) – 5 *The street system in and adjacent to the tentative subdivision is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through and out of the subdivision.*

It does not meet criteria SRC 205.101(d) – 6 *The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.*

It does not meet criteria for SRC 205.010(d) – 7 *The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis.*

It fails to meet these criteria because it decreases the safety of vehicular, pedestrian and bicycle traffic on Salem Heights and those impacts are not mitigated by the subdivision design. Salem Heights is designated as a “collector street” by the 2016 Salem Transportation System Plan. However, it is also identified as a collector street not built to “urban standards.” The TSP states that to meet urban standards, improvements to Salem Heights, and similar streets, “should include two travel lanes, turn lanes where necessary, curbs, sidewalks, drainage, illumination, and bicycle lanes, where needed.”

Salem Heights is already an unsafe street. The subdivision will only make it more unsafe by adding a significant amount of traffic to a street that currently has narrow lanes, no sidewalks, no bike path and inadequate lighting.

In their written narrative accompanying their filing, the applicants assume that the design of the development will add an estimated 315 vehicular trips per day on Salem Heights, an amount they claim will be “negligible.” For a collector street like Salem Heights that is not up to urban standards, the addition of such a volume of traffic all at once is not negligible. And the design of the subdivision and the inclusion of sidewalks along the Salem Heights side of the property do not mitigate the impacts because those impacts affect the entire street and everyone who uses the street, particularly pedestrians. After adding the traffic, the conditions for the rest of the street without sidewalks will be worse.

The design should be altered so that traffic is not directed to Salem Heights until the street is brought up to urban standards. This can be done by eliminating the Doughton Street connection to Salem Heights, diverting exit from the subdivision to Hansen Street which is an

improved collector street with adequate infrastructure. Once Salem Heights is brought to urban standards, a Doughton Street connection can be completed.

In conclusion, the additional traffic the subdivision will bring to Salem Heights will only exacerbate the safety conditions of Salem Heights and the detrimental effects of those impacts on the safety and quality of life in the neighborhood are not mitigated by the subdivision design. The subdivision should be denied until Salem Heights is brought up to collector street urban standards. In the alternative, any approval should be conditioned on postponing any through street connection to Salem Heights until after Salem Heights is improved to collector street urban standards.

Other Concerns:

In addition to the above I'd also like to express some other concerns the City of Salem should take into account during its review process.

1. Tree removal

While the Tree Conservation Plan may meet city requirements, this is a subdivision that encompasses a sizeable land mass in the neighborhood with nearly 200 trees that have become part of the neighborhood environment in terms of both ecology and aesthetics. It is one thing to cut down two-thirds of the trees on a plot with a few trees. But taking 122 out of 191 is a big change. The City ought to do a thorough review of the proposed tree conservation plan with an eye toward increasing the number of trees which are kept.

2. Sidewalks

The plan, if approved, would include sidewalks where the subdivision runs along the north side of Salem Heights. The sidewalks installed by the developer should not become the template for future sidewalks under any plan for improving the safety of Salem Heights. Sidewalks will be necessary to improve Salem Heights to urban standards for a collector street. However, flexibility will be necessary for further sidewalk infill along the street. It is one thing to require a new development to set-aside a certain width for sidewalks. It is another to require the same set-aside when it requires altering the frontage of an existing home. The City should make it clear that the remainder of Salem Heights will not be required to replicate the subdivisions sidewalk set asides in any future sidewalk infill plans and that the residents of the neighborhood will be involved in development of any future improvement plan to determine size and location of any sidewalk designs.

Olivia Glantz

From: Pat Dixon <patbilldixon@gmail.com>
Sent: Tuesday, April 09, 2019 5:40 PM
To: Olivia Glantz
Subject: Case #SUB-ADJ19-02, Wren Heights

To: Olivia Glantz, Planning Division, 555 Liberty St. SE, Salem, OR 97301

From: Pat Dixon, 608 Salem Heights Ave. S., Salem, OR 97302

RE: Case #SUB-ADJ19-02, Wren Heights

The Wren Heights subdivision should be rejected as proposed because it would add danger to an already dangerous road.

I frequently walk on Salem Heights Avenue. There are no sidewalks or curbs. The road is a narrow 20 feet. When a car comes my way, the driver moves towards the middle of road, thus creating a traffic hazard for oncoming drivers. If cars are coming from each direction, then I have to move into the bushes. The grade of the street has several places where drivers, walkers and cyclists cannot see traffic approaching. Again making for unsafe conditions.

It is my understanding that Salem Heights is a collector street in name only: 20 feet of roadway instead of the minimum standard of 27 feet. No sidewalks. No curbs. Beyond the maximum allowed grade (9.48% vs 8%). No on-street parking.

Salem Heights is 3,100 feet in length. The present plan to upgrade 15% of the street in front of the development would leave 85% of the street unimproved while adding a projected 315 additional cars. This would exacerbate the present unsafe condition of the street.

The design should be altered to eliminate the proposed connection to Doughton Street and direct traffic from the subdivision to Hansen Avenue South, which is up to collector street standards. Once Salem Heights has been brought to standard, then the Doughton Street connection could be completed.

To be more specific:

Wren Heights as proposed does not meet the requirements of SRC 205.010(d)-5 for safe, orderly, and efficient circulation of traffic into, through and out of the subdivision.

Wren Heights as proposed fails to meet the requirements of SRC 205.010(d)-6 for safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

If Wren Heights were built with the proposed changes to Salem Heights, only 15% of the street would meet minimum collector street standards. This would make Salem Heights less safe than it is now, and it is plenty dangerous already. Please deny this subdivision as presently proposed.

Olivia Glantz

From: Danny Chase <dannygradychase@gmail.com>
Sent: Tuesday, April 09, 2019 6:32 PM
To: Olivia Glantz
Subject: SUBADJI9-02

Good evening,

Regarding the proposed development on Salem Heights Rd S, I live in this neighborhood. Please, please, please NO MORE NEW HOMES!!! Our city is already impacted. We hear from the school district that the schools are over crowded. We here from the city that we have a deficit in funds. Our police and fire departments are struggling to keep up with the calls for service. The bridge traffic is a nightmare. The transient problem is worsening. The crime rate is increasing, and the ability to incarcerate criminals is decreasing. Adding more new homes only adds to the problem.

Let's focus on solving problems, not creating more. Perhaps we can create incentives for developers to buy out some of our slum apartments and turn them into decent places to live. Please, NO MORE NEW HOUSES!

Thank You,
Danny Chase
Candalaria Neighborhood

--

Danny Chase

April 9, 2019

RE: SUB-ADJ19-02 (Salem Heights proposed development)

City of Salem Planning Division:

We are writing in regards to the proposed development of 34 homes at 575 Salem Heights Avenue S. Our family lives on the corner of Salem Heights and Holiday Drive S, and we've been here since February 1994.

