



## MEMORANDUM

To: Brandon Pike, Salem Planning  
From: Ben Schonberger, AICP  
Date: March 13, 2022  
Re: **Completeness Response Memo  
(case file 22 101695 00 RP)**

The following memo is a response to a completeness letter issued by Salem Planning on February 15 for the above referenced case, a housing development at 5205 Battle Creek Road SE. The table below lists responses to each item in the same order as the letter from the city.

### Summary of Changes

Notable modifications to the proposal that have been made since the original submittal, partly in response to city comments, are:

- Preservation of Tree #271
- Reduction in parking spaces from 167 to 164 (to save Tree #271)
- Direct access from Community Building to Salal Street sidewalk
- Community Building shifted west to touch setback line
- Windows added to Buildings A, B, and C, canopies to Building B
- Alterations to the roofs of Building B and Senior Building

Minor changes to quantifiable site standards are listed or depicted on Sheet G1.10. Changes relevant to development standards are summarized below.

**Table 1. Changes to Site Standards**

<b>Standard</b>	<b>Code Requirement (minimum, unless otherwise noted)</b>	<b>Revised Quantity</b>
Lot Coverage	60% maximum	17%
Open Space	15%	60%
Common Open Space	3,050 s.f.	4,228 s.f.
Private Open Space	37 patios	38 patios
Trees Planted or Preserved	168	357

Percent of Existing Trees Removed.	75%	81%
Parking Spaces	164	164

The only changed standard listed above that now requires action is SRC 807.015(d)(2), which states that if the total percentage of trees removed on site is above 75 percent, trees above that amount require a 2:1 replacement ratio. The original finding for this standard is on page 74 of the original narrative. A revised tree inventory and plan is provided with these materials, and a revised Planting Plan (Sheets L5.00 and L5.01).

To preserve a significant tree (#271) at the south end of the site, the applicant moved a pedestrian access and removed parking near the significant tree. To maintain compliance with code-required parking minimums, parking was added to a location the east side. Relocating parking area required removing four additional, non-significant trees. This change results in the percentage of existing trees removed from the site, after deducting for exempt trees, to 81 percent. In real terms, this represents two trees over the threshold of 75 percent, that is, seven trees preserved, rather than nine, out of 36 existing, qualifying trees. The new calculations therefore require two additional replacement trees, on top of the 42 required under SRC 807.015(d)(1), for a total of 44 replacement trees. In fact, the applicant has proposed 350 new trees, as shown on the landscape plan. In other words, nearly eight times more replacement trees than this provision requires—more than 300 over the minimum—are being proposed.

## Responses to Completeness Letter

Issue	Code citation	Applicant Response
Signing Authority		An email from John Miller is attached, verifying that Jessica Woodruff has authority to sign the application. Confirmation units are designated for low-income residents (a requirement of Table 806-1, footnote 2) is included in this documentation.
TGE Form	220.005(e)(1)(d)	A trip generation estimate form has been completed by DKS, the applicant's transportation consultant, and is attached to this response.
Street trees	220.005(e)(1)(A)	Street trees have been added to the site plan. These are shown on Sheet G1.10
Detention basin		Westech, the applicant's civil engineer, has confirmed the stormwater approach with Salem Public Works
Alternative street standards	803.065	Street design has been modified to meet the city's typical standards. See Civil Drawings.
<i>Multiple Family Design Standards</i>		
Landscaping at entryways	702.020(b)(3)	Per an email with Salem Planning staff, this standard can be met with a condition of approval. New Planting Plans (Sheets L5.00 and L5.01) provided in landscape set.

Shrubs around buildings	702.020(b)(5)	Per an email with Salem Planning staff, this standard can be met with a condition of approval. New Planting Plans (Sheets L5.00 and L5.01) provided in landscape set.
Windows	702.020(c)(1)	Buildings A, B, and C modified to add windows at locations indicated in the completeness letter. (Sheets A2.11) For Building D, an adjustment to this standard is requested. Findings for the adjustment included as a separate document with this response.
Patio edges	702.020(c)(3)	The edge of all patios is defined by landscaping, not walls. Note J2 on Sheet L1.02 refers to wall that may need to go below grade to accommodate a down slope, not a raised wall.
No building dimension greater than 150 feet	702.020(e)(1)	An adjustment to this standard for Building D is requested. A narrative and findings for the adjustment is included as a separate document with this response.
Buildable width at setback line	702.020(e)(4)	The Community Building has been moved slightly to the west so that its exterior wall touches the Salal setback line. (Sheet G1.10) Based on communication with city staff, its façade therefore qualifies as being on the setback line. Calculations are therefore the same and exceed the 40% minimum.
Building entrances & ped access	702.020(e)(5)	A direct pedestrian connection has been added between the Community Building and the Salal Street sidewalk. (Sheet G1.10)
Architecturally-defined entry areas	702.020(e)(6)	Metal canopies have been added to the side entries of all Building A buildings. (Sheet A2.11) Based on emails with Salem Planning staff, interior shared entries of the Senior Building qualifies as architecturally-defined from cover of sky bridge.
Roof lengths	702.020(e)(8)	Roofs of both Building B and Senior Building have both been modified to meet the standard. See Sheets A3.01
Building lengths	702.020(e)(9)	The original application narrative included an adjustment request to this standard, for the west façade of Building C. See page 18.
Visually separate upper floors	702.020(e)(10)	A material change between the ground floor and upper floor of the Senior Building has been noted on the inner façade elevation drawings (Sheet A3.02)
Solid Waste Service Area Standards	800.055	Trash enclosure drawings updated, moved from Building E plan set to Landscape set (Sheet L7.00).
Protected Trees	808.045	The applicant is requesting a tree variance for removal of three of six significant trees on the site. The variance request is a separate document included with this response.

## **Salem Gateway Housing - Supplemental Adjustment Findings**

### **5205 Battle Creek Road SE, Salem case file 22 101695 00 RP**

#### **Winterbrook Planning, March 12, 2022**

As part of the completeness review for the project proposed at 5205 Battle Creek Road SE (application no. 22-101695-00 RP) a letter from Salem planning staff on February 15 determined that some multiple family design standards are not met by the proposed design. In some of these instances, the applicant modified the design to comply. In two specific instances, though, it seeks an adjustment to the relevant standard. Specifically:

- From a standard which requires buildings to have “no dimension” greater than 150 feet, SRC 702.020(e)(1). The south elevation of the Senior Building has a dimension on the south façade from corner to corner of more than 150 feet.
- From a standard that requires a window on each wall of all habitable rooms that face common open space, SRC 702.020(c)(1). This standard is not met on one interior-facing wall for two dwelling units of the Senior Building.

Together with the other adjustments requested in the original narrative, this brings the total number of adjustments requested to five. Adjustments are limited in scope to a single or small number of locations, not broadly to all buildings on the site. Also, given the request is for the development of 10 buildings and 7.7 acres of site area, situations needing adjustments are still relatively few.

Adjustments “allow reasonable development of property where special conditions or unusual circumstances exist,” as stated in the code. For the two additional adjustment requests listed above, one of the special conditions of this site is the double frontage lot, which creates a need for the Senior Building to have identifiable frontage on both the east and west sides, elongating the building in that dimension.

As noted in greater detail in the adjustment findings, the proposed design clearly satisfies the purpose of the window standard by creating a mechanism to “encourage visual surveillance” through other measures of building and site design. It equally or better meets the purpose of the building dimension standard by creating varied wall planes on the Senior Building to break up its longest façades.

## **Adjustments – Chapter 250**

### **Purpose – 250.001**

*The purpose of this chapter is to provide a process to allow deviations from the development standards of the UDC for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative*

way to meet the purposes of the Code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist.

**Response:** The requested adjustments will allow reasonable development of this property because special conditions or unusual circumstances exist. With respect to this property, one of those conditions is having two frontages, which elongates a building design that strives to have frontage both on the east and west sides of the site. Flexibility in this circumstance is justified.

### **Adjustments – 250.005**

(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.

(B) A Class 2 adjustment is an adjustment to any development standard in the UDC other than a Class 1 adjustment, including an adjustment to any numerical development standard in the UDC that increases or decreases the standard by more than 20 percent.

**Response:** The proposed application requests two additional adjustments, both from the multiple family design standards listed in SRC 702.020.

The first adjustment is from SRC 702.020(e)(1), which requires that no dimension of a building be greater than 150 feet. A horizontal measurement of the Senior Building from its southwest corner to its southeast corner, is 162.1 feet.

