

April 8, 2022

Olivia Dias (she/her)  
Current Planning Manager  
555 Liberty St SE, Suite 305  
Salem, OR 97301

**RE: Class II Site Plan Review Application Narrative and Attachments Pertaining to Planned Retaining Walls on Select Lots in Phase 1 of the Approved Headwaters Subdivision (City of Salem Planning File No. SUB-ADJ21-10)**

Ms. Dias:

Please accept this letter and accompanying documentation and fees in response to the City's recent decision to require Class II Site Plan Review (SPR) for the planned retaining walls on select residential lots in the approved Headwaters Subdivision (City Planning File No SUB-ADJ21-10). We believe these materials represent the complete response to all applicable submittal, procedural, and approval standards pertaining to the planned retaining walls and expect that the City will be able to determine this application complete as submitted.

As we discussed, time is of the essence with this application considering our pending grading approvals and construction start date. Your prompt attention to a review and decision in this matter is very greatly appreciated.

Please do not hesitate to contact me with questions.

Sincerely,

**AKS ENGINEERING & FORESTRY, LLC**



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Attachments:

1. SPR Narrative Responses
2. Final Engineering Plans
3. Approved Subdivision Plans (SUB-ADJ21-10)

**Attachment 1:** SPR Narrative Responses

**CHAPTER 220. - SITE PLAN REVIEW**

**Sec. 220.001. - Purpose.**

*The purpose of this chapter is to provide a unified, consistent and efficient means to conduct site plan review for development activity that requires a building permit, to ensure that such development meets all applicable standards of the UDC, including, but not limited to, standards related to access, pedestrian connectivity, setbacks, parking areas, external refuse storage areas, open areas, landscaping, and transportation and utility infrastructure.*

**Sec. 220.005. - Site plan review.**

*(a) Applicability.*

*(1) Except as provided in subsection (a)(2) of this section, site plan review approval is required:*

*(A) Prior to issuance of a building permit, for any development that requires a building permit;*

*(B) Prior to a change of use, when a building permit is not otherwise required; and*

*(C) Prior to commencement of work, for any of the following when a building permit is not otherwise required:*

*(i) Development of a new off-street parking or vehicle use areas;*

*(ii) Expansion of an existing off-street parking or vehicle use areas, when additional paved surface is added;*

*(iii) Alteration of an existing off-street parking or vehicle use areas, when the existing paved surface is replaced with a new paved surface;*

*(iv) Paving of an unpaved area; and*

*(v) Restriping of an off-street parking or vehicular use areas, when the layout will be reconfigured.*

*(2) Exemptions.*

*(A) The following development that requires a building permit is exempt from site plan review:*

*(i) Development of a single family use, two family use, three family use, four family use, or cottage cluster on an individual lot, including the construction of accessory structures and paving associated with such uses.*

*(ii) Sign installation.*

*(iii) Ordinary maintenance or repair of existing buildings, structures, utilities, landscaping, and impervious surfaces, and the installation or replacement of operational equipment or fixtures.*

*(iv) The alteration to the facade of a building except in the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones.*

*(v) Interior construction or tenant improvements that involve no change of use or occupancy.*

*(vi) Demolition permit.*

*(vii) Construction of a fence.*

*(B) Any of the activities identified under subsection (a)(1)(C) of this section are exempt from site plan review if they are for a single family use, two family use, three family use, four family use, or cottage cluster on an individual lot.*

**RESPONSE:** Subject application seeks approval to construct new retaining walls on the site of the recently approved Headwaters Subdivision (City Planning File No SUB-ADJ21-10). Certain of these retaining walls will exceed 4-feet in height, which requires a building permit in the City of Salem. While the Subdivision is intended to host single-family homes on lots where retaining walls are needed, City staff have interpreted the relevant sections of this Code to state that an additional Site Plan Review is required (beyond the approved subdivision) for such retaining walls because no single-family homes are currently present on the site and therefore the above exemptions in 2(A)(i) are not in play. The following responses address those applicable criteria in light of Staff's interpretation here. Finally, Applicant intends to erect fall protection fencing adjacent those retaining walls that exceed four feet in height. Because a building permit is not needed to erect said fencing, the fences are not subject to site plan review per staff's interpretation above.