For the 25 years we've lived here, we've increasingly seen single-home lots subdivided. We have nothing against development, and we are well aware that lots in our neighborhood are large, especially by today's standards. Thoughtful, compatible development is something we in this neighborhood must get used to.

What we are vehemently opposed to, however, is wedging 34 homes into a parcel that has no viable transportation routes to support them. Salem Heights is nothing more than a steep country road, with no sidewalks; extremely narrow lanes; unsafe, blind hills; and drivers who speed by at over 40 miles per hour, if not more. Adding 300+ car trips per day to this primitive transportation system is sure to result in accidents – and likely some will involve children who walk to nearby Candalaria School on narrow roads, crossing blind hills to get there.

It is our understanding that the proposed development would only provide sidewalks and other collector street improvements adjacent to the development. This is unacceptable. Why should existing residents be subject to more than 300 car trips per day on our currently unsafe streets?

For the city to approve this development, the surrounding roads **must** be brought up to a standard that can support this number of homes, built to the "urban standards" for collector streets laid out in the city's Transportation System Plan.

We shudder to think of the traffic problems this development will unleash on our neighborhood. While mowing our lawn, which abuts Salem Heights at the top of the (blind) hill, we've had dozens of close calls from cars speeding over the hill, totally clueless that people might be in their yards. There is no buffer, as there are no sidewalks or bike lanes. (The street is literally touching our yard, as it does all of our neighbors' yards along Salem Heights.) When children walking to school are involved – as they will be, given the proximity of Candalaria – it's more than a shudder, it's a sick feeling.

There is one stoplight at the corner of Salem Heights and Liberty Road, which normally takes a minimum of two minutes to get through from Salem Heights. Imagine how backed up this intersection will be during work and school travel times with 70 cars trying to get to their destinations. Going west on Salem Heights is even more problematic: the street leads over two blind hills, and inexplicably (for a so-called collector) goes to a dead end at Sunridge, which is essentially a one-lane alley.

We are not planning experts, but it's clear that the City of Salem has the discretion to at a minimum require a Traffic Impact Analysis (Section 803.015 of the Unified Development Code) from the developers. We also request that you follow chapter 111 which states: "Single family and duplex access onto collector streets may be limited according to Public Works Design Standards." Do the right thing and limit this development to a reasonable number of new homes.

Without significant upgrades to Salem Heights on the south, and all the streets to the north, this proposed development is simply too many houses. Please do not approve this application in its current state.

Julie and Dan Curtis
3285 Holiday Drive South

Olivia Glantz

From: Ada Molinoff <adsun@q.com>
Sent: Tuesday, April 09, 2019 11:57 AM
To: Olivia Glantz
Cc: Sally Cook; Chuck Bennett
Subject: Salem Heights Ave., S. Subdivision

Ms. Glantz,

Thank you for this opportunity to comment on Case # SUB-ADJ19-02.

I am a 33-year resident of the south-Salem neighborhood targeted for the new subdivision.

While I recognize that infill-development is advocated in our city's accommodation to expanding population, **I am grieving, mourning the loss of my neighborhood as I have known it. Noise, traffic, and congestion will replace the quiet, peaceful setting of these lovely, tree-lined lanes.**

My experience of Salem, my quality of life here, will be irreparably damaged. On behalf of my neighbors and myself, **please find an alternative location for this development.**

Ada Molinoff

Olivia Glantz

From: Howard Hall <friendsofhistoricsalem@gmail.com>
Sent: Tuesday, April 09, 2019 11:58 PM
To: Olivia Glantz
Subject: COMMENTS: Salem Heights Avenue South Subdivision Application

ATTN: Olivia Glantz, Case Manager

RE: Salem Heights Avenue South Subdivision Application

Thank you for the opportunity to comment.

This area is part of a historic terrain with significant mature Oregon White Oaks. Preliminary estimate is 6 to 10 significant trees are at risk. Also in proximity on Liberty Road -- a road at times very congested and clogged with traffic at Vista -- is the historic St. Barbara's Cemetery.

We encourage every reasonable effort be made to mitigate congestion on and onto Liberty; and serious design or re-design consideration be given to protection and preservation of the *Quercus garryana* and tree canopy.

***Quercus garryana* or Oregon White Oak is only native oak species in our state. It is a magnificent tree that was once historically prevalent in the Willamette Valley.**

Today, less than 10% of the Willamette oak woodland, savanna remains. Oak-associated landscapes are part of our shared cultural heritage, and support hundreds of plants, insects, birds and small mammals. Specimens can live up to 300 years or more.

Our cultural heritage and historic responsibility should be to protect these trees, root systems, critical tree zones (CTZ) and the canopy crowns.

Our civic responsibility, in this time of dramatic climate change and new scientific studies affirming and asserting the need to protect a diverse biological base and historic ecological systems, should also demand care for the species.

Sincerely,

Jon Christenson MURP

----- Forwarded message -----

From: **City of Salem Neighborhood Services** <IDowd@cityofsalem.net>

Date: Mon, Apr 8, 2019 at 4:14 PM

Subject: Southwest Association of Neighbors about Salem Heights Avenue South Subdivision Application



A Communication of the City of Salem

Is this email not displaying correctly?
[View it in your browser.](#)



Salem Heights Avenue South Subdivision Application Information from SWAN


Click [here](#) to get the most current information
from SWAN including agendas and minutes.


Dear Neighbors,

The City of Salem is seeking comments about a new application to develop a subdivision of homes along Salem Heights Avenue South. The city is accepting comments about the application only in writing. The deadline for submitting comments is 5 pm, April 10.

To get a copy of the application: Call or email the case manager, Olivia Glantz at 503-540-2343 or OGlantz@cityofsalem.net.

 [Friend on Facebook](#)

 [Follow us on Twitter](#)

 [Forward to a Friend](#)



Links

[SWAN NA Website](#)

[Crime Statistics in your
neighborhood](#)

[Subscribe to our agendas,
minutes, and newsletters](#)

[Neighborhood Services
Facebook](#)

To submit comments about the application: You may submit comments in writing to Case Manager, Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Or you may email comments to Olivia Glantz, at OGlantz@cityofsalem.net.

Note: Comments must include the case number: SUB-ADJ19-02.

For more information, contact Ms. Glantz.

Sincerely,
Becky Miner, SWAN Chair

Questions or Concerns: Contact your Neighborhood Services Coordinator Irma O. Dowd
idowd@cityofsalem.net

Copyright © 2019 City of Salem, All rights reserved.
You are receiving this email because you subscribed on our website or were on one of our pre-existing mailing lists.