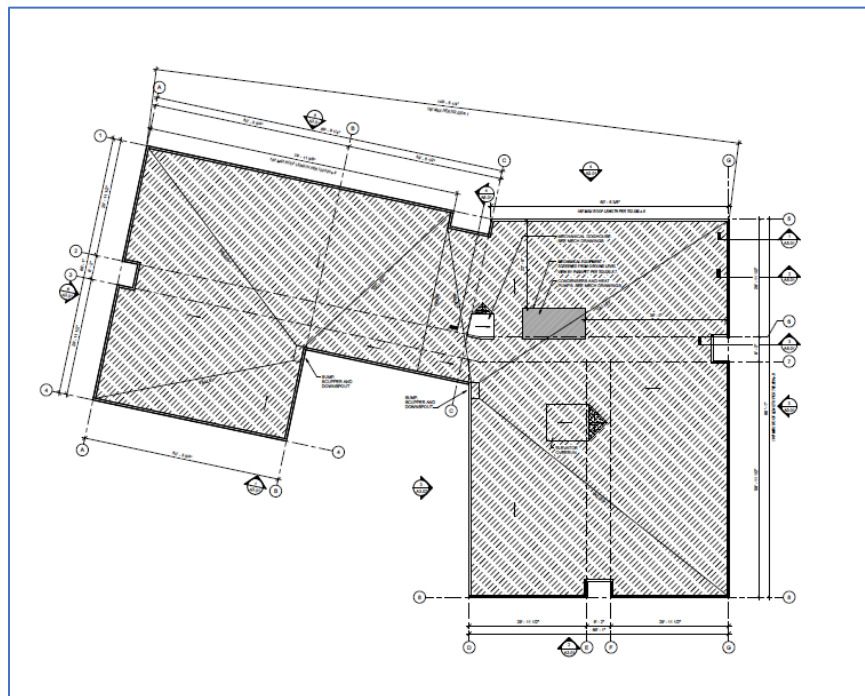


Figure 1. Senior Building roof plan

The building dimension differs from the standard by only 8 percent (*i.e.*, 162.1 feet vs. 150 feet), and is therefore subject to the Class 1 adjustment criteria.

The second adjustment is from SRC 702.020(c)(1), which requires all habitable rooms have windows on each wall that faces common open space, parking areas, and pedestrian paths. This standard is not met on one wall of the Senior Building, where a corner room on the first and second floors has windows that face north, but does not have windows facing east, toward the “Senior Courtyard.” These two apartment units are designated 111 and 211 on Sheets A2.11B and A2.12B.



Figure 2. Detail from first floor plan of Senior Building





The difference between the window placement standard and the proposed design is greater than 20 percent (*i.e.*, windows are proposed on one wall vs. “each wall”), and therefore this request requires response to the Class 2 adjustment criteria.

*(2) Prohibition. Notwithstanding subsection (a)(1) of this section, an adjustment shall not be granted to:*

- (A) Allow a use or activity not allowed under the UDC;*
  - (B) Change the status of a use or activity under the UDC;*
  - (C) Modify a definition or use classification;*
  - (D) Modify a use standard;*
  - (E) Modify the applicability of any requirement under the UDC;*
  - (F) Modify a development standard specifically identified as non-adjustable;*
  - (G) Modify a development standard that contains the word "prohibited";*
  - (H) Modify a procedural requirement under the UDC;*
  - (I) Modify a condition of approval placed on property through a previous planning action;*
  - (J) A design review guideline or design review standard, except Multiple Family Design Review Standards in SRC chapter 702, which may be adjusted; or*
  - (K) The required landscaping in the Industrial Business Campus (IBC) Zone.*
- (b) Procedure type. Class 1 and Class 2 adjustments are processed as a Type II Procedure under SRC chapter 300.*

**Response:** Subsection (J) above explicitly permits Multiple Family Design Review Standards in SRC Chapter 702 to go through the adjustment process. The requested adjustments are therefore not prohibited.

*(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.*

*(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.*

**Response:** The proposed adjustment request is part of a consolidated application that includes site and building drawings that have all the listed elements above. These were previously addressed under the finding for site plan review submittal requirements, SRC 225.005(d), in the original application narrative.

*(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.*

**Response:**

- Building dimension limit -- SRC 702.020(e)(1)

The proposed adjustment for a building dimension greater than 150 feet is subject to the Class 1 adjustment criteria because the proposed dimension is only 8 percent larger than the standard, 162 feet.

The purpose statement for the section that includes the standards is in SRC 702.001:



*"The purpose of this chapter is to establish design review standards for multiple family development."*

This purpose section does not illuminate the reasons for the building dimension limitation. However, the "underlying" purpose of the standard may be found within the language of the standard itself, which reads, "to preclude long monotonous exterior walls, buildings shall have no greater dimension than 150 feet." The purpose underlying this regulation is "to preclude long monotonous exterior walls." This is clearly satisfied by the design of the proposed Senior Building because recesses and projections on the south façade results in it appearing as multiple walls, which are therefore neither long, nor monotonous.

As shown clearly in Figure 3 above and site plan and floor plan drawings, the Senior building is in fact made of two building masses, connected at a 12-degree angle. The reason for the offset is that the west side building mass is oriented to face Salal Street, while the east side building mass is oriented towards Battle Creek Road. This has the effect of tilting the building at a 12-degree angle and making the north and south sides of the structure appear to have separate façades. Moreover, the south elevation has a center segment, 39 feet wide, recessed deep into the building at the first two stories. The depth of this recess, from the south-facing wall of the west section to the skybridge, is 26 feet, a major difference in plane. This has the effect of completely dividing the western and eastern sections of the building. They read, visually, as separate façades, or at least as separate exterior walls..

All of the exterior wall segments, measured in any other way than one far corner to the other, are shorter than the 150-foot limit listed in this standard. In effect, the south façade has three exterior walls, a west section of 50' 4", a center section of 39' 6", and an east section of 66' 1", each on their own building plane. "Dimension" is not defined in the code, nor does it offer guidance about how to measure a "dimension." Measuring corner-to-corner on each façade is the most restrictive interpretation, especially for a building that has visually separate exterior wall segments and when those two corners do not have line of sight from each other. "Exterior wall" is a term mentioned in the standard and seems the more relevant unit of analysis for measuring dimensions. Each of these is shorter than the limit.

In any case, the south façade cannot be considered "long" and "monotonous" by any reasonable assessment, regardless of how it is measured. Major design elements of the building have been discussed above: a 12-degree offset angle, a recess for the middle section that includes a glassed-in hallway on the second floor, and three visually distinct exterior walls. Other design elements that ensure the façade is not long and monotonous are generous windows on all south-facing walls, a different color and material at the center of the building, a material change between the ground and upper floors, a higher roof line at the west building mass, and multiple active building entrances that face the courtyard.



Figure 4. Senior Building south façade

Overall, the purpose of the standard to limit long and monotonous walls is clearly satisfied by the proposed design, and the way it breaks up the façade into different segments, as opposed to limiting building façade length.

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

**Response:** In the context of the proposed limit to building dimensions, the “surrounding existing potential uses or development” affected by allowing the adjustment is limited to properties that have clear sight lines to the south façade, which is the relevant dimension exceeding the limit. As with other adjustments discussed in this and the original application, surrounding properties are not affected by aesthetic considerations if they have no view of the feature.

A complete, end-to-end view of the south façade of the Senior Building is impossible from any vantage point outside the development itself. The nearest neighboring property – which is the publicly-owned Woodscape Linear Park – is far away and completely blocked by multiple other buildings and proposed vegetation. Even oblique views of the south façade, from Salal or Battle Creek, are partially blocked by proposed buildings in the development. The potentially “long monotonous” exterior wall this design standard is intended to preclude is simply not visible from any outside vantage point, and a full view of it is the exception even within the site. Because this wall is not visible in its full length from any other property, it will have virtually no effect on them, and therefore does not create an unreasonable impact.

(2) An application for a Class 2 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) Equally or better met by the proposed development.

**Response:**

- Window placement-- SRC 702.020(c)(1)

The proposed window placement adjustment is to not have two windows that would otherwise be required in two corner units of the Senior Building. Because this is greater than a 20 percent reduction from (*i.e.*, from windows on “each wall” to only one wall) the criteria for a Class 2 adjustment apply.

The purpose statement for the section that includes the window standard is in SRC 702.001:

*“The purpose of this chapter is to establish design review standards for multiple family development.”*

This purpose section does not illuminate the reasons for the window requirement. However, the “underlying” purpose of the standard may be found within the language of each individual standard. The applicable standard reads, “Windows shall be provided in all habitable rooms, other than bathrooms, on each wall that faces common open space, parking areas, and pedestrian paths to encourage visual surveillance of such areas and minimize the appearance of building bulk.” The language therefore specifies that the purpose underlying the regulation is “to encourage visual surveillance of such areas and minimize the appearance of building bulk.”

People outside the building receive the benefits of surveillance and a different building appearance created by this standard. Importantly, the purpose statement indicates the purpose is not to confer benefits to residents inside the units. The proposed development provides surveillance at this location by providing it from other, superior vantage points and having 24-7 lighting on the building at this location. Due to their room locations, strict application of the standard to require windows facing a well-lit common open space would have no *practical* effect on encouraging visual surveillance or minimizing the appearance of building bulk, as is explained below.

