

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



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

## DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW / CLASS 2 DRIVEWAY  
APPROACH PERMIT / CLASS 2 ADJUSTMENT / CLASS 1 ADJUSTMENT CASE  
NO. CU-SPR-ADJ-DAP19-08**

**APPLICATION NO.: 19-117677-ZO / 19-114007-RP / 19-117679-ZO / 19-122832-  
ZO / 19-117682-ZO**

**NOTICE OF DECISION DATE: JANUARY 16, 2020**

**SUMMARY:** Proposed mixed-use development with three buildings, including 26 multi-family residential units, and approximately 10,242 square feet of retail floor area.

**REQUEST:** A Conditional Use Permit and Class 3 Site Plan Review request for a proposed mixed-use development with three new buildings, including 26 multi-family residential units and approximately 10,242 square feet of retail floor area, a Class 2 Adjustment request to eliminate the required interior setback for the off-street parking area, and a Class 1 Adjustment to reduce the minimum driveway spacing requirement, for property approximately 1.47 acres in size, zoned CR (Retail Commercial) and CO (Commercial Office), and located at the 4700 Block of Liberty Road S - 97302 (Marion County Assessors Map and Tax Lot numbers: 083W09DB / 00400, 00500, 00600, and 01000).

**APPLICANT:** Gene Bolante, Studio3 Architecture, on behalf of Jim Iverson, JMI Investments

**LOCATION:** 4700 Block of Liberty Rd S

**CRITERIA:** Salem Revised Code (SRC) Chapter(s) 240.005(d), 220.005(f)(3), 250.005(d)(2), 804.025(d), and 250.005(d)(1)

**FINDINGS:** The findings are in the attached Decision dated January 15, 2020.

**DECISION:** The **Hearings Officer APPROVED** Conditional Use / Class 3 Site Plan Review / Class 2 Driveway Approach Permit / Class 2 Adjustment / Class 1 Adjustment CU-SPR-ADJ-DAP19-08 subject to the following conditions of approval:

### CONDITIONAL USE:

**Condition 1:** Along the eastern property line, the applicant shall incorporate into the landscape design a minimum of 1 conifer tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width.

**Condition 2:** The multi-family use shall contain no more than 26-dwelling units.

## **SITE PLAN REVIEW:**

**Condition 3:** Prior to building permit issuance, where a proposed building crosses over existing property lines, either (1) pursuant to SRC 205.065, a property boundary verification shall be recorded, or (2) the property lines shall be adjusted or removed.

**Condition 4:** Development of the solid waste service area shall conform to all applicable standards of SRC Chapter 800.

**Condition 5:** A minimum six-foot tall sight-obscuring fence, wall, or hedge shall be provided to screen the off-street parking area from abutting residentially zoned properties to the south and east.

**Condition 6:** If the proposed uses for the development site will require a delivery vehicle which exceeds a maximum combined vehicle and load rating of 8,000 pounds, then the applicant shall find an alternative location for the off-street loading space meeting the requirements of SRC Chapter 806, and which does not conflict with the use of off-street parking spaces.

**Condition 7:** Prior to building permit issuance, convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of Liberty Road S. The half-width shall be measured from the engineered centerline of Liberty Road S.

**Condition 8:** Prior to building permit issuance, convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Hrubetz Road SE, and a 30-foot radius at the intersection of Hrubetz Road SE and Liberty Road S.

**Condition 9:** Construct a half-street improvement along the frontage of Hrubetz Road SE to Collector street standards as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, and curb ramps at the intersection of Hrubetz Road SE and Liberty Road S.

**Condition 10:** Construct the incomplete portions of a half-street improvement along the frontage of Liberty Road S as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, which may include but not be limited to property line sidewalk, street trees, and street lights.

**Condition 11:** Close existing driveways along the frontage of Liberty Road S pursuant to SRC 804.060(a)(4).

**Condition 12:** The existing well on the property shall be abandoned per Department of Environmental Quality standards or a RP assembly must be installed pursuant to Public Works Design Standards.

**Condition 13:** Obtain City approval for quitclaim of existing sewer easements located on the subject property and abandon any existing public sewer mains on the subject property.

**Condition 14:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).

#### **ADJUSTMENTS:**

**Condition 15:** The adjusted interior setback and driveway spacing requirements, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development requirements unless adjusted through a future land use action.

The rights granted by the attached decision must be exercised, or an extension granted, by the below dates or this approval shall be null and void.

- Site Plan Review – February 1, 2024
- Conditional Use, Adjustment, Driveway Approach Permit Case – February 1, 2022

Application Deemed Complete:	<u>November 22, 2019</u>
Public Hearing Date:	<u>December 18, 2019</u>
Notice of Decision Mailing Date:	<u>January 16, 2020</u>
Decision Effective Date:	<u>February 1, 2020</u>
State Mandate Date:	<u>March 21, 2020</u>

Case Manager: Aaron Panko, [APanko@cityofsalem.net](mailto:APanko@cityofsalem.net), 503-540-2356

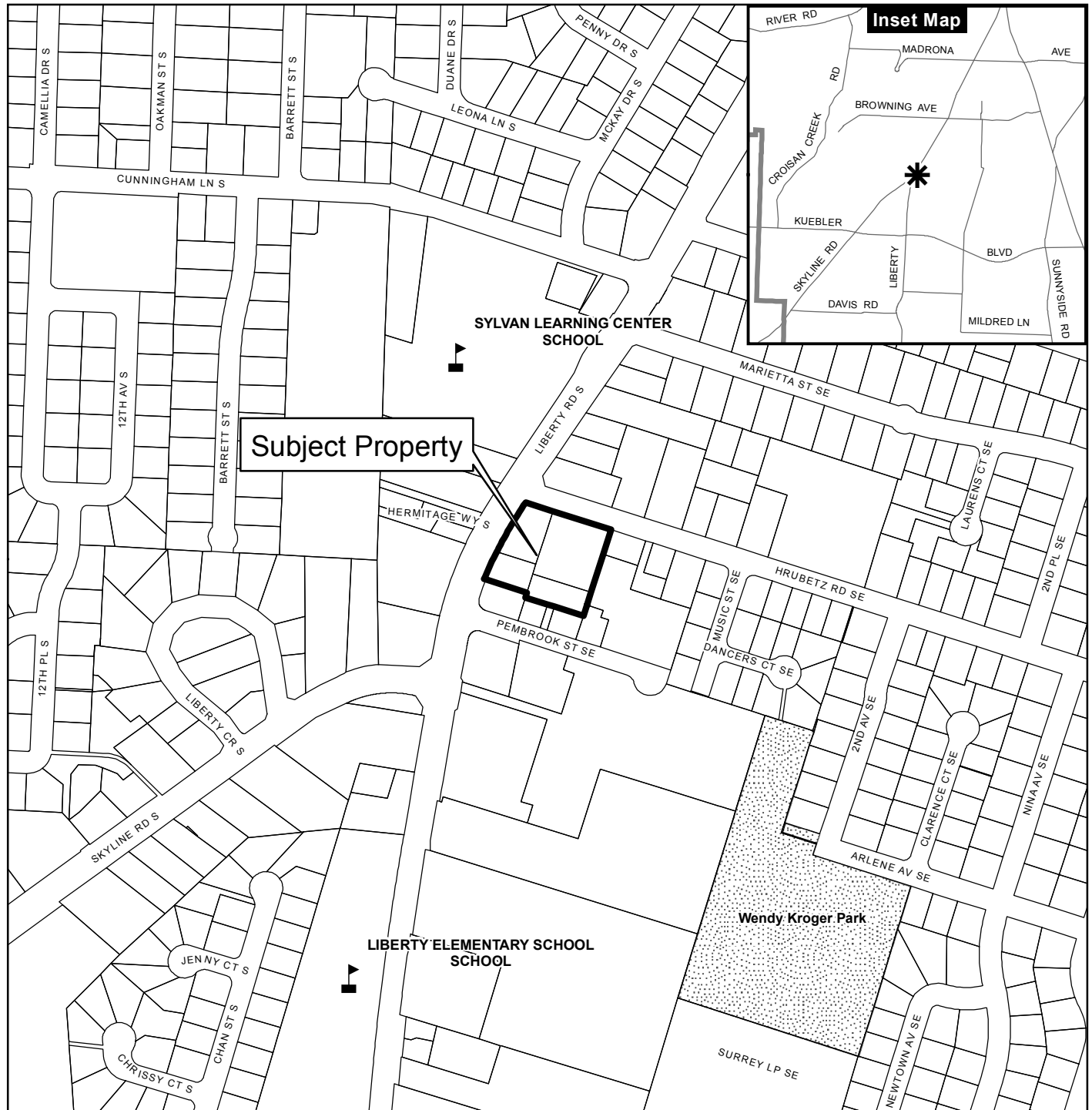
This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, no later than 5:00 p.m., Friday, January 31, 2020. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240, 220, 250, 804, and 250. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 320, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