Our mailing address is:

City of Salem
555 Liberty St. SE
Salem, OR 97301



Olivia Glantz

From: Julie Curtis <julielcurtis@comcast.net>
Sent: Monday, April 08, 2019 3:05 PM
To: Olivia Glantz
Subject: Re: SUB-ADJ19-02

Thank you! I did find the definitions online. I'm wondering if the western part of Salem Heights that crosses Crestview and winds around down one-lane Sunridge is considered a collector. It's not much bigger than an alley, frankly. But I see that collectors are supposed to be fine for new developments of up to 1,000 car trips per day. That would be 100 percent untenable for the basically "rural" streets we have around Salem Heights, not to mention Salem Heights itself.

I'll keep studying and I appreciate your help very much.

Julie

Sent from my iPhone

On Apr 8, 2019, at 2:53 PM, Olivia Glantz <OGlantz@cityofsalem.net> wrote:

You are correct, the development would need to meet the Collector standard, abutting the development. The first link has some options for the streets and is earlier to look at than Code. I have also included the Code.

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH803STRI-WIM_S803.035STST

<image001.jpg>

Olivia Glantz
Planner III
City of Salem | Community Development Department
555 Liberty St SE, Suite 305, Salem OR 97301
oglantz@cityofsalem.net | 503-540-2343
Facebook | Twitter | YouTube | CityofSalem.net

-----Original Message-----

From: Julie Curtis [<mailto:julielcurtis@comcast.net>]
Sent: Monday, April 08, 2019 2:39 PM
To: Olivia Glantz <OGlantz@cityofsalem.net>
Subject: Re: SUB-ADJ19-02

Thank you for your quick reply. Am I correct in assuming that sidewalks would only be added on Salem Heights adjacent to the development? Is there a definition of "collector" street somewhere? I'll look on the website also.

Sent from my iPhone

> On Apr 8, 2019, at 1:37 PM, Olivia Glantz <OGlantz@cityofsalem.net> wrote:

>

> I have attached some of the items for the application. If you want to review the entire application please let me know and we can create a disc for you to pick up.

> The staff analysis will be part of the decision, once it is made.

>
> Olivia Glantz
> Planner III
> City of Salem | Community Development Department
> 555 Liberty St SE, Suite 305, Salem OR 97301 oglantz@cityofsalem.net
> | 503-540-2343 Facebook | Twitter | YouTube | CityofSalem.net
>
> -----Original Message-----
> From: Julie Curtis [mailto:julielcurtis@comcast.net]
> Sent: Monday, April 08, 2019 1:34 PM
> To: Olivia Glantz <Oglantz@cityofsalem.net>
> Subject: SUB-ADJ19-02
>
> Hello Olivia. I'm on the planning division website and am trying to find some documents related to this application, specifically:
>
> - the application itself
> - the completeness review
> - the safety and building review
>
> All I can see is that there were "no issues." I'm particularly interested in any analysis of the surrounding transportation access to the proposed development, and the proponents' request for an alternative street standard for Felton and Earhart.
>
> I will be submitting comment by the April 10 deadline but want to be
> as informed as possible, without having to get a college degree to
> understand everything! :)
>
> Thank you,
> Julie Curtis
>
> Sent from my iPhone
> <54-Additional Written Statment March 6 2019.pdf> <101-Attachments for
> RFC.PDF> <06-TREE_PLAN-WREN_HEIGHTSREV03.pdf>

Olivia Glantz

From: Wblitz <wblitz@aol.com>
Sent: Monday, April 08, 2019 4:20 PM
To: Olivia Glantz
Subject: Testimony on 18-125034-LD & 18-125-035 - ZO

Olivia,

I understand that comments regarding the above matters are due on or before April 10, 2019.

Please accept this communication as to my concerns/objections to the proposal(s):

(1) A safe, orderly and efficient circulation of traffic through the neighborhood, subdivision including Salem Heights Ave. S. is problematic.

(2) Use of Salem Heights Ave S. is a "collector street" already overburdened with vehicular traffic coupled with no sidewalks or bike lanes. Pedestrian on Salem Heights Ave S is dangerous if not potential life threatening as individuals are forced to walk in the street.

(3) Salem Heights Ave S with the proposed new additional 33-34 residences will experience a noticeable increase in vehicles when as a practical matter many if not most of the residences will be occupied by more than one individual and more than one car per residence.

(4) Concerning storm water run off it would be appreciated if permeable street and sidewalk material would be used to lessen the amount of runoff and impact on storm water collectors.

Please put this position paper into the record for the April 10th as objection to the 500 to 600 Block subdivision.

Thank you!

Respectfully, William "Bill" Blitz
664 Salem Heights Ave. S

Olivia Glantz

From: Patricia Alley <palley@willamette.edu>
Sent: Monday, April 08, 2019 11:40 AM
To: Olivia Glantz
Subject: Comments on case number SUB-ADJ19-02

In the words of Yogi Berra, this topic is like "deja vu all over again," as we have visited this problematic issue in the recent past.

As I see it, the main problem is Salem Heights Avenue itself, a narrow street with poor lighting, no sidewalks or bike lanes, and no visible improvements with the exception of fog lines, which were painted in the fall. The addition of 34 new single-family residences will add an estimated 315 more car trips per day along Salem Heights. This development will also result in cutting down 122 trees, some of which have been on the property for more than 70 years; they will not come back again, once they are gone.

While I realize that the Harvey Family Trust and its representatives are determined to sell the property for development, as is their right, the problems presented by Salem Heights Avenue and the inability or unwillingness of the City to deal with the hazards this street presents strike me as irresponsible in the extreme. Before any development occurs, the street should be made safe for increased automotive, cycling, and pedestrian traffic.

I am adamantly opposed to this development, as were many neighbors living close to Salem Heights, just as we were in the fall of 2018, when this topic was initially debated. Almost nothing has been done to improve Salem Heights Avenue since that time, and until that is the case, the development of so many residential properties seems both premature and foolish.

Sincerely yours,

Patricia Alley
530 Salem Hts. Ave. S.
Salem, OR 97302
503-362-8897

Brandon Riggle
541-817-6482
brandonkyleriggle@
gmail.com

865 Salem Heights Ave S
Salem, OR
97302

April 7, 2019

Olivia Glantz
Planning Division
555 Liberty Street SE
Salem, OR 97301

To Whom It May Concern,
I am writing today regarding case number SUB-ADJ19-02.

Let me begin by saying I do not have a problem with a housing development going in off of Salem Heights Ave S. Our city is growing and development is part of life, as long as we continue to support the growth through infrastructure improvements. I believe the folks at the Planning Department are working hard to maintain a healthy and effective infrastructure and I do not envy your position. My hope for this letter is to provide a perspective from a person/family that resides on Salem Heights Avenue. A family that witnesses dangerous and irresponsible behavior from drivers on a regular basis. A family that has lived on this road for over 5 years and have seen no improvements to safety besides a police motorcycle once or twice a year, "your speed" radar display one time, and painting white lines on the edge of the street.