The area that would presumably be subject to surveillance by the additional windows is already highly visible from multiple other vantage points, which are part of the overall building design. The most prominent of these is the glassed-in hallway between the east and west parts of the building. This second-floor hallway and lounge is expressly designed for people-watching. It looks directly down to the Senior Courtyard, including the area in front of the wall on which windows would be required. The windows of the people-

watching hallway do not have shades and are always open for visibility and safety purposes, unlike dwelling unit windows, which may be shaded or curtained for privacy, thereby eliminating the surveillance benefit. Additionally, the area in front of this wall is highly visible from the ground-floor fitness room on the east mass of the Senior Building. As shown on the first-floor plan (Sheet A2.11B) and inner east side elevation (Sheet A3.02), both a full-height window and double exterior door are on the opposite wall from the area of the courtyard that is at issue. The community room window and two exterior doors will create more “eyes on the street” and activity than a residential unit window. Entries are located on each side of the building, underneath the glassed-in, second-floor hallway. The movement of residents in and out of these main entrances will provide many opportunities for surveillance of the Senior Courtyard, including the area that would be outside the forgone windows of these residential units. Finally, although it is somewhat more distant, the Community Building main entry faces the Senior Courtyard and has an unobstructed view of this location. Altogether, numerous other locations provide unobstructed and continuous visual surveillance of the common area.

Lighting will also provide site safety and security at this location. As shown on the landscape plan (Sheet L1.01) and building plans, outdoor pole-mounted and building-mounted lighting is provided that is directed at the courtyard. Because this area of the courtyard has three exterior doors, this area will be well illuminated to meet building code standards. Lighting underneath the bridge will illuminate both the pathway underneath it and the entry doors on both sides of it. Likewise, the courtyard will be fully illuminated during all night and evening hours for safety and security reasons. This equally or better meets the purpose of encouraging visual surveillance.

Because the area in front of the building wall at issue will be lighted during non-daylight hours, it would be very likely that the residents of the two affected units would keep their shades closed virtually the entire time. Otherwise, the security lighting on the courtyard would shine into the residential units. Especially for the ground floor dwelling, the windows on this wall would create a “fish bowl” for those sitting in the courtyard, those people-watching from the bridge, or leaving the fitness room on the opposite wall. Whether to maintain privacy or eliminate light intrusion, drawn shades eliminate any surveillance benefit of windows.

The second clause of the standard, “minimize the appearance of building bulk,” is unrelated to “site safety and security,” which is the heading of the section. A different design standard, more appropriately under section (e), “façade and building design,” uses the exact same language about minimizing bulk. This wall complies with that standard, SRC 702.020(e)(9), which does not require rooms to have additional windows. The aesthetics of a building and its perceived bulk is not logically related to the operational safety or security of the development site.

In context, the meaning of this phrase also raises the question, “appearance” to whom? This wall of the building is entirely internal to the development. It is not visible from any adjacent public street or neighboring property. No one except residents of the development

have views of this wall. Consequently, it has no effect on site safety and security. Insofar as aesthetics are related to safety, adding windows at this location would have virtually no impact on either building bulk or the appearance of it. Those additional windows would not change the dimensions of the actual structure – which is compliant with all the relevant dimensional standards for height, setbacks, and lot coverage. The length of this internal-to-the-building wall is relatively short. Following a different design standard, the first and second floors are distinguished by a change in materials on this wall. The building wall has multiple other features that break down the perception of its size, including windows on upper stories, an exterior door, and the signature architectural element of the adjacent glassed-in hallway. In short, the combination of these other design features of that wall, and the building overall, equally or better minimize the appearance of building bulk as opposed to simply adding several more windows.

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

**Response:** The proposed adjustments are within a residential zone, the RM-II. The proposed development will not detract from the livability or appearance of the residential area for the following reasons.

- Window placement

In the context of this design standard, the “residential area” affected by allowing the adjustment is limited to other properties that have clear sight lines to the relevant architectural feature. As with other adjustments, the area does not expand to adjacent properties if they have no view of the feature, in this case, windows on one wall of the Senior Building.

The windows on this wall that are the subject of the adjustment request are entirely internal to the development. They are blocked from Salal by the west building mass, from Foxhaven by the Community Building, and from Battle Creek Road and the south side of the property by distance, other buildings, and landscaping. Forgoing windows on a wall that is interior to the development and invisible to surrounding property will have virtually no effect on the livability or appearance of this area.

*(C) 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.*

**Response:** Including the adjustments requested in the original application, five total adjustments are requested, from:

- SRC 702.020(c)(1) – window placement
- SRC 702.020(d)(2) – parking lot location
- SRC 702.020(e)(1) – building dimension limit
- SRC 702.020(e)(4) – buildable width

- SRC 702.020(e)(9) – building face length

Two are related to the placement of buildings and parking areas on the east side of the site, two are related to the length of building faces, and one is related to window placement. The development site encompasses 7.7 acres of property, the applicant has proposed 10 separate buildings with 200,000 square feet of floor area, and Salem has dozens of specific standards in its code. Due to this scale and scope, it is reasonable for the application to request five adjustments that apply in only very specific locations. Because they have limited applicability to buildings and areas of the site, their cumulative effect is minor, compared with outright compliance with all standards and no adjustments.

The “overall purpose of the zone” is listed in SRC 514.001:

*“The purpose of the Multiple Family Residential-II (RM-II) Zone is to implement the multiple family residential designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The RM-II zone generally allows multiple family residential uses, along with a mix of other uses that are compatible with and/or provide services to the residential area.”*

The project, with the proposed adjustments, has no direct impact on the purpose of the zone as listed in this statement. Specifically, it does not change implementation of the comprehensive plan designation, identification of allowed uses, or establishment of development standards. The proposed use of the site is multiple family residential, which is an allowed use and not affected by the adjustments. The spirit of the design and development standards, to increase visual interest and enhance the pedestrian experience, has been met by significant upgrades to the condition of the site along the edge of the Battle Creek Road frontage and the overall context of existing conditions. This was explained in the response to adjustment criterion (2)(A)(ii). Larger buildings are consistent with multi-family residential uses, and the larger buildings have been broken up into smaller segments using design elements like angles, offset walls, roof lines, and vertical changes in material and color. In general, the proposed multiple family project will be a high-quality housing development in a multiple family zone, a zone that was explicitly designated to create opportunities like this. For that reason, it is consistent with its overall purpose.



## MEMORANDUM

To: Brandon Pike, Salem Planning  
From: Ben Schonberger, AICP  
Date: March 12, 2022  
Re: **Tree Variance, Lot 1**  
**(case file 22 101695 00 RP)**

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The following memo contains findings for a variance to remove three significant trees from a site proposed for residential development at 5205 Battle Creek Road SE in Salem. The land use application referenced above is a site plan review, driveway approach permit, adjustments, and design review. Submitted materials in the original application contain a tree plan that includes a tree inventory, arborist report, and trees designated for protection or removal as part of the proposed development.

Six significant trees, defined by the Salem code as Oregon white oaks larger than 24 inches in diameter (SRC 808.005), are located on the site. Three of these are designated for removal. SRC 808.015 prohibits the removal of significant trees without a permit. Obtaining a tree variance is one of the processes for allowing removal of significant trees. This document therefore requests a tree variance, under the criteria listed in SRC 808.045, to remove three trees and enable the proposed housing development.

### **Proposal Narrative**

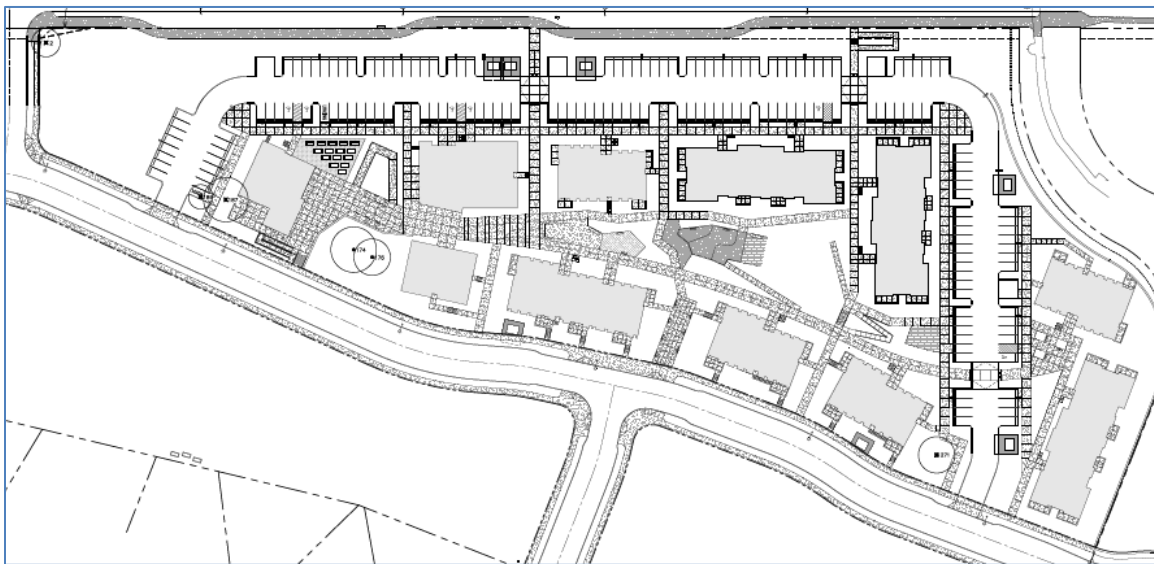
The previously submitted arborist report identified six significant trees on Lot 1, a 7.7 acre development site. Those trees are listed in the table below. To enable full development of the site, the applicant proposes removing three of them. The tree inventory numbers all the trees on the site; the significant trees proposed for removal are #2, #187, #189. Trees #174, #176, and #271 will be preserved, and are integrated into the landscape design of the housing development.