# Vicinity Map

## 4700 Block of Liberty Road S



### Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

0 100 200 400 Feet



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

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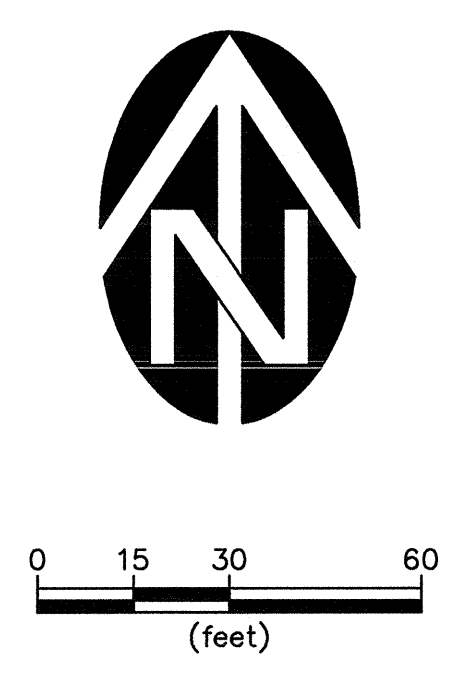


EROSION CONTROL LEGEND	
	SILT SACK INLET PROTECTION, PER DTL
	BIO BAGS, PER DTL
	SILT FENCE/CLEARING LIMITS
NOTES:	
1.	NO CONCRETE WASHOUTS OR STOCKPILES ALLOWED ON SITE
DEMOLITION LEGEND	
(R)	CONTRACTOR TO REMOVE
(P)	CONTRACTOR TO PROTECT
(R1)	CONTRACTOR TO COORDINATE W/ FRANCHISE UTILITY TO REMOVE
(R2)	CONTRACTOR TO MAINTAIN THROUGH CONSTRUCTION, RELOCATE ONCE COMPLETED.
(R3)	CONTRACTOR TO ABANDON PER DEPT. OF WATER RESOURCES STANDARDS
(S)	SAWCUT
(A)	CONTRACTOR TO ABANDON
(A1)	ADJUST TO NEW FINISHED GRADE

BENCHMARK UTILIZED:  
CITY OF SALEM # 8207  
ELEV: 476.56' NGVD 29  
NE CORNER LIBERTY RD SE, AND KUEBLER BLVD SE,  
8.3' NORTH OF MANHOLE, 12.2' SOUTHWEST OF SIGNAL POLE

DISCLAIMER: UTILITIES DEPICTED ARE BASED ON EVIDENCE FOUND IN THE FIELD, MUNICIPALITY AND/OR OTHER GOVERNMENT ENTITY AS-BUILT PLANS, CONTRACTOR PLANS AND OTHER DOCUMENTS OF RECORD. BARKER SURVEYING ASSUMES NO RESPONSIBILITY FOR UTILITIES THAT ARE NO LONGER IN USE, INSTALLED AFTER THE DATE OF ACTUAL SURVEY, NOT IDENTIFIED OR NOT LOCATED. THIS INCLUDES UTILITIES UPON PUBLIC OR PRIVATE PROPERTY.

SPECIFIC UTILITY POSITIONS INDICATED ON THE GROUND SURFACE PROVIDED BY LOCATION SERVICES MAY VARY DUE TO UNDERGROUND DETECTION CAPABILITIES.



ABBREVIATIONS	
ASPH	ASPHALT
AD	AREA DRAIN
ASSY	ASSEMBLY
BLDG, BLD	BUILDING
BW	BOTTOM OF WALL
CATV	CABLE TELEVISION
CB	CATCH BASIN
CO	CLEAN-OUT
CONC	CONCRETE
CL	CENTERLINE
DIP	DUCTILE IRON PIPE
EG	EDGE OF GRAVEL
EOP, EP	EDGE OF PAVEMENT
ELEV	ELEVATION
EX, EXIST	EXISTING
FDC	FIRE DEPT. CONNECTOR
FT	FEET
FF	FINISH FLOOR
FG	FINISH GRADE
FI	FIRE HYDRANT
FI	FIELD INLET
FM	FORCE MAIN
GRAV	GRAVEL
GM	GAS METER
GP	GATE POST
GS	GROUND SHOT
GV	GAS VALVE
HC	HANDICAP
HYD	HYDRANT
IR	IRON ROD
IP	IRON PIPE
IRR	IRRIGATION
INV	INVERT
JB	JUNCTION BOX
LP	LIGHT POLE
M	METER, MAIN
MB	MAILBOX
MH	MANHOLE
OH	OVER-HEAD
P/L, R	PROPERTY LINE
PP	POWER POLE
PVC	POLYVINYL CHLORIDE
PWR	POWER
R, RAD	RADIUS
ROW, R/W	RIGHT-OF-WAY
SS	SANITARY SEWER
SD	STORM DRAIN
SVC	SERVICE
SWK, S/W	SIDEWALK
TC	TOP OF CURB
TEL	TELEPHONE
TRANS	TRANSFORMER
TS	TRAFFIC SIGNAL
TW	TYPICAL
UG, U/G	UNDER GROUND
UTIL	UTILITY
W/	WITH
WM	WATER METER
WLM	WETLANDS MARKER
YPC	YELLOW PLASTIC CAP

SYMBOLS	
AD	AREA DRAIN
or	CATCH BASIN
COO	CLEANOUT
FX	FIRE HYDRANT
GV	GAS VALVE
WV	WATER VALVE
GPW	GAS/POWER/WATER METER
DSO	DOWN SPOUT
MT	MANHOLE TELEPHONE
MSD	MANHOLE STORM DRAIN
MS	MANHOLE SANITARY SEWER
SP	SIGN POST
PEO	PEDESTAL
MB	MAIL BOX
IV	IRRIGATION VALVE
LP	LIGHT POLE
UP	UTILITY/POWER POLES
TP	TEST PIT
MF	MONUMENT FOUND

LINE TYPES	
CATV LINE	CATV — CATV — CATV — CATV — CATV — CATV — CATV
COMMUNICATION LINE	COM — COM — COM — COM — COM — COM — COM
EASEMENT LINE	-----
FENCE LINE	— — — — —
FIBER OPTIC LINE	FOC — FOC — FOC — FOC — FOC — FOC — FOC
GAS LINE	GAS — GAS — GAS — GAS — GAS — GAS — GAS
OVERHEAD LINE	OH LINES — OH LINES — OH LINES — OH LINES — OH LINES
PHONE LINE	PH — PH — PH — PH — PH — PH — PH
POWER LINE	ELEC — ELEC — ELEC — ELEC — ELEC — ELEC — ELEC
SANITARY SEWER LINE	SS — SS — SS — SS — SS — SS — SS
STORM DRAIN LINE	SD — SD — SD — SD — SD — SD — SD
WATER LINE	W — W — W — W — W — W — W

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ARCHITECTURE  
INCORPORATED

222 COMMERCIAL ST. NE  
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P: 503.390.6500  
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www.studio3architecture.com

REGISTERED PROFESSIONAL  
ENGINEER  
NOV 12, 2008  
WILLIAM J. WELLS  
RENEW: 6/30/2020

IN THE EVENT CONFLICTS ARE DISCOVERED  
BETWEEN THE ORIGINAL SIGNED AND SEALED  
DOCUMENTS PREPARED BY THE ARCHITECT  
AND/OR THEIR CONSULTANTS, AND ANY COPY OF  
THE DOCUMENTS TRANSMITTED BY MAIL, FAX,  
ELECTRONICALLY OR OTHERWISE, THE ORIGINAL  
SIGNED AND SEALED DOCUMENTS SHALL GOVERN.