Our children are never allowed to play in our front yard due to the fact that there is an extremely high volume of vehicles exceeding the posted 25 mph speed limit, many having reduced reaction times due to distracted driving or simply because of the sun in their eyes as they travel up/down the hill into the setting/rising sun. I back my truck into my driveway every time I return home because I am more than uncomfortable backing out into the street as cars come from seemingly out of nowhere over the blind hills and as a "sitting duck" I can do nothing to respond.

As residents of Salem Heights Ave. some neighbors have been forced to take safety measures into their own hands. A fellow neighbor has offered for school children to cut through her property to avoid the blind intersection of Holiday Dr. S. and Salem Heights Ave on their way to Candalaria Elementary. I have placed large rocks along the edge of my yard because I grew frustrated with people driving off the road into my grass for whatever reason.

Which leads me to my next point. This road has no buffer zone between pedestrian and vehicle. There is nothing in place to prevent a vehicle from drifting over the

white line into the two foot section of grass or dirt that pedestrians have to walk on. Hence the reason I have used rocks to create a visual “walking zone” that simulates a three foot wide “sidewalk” along the edge of my property that abuts Salem Heights. Other roads in the area have designated “pedestrian paths” (Ewald Ave. SE for example) that provide a visual reminder to drivers that there may very well be pedestrians walking along side the road.



We ask that especially in an area that is within the 1.0/1.5 mile respective walk zone for a school and also where children walk to a bus stop, pedestrian safety be a higher priority. All of Ewald Ave SE between Liberty and Commercial is within the walk zone for Wright Elementary and has seen safety improvements, yet isn't even classified as a collector street. Salem Heights Ave, not only as a collector street, but as a shortcut to Minto Brown Island Park, is going to see an increase in vehicular traffic as the city grows and especially as this and other housing developments go in.

Salem and Oregon lawmakers/residents are voting more than ever to promote health and safety of animal species and the environment yet programs like Safe

Routes to Schools and Complete Streets lack serious funding and attention. I'm glad to see "20 is Plenty" spreading throughout Portland and hopefully residents of the City of Salem will see the importance of slower speeds in residential areas. It is not uncommon to see vehicles traveling between 30 and 35 mph on Salem Heights. Studies show that pedestrians have less than a 5% chance of being killed if struck by a vehicle moving at 20 mph. The likelihood of death skyrockets to nearly 45% if the vehicle is traveling at 30 mph, which is the vast majority of vehicles traveling on Salem Heights Ave.

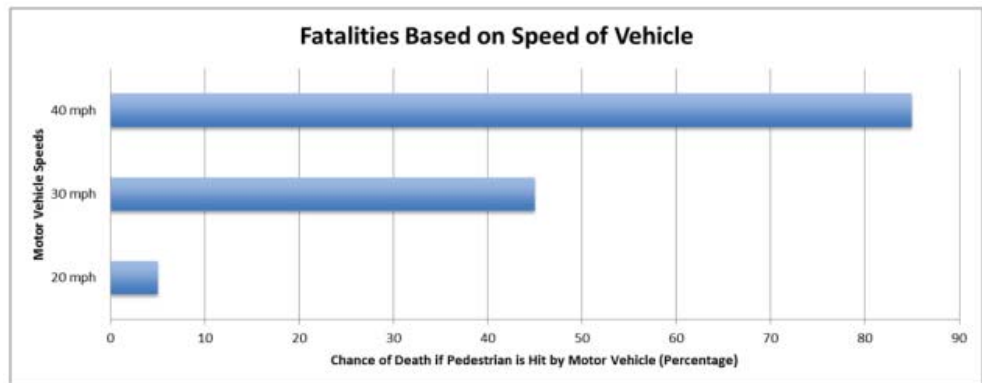


Figure 2.1: Fatalities Based on Speed of Vehicle (reproduced from U.K. Department of Transportation, 1987)

As this 30 plus lot subdivision is being discussed please take these comments, as well as the many other comments, to heart. I am one of the many concerned pedestrians and parents of elementary and secondary students that live and walk on Salem Heights Ave each day. I am not asking to widen the road and put sidewalks on both sides with a designated bike lane (which would all be wonderful). I would just like to see the City provide a safe place to walk, or reduce the speed limit so everyone has more time to react in a potentially tragic situation.

Sincerely yours,

Brandon Riggle

Olivia Glantz

From: oboeduets@gmail.com
Sent: Sunday, April 07, 2019 7:21 PM
To: Olivia Glantz
Subject: Salem Heights Development

Case Number: SUB-ADJ19-02

To Whom it May Concern;

This letter is in reference to the application to develop a subdivision on Salem Heights Ave. I live on the alley alongside the proposed development, at 695 Salem Heights. My concerns are three-fold: habitat loss, environmental impact, and increased traffic.

Though Salem Heights is a connector street, it does not meet the city's current description of a connector street. As cited by city employees, a connector street is 40-60' wide, while Salem Heights is merely 20' *and* lacks sidewalks. A year ago my fears were realized when a driver veered off the road, drove through a stand of mailboxes and a large hedge, and finally came to a stop in the condos parking lot directly across the road from this proposed development. My greatest fear is that this will happen during the morning commute when students are waiting at the various bus stops along the street. That morning period is already quite scary during the time of year when the rising sun impedes drivers' sight.

As an urban green space, the property in question offers significant benefits to our local air quality and temperatures. A quick Google search on the topic of "urban green space benefits" populates any number of scholarly articles. An academic search at a research university would yield even more.

Further, the property currently provides critical habitat for many wildlife. Most notably, a small herd of deer call it home. They regularly walk the neighborhood but this property provides protected space for giving birth to their fawns. Developing the land will force the deer into parks and backyards, removing critical protection.

When considering this application please take heed of the concerns of current residents, particularly as they relate to habitat loss, environmental impact, and community safety. The fact that Salem Heights is half the width intended for a connector street - and lacks sidewalks or true curbs - *significantly* increases risk to residents if an additional 315 trips are added per day.

Thank you,
Alexandra Andeen

503-930-6703
695 Salem Heights Ave S.
Salem, OR 97302

Olivia Glantz

From: Laura Jacobs Anderson <laura@genehack.org>
Sent: Saturday, April 06, 2019 11:45 PM
To: Olivia Glantz
Subject: Tentative subdivision on Salem Heights Avenue South - Case Number: SUB-ADJ19-02

Hello Ms. Glantz,

I appreciate the opportunity to share my thoughts on the proposed subdivision on Salem Heights Avenue (Case Number: SUB-ADJ19-02). We already have a fair amount of traffic on our street, and much of it moves at well above the posted speed limit. That, and the lack of a sidewalk, make this road particularly perilous for pedestrians. If this subdivision is approved, bringing many more cars to the mix, I hope that the city will consider installing traffic control devices (e.g. speed bumps) and a sidewalk.

Additionally, I am concerned about the many deer, birds, and other wildlife that will be displaced by the subdivision. I enjoy having families of deer visit our yard and will miss them very much should their habitat be disrupted.