**Table 1. Significant Trees**

Tree number	Species	Diameter (dbh)	Condition	Condition Notes	Proposed Action
2	Oregon white oak	28	Good	Complete canopy. Ivy prevalent.	Remove
174	Oregon white oak	45	Fair	Multiple broken limbs mid crown. Storm damage.	Save
176	Oregon white oak	36	Good	Twin stems from ground. Shaded half crown form.	Save
187	Oregon white oak	44	Fair	Large bole. Multiple large broken limbs.	Remove
189	Oregon white oak	24	Fair	Damage and decay on lower stem.	Remove
271	Oregon white oak	36	Fair	2 large stems, one stem failed on adj trees	Save

An attached plan shows the location of significant trees. Of those proposed for removal, Tree #2 is located at the intersection of Battle Creek Road and Foxhaven Drive, and Trees #187 and #189 are located on the north of the Community Building, close to Salal Street. The three trees to be saved are in a pocket between the Community Building and the Senior Building, and near the south driveway entrance to the parking area.



**Figure 1. Tree Plan**

## Findings

### ***Sec. 808.045. - Tree variances.***

*(a) Applicability. Tree variances may be granted to allow deviation from the requirements of this chapter where the deviation is reasonably necessary to permit the otherwise lawful development of a property.*

**Response:** The proposed removal of three significant trees is “reasonably necessary” to permit development on the site. Each of the three trees has a unique set of reasons it must be removed to enable future development on the site.

This property is zoned “Multiple Family Residential II” by the city and planned for development with those uses. This is an intense land use designation relative to other zones in the city, and any design proposed in this zone must also comply with numerous development standards. Many of the standards require development that occupies site area, requires grading, and/or creates new impervious surface, all things generally incompatible with tree preservation. Examples of these site elements required by code are:

- Buildings sufficient to meet minimum residential density
- Parking lots to meet minimum parking requirements
- Driveways for fire access
- Paved pedestrian paths and plazas to meet access standards
- Stormwater management facilities to treat runoff
- Underground utility infrastructure (water and sewer) to serve buildings
- Active recreation areas and private open space
- Unobstructed visibility between dwellings and streets
- Solid waste service areas to serve residences

The code-required elements identified above, and a general desire to make efficient use of valuable urban land, combine to take up space in a way that creates a practical difficulty when trying to protect every significant tree on site. In effect the tree protection zones and the development are competing for the same limited square feet of the site.

Contributing to the challenges is that large trees, which these significant oaks are, require large areas of protection to preserve them. The city’s definition of “Critical Tree Zone” in Chapter 86 conveys how these areas are calculated.

“Critical Tree Zone (CTZ) means a defined area surrounding the trunk intended to protect the tree’s trunk, roots, branches, and soil to ensure tree health and stability. It is the area defined by the tree’s dripline or an area measured one-foot per one-inch diameter at breast height, whichever is greater.” (SRC 86.010)

The three trees that cause the greatest conflict with proposed development plans and are being requested for removal also have very large CTZs—28, 44, 24, feet in diameter. These protection zones compete for space with the items needed for development of the site in the bulleted list above. Current site plans show the trunks of some trees or their CTZs would be encroached upon by buildings, pedestrian paths, parking, driveways, sidewalks, or streets. A tree can endure some encroachment into its CTZ, but large conflicts like the ones shown in current designs are not feasible.

Consequently, the proposed site layout is a reasonable use of the property that meets the definition of lawful development and justifies, in part, a tree variance.

*(b) Procedure type. A tree variance is processed as a Type II procedure under SRC chapter 300.*

**Response:** This variance is processed as a Type II procedure which is consolidated and concurrent with the other reviews: site plan review, adjustment, driveway approach, and design review.

*(c) Submittal requirements. In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a tree variance 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 the following information:*

*(A) The total site area, dimensions, and orientation relative to north;*

*(B) The location of any existing structures on the site;*

*(C) Identification of the type, size, and location of all existing trees on the property;*

*(D) Identification of those trees proposed for preservation and those designated for removal; and*

*(E) The location of roads, bridges, utilities, and other improvements;*

**Response:** The information above was provided as part of the Tree Plan submitted with the original application. The Lot 1 site area is 7.7 acres. There are no existing structures on the site. All existing trees are identified in the tree table which is part of an arborist report. This inventory also identifies those preserved and designated for removal. Existing and proposed roads and utilities are shown on the site plan.

*(2) In addition to the information required by subsection (c)(1) of this section, when a riparian corridor is located on the property, an application for a tree variance shall include:*

*(A) A delineation of the boundaries of the riparian corridor on the site plan;*

*(B) Identification of the type and location of any native vegetation within the riparian corridor proposed for removal.*

**Response:** There are no riparian corridors on the property. This submittal requirement is not applicable.

*(d) Approval criteria. A tree variance shall be granted if either of the following criteria is met:  
(1) Hardship.*

*(A) There are special conditions that apply to the property which create unreasonable hardships or practical difficulties which can be most effectively relieved by a variance; and*

**Response:** A number of “special conditions” apply to the property that create “practical difficulties” that are most effectively relieved by a variance.

One of the pre-existing conditions of the site affecting tree removal is the existing sewer connection and easement through the site. This dictated the location of Salal Street. Having a fixed location for the public street does not permit flexibility in street alignment which might otherwise enable a design that avoids more trees. Likewise, the location of the intersection at Foxhaven and Battle Creek Road is also fixed, due to the necessity of aligning Foxhaven on both sides of Battle Creek Road.

With street locations pre-determined, the topography of Lot 1 requires substantial grading to create a reasonably-sloped area for building development, access, parking, and utilities. The change in elevation from the street edge to the developed area of the property is shown on the existing conditions map and the grading plan. Substantial grading occurs along this frontage because:

- access into the site from (pre-determined) Salal Street is needed;
- vehicular access and off-street parking is required by code;
- a design standard that says at least 40 percent of this frontage must be occupied by buildings, and
- topography that slopes up sharply from the street to the site.

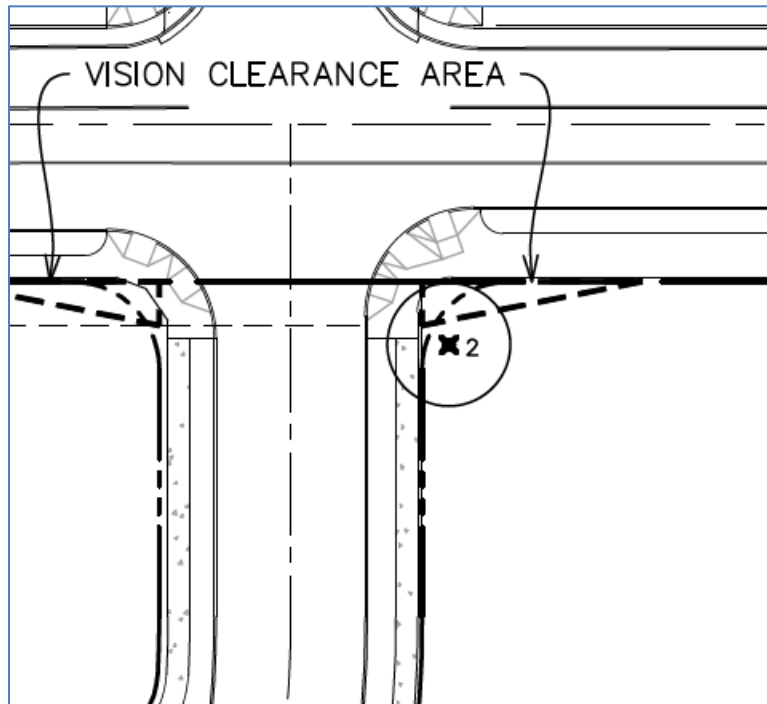
A great deal of design effort has been made—and land devoted—to protect three of the six significant trees. They include a cluster just north of the Senior Building’s west wing, and a large oak near the south driveway entry into the site. These trees are being preserved.

However, given the listed constraints (*i.e.*, “special conditions” of the site), it is not feasible to protect all significant trees. Demands of all the other development and design standards—minimum density, minimum off street parking, utility connections, pedestrian access, driveways and fire access, solid waste collection areas—make it difficult to preserve every tree.

The circumstances of each tree and why it is proposed for removal are listed below. In the language of the criterion, these descriptions explain the special conditions of the property, the practical difficulties of preserving the trees, and why the variance is justified.

## **Tree #2**

This tree, a 28-inch Oregon white oak, is located five feet from the property line at the corner of the Foxhaven and Battle Creek intersection.



**Figure 2. Tree #2**

This tree is only five feet from the edge of the Foxhaven Drive right of way. Likewise, it is immediately next to a “vision clearance area” for the Foxhaven/Battle Creek intersection, defined in SRC 805.005(a)(2). Although the trunk of the tree seems to lie just outside the defined vision clearance area, the branches and foliage of the tree are within that zone. Tree #1, a mature but smaller tree that does not meet definition of significant, is just east of Tree #2. The trunk of this tree is within the vision clearance triangle and is being removed partly for that reason. Obstructions to vision are prohibited within the vision clearance area, per SRC 805.010. No removal permit is required to maintain of a vision clearance area, per SRC 808.030(a)(2)(A). Being so close to a vision clearance area provides one justification for supporting the variance. Vehicles stopped at the intersection, exiting the new development, must have adequate sight distance to see oncoming northbound traffic. A 28-inch tree trunk interfering with the view in this direction creates a potential safety hazard. As noted, the subdivision layout and street alignments are set by the need to create a four-way intersection with Foxhaven and Battle Creek. Changing the location of the street to save this tree is not possible.