PROJECT # 3136.0000.0  
DATE: 4/5/2019  
DRAWN BY: AK  
CHECKED BY: JW

REVISIONS:  
▲  
▲  
▲  
▲

WESTTECH ENGINEERING, INC.  
CONSULTING ENGINEERS AND PLANNERS  
3641 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302  
Phone: (503) 585-2474 Fax: (503) 585-3986  
E-mail: westtech@westtech-eng.com

NEW MIXED USE DEVELOPMENT:  
SOUTH LIBERTY RD  
SALEM, OR  
LIBERTY RD SE AND HRUBETZ RD

SHEET:  
C1.0  
EXISTING CONDITIONS,  
DEMO & EROSION CONTROL  
PLAN



LIBERTY ROAD SE

HRUBETZ ROAD

PEMBROOK STREET



### SITE PLAN KEYNOTES:

- 1

PROPERTY LINE
- 2

CONCRETE WALKWAY, MIN 5' WIDTH TO ALL MAIN ENTRIES AND SITE AMENITIES
- 3

BICYCLE RACKS, SEE A1.02
- 4

CANOPY ABOVE
- 5

EXTEIOR TRASH ENCLOSURE, PERMITTED UNDER 19-116110-00-BP
- 6

EXTERIOR SIGN, SEE SHEET A1.02
- 7

PROVIDE ACCESSIBLE PARKING SIGN, TYP. SEE SHEET A1.02
- 8

PROVIDE ACCESSIBLE VAN PARKING SIGN, TYP. SEE SHEET A1.02

9

FDC LOCATION WITH SIGNAGE, SEE CIVIL DRAWINGS FOR DISTANCE FROM NEAREST FIRE HYDRANT.

10

PEDESTAL MOUNT MAILBOX CLUSTER

11

8" CMU WALL TO EXTEND LENGTH OF ADJACENT PARKING STALL, 3'-0" A.F.G.

12

48'-0" ROW DEDICATION

13

ALTERNATIVE HAMMERHEAD DEAD-END FIRE APPARATUS TURNAROUND PER OFC D103.1

14

12'-0" x 30'-0" LOADING SPACE, DELEVERY VEHICLE NOT TO EXCEED 8,000 POUNDS

12

6' CONCRETE WALL TO EXTEND PERIMETER OF DRIVE-THRU THAT IS WITHIN 6'-0" OF THE PROPERTY LINE, CONCRETE WALL TO BE 3'-0" A.F.G.

### SITE PLAN GENERAL NOTES:

1. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVES. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTORS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
2. PROVIDE CONSTRUCTION FENCING AS REQUIRED TO SECURE SITE AND BUILDING DURING CONSTRUCTION.
3. EXTREME CARE SHOULD BE TAKEN TO PRESERVE EXISTING ROOTS OF TREES TO REMAIN.
4. REFER TO CIVIL DRAWINGS FOR GRADING. SITE IS REQUIRED TO MEET THE LAWS OF FHA AND ADA. ACCESSIBLE ROUTES SHALL NOT EXCEED 5% (1 IN 20) OR CROSS SLOPES SHALL NOT EXCEED 2% (1 IN 50). ALL AT GRADE SIDEWALKS ARE ACCESSIBLE ROUTES.
5. JOINTS IN CONCRETE WALKS NOTED AS E.J. ARE TO BE CONSTRUCTED AS EXPANSION JOINTS. ALL OTHER JOINTS SHOWN, TO BE TOOLED CONTROL JOINTS, SEE CIVIL.
6. SEE LANDSCAPE DRAWINGS FOR LANDSCAPE AND IRRIGATION ELEMENTS.
7. SEE ELECTRICAL DRAWINGS FOR SITE LIGHTING.

### SITE DEVELOPMENT:

SITE AREA:	64,053 sf = 1.47 ACRES
ZONING:	CR & CO
BUILDING AREAS:	
FUTURE BLDG A:	3,387 sf RETAIL
FUTURE BLDG B:	3,321 sf RETAIL
BLDG C:	3,534 sf RETAIL / 23,526 sf RESIDENTIAL (26 UNITS)
BUILDING HEIGHTS:	
FUTURE BLDG A:	25'-0"
FUTURE BLDG B:	25'-0"
BLDG C:	50'-0"
PARKING:	
COMMERCIAL:	1/250 sf REQ'D = 41 SPACES
RESIDENTIAL:	1.5/DWELLING REQ'D = 39 SPACES
PROVIDED:	80 SPACES 8-HANDICAP / 1-VAN 51 COMPACT (64%) 24 STANDARD
TOTAL AREA OF OFF-STREET PARKING:	29,042 sf
ROD LANDSCAPING:	MIN. 5% = 1,452 sf
PROVIDED:	2,155 sf

### SITE PLAN LEGEND:

<div></div>	BUILDING AREA
<div></div>	BUILDING OVERHANG / CANOPY ABOVE
<div></div>	LANDSCAPING
<div></div>	CONCRETE FLOOR / SIDEWALK / PAD

### LOT COVERAGE:

SITE AREA BREAKDOWN	AREA	%
BUILDINGS	13,626 SF	21.27 %
PAVINGS, SIDEWALKS	37,521 SF	58.58 %
LANDSCAPE	12,906 SF	20.15 %
TOTAL SITE AREA	64,053 SF	100 %

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IN THE EVENT CONFLICTS ARE DISCOVERED BETWEEN THE ORIGINAL SIGNED AND SEALED DOCUMENTS PREPARED BY THE ARCHITECTS AND/OR THEIR CONSULTANTS, AND ANY COPY OF THE DOCUMENTS TRANSMITTED BY MAIL, FAX, ELECTRONICALLY OR OTHERWISE, THE ORIGINAL SIGNED AND SEALED DOCUMENTS SHALL GOVERN.

PROJECT # 2018-071  
DATE: 29 JUN 2019

REVISIONS  
1 08/07/19 CITY COMMENTS  
2 10/25/19 CITY COMMENTS

LAIKE PLAZA

DEVELOPMENT

LIBERTY RD S & HRUBETZ RD S, SALEM, OR

SHEET:

A1.01

SITE PLAN











A REQUEST FOR A CONDITIONAL USE PERMIT AND CLASS 3 SITE PLAN REVIEW REQUEST FOR A PROPOSED MIXED-USE DEVELOPMENT WITH THREE NEW BUILDINGS, INCLUDING 26 MULTI-FAMILY RESIDENTIAL UNITS AND APPROXIMATELY 10,242 SQUARE FEET OF RETAIL FLOOR AREA, A CLASS 2 ADJUSTMENT REQUEST TO ELIMINATE THE REQUIRED INTERIOR SETBACK FOR THE OFF-STREET PARKING AREA, AND A CLASS 1 ADJUSTMENT TO REDUCE THE MINIMUM DRIVEWAY SPACING REQUIREMENT, FOR PROPERTY APPROXIMATELY 1.47 ACRES IN SIZE, ZONED CR (RETAIL COMMERCIAL) AND CO (COMMERCIAL OFFICE), AND LOCATED AT THE 4700 BLOCK OF LIBERTY ROAD S - 97302 (MARION COUNTY ASSESSORS MAP AND TAX LOT NUMBERS: 083W09DB / 00400, 00500, 00600, AND 01000).	CU-SPR-ADJ-DAP19-08
	FINDINGS OF FACT, CONCLUSIONS, AND DECISION

December 18, 2019, Salem City Council Chambers, Room 240, Civic Center,  
555 Liberty Street SE, Salem, Oregon.

**APPEARANCES:**

<u>Staff:</u>	Aaron Panko, Planner III
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Jim Iverson, JMI Investments, Applicant, Gene Bolante, Studio 3 Architecture, Inc., Architect for Applicant
<u>Opponents:</u>	Jill McCabe (written appearance only)
<u>Neutral:</u>	Bonnie Giles and Zel Giles

## **SUMMARY OF THE APPLICATION AND HEARING**

### **BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on December 18, 2020, regarding a request for a conditional use, site plan review, adjustment and driveway approach permit applications for the proposed mixed-use development with three buildings, including 26 multi-family residential units, and approximately 10,242 square feet of retail floor area, for property located at the 4700 Block of Liberty Road S.

On December 18, 2019, the Hearings Officer received an email with an attached letter dated December 6, 2019, from Jill McCabe, the owner of property at 140 Hrubetz Rd. SE, in opposition to the application. The email opposition to the project. Although, Ms. McCabe stated that her brother Michael Russell would attend the meeting and speak in opposition, he did not.

During the hearing, Aaron Panko requested the Staff Report be entered into the Record, and the Hearings Officer granted the request. Prior to the close of the public hearing, the applicant expressed a desire to submit final written argument and to respond to the email from Jill McCabe. The applicant submitted a letter dated December 23, 2019, explaining that the McCabe property is also zoned multifamily and would eventually redevelop as a multifamily project.

The Staff Report, and Staff presentation stated, observed, noted and alleged the following:

### **FINDINGS OF FACT AND CONCLUSIONS**

#### **1. Salem Area Comprehensive Plan (SACP) designation**

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Commercial." The subject property is within the Urban Growth Boundary and within the Urban Service Area.