Respectfully,
Laura Jacobs Anderson
370 Salem Heights Avenue South
Salem, OR 97302

REQUEST FOR COMMENTS

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

REGARDING: Subdivision / Class 1 Adjustment Case No. SUB-ADJ19-02

PROJECT ADDRESS: 500 to 600 Blocks of Salem Heights Avenue S / 97302

AMANDA Application No. 18-125034-LD & 18-125-035-ZO

COMMENT PERIOD ENDS: April 10, 2019

REQUEST: A consolidated application for a proposed 34-lot subdivision (Wren Heights) that the division of approximately 8 acres into 34 lots ranging in size from approximately 5,251 square feet to approximately 22,034 square feet. The applicant is requesting an alternative street standard for Earhart Street S and Felton Street S; in addition, a Class 1 Adjustment to reduce the minimum lot depth for Lot 7 from 120 feet, as required for double frontage lots under SRC 511.010(a), Table 511-2, to approximately 106-feet.

The subject property is approximately 8 acres in size, zoned RS (Single Family Residential), and located in the 500 to 600 blocks of Salem Heights Avenue S (Marion County Assessor Map and Tax Lot Numbers: 083W04AA10400, 10600, 10601, 10700, 10800).

Attached is a copy of the proposal and any related maps. The complete case file, including all materials submitted by the applicant and any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports, are available upon request. A decision for this proposal will be prepared by the planning staff from information available to staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners or residents.

Comments received by 5:00 P.M., April 10, 2019, will be considered in the decision process. Comments received after this date will be not considered. **Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail or hand deliver your comments to the Case Manager listed below.**

SEND QUESTIONS OR COMMENTS TO: Olivia Glantz, Planner III, City of Salem, Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503-540-2343; Fax: 503-588-6005; E-Mail: OGlantz@cityofsalem.net; <http://www.cityofsalem.net/planning>

PLEASE CHECK THE FOLLOWING THAT APPLY:

- ☐ 1. I have reviewed the proposal and have no objections to it.
- ☐ 2. I have reviewed the proposal and have the following comments: _____
- ☒ 3. Other: see attached

Name: Bruce Kilber

Address: 715 Salem Heights Ave. S.

Agency: _____

Phone: 503 364-4023

Date: April, 5, 2019

Regarding Subdivision/Class 1 Adjustment Case# SUB-ADJ19-02

I have only one objection.

On April 5 a representative of the Applicant utilized my property without my permission, and placed a marker on my driveway, which is on my property.

Those of us adjacent to the property need to be guaranteed that our property will not be used for any purpose by any developer or any other representative of the owners ~~of the p~~ without our (the adjacent property owners) permission.

Bruce Kiltner

Olivia Glantz

From: GLEN HAYDEN <hayden365@comcast.net>
Sent: Friday, April 05, 2019 2:59 PM
To: Olivia Glantz
Subject: Salem Heights subdivision

In regards to case number: SUB-ADJ19-02

Dear Ms. Glantz,

We weren't going to comment again on this proposed subdivision on Salem Heights Ave S, since the last time, after all our neighborhood efforts were turned down but we decided that being silent does no good.

We've lived on Salem Heights 32 years. It's a nice neighborhood. Good schools around. Friendly people. Not much crime.

The street itself has some serious problems ... limited sight distance over hills; no sidewalks.

We've seen animals hit and killed every year from speeders racing up or down the hill. God forbid it be a person next.

We know that you don't have any control over this and are just doing your duties as the case manager.

What we would really like is for you to relay to the OWNER of this property that he/she consider a couple of things

1. Would they develop this property into little lots IF THEY WERE GOING TO LIVE HERE?
2. Would they like to have 300 + more cars driving up and down their street EVERY DAY?
3. Why not consider bigger lots; a small neighborhood park and try to keep a lot of the trees.

Now that would be much more appealing to this neighborhood!

Please consider modifying your plans.

Sincerely,

The Haydens

365 Salem Heights Ave S

Case number: SUB-ADJ19-02

To case manager, Olivia Glantz

4/3/19

Dear Olivia,

I recently learned about this application to create this subdivision of homes. I am greatly concerned and am opposed to such a subdivision. I live on Acorn Lane. These are my concerns:

1. Increased air pollution. Cars pollute. Impacts on health, e.g., asthma, are far-reaching.
2. Increased temperatures. Trees in a neighborhood have a huge effect on summer daytime temperatures (<https://news.wisc.edu/study-suggests-trees-are-crucial-to-the-future-of-our-cities/>). Global warming is an enormous problem – a crisis we are facing – and this development will exacerbate the problem.
3. The area where development is planned is important wildlife habitat. I don't know if anyone has surveyed the area, but it's possible that threatened or endangered species use this habitat.

Please, do not allow this subdivision proposal to move forward. I ask on behalf of current and future generations. The idea of development on Salem Heights is horrible!

Sincerely,



Suresht Bald and Laurel Goode
951-941-9383

April 2, 2019

Case Manager
Planning Division
555 Liberty Street SE, Room 305
Salem, OR 97301

Re: Subdivision/Class 1 Adjustment Case No. SUB-ADJ19-02

Greetings:

This is to add my comment on the above-referenced case, in which an application has been made for a proposed 34-lot subdivision on the 500 to 600 blocks of Salem Heights Avenue, along with a request for what appear to be some variances.

I have a personal concern about the trees and wildlife habitat that will be destroyed as a consequence of converting the existing acreage to accommodate 34 new housing units, but I do not expect that this concern would be considered relevant to the decision whether to approve the project. I just wanted to go on record with it.

My other concern has to do with infrastructure. Specifically, I believe Salem Heights Avenue is too narrow to safely accommodate the additional vehicular and foot traffic that would be generated by a subdivision of the planned size, and I do not see from the Filing Notice that there are any plans to address this need. I do not believe that it is good policy to allow for increased density without improving the infrastructure as needed to service it.

Respectfully,

A handwritten signature in black ink, appearing to read "Garth Janke", written in a cursive style.

Garth Janke
985 Downs St. S.
Salem, OR 97302

Case number: SUB-ADJ19-02

To case manager, Olivia Glantz

4/2/19

Dear Olivia,

I recently learned about this application to create this subdivision of homes. I am greatly concerned and am opposed to such a subdivision. I live on Acorn Lane, and I have two young children, ages 4 and 5 years old. We are often found walking, running, or biking through the neighborhood, including Salem Heights Ave. These are my concerns:

1. Increased air pollution. Cars pollute. Impacts on health, e.g., asthma, are far-reaching.
2. Increased temperatures. Trees in a neighborhood have a huge effect on summer daytime temperatures (<https://news.wisc.edu/study-suggests-trees-are-crucial-to-the-future-of-our-cities/>). Global warming is an enormous problem – a crisis we are facing – and this development will exacerbate the problem.
3. The area where development is planned is important wildlife habitat. I don't know if anyone has surveyed the area, but it's possible that threatened or endangered species use this habitat.