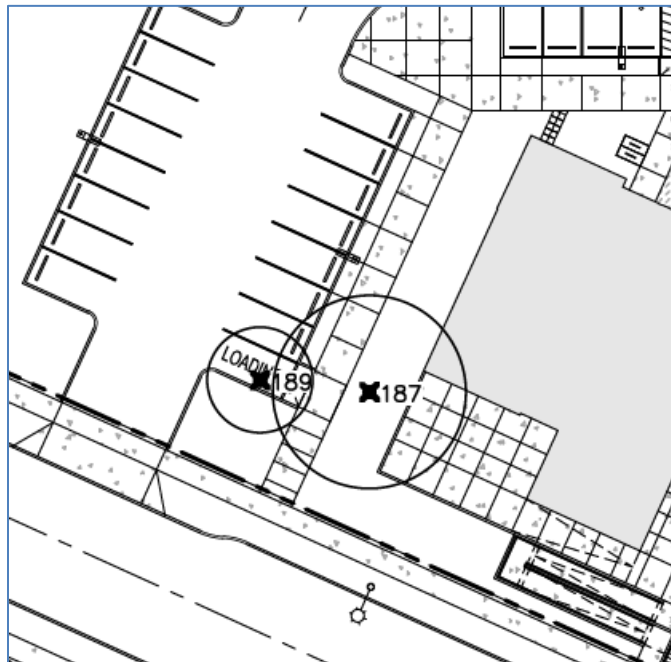
In addition, this tree cannot practically be preserved because of the location of the street right of way and the proposed stormwater facility. Given the proximity of the tree to the south side sidewalk along this segment of Foxhaven, a paved surface will interfere with a significant percentage of the critical tree zone (CTZ) that is be required to preserve the tree. Foxhaven street and sidewalk infrastructure (which includes underground utilities) encroaches heavily into this hypothetical 28-foot CTZ.

Additionally, as currently designed, this north corner of Lot 1 is occupied by an engineered stormwater collection facility that disrupts the ability to preserve a mature oak tree. The trunk of the tree is located on the proposed side slope of this collection facility. The majority of the tree's CTZ is in conflict with the storm facility. The location of the stormwater facility is driven by it being the natural low elevation point on the property. As such, natural topography makes this the logical place to collect and treat stormwater runoff from the 7.7 acre site. The CTZ could only be preserved by moving the stormwater facility, which is not practical given the topographical constraints of the property.

To provide additional context, the code does not require replanting for trees of any size or species if they are removed for a required stormwater facility or vision clearance area, per SRC 807.015(d)(2). This indicates a recognition that it is a special circumstance when conflicts arise between trees and stormwater facilities or vision clearance areas. This specific tree's proximity to the Foxhaven/Battle Creek intersection, the sidewalk and street surface of Foxhaven, and the side slope of the proposed stormwater facility makes preserving it in this location infeasible.

#### **Tree #187**

This tree, a 44-inch Oregon white oak, is located 30 feet from the edge of Salal Street in a cluster between the proposed Community Building and the driveway entrance to the parking area at the north side of the site. It is in a cluster with another significant tree, #189.



**Figure 3. Trees #187 and #189.**

A physical conflict with the existing cluster of trees that includes Tree #187 is the need for vehicle access and parking. A root protection zone for Tree #187 would be 44 feet in diameter, and conflicts with the Community Building, a pedestrian path, and parking in the north parking area of the site. Access and parking are city requirements, and forgoing spaces is not an option. According to city code, 256 parking spaces would normally be required for the mix of housing units on the site (Table 806-1). The proposed site design includes only 164 parking spaces. This is 92 fewer spaces than the typical minimum. Reductions for low-income housing allow this amount of parking to meet city standards (See footnote 2 of Table 806-1.) After taking these reductions, the site layout has the absolute minimum allowed by the code. In other words, the applicant has limited site parking as much as possible to make room for higher-value uses — buildings, open space, plazas and pedestrian areas, and also some tree protection. Nevertheless, nearly 1.5 acres of paved vehicular and parking area is required by city code, even at a dramatically reduced level. Providing parking and vehicle area comes at the expense of other things, including trees.

Paved vehicle areas have other code requirements: parking areas must have two-way access from the street, the access must loop through the site to have multiple points of egress, and drive aisles must be wide enough to accommodate bi-directional traffic, service, and emergency vehicles. These requirements create limitations where the access points and parking can be. Eliminating or relocating this vehicle access or parking would create a “practical difficulty” for development of the site, because access and parking are site requirements that exist in the context of existing site conditions and other city requirements.

Related to vehicle and pedestrian access are grading requirements. Preserving either tree at this location is extremely difficult because of the natural topography of the site. The location and elevation of Salal Street is fixed as part of the subdivision plan, and because it follows an existing sewer line and easement. Also essentially fixed is the driveway access into the site, place between the required stormwater facility at the north end of the site and the Community Building. The topography at this location must be graded from a higher elevation where the two trees are located, to a lower elevation at the street edge. Without grading as shown, the elevation change at this location would mean both the driveway and pedestrian access would have a steep slope that does not meet ADA standards. The necessary grading interferes with the CTZs for Trees #187 and #189.

The canopy and CTZ of Tree #187 also encroaches into the minimum building setback from Salal Street. That is a zone where buildings must be constructed, according to one multiple family design standard (SRC 702.020[e][4]). This effectively crowds the setback line with buildings, reducing potential locations for other needed elements along that frontage. Other things that compete for space along the Salal frontage are: reasonable space between buildings and access around them, the two main driveway access points into the site, and a required stormwater facility. Some site elements are fixed and cannot be moved away from the edge of Salal to make room for additional tree preservation. This includes large tree protection area for Trees #174, #176, and #271, which are being preserved. Combined, these elements would



make it practically difficult to also establish another very large CTZ to protect the cluster—approximately 50 feet in diameter, if including both Tree #187 and #189.

A last mitigating factor in the removal of this tree is that the arborist report notes it is only in “fair” condition and has multiple large broken limbs. As such it could be potentially a poor candidate for preservation. Going to great lengths to protect a tree that is only in fair condition may be unwise if it may not survive in the medium to long term, because it is amidst an active construction site and will be surrounded by buildings and paved areas.

### **Tree #189**

This tree, a 24-inch Oregon white oak, is located 22 feet from the edge of Salal Street in a cluster between the proposed Community Building and the driveway entrance to the parking area at the north side of the site. It is close to Tree #187. As currently designed, the trunk of this tree conflicts directly with a required parking space in the north lot, proximate to a pedestrian access way and one of the main access points to the site.

Tree #189 encounters the same physical conflict from required vehicle access and parking as Tree #187, discussed above. The applicant pared down parking area as much as possible to make room for higher-value uses like buildings, open space, plazas and pedestrian areas, while also protecting some significant trees. The proposed site design includes 164 parking spaces, 92 fewer spaces than would typically be required, the absolute minimum allowed by code. (See the calculations above under Tree #187.) Even at a very reduced level, city rules still require nearly 1.5 acres of paved vehicular and parking area. Providing that much paved area comes at the expense of other land uses, including tree preservation.

Spatially, parking must be accessed from the street, driveways must be wide enough to accommodate two-way traffic and emergency vehicles, and access must loop through the site. These requirements create limitations where the access and parking can be. A possible root protection zone for Tree #189 would conflict with numerous parking spaces, the main access/egress point from Salal Street and a key pedestrian connection. Eliminating or relocating vehicle access or parking would create a “practical difficulty” for development of the site, because access and parking requirements exist in the context of other city requirements and existing site conditions.

The same topographic and grading limitations noted above apply to Tree #189. The locations of Salal Street and the driveway access are essentially fixed because of the subdivision plan and the other limitations of buildings and tree protection areas. The topography at this location requires grading to get back to the street level. Without doing the grading as shown, the elevation change would not meet ADA standards for either the driveway or the pedestrian path. Necessary grading interferes with the CTZs for both Trees #187 and #189.

As discussed with Tree #187, Tree #189 is within the minimum building setback from Salal Street. That is a zone where at least 40 percent of the street frontage must be occupied by buildings at the setback line. By requiring numerous site elements to be at or close to the Salal

frontage, it becomes crowded with activity and reduces the flexibility to give over large areas to CTZs. Reasonable space is needed between and around the buildings, two main driveway access points are required to the interior of the site, and the required stormwater facility must be at the low point, north side of the property. The two significant trees that are being preserved south of the Community Building, and a third one at the south end of the site, create large tree protection areas that also occupy the frontage zone. It is a “practical difficulty” to add to the site plan another, approximately 50-foot diameter CTZ to protect Trees #187 and #189, in addition to the other required elements.