#### **2. Zoning of Surrounding Properties**

The subject property is zoned CR (Retail Commercial) and CO (Commercial Office). In the CR zone, retail sales and services uses are permitted and multiple-family residential uses require a conditional use permit. In the CO zone, some uses in the retail sales and services use category are permitted, but others are not, multiple-family residential uses are allowed as a permitted use.

The zoning of surrounding properties is as follows:

North: Across Hrubetz Road SE; CR (Retail Commercial);



East: RM-II (Multi-Family Residential);  
West: Across Commercial Street SE; CR (Retail Commercial);  
South: CO (Commercial Office) and RM-II (Multi-Family Residential);

### **3. Site Analysis**

The subject property includes four tax lots with a combined size of approximately 1.47 acres, and has approximately 243 feet of frontage on Hrubetz Road S and approximately 235 feet of frontage on Liberty Road S. The lot is bounded on the north by Hrubetz Road SE, which is designated as a Collector in the Transportation System Plan and Liberty Road S to the west which is designated as a Major Arterial.

### **4. Neighborhood and Citizen Comments**

The subject property is located within the Faye Wright Neighborhood Association. Notice was provided to Faye Wright and surrounding addresses and property owners within 250 feet of the subject property. At the time of the staff report, no public comments were received. Comments were received from the Faye Wright Neighborhood Association requesting that conifer trees be incorporated into the landscape buffer between proposed Building C and the east property line. The conifer component is important for two reasons, first it provides year-round screening and a recent report by the City on street trees identified a lack of conifers in Salem's urban forest. Faye Wright also indicates that they have spoken with the applicant's representative, and they have agreed to provide conifers in the landscape buffer.

As referenced in the background paragraph above, prior to the hearing, the Hearings Officer received an email with an attached letter from Jill McCabe, the owner of property at 140 Hrubetz Rd. SE, in opposition to the application. The email expressed concerns about the density and the related noise and traffic congestion, blocking sunlight, interference with peace and tranquility and made a statement that they were open to the applicant purchasing their lot. Although Ms. McCabe stated that her brother Michael Russell would attend the meeting and speak in opposition, he did not.

Bonnie Giles and Zel Giles, the owners of property across Hrubetz Road from the proposal site, testified neutrally expressing specific concerns about the number of parking spaces and where overflow parking would go, the drainage from Hrubetz Road, which currently flows onto the Giles' property, access and congestion to and from the bar and apartment complex, and traffic congestion and access onto Liberty, which they recommended be resolved with a traffic signal at the intersection of Hrubetz Road and Liberty.

The Hearings Officer notes that the City Staff recommends that a minimum of one conifer tree be incorporated into the landscape design for every 30 linear

feet along the eastern boundary. The recommended landscaping will provide a year-round visual barrier between the proposed mixed-use building and surrounding uses, specifically the McCabe property.

The Hearings Officer agrees with City Staff and adopts the findings in paragraphs 1-4, above.

## **5. City Department and Public Agency Comments**

The Public Works Department reviewed the proposal and provided a memo which is included as Attachment D of the staff report.

The Salem Building and Safety Division reviewed the proposal and identified no issues.

The Salem Fire Department reviewed the proposal and commented:

It appears a fire department turnaround is being provided on site. Fire department access is required to be located within 150 feet of all portions of the building(s) and aerial access is required if the structure exceeds 30 feet in height. No water supply was shown on the plans. Fire hydrants are required to be provided within 400 feet of all portions of the buildings (600 feet if provided with an approved fire sprinkler system). The FDC is required to be located within 100 feet of the fire hydrant and the hose lay shall not obstruct fire department access. Items including fire department access and water supply will be reviewed at time of building permit plan review.

Salem Keizer Public Schools has reviewed the proposal and provided a memo included as Attachment E of the staff report.

Portland General Electric (PGE) reviewed the proposal and indicated that development costs are determined by current tariff and service requirements, and a 10-foot Public Utility Easement (PUE) is required on all street front lots. Space for transformers and vaults will need to be provided, it is recommended that the applicant contact PGE directly to determine minimum clearances to the proposed buildings.

## **6. Analysis of Conditional Use Criteria**

SRC Chapter 240.005(a)(1) provides that:

No building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:



Criterion 1:

The proposed use is allowed as a conditional use in the zone.

The Hearings Officer notes that SRC Chapter 522, Table 522-1 provides that multi-family uses are allowed in the CR (Retail Commercial) zone with a conditional use permit. The Hearings Officer finds that the application satisfies this criterion.

Criterion 2:

The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The Hearings Officer notes that the subject property is adjacent to multiple family residential zoned property to the east which is currently occupied by a single-family dwelling and multi-family residential uses. The Faye Wright Neighborhood Association has requested additional screening be provided between the proposed mixed-use building and the eastern property line. The Hearings Officer notes that the multiple family design standards of Chapter 702 would typically require trees to be placed in the landscape buffer at a minimum interval of one tree for every 30 lineal feet of abutting property width to help provide a year-round visual barrier separating multi-family uses from abutting single family zones.

The Hearings Officer agrees that this is a reasonable buffer to minimize the adverse impacts of the proposed multifamily use on the existing single-family house. The Hearings Officer acknowledges that the owners of the single-family house expressed opposition based on noise, traffic and congestion, and because the proposed building would block sunlight for part of each day. The Hearings Officer notes that the proposal does not seek to reduce the building setbacks and maximum height limits established in the SRC for this zone.

The Hearings Officer views this conditional use criterion as requiring an evaluation of the reasonable likely adverse impacts of the specific use that requires the conditional approval (which in this case is the proposed mixed use development) as opposed to what might be the reasonably likely adverse impacts of any potential development on the site. Given that the developer could build commercial and office buildings on the site that would have the same impact in terms of light on the adjoining property, and given that commercial uses might have more significant noise and traffic impacts, without a specific understanding of how this proposed use would block sunlight, create traffic congestion or increase noise in a manner that could constitute an adverse impact on the immediate neighborhood (again, the Hearings Officer notes that all buildings for all uses under the SRC standards for the CR zone have a 50 foot height limit and a 15 foot set back from a residential zone). Accordingly, the Hearings Officer is not convinced an additional condition is necessary.

Similarly, given the proximity to Liberty Street, the construction of the mixed use residential component of the project, with its associated setbacks and limit on the number of residential units, is more likely to reduce noise from traffic on Liberty than to create additional noise that will have an adverse impact on the neighborhood.

The Hearings Officer notes that for purposes of addressing congestion and traffic caused by this use, restricting the total number of residential units should minimize the negative impacts on the neighborhood. The Hearings Officer finds that with additional screening as proposed by the Neighborhood Association, the likely adverse impacts of the multifamily use on the immediate neighborhood are minimized.

Finally, the Hearings Officer acknowledges the neutral testimony provided at the hearing by Bonnie Giles and Zel Giles regarding the traffic, parking and drainage issues that all currently impact property owned by the Giles. The Hearings Officer notes that the proposed conditions associated with the General Development Standards will require the applicant to complete street improvements on Hrubetz Road SE that should change the way the street and gutters drain for the better. Similarly, associated with the mixed use component of the proposal, a limit on the number of residential units, as set out in Condition 2, below, along with the parking standards from the SRC, will address parking and traffic issues that might otherwise impact the Giles' property and the neighborhood.

The Hearings Officer imposes a condition of approval requiring conifer trees to be planted between the multi-family use and abutting single family use at the spacing interval identified below.

**Condition 1:** Along the eastern property line, the applicant shall incorporate into the landscape design a minimum of 1 conifer tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width.

The Hearings Officer notes that the development standards of the zoning code, including setbacks, building height, and landscaping, are intended to address the difference in compatibility that arises from between different uses. The scale of the mixed-use development with 26-dwelling units will have minimal impact on the immediate neighborhood. Any future increase of the development beyond 26-dwelling units will require approval of a separate conditional use permit, therefore, the Hearings Officer imposes the following condition:

**Condition 2:** The multi-family use shall contain no more than 26-dwelling units.



As conditioned, the Hearings Officer finds that the proposed development will have a minimal impact on the immediate neighborhood.

Criterion 3:

The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

The Hearings Officer notes that to determine whether the proposed multi-family use is reasonably compatible with the surrounding area, the Hearings Officer must first determine if the proposed multi-family use is consistent with the goals and policies of the Salem Area Comprehensive Plan for multi-family residential development and siting.