Please, do not allow this subdivision proposal to move forward. I ask on behalf of future generations.

Sincerely,



Laurel Goode
951-941-9383

Olivia Glantz

From: Bill Dixon <bill.r.dixon@gmail.com>
Sent: Monday, April 01, 2019 4:58 PM
To: Olivia Glantz
Subject: Testimony Regarding Case No. SUB-ADJ19-02, Wren Heights

Testimony Regarding Case No. SUB-ADJ19-02, Wren Heights Presented by Bill Dixon, 608 Salem Heights Ave. S., Salem 97302

The city should reject this application for the following reasons:

It fails to meet the requirements of SRC 205.010(d) – 5, providing for *“safe, orderly, and efficient circulation of traffic into, through and out of the subdivision.”*

It fails to meet the requirements of SRC 205.010(d) – 6, providing for *“safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.”*

The application fails on these grounds because it depends on using Salem Heights Avenue South as a collector street.

City staff has acknowledged that Salem Heights does not meet city standards for a safe collector street. In 2017, staff wrote that the road has too-narrow traffic lanes, inadequate lighting and drainage, no curbs, no sidewalks for pedestrians, and no bike lanes. Since then, the only things that have changed are the addition of lane striping and a few streetlights.

The developer of Wren Heights promises to put in a sidewalk and curb on its property adjacent to Salem Heights. Nothing else will be improved on the road, including the narrow dirt shoulders that are the only refuge for walkers and cyclists threatened by oncoming cars.

Simply put, there is no way Salem Heights can safely support its present level of vehicular and pedestrian traffic, let alone the estimated 300-plus car trips that would come with the proposed development.

As a collector street, Salem Heights Avenue South is unsafe at any speed. No further development should be allowed on this street until it is brought up to collector standards for its entire length.

--

Bill Dixon
bill.r.dixon@gmail.com
503-602-1708

Olivia Glantz

From: Forrest Good <forrest.scott.good@gmail.com>
Sent: Monday, April 01, 2019 12:49 PM
To: Olivia Glantz
Subject: Comments for Subdivision / Class 1 Adjustment Case No. SUB-ADJ19-02

Application No.

18-125034-LD & 18-125-035-ZO

I have read to proposal and have the following comments:

1. Salem Heights is a main pathway for students that walk to Candelaria elementary. Currently Salem heights Ave does not have sidewalks. The hillside and narrow street causes hazardous conditions for pedestrians. Any increase in traffic to this street will increase the dangerous conditions for children walking to school on Salem Heights. The developer has done their duty to provide sidewalks along the development. With the approval of this substantial development on Salem Heights Ave, the City of Salem should do their part in providing a safe pedestrian sidewalk and bike path.

Forrest Good
3415 Crestview Dr S
Architect
503-798-1196

Olivia Glantz

From: LuAnn Kelly <luannkelly58@gmail.com>
Sent: Monday, April 01, 2019 4:31 PM
To: Olivia Glantz
Subject: Case Number: Subdivision/Calss1 Adjustment Case No. SUB-ADJ19-02

I am a resident in the area where this development wants to be.

Salem Heights Ave. is known to be unsafe because it is too narrow, has poor visibility, and lacks safe spaces for walking and biking.

The increase in traffic would cause more problems for public transportation, school buses, and pedestrians.

Salem Heights Ave. is unsafe now. This new development would just increase the lack of safety.

Olivia Glantz

From: Cullen Armstrong
Sent: Wednesday, June 26, 2019 3:13 PM
To: Tony Martin
Cc: Development Services; publicworks
Subject: FW: Contact Public Works Department
Attachments: ATT00001.bin

Tony, I think this is for you?? But just in case I've copied Development Services so whoever is dealing with this project can be advised of the concern. If it should go anywhere else let me know and I'll pass it along.

Thanks,

Cullen Armstrong
Compliance Specialist
City of Salem | Public Works Department
555 Liberty St SE, Suite 325, Salem OR, 97301
carmstrong@cityofsalem.net | 503-588-6211
CityofSalem.net

From: noreply@cityofsalem.net [mailto:noreply@cityofsalem.net] **On Behalf Of** wmikesuz@aol.com
Sent: Wednesday, June 26, 2019 2:11 PM
To: publicworks <publicworks@cityofsalem.net>
Subject: Contact Public Works Department

Your Name	Michael Edward Whitston
Your Email	wmikesuz@aol.com
Your Phone	9717016445
Street	622 Salem Heights Ave S
City	Salem
State	OR
Zip	97302
Message	Please be advised that the Wren Development project for Salem Heights Ave S must also address the hazard that already exists; Felton St that begins off Madrona is frequently partially blocked by many vehicles making it difficult for traffic going into Villa Candalaria let alone any emergency vehicles to get in/out. This will be the primary road for Via Candalaria residents once Salem Hghts Ave S is affected by construction.

This email was generated by the dynamic web forms contact us form on 6/26/2019.

Olivia Glantz

From: 444daria <444daria@gmail.com>
Sent: Monday, July 01, 2019 6:07 PM
To: Olivia Glantz; bill.r.dixon@gmail.com
Cc: Stephen Harris; Stephen Eichner; Marlene Eichner
Subject: Re: Public Hearing About Wren Heights Subdivision

Salem City Hall,

I oppose the Wren Heights application and urge the Council to reject it.

Salem Heights is not a street equipped to handle any more traffic than it currently has.

Also the wooded area is home to abundant wildlife who would not have a corridor and place to relocate.

Sincerely,

Daria Martinez

On Mon, Jul 1, 2019, 5:34 PM Stephen Eichner <luxromana@gmail.com> wrote:

----- Forwarded message -----

From: **Bill Dixon** <bill.r.dixon@gmail.com>

Date: Mon, Jul 1, 2019, 1:40 PM

Subject: Public Hearing About Wren Heights Subdivision

To: <lzim.mailbox@gmail.com>, <agahlsdorf@comcast.net>, Aleah Clark

<aleah@clarkcommercialnw.com>, Annie Marges <annie.marges@gmail.com>, Ann Nelson

<annison@aol.com>, <beckydorf@comcast.net>, bg 97302 <bg97302@outlook.com>, Bill Dixon

<bill.r.dixon@gmail.com>, Rebecca Miner <bjminer@q.com>, Reuben & Betty Worster

<bjworster@msn.com>, <brandonkyleriggle@gmail.com>, <Cbowerso@willamette.edu>, Caren Jackson

<cjackson@swcp.com>, Carol Walker <cwangel4161@gmail.com>, <cws97304@yahoo.com>, Dana

Vermeer <danavermeer@gmail.com>, <darrenphoward@gmail.com>, Stanna Kotek <darylsdad2@aol.com>,

<debby5229@gmail.com>, Debra Dela <debra.dela@gmail.com>, Dian McDonald <dianm@comcast.net>,