As with Tree #187, a mitigating factor in the removal of this tree is that the arborist report notes that it is only in “fair” condition, and that it has damage and decay on its lower stem. As such it would be risky to make decisions about site design that revolve around a tree that may not last, especially when surrounded by new buildings and paved areas.

*(B) The proposed variance is the minimum necessary to allow the otherwise lawful proposed development or activity; or*

**Response:** The site layout preserves two significant trees in a three-tree cluster north of the Senior Building. Likewise, a 36-inch oak will be preserved near the south driveway entrance to the property. To enable build out of the site (“otherwise lawful proposed development”) while still being compliant with a wide variety of city-imposed development and design standards, the applicant must remove three significant trees. Removing these trees is the minimum necessary to allow development, as demonstrated by a tree-by-tree explanation under the previous criterion. Also, preserving three of the best-condition significant trees demonstrates that the applicant has preserved trees where it can, but it cannot save more without eliminating buildings or otherwise falling out of compliance with standards.

*(2) Economical use.*

*(A) Without the variance, the applicant would suffer a reduction in the fair market value of the applicant's property, or otherwise suffer an unconstitutional taking of the applicant's property;*

*(B) The proposed variance is the minimum necessary to prevent a reduction in the fair market value of the applicant's property or otherwise avoid a taking of property; and*

**Response:** The two sets of approval criteria under section (d) are connected by an “or” statement, meaning only one of them needs to be met. The applicant has responded to and met the criteria under subsection (1), therefore, section (2) is not applicable.

*(C) The proposed variance is consistent with all other applicable local, state, and fed. laws.*

**Response:** This variance to allow removal of three additional trees on a 7.7 acre site complies with all other applicable local, state, and federal laws. The city rules have been outlined by planning staff and compliance is addressed in the overall findings previously submitted in the land use application.





Thomas Eldridge &lt;thomas@communitydevpartners.com&gt;

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**RE: Gateway | Land Use Application Signing Authority**

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John Miller &lt;john@wildwoodco.com&gt;

Thu, Feb 17, 2022 at 3:16 PM

To: Thomas Eldridge &lt;thomas@communitydevpartners.com&gt;

Cc: Jessica Woodruff &lt;jessica@communitydevpartners.com&gt;, Deb Cozzie &lt;deb@wildwoodco.com&gt;

Thomas: Permission to have Jessica sign is granted. Thanks, John Miller

John D. Miller, President

Wildwood/Mahonia

503-931-5273 (cell)

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**From:** Thomas Eldridge <thomas@communitydevpartners.com>**Sent:** Thursday, February 17, 2022 2:01 PM**To:** John Miller <john@wildwoodco.com>**Cc:** Jessica Woodruff <jessica@communitydevpartners.com>; Deb Cozzie <deb@wildwoodco.com>**Subject:** Gateway | Land Use Application Signing Authority

Hello John,

We received our first checksheet back from Salem, and they want evidence that Jessica has authority to sign the Land Use Application (extract below). So long as you are comfortable doing so, could you reply to this email confirming that Jessica Woodruff of Community Development Partners has authority to sign applications related to future development of the site by CDP and any of its project entities.

Let me know if you have any questions, or would prefer to do this another way.

Thanks,

Thomas

Item	Description
<b>Signing Authority</b>	Please provide evidence that Jessica Woodruff has authority to sign the application on behalf of the property owner(s). It's not clear based on County Assessor records who the current property owner is. Additionally, the provided sale agreement lists California-based Community Development Partners, Inc. as the owner, but the application form includes a member list of Oregon limited liability company CDP Oregon, LLC.



**Thomas Eldridge**

Development Manager

C: 360.635.8073

[126 NE Alberta Street - Ste 202](#)

[Portland - Oregon](#)

[thomas@communitydevpartners.com](mailto:thomas@communitydevpartners.com)

[www.communitydevpartners.com](http://www.communitydevpartners.com)

Project Name:

Gateway

Date:

3/17/2021

Pro Forma Type:

HOUSING OPERATING BUDGET

Site:

A

Site:

B

Site:

C

Site:

D

Site:

E

Site:

F

Actual Multifamily Tax Subsidy Incomes 2020

County:

MARION

County:

GRANT

County:

DESCHUTES

County:

GILLIAM

County:

HARNEY

County:

JEFFERSON

pick from drop down

pick from drop down

pick from drop down

pick from drop down

pick from drop down

pick from drop down

Income Inflation Rate:

2.00%

If you would like to model a different Income Inflation Rate, please the Developer Assumptions Income

Please Note: If this project is currently under OHCS program rent restrictions, and OHCS approved rents are lower than proposed in this proforma please contact y

select from drop down

Project site:	Unit Size	Afford-able vs Market	Unit Type (BDR or GR)	# of Baths	Square Feet / Unit	Median Income %	Gross Monthly Rent Per Unit	Tenant Paid Utility Allow	Net Monthly Rent Per Unit	# of Units	1	2	3	4	5	6	7	8	9	10				
A	1	Affordable	BDR	1.0	600	30%	\$397	-	\$54	= 343 X 12 31 =	\$127,596	\$130,148	\$132,751	\$135,406	\$138,114	\$140,876	\$143,694	\$146,568	\$149,499	\$152,489				
A	1	Affordable	BDR	1.0	600	60%	\$795	-	\$54	= 741 X 12 9 =	\$80,028	\$81,629	\$83,261	\$84,926	\$86,625	\$88,357	\$90,125	\$91,927	\$93,766	\$95,641				
A	2	Affordable	BDR	1.0	800	60%	\$955	-	\$66	= 889 X 12 6 =	\$64,008	\$65,288	\$66,594	\$67,926	\$69,284	\$70,670	\$72,083	\$73,525	\$74,996	\$76,495				
						-	-	-	0	= 0 X 12 =	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0				
A	2	Affordable	BDR	1.0	800	30%	\$477	-	\$85	= 392 X 12 18 =	\$84,672	\$86,365	\$88,093	\$89,855	\$91,652	\$93,485	\$95,354	\$97,262	\$99,207	\$101,191				
A	2	Affordable	BDR	1.0	800	60%	\$955	-	\$85	= 870 X 12 66 =	\$689,040	\$702,821	\$716,877	\$731,215	\$745,839	\$760,756	\$775,971	\$791,490	\$807,320	\$823,467				
A	3	Affordable	BDR	2.0	1,050	30%	\$550	-	\$103	= 447 X 12 7 =	\$37,548	\$38,299	\$39,065	\$39,846	\$40,643	\$41,456	\$42,285	\$43,131	\$43,993	\$44,873				
A	3	Affordable	BDR	2.0	1,050	60%	\$1,103	-	\$103	= 1,000 X 12 47 =	\$564,000	\$575,280	\$586,786	\$598,521	\$610,492	\$622,702	\$635,156	\$647,859	\$660,816	\$674,032				
						-	-	-	0	= 0 X 12 =	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0				
add more units by unhiding rows																								
											Tot Res SqFt	Aff Sq Ft	Market SqFt											
											152,700	152,700	0											
											SUB-TOTALS		184	=	\$1,646,892	\$1,679,830	\$1,713,426	\$1,747,695	\$1,782,649	\$1,818,302	\$1,854,668	\$1,891,761	\$1,929,596	\$1,968,188

select site:

A

Subsidy:

\$470,436

Other Revenue Total:

Other:

\$470,436

\$479,845

\$489,442

\$499,230

\$509,215

\$519,399

\$529,787

\$540,383

\$551,191

\$562,215

select site:

A

Laundry

\$16,000

Deposits on Turnover

Cable TV

Interest Income

Internet Access Fees

Garage/Parking

Commercial space

Other:

Other Revenue Total:

Laundry

\$16,000

Deposits on Turnover

\$0

Cable TV

\$0

Interest Income

\$0

Internet Access Fees

\$0

Garage/Parking

\$0

Commercial space

\$0

OTHER:

\$0

\$486,436

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

SUB-TOTAL OTHER REVENUE

\$486,436

\$496,165

\$506,088

\$516,210

\$526,534

\$537,065

\$547,806

\$558,762

\$569,937

\$581,336

Gross Income:

\$2,133,328

\$2,175,995

\$2,219,514

\$2,263,905

\$2,309,183

\$2,355,366

\$2,402,474

\$2,450,523

\$2,499,534

\$2,549,524

applies to unit rents and service revenues, laundry, deposits, cable tv, interest income, internet

less Res Vacancy Rate

6.0%

(\$106,666)

(\$108,800)

(\$110,976)

(\$113,195)

(\$115,459)

(\$117,768)

(\$120,124)

(\$122,526)

(\$124,977)

(\$127,476)

applies to garage/parking & commercial space

less Comm Vacancy Rate

25.0%

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

Identify what vacancy factor applies to OTHER factor listed in Other revenue

less OTHER Vacancy Rate

7.0%

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

\$0

Effective Gross Income:

\$2,026,662

\$2,067,195

\$2,108,539

\$2,150,710

\$2,193,724

\$2,237,598

\$2,282,350

\$2,327,997

\$2,374,557

\$2,422,048



**OREGON HOUSING *and*  
COMMUNITY SERVICES**

725 SUMMER STREET NE, SUITE B | SALEM, OR 97301  
503-986-2000 | [www.oregon.gov/OHCS](http://www.oregon.gov/OHCS)

8/26/2021

CDP Oregon LLC  
Jessica Woodruff Director of Development  
126 NE Alberta St., Suite 202  
Portland OR 97211

RE: 2021-2 Local Innovation Fast Track (LIFT) Funding Reservation  
Gateway, # 2781

Dear Jessica:

Oregon Housing and Community Services (OHCS) has reserved the following funding to CDP Oregon LLC for the development of the Gateway project.