**Residential Development (SACP IV Section E)**

***Establishing Residential Uses.***

The location and density of residential uses shall be determined after considering the proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal services. Relative proximity shall be determined by distance, access, and ability to provide services to the site.

***Multi-Family Housing.***

Multiple family developments should be located in areas that provide walking, auto or transit connections to:

- 1) Employment Center
- 2) Shopping Areas
- 3) Transit Service
- 4) Parks
- 5) Public Buildings

The Hearings Officer finds that the primary access to the subject property is provided by Hrubetz Road SE and Liberty Road S. Liberty Road S provides a pedestrian, bike and vehicle connection from the subject property to nearby services, including grocery stores and shopping areas. Salem-Keizer Transit (Cherriots) provides a transit route that passes by the subject property (Route 18), with the nearest stop approximately 650 feet away at the corner of Liberty Road S and Cunningham Lane S.

The subject property is approximately 0.2 miles away from the nearest public park, Wendy Kroger Park, which is to the southeast of the subject property, accessed by Pembroke Street SE or Dancers Court. In addition, Sunnyslope Park and Woodmansee Park are located within one mile of the subject property.

Wright Elementary School, Judson Middle School and Sprague High School will serve students in this area. Students residing at the proposed development are within the walk zone of Wright Elementary School, Judson Middle School and Sprague High School.

The Liberty Road corridor includes a mix of commercial and residential land uses. Grocery stores, shopping, personal services and employment opportunities are provided nearby. The proposed multi-family use for the subject property is consistent with the goals and policies of the Salem Area Comprehensive Plan for multi-family residential development and siting. Improvements to Hrubetz Road SE, along the frontage of the proposed development will also serve the surrounding property, increasing the livability of the area and its appropriate development.

As conditioned, the Hearings Officer finds that the proposed development will have a minimal impact on the livability and appropriate development of surrounding property.

## **7. Analysis of Class 3 Site Plan Review Approval Criteria**

SRC 220.005(f)(3) establishes the following approval criteria for a Class 3 Site Plan Review:

### Criterion 1:

The application meets all applicable standards of the UDC.

The Hearings Officer finds that the applicant is requesting approval for development of a mixed-use building with approximately 3,534 square feet of retail floor area on the ground floor and 26 multi-family dwellings on the upper floors, and development of two additional retail buildings each approximately 3,300 square feet in size. The proposed site plan complies with all applicable development standards with the exception of the minimum required vehicle use area setback to interior property lines, and the driveway spacing requirement for the proposed driveway on Hrubetz Road SE. Findings for the adjustments are addressed below in Section 8.

### **Use and Development Standards – CO (Commercial Office) Zone:**

*SRC 521.005(a) – Uses:*

The Hearings Officer notes that the permitted, special, and conditional uses for the CO zone are found in SRC Chapter 521, Table 521-1. Only vehicle use area serving the development site is indicated in the CO zoned portion of the property. Commercial parking is allowed as a permitted use in the CO zone per Table 521-1.

*SRC 521.010(a) – Lot Standards:*

The minimum lot size requirement for the CO zone is 6,000 square feet, there is no minimum lot width or lot depth standard. All uses are required to have a minimum of 16 feet of street frontage.

The Hearings Officer notes that the CO zoned property is a flag lot and is approximately 11,000 square feet in size.

*SRC 521.010(b) – Setbacks:*

**South:** Adjacent to the south is property zoned RM-II (Multi-Family Residential). There is a minimum 15-foot building and vehicle use area setback required adjacent to a residential zone.

The Hearings Officer finds that the proposed vehicle use area is setback approximately 16 feet from the RM-II zoned property to the south.

**East:** Adjacent to the east is property zoned RM-II (Multi-Family Residential). There is a minimum 15-foot building and vehicle use area setback required adjacent to a residential zone.

The Hearings Officer notes that the proposed vehicle use area is setback approximately 15 feet from the RM-II zoned property to the east.

**West:** Adjacent to the west is a CO (Commercial Office) zone. There is no minimum building setback, vehicle use areas require a minimum 5-foot setback adjacent to a commercial zone.

The Hearings Officer finds that the proposed vehicle use area is setback approximately 10 feet from the CO zoned property to the west.

*SRC 521.010(c) – Lot Coverage, Height:*

The maximum building lot coverage standard in the CO zone is 60 percent, the maximum height allowance for multiple family residential buildings and structures is 70 feet, and the maximum height allowance for buildings and structures for all other uses is 70 feet.

The Hearings Officer finds that the proposed buildings A and B are approximately 25 feet in height, and proposed building C is approximately 50 feet in height, in compliance with the maximum height allowance of the CO zone.

*SRC 521.010(d) – Landscaping:*

(1) Setbacks. Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.



- (2) Vehicle Use Areas. Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.
- (3) Development Site. A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC Chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

The Hearings Officer finds that the subject property is approximately 1.47 acres, or 64,053 square feet in size, requiring a minimum of 9,608 square feet of landscaping ( $64,053 \times 0.15 = 9,607.9$ ). The site plan indicates that 12,906 square feet (20%) of the site will be landscaped, exceeding the minimum requirement.

*SRC 521.015(a) – Design Review:*

Multiple family development shall be subject to design review according to the multiple family design review guidelines or the multiple family design review standards set forth in SRC Chapter 702.

The Hearings Officer notes that SRC 702.005(b)(A) provides that multiple family development within a mixed-use building is not subject to multiple family design review.

**Use and Development Standards – CR (Retail Commercial) Zone:**

*SRC 522.005(a) – Uses:*

The Hearings Officer finds that the permitted, special and conditional uses for the CR zone are found in SRC Chapter 522, Table 522-1. Retail sales and services uses are anticipated for proposed Buildings A and B, and the ground floor commercial space for proposed Building C; however, no commercial uses have been confirmed by the applicant at this time. Site Plan Review is required to establish uses for the proposed commercial shell buildings. Multiple family residential uses require a conditional use permit in the CR zone per Table 522-1.

*SRC 522.010(a) – Lot Standards:*

There are no minimum lot area or dimension requirements in the CR zone. All uses are required to have a minimum of 16 feet of street frontage.

The Hearings Officer finds that the subject property is approximately 1.47 acres in size and has approximately 243 feet of frontage along Hrubetz Road SE and approximately 235 feet of frontage along Liberty Road S, exceeding the minimum lot standards of the CR zone.

*SRC 522.010(b) – Setbacks:*

**North:** Adjacent to the north is right-of-way for Hrubetz Road SE. Buildings and structures adjacent to a street require a minimum five-foot setback, vehicle use areas require a minimum 6-10-foot setback.

The Hearings Officer notes that the proposed Building A is setback approximately 20 feet, and proposed Building C is setback approximately 16 feet from Hrubetz Road SE. The off-street parking and vehicle use area is setback approximately 6 feet, the applicant indicates that the vehicle use area will be screened from Hrubetz Road SE using a 3' foot tall wall consistent with SRC 806.035(c)(2)(D).

**South:** Adjacent to the south is property zoned CO (Commercial Office). There is no minimum building setback required adjacent to a commercial zone, vehicle use areas require a minimum 5-foot setback.

The Hearings Officer finds that the proposed building is setback approximately 20 feet, and the off-street parking area is setback approximately 25 feet from the south property line abutting the CO zoned property to the south.

**East:** Adjacent to the east is property zoned RM-II (Multi-Family Residential). There is a minimum 15-foot building and vehicle use are setback required adjacent to a residential zone.

The Hearings Officer finds that the proposed building is setback approximately 15 feet from the eastern property line, in compliance with the minimum standard.

**West:** Adjacent to the west is right-of-way for Liberty Road S. Buildings and structures adjacent to a street require a minimum five-foot setback, vehicle use areas require a minimum 6-10 foot setback.

The Hearings Officer finds that the proposed Building A is setback by approximately 20 feet, and proposed Building C is setback approximately 13 feet from Liberty Road S. The off-street parking and vehicle use area is setback approximately 6 feet, the applicant indicates that the vehicle use area will be screened from Liberty Road S using a 3' foot tall wall consistent with SRC 806.035(c)(2)(D).

*SRC 522.010(c) – Lot Coverage, Height:*

There is no maximum lot coverage standard in the CR zone, the maximum height allowance for all buildings and structures is 50 feet.

The Hearings Officer finds that the proposed buildings A and B are approximately 25 feet in height, and proposed building C is approximately 50

feet in height, all in compliance with the maximum height allowance of the CR zone.