<dr.affatato@yahoo.com>, Elizabeth Bick <eabick70@gmail.com>, <forrest.scott.good@gmail.com>,

<garthjanke@yahoo.com>, Laurel Goode <goodelaurel@gmail.com>, Glen Judy Hayden

<hayden365@comcast.net>, Jim And Marsha Hoffman <hoffjim@comcast.net>, <hockiii@comcast.net>,

Jason Bick <jabick1988@gmail.com>, <jcgrimwood@comcast.net>, John Lattimer <jnlattimer@gmail.com>,

<jomaliala@comcast.net>, Connie Jones <jones_connie@comcast.net>, <josieriggle@gmail.com>, Julie Curtis

<julielcurtis@comcast.net>, Laura Jacobs Anderson <laura@genehack.org>, Laura Hutchings

<LauraLelynn@gmail.com>, Leon & Susanna Fuhrman <lesu@comcast.net>,

<limbeck_elizabeth@salkeiz.k12.or.us>, <luannkelly58@gmail.com>, Stephen Eichner

<luxromana@gmail.com>, Maureen Bock <mbock56@msn.com>, Marsha Hoffman

<mhoffman662@gmail.com>, <micgen@comcast.net>, <montyjmiller@comcast.net>, Nancy Lindburg

<nancylindburg@gmail.com>, Nathan Rietmann <nathan@rietmannlaw.com>, Nel Osborn

<nelosborn@gmail.com>, <nelsonl@willamette.edu>, Jeanine Stice <nutritionetcetera@gmail.com>,

<oedduets@gmail.com>, <opiegirl@aol.com>, Ella TAYLOR (<oregonella@gmail.com>)

<oregonella@gmail.com>, Pam Aronson <paronson53@yahoo.com>, Pat KETCHAM

(<pat.ketcham@gmail.com>) <pat.ketcham@gmail.com>, Pat Dixon <patbilldixon@gmail.com>, Penny Caliva

<pcaliva@comcast.net>, <peggypahl@yahoo.com>, Piet Vermeer <piet_vermeer@msn.com>,

<pixiefaye3@gmail.com>, Randy Reason <randy.reason@yahoo.com>, Robert CHENAULT

<rchenault76@gmail.com>, Ron Eachus <re4869@comcast.net>, Reuben & Betty Worster

<reubenworster@msn.com>, Rocio Reason <rociocutti@outlook.com>, Ron Steiner <ronsteiner@swcp.com>,

Rick McDonald <rwmcdonald@comcast.net>, <ryanlem@comcast.net>, <saintsadie@yahoo.com>, <salemfujii@comcast.net>, Sally Schriver <schriver.sally@gmail.com>, <sdannecker1960@gmail.com>, Tina McFarlin <trmcfarlin134@gmail.com>, Tyler Clark <tyler@clarkcommercialnw.com>, Bill Blitz <wblitz@aol.com>, Michael Whitson & Suzanne Kragh <WMikeSuz@aol.com>, <wrj7007@yahoo.com>

Dear Neighbors,

The City Council has decided unanimously to review the proposed Wren Heights housing subdivision, and will hold a public hearing about it on Monday, July 22, at City Hall.

The subdivision would add 33 homes on a wooded 8-acre parcel along Salem Heights Avenue South. Construction would take out 75 trees and add 345 car trips a day to our neighborhood. It is very important that a large number of neighbors express their opinions about this proposal to the Council.

Here are ways you can get involved:

- **E-MAIL:** Reply to this email with a short note saying that you oppose the Wren Heights application and urge the Council to reject it. We will put together a list of names of those in opposition and present it to the council, along with copies of the emails stating your positions.
- **WRITE:** Submit testimony in writing or email before the hearing. Testimony should go to Olivia Glantz, City of Salem Community Development Department, 555 Liberty St SE, Suite 305, Salem, OR 97301, oglantz@cityofsalem.net. We don't know yet what the deadline for submitting testimony is, but will let everyone know once it is announced.
- **SHOW UP:** Come to the City Council meeting and testify. We expect the meeting to start at 6 pm. Please get there at least 15 minutes early so you can sign up to speak. Testimony is limited to 3 minutes per speaker, but one can be very persuasive in that time. **Even if you don't speak, come to the meeting. The more neighbors in the room, the more powerful our position.**
- **SHARE** this email with your friends, and encourage them to get involved. Neighbor-to-neighbor is the Number One way people learn about and engage in community issues.

Official notice of the hearing, with the time and other details, is expected later this week and will be shared with you. We understand that the hearing will be open to all, regardless of whether they provided comments on the development earlier. In addition, all issues about the development proposal will be on the table.

Please let me know if you have questions or suggestions.

PS -- For additional information about the subdivision and the many concerns that have been raised about it, please check out the city staff decision and the two appeals that have been filed by neighbors – all of which are attached to this message.

--

Bill Dixon

bill.r.dixon@gmail.com

503-602-1708

Olivia Glantz

From: Lisa Anderson-Ogilvie
Sent: Wednesday, June 26, 2019 12:51 PM
To: Olivia Glantz
Subject: FW: Request for City Council Review of Notice of Decision Pursuant to SRC 300.1050
Attachments: City of Salem Appeal Final - w exhibit.pdf; ATT00001.htm; Salem Heights App Notice Of Decision 6-6-19.pdf; ATT00002.htm

For the record.

- Lisa | 503-540-2381

From: Chris Hoy
Sent: Saturday, June 22, 2019 10:52 AM
To: Lisa Anderson-Ogilvie <LMAnderson@cityofsalem.net>; Dan Atchison <DAtchison@cityofsalem.net>
Subject: Fwd: Request for City Council Review of Notice of Decision Pursuant to SRC 300.1050

Sent from my iPhone

Begin forwarded message:

From: "NATHAN RIETMANN" <nathan@rietmannlaw.com>
To: "Chuck Bennett" <CBennett@cityofsalem.net>, "Cara Kaser" <CKASER@cityofsalem.net>, "Tom Andersen" <TAndersen@cityofsalem.net>, "Brad Nanke" <BNanke@cityofsalem.net>, "Jackie Leung" <JLeung@cityofsalem.net>, "Matthew Ausec" <MAUSEC@cityofsalem.net>, "Chris Hoy" <CHoy@cityofsalem.net>, "Sally Cook" <SCOOK@cityofsalem.net>, "Jim Lewis" <JLewis@cityofsalem.net>
Subject: Request for City Council Review of Notice of Decision Pursuant to SRC 300.1050

Mayor and City Council Members -

The purpose of this email is to respectfully request that you call the attached Notice of Decision up for City Council review at your next regular meeting on Monday. The Thomas Kay. Co. proposal seeks to turn eight (8) unique acres of trees and wildlife in the middle of Salem Heights into an 33 lot subdivision that is completely incompatible with the surrounding neighborhood, unnecessarily destroys significant white oaks, and will exacerbate what are already very dangerous driving conditions on Salem Heights Ave. without requiring the developer to mitigate the safety issues appropriately. As far as I can tell, the development is universally opposed by the local community. While myself and others recognize the property at issue is entitled to be reasonably developed, this particular proposal is wholly incompatible with the neighborhood and the developer has not expressed any genuine interest in coming up with a more compatible plan that would enable him to earn a profit without destroying the neighborhood and increasing already significant safety concerns on Salem Heights.