Not to exceed **\$16,500,000** in LIFT Funding  
Not to exceed **\$38,260,000** in Pass-Through Revenue Bond Financing

This reservation was made subject to conditions as follows.

## Special Conditions

Please be advised that readiness to proceed is an important criterion. In order to retain these reservations, you must meet the following conditions, subject to Department approval. Failure to meet all conditions to OHCS's satisfaction may result in the revocation of the reservation.

1. Prior to construction close,
  - a) Provide Radon map, context photos, and require reports for Project Site Checklist.
  - b) Provide signed Project Site Checklist.
  - c) Signed DEI form (typed form is fine for NOFA submission but must have signed form before closing.)
2. At construction close, N/A
3. Post construction close, N/A

## General Conditions

1. You must complete one of the following within **15 days of the date of this letter**:

Initial 

Page 1 of 3





- a) **Initial each page, sign** this letter and **return the original** indicating your acceptance of the reservation(s) and all the terms and conditions of the reservation(s); or,
  - b) If you have concerns about any of the conditions or timelines contained in this letter, contact me.
2. A Monthly Progress Report must be submitted beginning **September 2021** and thereafter on a monthly basis by the 1<sup>st</sup> of each month until project completion. The report should indicate all activities undertaken during the previous month.
3. All 4% LIHTC timing and application requirements must be met to retain this reservation.
  - a) If the Pass-Through Revenue Bond amount increases above the amount listed above, the project will need to go back to Housing Stability Council for further approval.

## Participatory Requirements

As a recipient of Housing and Community Services funds, OHCS requires compliance with the following. Meeting these requirements will be a measure of determining sponsor capacity in future Department applications.

1. Review the timelines you indicated in the Project Schedule enclosed with the Application and revise from time to time as applicable. Submit a revised Project Schedule via the Monthly Progress Report when changes are necessary. Your ability to meet these timelines will be a measurement for retaining the funding reservation(s).
2. As changes occur to the project's development and operating costs, a revised Sources of Funding, Uses of Funding, and/or Operating Budget reflecting the current project status must be submitted.
3. Adherence to all federal, state and program regulations applicable to your organization and your proposed project is a basic requirement.
4. Display of the Fair Housing name and/or logo when project units are marketed/promoted is required.
5. Oregon Housing and Community Services shall be listed by name on all materials where the project contributors are listed by name.
6. Provide Owner's Closeout Report (Form A-CR), and Architect's Certifications (Forms A-AS and A-AF) fully executed by all parties.
7. Submission of electronic photos of completed project.



Initial 

OHCS congratulates you on your funding reservation and looks forward to a successful completion of your project. Please contact me at 971-720-3776, if you have any questions concerning your grant reservation or if you would like any of the required forms in electronic version.

Sincerely,

Tai Dunson-Strane, Production Analyst  
tai.dunson-strane@oregon.gov  
Development Resources and Production Section

AGREED TO AND ACCEPTED ON THE TERMS AND CONDITIONS SET FORTH ABOVE FOR THE FOLLOWING GRANT RESERVATION(S):

**\$16,500,000** in LIFT Funding  
**\$38,260,000** in Pass-Through Revenue Bond Financing

By: CDP Oregon LLC

  
\_\_\_\_\_  
Jessica Woodruff Director of Development

Date: 9/2/2021



Initial 



June 16, 2021

Jessica Woodruff, Director of Development  
Community Development Partners  
126 NE Alberta Street, Suite 202  
Portland, Oregon 97211

RE: Project-Based Voucher Proposal – RFP 2021-01-02  
Gateway | Salem

Dear Ms. Woodruff,

Congratulations! I am pleased to inform you that your proposal for Project-Based Vouchers in response to Salem Housing Authority's Request for Proposal (RFP) 2021-01-02 was reviewed and successfully met criteria. This letter confirms the award of fifty-six (56) Project-Based Vouchers (PBVs), as follows:

31	1-bdr units	Restricted to Elderly Families (per HUD definition)
18	2-bdr units	Family units
7	3-bdr units	Family units
<hr/>		
<b>56</b>	<b>Total PBV units</b>	

Final award of these Project-based vouchers will be contingent on (1) approval by HUD of the Subsidy Layering Review and Environmental Review, (2) completion of your project, (3) the availability of PBV-authorized units at your site that comply with Housing Quality Standards prior to occupancy, and (4) your acceptance of the following conditions:

- 1) Salem Housing Authority (SHA) will maintain a waiting list for the units. Placement on the waiting list will be in date and time order of application.
- 2) Project-Based Voucher units designated for elderly families may only be occupied by households where the head of household, spouse, or co-head is a person age 62 or more.
- 3) The HAP Contract will include an addendum outlining the process for claiming vacancy loss payments in accordance with HUD regulations. A copy of the addendum has been included with this letter for your reference.
- 4) Contract rents for the Project-Based Voucher units will be set in accordance with 24 CFR 983.301. Gross rents (contract rent plus utility allowance) shall be reasonable in comparison to unassisted units and shall not exceed the applicable payment standard, as set forth in the Housing Choice Voucher Administrative Plan. Gross rents for units with PBV assistance may not exceed gross rents charged for unassisted units (with the exception of some units financed with Low Income Housing Tax Credits).

If these conditions are acceptable, please sign and return the included Certification indicating your acceptance. The Housing Authority will reserve the vouchers granted through this award for 36 months from the date of this letter to allow sufficient time for financing and to begin construction.



Should additional time be needed, a letter requesting an extension with justification should be sent to the Authority for its consideration.

Please be aware that the Subsidy Layering Review (SLR) must be completing and approved before construction can commence. **If any choice-limiting actions are taken prior to approval of the SLR, the Project-Based Voucher agreement may be voided.** The SLR process typically takes a minimum of 60 days after all documentation has been submitted to the HUD Field Office. We recommend that you submit the required documents to SHA no less than 90 days prior to your project's planned closing date. A checklist of the typical items needed in the SLR package has been included with this letter.

Congratulations again on your award. If you have any questions or need additional information, please contact me at (503) 587-4815 or [mfletcher@salemhousingor.com](mailto:mfletcher@salemhousingor.com). Once your financing is secured, we will work together to complete any HUD requirements, such as the Subsidy Layering Review and Environmental Review.

We wish you great success in bringing your project's vision and exciting outcomes into reality.

Sincerely,

Melanie Fletcher  
Compliance Manager



## Certification of Acceptance of Project-Based Voucher Award (RFP 2021-01-02)

Project: Gateway Salem

PBV Award:  0-bdr  31 1-bdr  18 2-bdr  7 3-bdr  4-bdr

By my signature below, I hereby certify acceptance of the Project-Based Voucher Award from the Salem Housing Authority. I agree that, in addition to complying with applicable federal regulations, the project shall adhere to the following conditions:

- 1) Salem Housing Authority (SHA) will maintain a waiting list for the units. Placement on the waiting list will be in date and time order of application.
- 2) Project-Based Voucher units designated for elderly families may only be occupied by households where the head of household, spouse, or co-head is a person age 62 or more.
- 3) The HAP Contract will include an addendum outlining the process for claiming vacancy loss payments in accordance with HUD regulations.
- 4) Contract rents for the Project-Based Voucher units will be set in accordance with 24 CFR 983.301. Gross rents (contract rent plus utility allowance) shall be reasonable in comparison to unassisted units and shall not exceed the applicable payment standard, as set forth in the Housing Choice Voucher Administrative Plan. Gross rents for units with PBV assistance may not exceed gross rents charged for unassisted units (with the exception of some units financed with Low Income Housing Tax Credits).

Requested initial HAP Contract term (please select one):

☐ 3 years  
☐ 15 years

☐ 5 years  
☐ 20 years

☐ 10 years  
☐ To be determined

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

*Please return completed certification to:  
Melanie Fletcher, Compliance Manager  
Salem Housing Authority  
360 Church Street SE  
Salem OR 97301  
Or scan and email to [mfletcher@salemhousingor.com](mailto:mfletcher@salemhousingor.com)*



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## **Addendum Project Based Voucher HAP Contract Housing Assistance Payments – Vacancy**

During the term of the HAP contract, the PHA shall make housing assistance payments to the owner for the months during which a contract unit is leased to and occupied by an eligible family. If an assisted family moves out of a contract unit, the owner may keep the housing assistance payment for the calendar month when the family moves out (“move-out month”). However, the owner may not keep the payment if the PHA determines that the vacancy is the owner’s fault.

Per 24 CFR 983.352(b), at the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant’s security deposit).

### PHA Policy

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner.

If an assisted family moves out of a contract unit, the PHA may provide vacancy payments to the owner for a vacancy period extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.

The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA and will not exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant’s security deposit).

Any vacancy payment may only cover the period the unit remains vacant.

The PHA will only make vacancy payments to the owner if:

1. The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and the date when the family moved out (to the best of the owner’s knowledge and belief);
2. The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
4. The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payments.