*SRC 522.010(d) – Landscaping:*

- (1) Setbacks. Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) Vehicle Use Areas. Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.
- (3) Development Site. A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC Chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

The Hearings Officer finds that the subject property is approximately 1.47 acres, or 64,053 square feet in size, requiring a minimum of 9,608 square feet of landscaping ( $64,053 \times 0.15 = 9,607.9$ ). The site plan indicates that 12,906 square feet (20%) of the site will be landscaped, exceeding the minimum requirement.

*SRC 522.015(a) – Design Review:*

Multiple family development shall be subject to design review according to the multiple family design review guidelines or the multiple family design review standards set forth in SRC Chapter 702.

The Hearings Officer notes that the SRC 702.005(b)(A) provides that multiple family development within a mixed-use building is not subject to multiple family design review.

### **General Development Standards SRC 800**

The Hearings Officer notes that SRC 800.015 provides that every building or structure shall be entirely located on a lot. Where two or more lots are under single ownership to accommodate a single development, the entire combined area shall be considered as a single lot for purposes of the UDC. However, the Building Code does not allow buildings to cross over existing property lines. The site plan indicates that the proposed building crosses over existing property lines. SRC 205.065(a) provides that the property boundary verification process may be used whereby the outside boundary of two or more contiguous units of land held under the same ownership may be established as the property line for purposes of application of the Building Code.

**Condition 3:** Prior to building permit issuance, where a proposed building crosses over existing property lines, either (1) pursuant to SRC 205.065, a property boundary verification shall be recorded, or (2) the property lines shall be adjusted or removed.



*SRC 800.055(a) – Applicability.*

Solid waste service area design standards shall apply to all new solid waste, recycling, and compostable services areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

The Hearings Officer finds that the site plan indicates that a new solid waste enclosure with receptacles greater than 1 cubic yard in size is proposed.

*SRC 800.055(b) – Solid Waste Receptacle Placement Standards.*

All solid waste receptacles shall be placed at grade on a concrete pad that is a minimum of 4 inches thick, or on an asphalt pad that is a minimum of 6 inches thick. The pad shall have a slope of no more than 3 percent and shall be designed to discharge stormwater runoff.

1) Pad area. In determining the total concrete pad area for any solid waste service area:

- a. The pad area shall extend a minimum of 1-foot beyond the sides and rear of the receptacle.
- b. The pad area shall extend a minimum 3 feet beyond the front of the receptacle.
- c. In situations where receptacles face each other, a minimum four feet of pad area shall be required between the fronts of the facing receptacles.

The Hearings Officer finds that the design and materials for the slab is not indicated in the proposed plans but will be reviewed for conformance with this development standard at the time of building permit review. The proposed receptacles do not appear to face each other.

2) Minimum Separation.

- a. A minimum separation of 1.5 feet shall be provided between the receptacle and the side wall of the enclosure.
- b. A minimum separation of 5 feet shall be provided between the receptacle and any combustible walls, combustible roof eave lines, or building or structure openings.

The Hearings Officer finds that adequate separation distance is provided within the enclosure. Receptacles will not be placed within 5 feet of a building or structure.

3) Vertical Clearance.

- a. Receptacles 2 cubic yards or less in size shall be provided with a minimum of 8 feet of unobstructed overhead or vertical clearance for servicing.
- b. Receptacles greater than 2 cubic yards in size shall be provided with a minimum of 14 feet of unobstructed overhead or vertical clearance for servicing.

The Hearings Officer finds that it does not appear that a roof is proposed for the solid waste enclosure, therefore this standard is not applicable.

*SRC 800.055(d) – Solid Waste Service Area Screening Standards.*

- 1) Solid waste, recycling, and compostable service areas shall be screened from all streets abutting the property and from all abutting residentially zoned property by a minimum six-foot-tall sight-obscuring fence or wall; provided, however, where receptacles, drop boxes, and compactors are located within an enclosure, screening is not required. For the purpose of this standard, abutting property shall also include any residentially zoned property located across an alley from the property.
- 2) Existing screening at the property line shall satisfy screening requirements if it includes a six-foot-tall sight-obscuring fence or wall.

The Hearings Officer finds that the solid waste service area is completely enclosure and screened from view from surrounding streets and residentially zoned property.

*SRC 800.055(e) – Solid Waste Service Area Enclosure Standards.*

When enclosures area used for required screening or aesthetics, such enclosure shall conform to the following standards:

- 1) Front Opening of Enclosure. The front opening of the enclosure shall be unobstructed and shall be a minimum of 12 feet in width.

The Hearings Officer finds that the width of the proposed front opening for the enclosure is 12 feet, consistent with the minimum standard.

- 2) Measures to Prevent Damage to Enclosure. Enclosures constructed of concrete, brick, masonry block, or similar types of material shall contain a minimum four-inch nominal high bumper curb at ground level located 12 inches inside the perimeter of the outside walls of the enclosure, or a fixed bumper rail to prevent damage from receptacle impacts.

The Hearings Officer finds that the proposed site plan indicates that the enclosure walls will be cmu block. A bumper curb 12 inches inside the perimeter of the enclosure walls is required, however the curb is not indicated on the proposed plans.

**Condition 4:** Development of the solid waste service area shall conform to all applicable standards of SRC Chapter 800.

- 3) Enclosure Gates. Any gate across the front opening of an enclosure shall swing freely without obstructions. For any opening that is less than 12 feet in

width, the gates shall open a minimum of 120 degrees. All gates shall have restrainers in the open and closed positions.

The Hearings Officer finds that the proposed gates can swing to 120 degrees in compliance with this provision.

*SRC 800.055(f) – Solid Waste Service Area Vehicle Access.*

- 1) Vehicle Operation Area. A vehicle operation area shall be provided for solid waste collection service vehicles that are free of obstructions and no less than 45 feet in length and 12 feet in width. Vehicle operation areas shall be made available in front of every receptacle.

The Hearings Officer finds that the proposed vehicle operation area meets the minimum dimensional requirements for service vehicle access.

**Off-Street Parking, Loading, and Driveways SRC 806**

*SRC 806.005 - Off-Street Parking; When Required.*

Off-street parking shall be provided and maintained for each proposed new use or activity.

*SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.*

Required off-street parking shall be located on the same development site as the use or activity it serves.

*SRC 806.015 - Amount of Off-Street Parking.*

- a) *Minimum Required Off-Street Parking.* The proposal is for two building and vehicle use are for Building and grounds services and Construction Contracting business. A minimum of 0.75 space per employee is required for office uses.
- b) *Compact Parking.* Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- c) *Carpool and Vanpool Parking.* New developments with 60 or more required off-street parking spaces and falling within the public services and industrial use classifications, and the business and professional services use category, shall designate a minimum of five percent of their total off-street parking spaces for carpool or vanpool parking.
- d) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2.

The Hearings Officer finds that the uses falling under the retail sales and services category are anticipated for proposed buildings A and B, and the



ground floor of building C. The total commercial floor area is approximately 10,242 square feet, requiring a minimum of 41 spaces ( $10,242 / 250 = 40.9$ ). The multi-family use contains 26 dwelling units requiring a minimum of 39 off-street parking spaces. The total minimum off-street parking requirement for the proposed development is 80 spaces.

A maximum of 60 parking spaces may be compact spaces. No carpool/vanpool spaces are required for the proposed development. A maximum of 140 off-street parking spaces are allowed for the office building ( $80 \times 1.75 = 140$ ).

The proposed site plan indicates that 80 new off-street parking spaces will be provided. Five of the parking spaces are ADA, 24 are standard size parking spaces, and 51 (64%) are compact spaces meeting the requirements of SRC Chapter 806.

*SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.*

- a) General Applicability. The off-street parking and vehicle use area development standards set forth in this section apply to the development of new off-street parking and vehicle use areas.
- b) Location. Off-street parking and vehicle use areas shall not be located within required setbacks.
- c) Perimeter Setbacks and Landscaping. Perimeter setbacks shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures.

**Adjacent to Buildings and Structures:** The off-street parking or vehicle use area shall be setback from the exterior wall of the building or structure by a minimum 5-foot wide landscape strip or by a minimum 5-foot wide paved pedestrian walkway.

The Hearings Officer finds that the proposed vehicle use area complies with the minimum perimeter setback standards identified in the CR and CO zone development standards and by SRC Chapter 806, and the minimum 5-foot setback requirement adjacent to a building or structure.

- d) *Interior Landscaping.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. For parking areas less than 50,000 square feet in size, a minimum of 5 percent of the interior parking area shall be landscaped.