*(b) Classes. The three classes of site plan review are:*

*(1) Class 1 site plan review. Class 1 site plan review is site plan review for any development under subsection (a)(1) of this section that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015, and that involves either:*

*(A) A change of use or change of occupancy where only construction or improvements to the interior of the building or structure are required; or*

*(B) A change of use when a building permit is not otherwise required.*

*(2) Class 2 site plan review. Class 2 site plan review is site plan review for any development under subsection (a)(1) of this section, other than development subject to Class 1 site plan review, that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015.*

**RESPONSE:** Staff has informed Applicant that the planned retaining walls in Phase 1 of the Headwaters Subdivision are subject to the City's Class 2 Site Plan Review Procedure. The subsequent responses address those applicable procedural requirements in light of Staff's interpretation here.

*(...)*

*(c) Procedure type.*

*(2) Class 2 site plan review is processed as a Type I procedure under SRC [chapter 300](#).*

*(4) An application for site plan review may be processed concurrently with an application for a building permit; provided, however, the building permit shall not be issued until site plan review approval has been granted.*

**RESPONSE:** Applicant understands that subject application will be processed pursuant to the City's Type I procedure, as established in SRC Chapter 300. Additionally, Applicant reserves the right to submit building permits for said retaining walls concurrently with this application.

*(d) Submittal requirements for Class 1 site plan review. In lieu of the application submittal requirements under SRC [chapter 300](#), an application for a Class 1 site plan review shall include a completed application form that shall contain the following information:*

*(1) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;*

*(2) The address or location of the subject property and its assessor's map and tax lot number;*

*(3) The size of the subject property;*

*(4) The comprehensive plan designation and zoning of the subject property;*

*(5) The type of application(s);*

*(6) A brief description of the proposal; and*

*(7) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).*

*(e) Submittal requirements for Class 2 and Class 3 site plan review.*

*(1) Class 2 site plan review. In addition to the submittal requirements for a Type I application under SRC [chapter 300](#), an application for Class 2 site plan review shall include the following:*

*(A) 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:*

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

*(ii) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveways, indicating distance from the structures and improvements to all property lines and adjacent on-site structures;*

*(iii) Loading areas, if included in the proposed development;*

*(iv) The size and location of solid waste and recyclables storage and collection areas, and amount of overhead clearance above such enclosures, if included in the proposed development;*

*(v) An indication of future phases of development on the site, if applicable;*

*(vi) All proposed landscape areas on the site, with an indication of square footage and their percentage of the total site area;*

*(vii) 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](#);*

*(viii) The location of all trees and vegetation required to be protected pursuant to SRC [chapter 808](#);*

*(ix) The location of all street trees, if applicable, or proposed location of street trees required to be planted at time of development pursuant to SRC [chapter 86](#); and*

*(x) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.*

*(B) 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:*

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

*(ii) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines; and*

*(iii) The location of the 100-year floodplain, if applicable.*

*(C) A grading plan depicting proposed site conditions following completion of the proposed development, when grading of the subject property will be necessary to accommodate the proposed development.*

*(D) A completed trip generation estimate for the proposed development, on forms provided by the City.*

*(E) Building elevation drawings for any proposed new buildings and any exterior additions or alterations to existing buildings when the height of the building, or a portion of the building is changed.*

*(F) For development in the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones, architectural drawings, renderings, or sketches showing all elevations of the existing buildings and the proposed buildings as they will appear on completion.*

**RESPONSE:** All applicable submittal items as listed under (e) above can be found in Attachment 2 and Attachment 3 of this Site Plan Review package. The applicable submittal criteria are met and the City can find that this application is complete.

*(f) Criteria.*

*(2) Class 2 site plan review. An application for a Class 2 site plan review shall be granted if:*

*(A) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the application.*

*(B) The application meets all the applicable standards of the UDC.*

**RESPONSE:** SRC 800.050 establishes the City's authority to regulate the location, height, and related characteristics associated with the retaining walls that are the subject of this application. Complete responses to the clear and objective standards in 800.050 are included below and demonstrate that the planned retaining walls meet all applicable approval criteria. These criteria are met.

## CHAPTER 800. – GENERAL DEVELOPMENT STANDARDS

### ***Sec. 800.050. - Fences, walls, hedges, gates, and retaining walls.***

*Unless otherwise provided under the UDC, the standards set forth in this section shall apply to fences, walls, hedges, gates, and retaining walls in all zones. Where screening is required under the UDC in the form of a fence, wall, or hedge, it shall meet the standards set forth in SRC [chapter 807](#), in addition to the standards set forth in this section. For purposes of this section, the term "front yard" means that portion of a lot located between the front property line and a line parallel to the front property line extended from the wall of the main building lying at the greatest distance from the front property line.*