Despite the above, the Notice of Decision from the City approving the subdivision bends over backwards to enable the development. The Notice of Decision does so by making numerous

determinations that are legally flawed and by making numerous findings that are not supported by substantial evidence. Consequently, I have filed an appeal of the subdivision as has another neighbor, Ron Eachus.

The purpose of this email is to respectfully request that you call the Notice of Decision up for City Council review pursuant to SRC 300.1050 at your regular on Monday (which I believe may be the deadline for doing so). If you call up the decision at the meeting, this would then afford you time to review the Notice of Decision more carefully and decide at a subsequent meeting whether you want to continue with City Council review or abandon the review (in which case my appeal and Mr. Eachus's would be reinstated). In short, the decision I am asking you to make on Monday would not be irreversible and, as a practical matter, would really just be a decision to keep the possibility of City Council review open and give you time to carefully review the Notice of Decision and the related appeals and make an informed decision on whether you actually want to move forward with City Council review.

I am a constituent of Councilor Cook and recognize this request for City Council review would ordinarily be most appropriately directly to her. However, I am directing this all to you as I understand she is dealing with a personal tragedy at the moment.

To assist you in deciding whether to call up the Notice of Decision for Council review at your upcoming meeting, a copy of the Notice of Decision and the appeal I have filed are attached. As explained in the appeal document, the City's decision is not supported by substantial evidence and is legally flawed in numerous respects. I suspect that Mr. Eachus would be willing to provide you with a copy of his appeal also, although I do not yet have a copy of it. I will forward you all a separate email momentarily that contains the numerous comments the City received from community members regarding the proposal (there are too many to include them all as attachments to this email).

Once again, my request is simply that you call up the Notice of Decision for review pursuant to SRC 300.1050 at your meeting on Monday (which I believe is the deadline for doing so). This would then afford you time to further evaluate whether you truly wish to proceed with Council review and, if you do not, you could dismiss the review at a subsequent meeting (although I would hope that you would not). In that event, the appeals that Mr. Eachus and I have filed would continue the way they are currently.

While this matter is extremely important to me, it is also important to many other people in the neighborhood who will be adversely affected by the proposed development and are extremely concerned by the proposal and the ultimate decision in this matter will have profound effects on the Salem Heights Community for years to come.

If you would like to speak with me further regarding this matter, my contact information is provided below.

I greatly appreciate your consideration.

Nathan



NATHAN R. RIETMANN
Rietmann Law, P.C.
1270 Chemeketa St. NE
Salem, Oregon 97301
Ph: 503-551-2740
Fax: 1-888-700-0192
nathan@rietmannlaw.com

Olivia Glantz

From: Lisa Anderson-Ogilvie
Sent: Wednesday, June 26, 2019 12:48 PM
To: Olivia Glantz
Subject: FW: Request for Council review

For the record.

- Lisa | 503-540-2381

From: Chris Hoy
Sent: Sunday, June 23, 2019 2:24 PM
To: Lisa Anderson-Ogilvie <LMAnderson@cityofsalem.net>; Dan Atchison <DAtchison@cityofsalem.net>
Subject: Fwd: Request for Council review

Sent from my iPhone

Begin forwarded message:

From: Bill Dixon <bill.r.dixon@gmail.com>
Date: June 23, 2019 at 1:21:58 PM AKDT
To: Sally Cook <scook@cityofsalem.net>, Chuck Bennett <cbennett@cityofsalem.net>, ckaser@cityofsalem.net, tandersen@cityofsalem.net, Brad Nanke <brnanke@cityofsalem.net>, jleung@cityofsalem.net, mausec@cityofsalem.net, choy@cityofsalem.net, jlewis@cityofsalem.net
Subject: Request for Council review

Dear Mayor Bennett and City Council Members,

I am writing in support of Nathan Rietmann's request that the Council call up for review the land use case SUB-ADJ19-02.

This case raises public policy issues that supersede the administrative considerations of the application. For example, a core principle of Salem governance is that public infrastructure should be adequate to serve current requirements and new development. This case tests that principle.

Also, the case involves the removal of a substantial number of significant trees, a subject about which this Council has expressed special sensitivity in recent months. In particular, the case raises questions about what constitutes "minimal disruption" of vegetation and trees and what constitute "reasonable alternatives" when development might impinge on significant vegetation.

In summary, this case raises questions about the meaning of generalized standards that must be applied to specific and unique circumstances. These are questions that are best resolved at the Council level.

With that in mind, I ask that you exercise your authority during your meeting on June 24th and call up the matter for Council review.

--

Bill Dixon

608 Salem Heights Ave. S., Salem

bill.r.dixon@gmail.com

503-602-1708

Olivia Glantz

From: H Thomas Harvey <htharv@att.net>
Sent: Monday, June 24, 2019 8:31 AM
To: Olivia Glantz; Thomas Kay
Subject: Tom Kay development

Dear Ms Glantz,

I represent the Jane Harvey Trust and we are in the process of selling our orchard to Thomas Kay.

10 days ago I cut down a fir tree on my property at 625 Salem Heights Ave which was damaging my driveway in preparation for repaving my driveway. This tree is on my property which is adjacent to the orchard which we are selling to Thomas Kay.

My neighbor Rex Anderson is delusional, and I do not understand his motivation. Mr Anderson has never signed a contract nor has he ever paid any earnest money or deposit for purchase of the orchard.

Sincerely,

Harmon T Harvey Jr
Succ TTE
Jane Harvey Trust

Olivia Glantz

From: Rex Anderson <rdammg@comcast.net>
Sent: Friday, June 21, 2019 3:01 PM
To: Olivia Glantz
Subject: Tree Removal

Picture of one of the fir trees recently removed before June 21 deadline. PS-I have a signed document from Tom Harvey (Jane Harvey Trust) selling the property to my wife and I. We were in the process of due diligence (EPA soil testing) when Dr. Harvey said they couldn't wait for us to conclude our tests and therefore sold the property to another party. We will be filing the lawsuit to honor the previous sale contract for the Salem Heights property (500-600 blocks of Salem Heights). We would hope that you will grant a hearing on the development so our grievance (along with others) might be heard before you grant the development 100%. There are several species of trees that are protected under City of Salem ordinances. This is why we were alarmed when the fir trees were removed before the June 21 deadline! Thank you for your time with my concerns over the development on Salem Heights. Rex Anderson.