The Hearings Officer finds that the proposed parking area is approximately 29,042 square feet in size, requiring a minimum of 1,452 square feet of interior parking lot landscape area ( $29,042 \times 0.05 = 1,452.1$ ).

Approximately 2,155 square feet (7.4 percent) of interior parking lot landscaping is proposed, which exceeds the minimum interior parking lot landscaping requirement.

A minimum of 1 deciduous shade tree shall be planted for every 12 parking spaces within the off-street parking area. Landscape islands and planter bays shall have a minimum planting area of 25 square feet, and shall have a minimum width of 5 feet.

e) *Off-Street Parking Area Dimensions.* Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6.

The Hearings Officer notes that the proposed parking spaces, driveway and drive aisle for the off-street parking area meet the minimum dimensional requirements of SRC Chapter 806.

f) *Additional Off-Street Parking Development Standards 806.035(f)-(m).*

The Hearings Officer finds that the proposed off-street parking area is developed consistent with the additional development standards for grade, surfacing, and drainage. Bumper guards and wheel barriers are shown on the proposed site plan.

The parking area striping, marking, signage and lighting shall be consistent with SRC Chapter 806, required compact parking spaces shall be marked and signed per SRC 806.035(k)(2). The subject property is adjacent to residential zones to the east and south, SRC 806.035(m) requires a minimum six-foot tall sight-obscuring fence, wall, or hedge be provided to screen the off-street parking area from abutting residentially zoned property.

**Condition 5:** A minimum six-foot tall sight-obscuring fence, wall, or hedge shall be provided to screen the off-street parking area from abutting residentially zoned properties to the south and east.

### **Bicycle Parking**

*SRC 806.045 - General Applicability.*

Bicycle parking shall be provided and maintained for each proposed new use or activity.

*SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.*

Bicycle parking shall be located on the same development site as the use or activity it serves.

*SRC 806.055 - Amount of Bicycle Parking.*

Per SRC Chapter 806, Table 806-8, retail sales uses are required to provide a minimum of one space per 10,000 square feet or four bicycle parking spaces, whichever is greater. Multi-family uses are required to provide the greater of four spaces or one space per 10 dwelling units.

The Hearings Officer notes that Buildings A and B are each approximately 3,300 square feet in size and require a minimum of four bicycle parking spaces each. Proposed building C includes approximately 3,534 square feet of retail sales floor area, requiring a minimum of four bicycle parking spaces, and also include 26 dwelling units requiring a minimum of four bicycle parking spaces.

The site plan indicates that Buildings A and B each have four bicycle parking spaces. Proposed Building C has eight bicycle parking spaces, meeting the minimum bicycle parking requirements.

*SRC 806.060 – Bicycle Parking Development Standards.*

Bicycle parking areas shall be developed and maintained as set forth in this section.

- a) Location. Bicycle parking areas shall be located within a convenient distance of, and shall be clearly visible from, the primary building entrance. In no event shall bicycle parking areas be located more than 50 feet from the primary building entrance.
- b) Access. Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance.
- c) Dimensions. Bicycle parking spaces shall be a minimum of 6 feet by 2 feet and shall be served by a minimum 4-foot-wide access aisle.
- d) Bicycle Racks. Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall accommodate the bicyclist's own locking device.

The Hearings Officer notes that the proposed site plan indicates that a new bicycle parking (staple rack) will be provided next to the primary entrance for each of the proposed buildings within 50 feet of the building entrances in compliance with minimum dimensional requirements of this section.

**Off-Street Loading Areas**

*SRC 806.065 - General Applicability.*

Off-street loading areas shall be provided and maintained for each proposed new use or activity.

*SRC 806.075 - Amount of Off-Street Loading.*

One off-street loading space is required for retail sales and services uses in buildings that are between 5,000 square feet and 100,000 square feet in size. The minimum width is 12 feet, minimum depth is 30 feet and minimum vertical



clearance is 14 feet. No off-street loading spaces are required for multi-family residential uses containing less than 50 dwelling units.

The Hearings Officer finds that the proposed site plan indicates that two loading spaces will be provided for the commercial uses within a drive aisle of the proposed off-street parking area. Loading spaces are generally not allowed in the drive aisles where the loading space would conflict with the use of off-street parking spaces.

The Hearings Officer imposes a condition requiring the applicant to find an alternative location for the required off-street loading space, or pursuant to SRC 806.075(a), if the applicant can demonstrate that the proposed uses do not require a delivery vehicle which exceeds a maximum combined vehicle and load rating of 8,000 pounds, then an off-street parking space may be used to satisfy the loading space requirements.

**Condition 6:** If the proposed uses for the development site will require a delivery vehicle which exceeds a maximum combined vehicle and load rating of 8,000 pounds, then the applicant shall find an alternative location for the off-street loading space meeting the requirements of SRC Chapter 806, and which does not conflict with the use of off-street parking spaces.

## **Landscaping**

All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

The Hearings Officer notes that the proposed site plan indicates that 12,906 square feet of landscaping will be provided for the development site requiring a minimum of 645 plant units ( $12,906 / 20 = 645.3$ ). Of the required plant units, a minimum of 280 plant units ( $645 \times 0.4 = 258$ ) shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees.

Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review.

## Natural Resources

*SRC Chapter 601 (Floodplain):* Public Works Department staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

*SRC 808 - Preservation of Trees and Vegetation:* The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (Oregon White Oak greater than 24 inches in diameter at breast height) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

The Hearings Officer finds that no protected riparian trees or significant trees have been identified on the site plan for removal.

*SRC 809 - Wetlands:* Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetland laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

The Hearings Officer notes that according to the Salem-Keizer Local Wetland Inventory (LWI) there are no mapped wetlands or hydric soils found on the subject property.

*SRC 810 - Landslide Hazards:* A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. There are no areas of mapped landslide hazard located on the subject property. Commercial building permits are assigned three activity points. Per Table 810-1E, a total of three points indicates a low landslide hazard risk, a geological assessment of the property is not required for the proposed development.

### Criterion 2:

The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

The Hearings Officer finds that the existing configuration of Hrubetz Road SE and Liberty Road S do not appear to meet current standards for their classification of street per the Salem TSP. As a condition of building permit issuance, the applicant shall convey land for dedication of right-of-way equal to 48 feet from the engineered centerline of Liberty Road S, 30 feet from

centerline of Hrubetz Road SE, and a 30-foot radius at the intersection of Hrubetz Road SE and Liberty Road S pursuant to SRC Chapter 803.

**Condition 7:** Prior to building permit issuance, convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of Liberty Road S. The half-width shall be measured from the engineered centerline of Liberty Road S.

**Condition 8:** Prior to building permit issuance, convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Hrubetz Road SE, and a 30-foot radius at the intersection of Hrubetz Road SE and Liberty Road S.

As a condition of development, the applicant shall construct a half-street improvement along the frontage of Hrubetz Road SE, and curb ramps at the intersection of Hrubetz Road SE and Liberty Road S as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803.

**Condition 9:** Construct a half-street improvement along the frontage of Hrubetz Road SE to Collector street standards as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, and curb ramps at the intersection of Hrubetz Road SE and Liberty Road S.

The applicant shall also construct the incomplete portions of a half-street improvement along the frontage of Liberty Road S as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, which may include but not be limited to property line sidewalk, street trees, and street lights.

**Condition 10:** Construct the incomplete portions of a half-street improvement along the frontage of Liberty Road S as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, which may include but not be limited to property line sidewalk, street trees, and street lights.

Criterion 3:

Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

The Hearings Officer finds that the proposed driveway access onto Hrubetz Road SE will provide for safe turning movements into and out of the property.

There are two existing driveways along the frontage of Liberty Road S. The applicant shall close existing driveways along the frontage of Liberty Road S

pursuant to SRC 804.060(a)(4) and rebuild sidewalk along the entire frontage of Liberty Road S in accordance with SRC Chapter 803 and PWDS.

**Condition 11:** Close existing driveways along the frontage of Liberty Road S pursuant to SRC 804.060(a)(4).

Criterion 4:

The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

The Hearings Officer notes that Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development.

The applicant's plan shows water services connecting to an existing steel water main. Water connections shall instead be connected to the existing 12-inch ductile iron water main in Hrubetz Road SE. The existing well on the property shall be abandoned per Department of Environmental Quality standards or a reduced pressure backflow (RP) assembly must be installed pursuant to Public Works Design Standards.

**Condition 12:** The existing well on the property shall be abandoned per Department of Environmental Quality standards or a RP assembly must be installed pursuant to Public Works Design Standards.

The applicant shall obtain City approval for quitclaim of existing sewer easements located on the subject property and abandon any existing public sewer mains on the subject property.