*(a) Location, height, and density. Fences, walls, hedges, gates, and retaining walls shall comply with the location, height, and density standards set forth in this subsection.*

*(1) Fences and walls.*

*(A) Residential zones and property used for uses falling under household living in other zones. Fences and walls within residential zones, or on property used for uses falling under household living in other zones, shall not exceed a maximum height of eight feet; provided, however:*

*(i) Front yard abutting street. Fences and walls within a front yard abutting a street shall not exceed a maximum height of four feet when located within 20 feet of the property line abutting the street; provided, however, within ten feet of the property line abutting the street any portion of the fence or wall above 30 inches in height shall be less than 25 percent opaque when viewed at any angle at a point 25 feet away from the fence or wall.*

*(ii) Side and rear yards abutting street. Fences and walls within a side or rear yard abutting a street shall not exceed a maximum height of six feet when located within ten feet of a property line abutting a street.*

**RESPONSE:** Subject application does not pertain to fences or walls but rather “retaining walls” as that term is distinct from “wall” in the context of this section (also per above, fall protection fencing is not subject to site plan review as it does not require a building permit). This finding is supported by both the structure of the approval criteria in SRC 800.050(a) – in that there are distinct subsections for criteria pertaining to the location and height of *Fences and Walls* (SRC 800.050(a)(1)) vs distinct criteria related to the location and height of *Retaining Walls* (SRC 800.050(a)(4)) – and by the fact that there are different standards for walls and retaining walls adjacent property lines which abut a street. The applicable height and location criteria for retaining walls is responded to in (4) below. These criteria do not apply.

(...)

*(4) Retaining walls. Retaining walls shall not exceed a maximum height of four feet when located at the property line abutting a street. Retaining walls not located at the property line abutting a street may exceed four feet in height.*

**RESPONSE:** As shown on the Final Engineering Plans in Attachment 2, planned retaining walls are located on Phase 1 Lots numbered 4, 7, 18-26, 27, 33-38, and 39-45. As the Plans illustrate, there are no retaining walls located at a property line abutting a street. Consistent with (4) above, certain of planned retaining walls that are not located at a property line abutting a street will exceed 4 feet in height. The criterion is met.

*(b) Vision clearance. Notwithstanding any other provision of this section, fence, walls, hedges, gates, and retaining walls shall conform to the vision clearance requirements of SRC [chapter 805](#).*

**RESPONSE:** As shown on the Final Engineering Plans in Attachment 2, planned retaining walls on Lots 26 and 27 are located adjacent a public street intersection that will be stop controlled on the north-south leg. Plans illustrate that retaining walls are located outside the 10/50-ft triangle established in SRC Section 805.005(a)(2). Similarly, plans demonstrate compliance with the vision clearance setback for driveways intersecting a public street as established in SRC Section 805.005(b)(1)(A). This criterion is met.

*(c) Material.*

*(1) Fences. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes, including, but not limited to, wooden pickets, vinyl, wrought iron, and chainlink fencing, with or without plastic or wood slats. Materials not specifically designed as fencing material, including, but not limited to, corrugated cardboard, corrugated metal, plywood, wooden pallets, garage doors, concrete rubble, and other junked material, are prohibited. Chicken wire may be used within the Residential Agriculture (RA) Zone if used to raise livestock. Fencing for raising livestock in other zones may be replaced if the use was an allowed use on the property prior to December 31, 2002. Fencing used for the establishment and protection of vegetation is permitted for a period not to exceed six months.*

*(2) Walls. Walls shall be constructed of materials specifically designed and manufactured for use as walls, including, but not limited to, masonry, rock, concrete, concrete block, or other similar material.*

**RESPONSE:** Subject application does not include fences or walls but rather “retaining walls” as that term is distinct from “wall” in the context of this section (also per above, fall protection fencing is not subject to site plan review as it does not require a building permit). This finding is supported by both the structure of the approval criteria in SRC 800.050(a) – in that there are distinct subsections for criteria pertaining to the location and height of *Fences and Walls* (SRC 800.050(a)(1)) vs criteria related to the location and height of *Retaining Walls* (SRC 800.050(a)(4)) – and by the fact that there are different standards for walls and retaining walls adjacent to property lines which abut a street. These criteria do not apply. Nonetheless, planned retaining walls will be constructed of material specifically designed and manufactured for use as a retaining wall.

*(...)*

*(3) Electric fencing.*



*(A) Location. Electric fencing is permitted within the following locations:*

*(...)*

**RESPONSE:** Subject application does not include electric fencing. These criteria do not apply.