The PHA is not responsible for family damage or debt to owner.



When the owner submits a claim for a vacancy payment, and the PHA determines that the vacancy is not the fault of the owner, the vacancy claim shall be calculated as follows:

- 1) Determine Daily Contract Rent (Contract Rent at Move-Out / Actual Number of Days in the Move-Out Month).
- 2) Determine the Vacant Days (Date Unit was Re-Rented minus 1<sup>st</sup> of Month Following Move-Out Month plus 1 day), or 60 days, whichever is lesser.
- 3) Multiply the Daily Contract Rent by the Vacant Days to determine Vacancy Loss.
- 4) Determine the Calculated Maximum Vacancy Claim by subtracting any amount paid by other sources (deposit, insurance, etc.) from the Vacancy Loss amount.
- 5) The Vacancy Claim Payment will be the lesser of the Calculated Maximum Vacancy Claim or two times the monthly Contract Rent at Move-Out.





## **Subsidy Layering Review Checklist** For Projects Using Housing Choice Vouchers

The following list of documents and information must be provided to the Public Housing Agency (PHA) in order to complete the Subsidy Layering Review (SLR). The SLR is completed by HUD.

Be aware that the SLR process takes **at least** 45-60 days. The PHA or HUD may request replacement documents or may ask for clarification of items during the process.

Email these items in Word, Excel, or PDF format to [mfletcher@salemhousingor.com](mailto:mfletcher@salemhousingor.com).

- Ensure that the file names reflect the items on the checklist as listed below.
- Documents must not be combined – please provide individual documents for each item listed.
- Review your documents carefully prior to submission to ensure they meet requirements listed below.

### **☐ Narrative Description of the Project.**

- Provide a stand-alone document. Document name should start with “Narrative.”
- Total number of units.
- Unit type, bedroom distribution.
- Portion and unit types receiving assistance, compliance with partial assistance requirements.

### **☐ Sources and Uses of Funds Statement**

- Provide a stand-alone document. Document name should start with “Sources and Uses.”
- Sources:
  - List each source separately.
  - Indicate whether loan, grant, syndication proceeds, contributed equity, etc.
- Uses:
  - Should be detailed.
  - Do not use broad categories like “soft costs”.
  - Acquisition costs should distinguish purchase price from related costs.
  - Construction and rehab should include builder’s profit and overhead as separate items.

### **☐ Narrative Description of Details of Fund Sources**

- Provide a stand-alone document. Document name should start with “Description of Funds.”
- For each funding source:
  - Loans: Principle, interest rate, amortization, term, and any accrual, deferral, balloon or forgiveness provisions.
  - Reserve or escrow requirement details should be included, if applicable.
  - Disclose if a lender will receive a portion of the net cash flow.

### **☐ Commitment Letters**

- Provide individual letters (do not scan into one file/group of documents).
- Documents should be titled “Commitment Letter – Bank/Organization Name.”
- From all sources of financing, disclosing significant terms.



- Must be a clear commitment; if the letter indicates it is not a commitment, it will not meet this requirement.
  - Review each letter – if the phrase “this is not a letter of commitment” or “this is a letter of interest” appears in the text, request an updated letter omitting this verbiage.

#### ☐ **Appraisal Report**

- Must establish the “as is” value of the property before construction or rehabilitation and without consideration of any financial implications of tax credits or project-based assistance.
- **Must include rent comparability data reported on Form HUD-92273**
  - <https://www.hud.gov/sites/documents/92273.PDF>

#### ☐ **Stabilized Operating Proforma**

- Provide in Excel format. Do not hide tabs or columns.
- Should include projected rental, commercial, and miscellaneous income, vacancy loss, operating expenses, debt service, reserve, contributions and cash flow.
- Must be projected over a 20-year period with each individual year listed (may go in 5-year increments after 20).

#### ☐ **Tax Credit Allocation Letter (if applicable)**

- Document title should start “Tax Credit Allocation Letter”.
- Amount of credits reserved, or
- IRS Form 8609.

#### ☐ **Historic Tax Credits (if applicable)**

- Document title should start “Historic Tax Credits”.
- Amount of credit.

#### ☐ **Equity Contribution Schedule**

- Document title should start “Equity Contribution”.
- Investment amount.
- Equity contribution schedule showing amount and timing.

#### ☐ **Bridge Loan Details (if applicable)**

- Document title should start “Bridge Loan”.

#### ☐ **Standard Disclosure and Perjury Statement, Identity of Interest**

- Completed HUD-2880 Form

#### ☐ **PHA Commitment Letter for Project-Based Voucher assistance**

- This will be provided from our files.

#### ☐ **Proposed Project-Based Gross Rent Amounts**

- Provide a stand-alone document titled “Proposed Project-Based Rents”.
- Include the requested Contract Rent, Utility Allowance, and Gross Rent amounts for each bedroom size that will have PBV assistance.
- **Note that once the SLR is approved by HUD, rents may not be increased. Please ensure the amounts requested are the finalized figures for the project.**



**CITY OF Salem**  
AT YOUR SERVICE

Traffic Engineering Section  
Public Works Department  
555 Liberty Street SE, Room 325 Telephone: 503-588-6211  
Salem, Oregon 97301-3513 TTY: 503-588-6292

## Trip Generation Estimate

Street \_\_\_\_\_

Bin # \_\_\_\_\_ TGE # \_\_\_\_\_

Date Received \_\_\_\_\_

### Section 1 (To be completed by applicant.)

Applicant Name: Jessica Woodruff Telephone: 971-533-7466

Applicant Mailing Address: CDP Oregon LLC, 126 NE Alberta St. Suite 202, Portland, OR 97211

Location of New Development: 5205 Battle Creek Road, Salem, OR 97306

(Please provide street address. If unknown, provide approximate address and geographical description/nearest cross streets.)

Description and Size of New Development: Senior and family affordable housing (184-units total)

(e.g., 150 single-family homes, 20,000 sq. ft. office addition, 12-pump gas station, 50-student day care, additional parking, etc.)

Description and Size of Existing/Past Development, if any (note whether to remain or be removed): \_\_\_\_\_

Property is currently vacant.

Planning Action Involved, if any: Type III Site Plan Review Building Permit Involved: \_\_\_\_\_  
(e.g., zone change, subdivision, partition, conditional use, PUD, mobile home park, etc.) Yes ☒ No ☐

### Section 2 (To be completed by City staff.)

Proposed Use	Existing Use
Development Quantity: _____	Development Quantity: _____
ITE Land Use Code: _____	ITE Land Use Code: _____
Trip Generation Rate/Equation: _____	Trip Generation Rate or Equation: _____
Average Daily Trips: _____	Average Daily Trips: _____
ELNDT Adjustment Factors	ELNDT Adjustment Factors
Trip Length: _____ Linked Trip: _____	Trip Length: _____ Linked Trip: _____
TSDC Trips: _____	TSDC Trips: _____

### Section 3 (To be completed by City staff.)

Transportation Impact Analysis (TIA)	Transportation Systems Development Charge
Net Increase in Average Daily Trips: _____ (Proposed use minus existing use.)	Net Increase in TSDC Trips: _____ (Proposed use minus existing use.)
<input type="checkbox"/> A TIA <b>will</b> be required:	<input type="checkbox"/> A TSDC <b>will</b> be required.
<input type="checkbox"/> Arterial/Collector—1000 Trip/day Threshold <input type="checkbox"/> Local Street/Alley—200 Trip/day Threshold <input type="checkbox"/> Other: _____	(Fee determined by Development Services.)
<input type="checkbox"/> A TIA <b>will not</b> be required.	<input type="checkbox"/> A TSDC <b>will not</b> be required.

(For additional information, refer to the back of this application.)

### Section 4 (To be completed by City staff.)

Remarks: \_\_\_\_\_ Date: \_\_\_\_\_

cc: ☐ Chief Development Services Engineer  
☐ Community Development  
☐ Building Permit Application  
☐ \_\_\_\_\_

By: \_\_\_\_\_

## Information Required to Assess the Need for a Traffic Impact Analysis and Transportation Systems Development Charge



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.

### TIA Determination:

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.

The City Traffic Engineer makes the determination as to whether a TIA is required. (For more information on TIA criteria, see Development Bulletin No. 19 dated January 20, 1995.) When the determination has been made, copies of the Trip Generation Estimate form are sent to Public Works Development Services Division and the applicant. If a planning action is required, a copy is also forwarded to the Community Development Department.

### TSDC Analysis:

The City of Salem charges a TSDC on all new development that creates a net increase in traffic on the surrounding street system. The total charge is assessed on a per trip fee times the TSDC trips calculated for the development. For more information on the TSDC, see Council Staff Report dated October 9, 1995.

To assist in estimating the daily trips generated by a new development, please answer the questions in Section 1 of this sheet and return it to Room 325 of the Civic Center. If you have any questions, Traffic Engineering staff are available at 503-588-6211. A copy of the completed trip generation estimate will be returned to you at the address provided in Section 1.

***No Land Use, Planning, or Development Approval applications requiring Trip Generation Estimates will be processed until this information has been provided and the TIA/TSDC assessment has been made by City Traffic Engineering staff.***