**Condition 13:** Obtain City approval for quitclaim of existing sewer easements located on the subject property and abandon any existing public sewer mains on the subject property.

The applicant's engineer submitted a statement demonstrating compliance with Stormwater PWDS Appendix 004-E(4)(b) and SRC Chapter 71. The preliminary stormwater design demonstrates the use of green stormwater infrastructure to the maximum extent feasible.

**Condition 14:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).



The applicant shall design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director. The applicant is advised that a sewer monitoring manhole may be required, and the trash area shall be designed in compliance with Public Works Standards.

## **8. Analysis of Class 2 Zoning Adjustment Permit Criteria**

SRC Chapter 250.005(d)(2) provides that an applicant for a Class 2 Adjustment shall be granted if all of the following criteria are met:

### Criterion 1:

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

- (i) Clearly inapplicable to the proposed development; or
- (ii) Equally or better met by the proposed development.

The Hearings Officer notes that the applicant is requesting a Class 2 Adjustments to eliminate the required interior setback for the off-street parking area.

The subject property consists of four separate tax lots. SRC Chapters 521 and 522, Tables 521-5 and 522-5 does not require a minimum building setback adjacent to the interior property lines, however, there is a minimum 5-foot setback required for vehicle use areas adjacent to interior property lines.

The applicant indicates that the multiple contiguous lots are under common ownership and will be accommodating a single development. Vehicle use areas will need to encroach into the interior lot line setback in order to provide a functionally integrated parking lot design to serve multiple proposed uses on the development site; therefore, the purpose of the standard is equally or better met.

### Criterion 2:

If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

The Hearings Officer finds that the subject property is not located within a residential zone; therefore, this criterion is not applicable.

### Criterion 3:

If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

The Hearings Officer notes that Class 1 and 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development requirements of the zoning code, unless adjusted through a future land use action.

**Condition 15:** The adjusted interior setback and driveway spacing requirements, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development requirements, unless adjusted through a future land use action.

## **9. Analysis of Class 1 Zoning Adjustment Permit Criteria**

SRC Chapter 250.005(d)(1) provides that an applicant for a Class 1 Adjustment shall be granted if all of the following criteria are met:

### Criterion 1:

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 Hearings Officer finds that the applicant is requesting a Class 1 Adjustment to allow for spacing less than the standard of 200 feet pursuant to SRC 804.030(c). The proposed driveway spacing is located approximately 180 feet from the Major Arterial street, the applicant is requesting a 10 percent reduction to the standard. The development is proposing to close two existing driveways to a Major Arterial street and construct the one new driveway to a Collector street. This driveway spacing minimizes turning conflicts along Liberty Road S, a Major Arterial. The Assistant City Traffic Engineer has reviewed the proposed driveway and finds that the turning movements and traffic safety for the proposed driveway location are equal to what would be accomplished by meeting the development standard.

### Criterion 2:

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

The Hearings Officer notes that the Assistant City Traffic Engineer has reviewed the proposed driveway location and finds that the proposed driveway location will not unreasonably impact surrounding existing or potential uses.

## **10. Analysis of Class 1 Zoning Adjustment Permit Criteria**

Salem Revised Code (SRC) 804.025(d) sets forth the following criteria that must be met before approval can be granted to an application for a Driveway Approach Permit.

One new driveway access is proposed onto Hrubetz Road SE.

### Criterion 1:

The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.

The Hearings Officer notes that the proposed driveway is located on a Collector street less than 200 feet from a Major Arterial; therefore, a Class 1 adjustment is required for driveway spacing as described below. Otherwise, the proposed driveway meets the standards for SRC 804 and PWDS.

### Criterion 2:

No site conditions prevent placing the driveway approach in the required location.

The Hearings Officer finds that the existing site conditions do limit the locations where a driveway approach can be placed on the property, and the applicant has requested an Adjustment to the driveway approach spacing standards in SRC 804.030.

### Criterion 3:

The number of driveways onto an arterial is minimized.

The Hearings Officer notes that the proposed development reduces the number of driveways accessing onto an arterial street from two to zero.

### Criterion 4:

The proposed driveway approach, where possible:

- a) Is shared with an adjacent property; or
- b) Takes access from the lowest classification of street abutting the property.

The Hearings Officer finds that the proposed driveway is currently located with access to the lowest classification of street abutting the subject property.

Criterion 5:

The proposed driveway approach meets vision clearance standards.

The Hearings Officer finds that the proposed driveway meets the PWDS vision clearance standards set forth in SRC Chapter 805.

Criterion 6:

The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.

The Hearings Officer finds that no evidence has been submitted to indicate that the proposed driveway will create traffic hazards or unsafe turning movements. Additionally, staff analysis of the proposed driveway indicates that it will not create a traffic hazard and will provide for safe turning movements for access to the subject property.

Criterion 7:

The proposed driveway approach does not result in significant adverse impacts in the vicinity.

The Hearings Officer notes that the staff analysis of the proposed driveway and the evidence that has been submitted indicate that the location of the proposed driveway will not have any adverse impacts to the adjacent properties or streets.

Criterion 8:

The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.

The Hearings Officer finds that the property is located on the corner of a Major Arterial street (Liberty Road S) and a Collector street (Hrubetz Road SE). The applicant is proposing a driveway to the lower classification of street and it requires a zoning adjustment to meet the spacing requirements of SRC Chapter 804. The proposed driveway approach is located on a Collector street and minimize the impact to adjacent streets and intersections by reducing the number of access points from two on a Major Arterial to one on a lower classification of street.

Criterion 9:

The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

The Hearings Officer finds that the proposed driveway approach is not located in the vicinity of a residentially zoned area. The driveway will not have an effect on the functionality of the adjacent streets.

No participant objected to or challenged the testimony or evidence. Based on the Record and testimony, the Hearings Officer finds this criterion met.

### **DECISION**

The Hearings Officer **APPROVES** the request for a conditional use, site plan review, class 1 and 2 adjustments, and driveway approach permit for a proposed mixed-use development with three buildings, including 26 multi-family residential units, and approximately 10,242 square feet of retail floor area for property located at the 4700 Block of Liberty Road S subject to the following conditions of approval:

#### CONDITIONAL USE:

**Condition 1:** Along the eastern property line, the applicant shall incorporate into the landscape design a minimum of 1 conifer tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width.

**Condition 2:** The multi-family use shall contain no more than 26-dwelling units.

#### SITE PLAN REVIEW:

**Condition 3:** Prior to building permit issuance, where a proposed building crosses over existing property lines, either (1) pursuant to SRC 205.065, a property boundary verification shall be recorded, or (2) the property lines shall be adjusted or removed.

**Condition 4:** Development of the solid waste service area shall conform to all applicable standards of SRC Chapter 800.

**Condition 5:** A minimum six-foot tall sight-obscuring fence, wall, or hedge shall be provided to screen the off-street parking area from abutting residentially zoned properties to the south and east.

**Condition 6:** If the proposed uses for the development site will require a delivery vehicle which exceeds a maximum combined vehicle and load rating of 8,000 pounds, then the applicant shall find an alternative location for the off-street loading space meeting the requirements of SRC Chapter 806, and which does not conflict with the use of off-street parking spaces.

**Condition 7:** Prior to building permit issuance, convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of Liberty Road S. The half-width shall be measured from the engineered centerline of Liberty Road S.



**Condition 8:** Prior to building permit issuance, convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Hrubetz Road SE, and a 30-foot radius at the intersection of Hrubetz Road SE and Liberty Road S.

**Condition 9:** Construct a half-street improvement along the frontage of Hrubetz Road SE to Collector street standards as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, and curb ramps at the intersection of Hrubetz Road SE and Liberty Road S.

**Condition 10:** Construct the incomplete portions of a half-street improvement along the frontage of Liberty Road S as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803, which may include but not be limited to property line sidewalk, street trees, and street lights.

**Condition 11:** Close existing driveways along the frontage of Liberty Road S pursuant to SRC 804.060(a)(4).

**Condition 12:** The existing well on the property shall be abandoned per Department of Environmental Quality standards or a RP assembly must be installed pursuant to Public Works Design Standards.

**Condition 13:** Obtain City approval for quitclaim of existing sewer easements located on the subject property and abandon any existing public sewer mains on the subject property.

**Condition 14:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).

ADJUSTMENTS:

**Condition 15:** The adjusted interior setback and driveway spacing requirements, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development requirements unless adjusted through a future land use action.

DATED: January 15, 2020



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James K. Brewer, Hearings Officer