

# NOTICE OF DECISION

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



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

## DECISION OF THE PLANNING ADMINISTRATOR

**CLASS 2 ADJUSTMENT / CLASS 1 ADJUSTMENT CASE NO.: ADJ22-11**

**APPLICATION NO.: 22-109336-ZO / 22-113285-ZO**

**NOTICE OF DECISION DATE:** August 1, 2022

**SUMMARY:** An application to increase the maximum allowed front and side building setbacks abutting a street and to increase the maximum allowed driveway depth for lots within the Strong Heights subdivision.

**REQUEST:** A consolidated application for a Class 1 and Class 2 Adjustment to increase the maximum allowed front and side building setbacks abutting a street and to increase the maximum allowed driveway depth for lots within the Strong Heights subdivision. The application includes the following:

- 1) A Class 1 Adjustment to:
  - a) Increase the maximum allowed front building setback abutting a street required under the Fairview Refinement Plan II refinement plan from 20 ft. up to a maximum of approximately 22.5 ft. for Lots 1, 3, 4, 9, 10, 11, 15, 16, 24, 25, 27, and 29; and
  - b) Increase the maximum allowed driveway depth required under the Fairview Refinement Plan II refinement plan from 20 feet up to a maximum of approximately 24 ft. for Lots 3, 9, 11, 12, 13, 15, 16, 22, 23, 24, and 27.
- 2) A Class 2 Adjustment to:
  - a) Increase the maximum allowed front building setback abutting a street required under the Fairview Refinement Plan II refinement plan from 20 ft. up to a maximum of approximately 44.2 ft. for Lots 2, 5, 6, 7, 8, 14, 17, 18, 19, 20, 21, 26, and 28;
  - b) Increase the maximum allowed side building setback abutting a street required under the Fairview Refinement Plan II refinement plan from 20 feet to approximately 29.7 ft. for Lot 22; and
  - c) Increase the maximum allowed driveway depth required under the Fairview Refinement Plan II refinement plan from 20 feet up to a maximum of approximately 46.2 ft. for Lots 1, 2, 4, 5, 6, 7, 8, 10, 14, 17, 18, 19, 20, 21, 25, 26, 28, and 29.

The property is zoned FMU (Fairview Mixed-Use) within the Fairview Refinement Plan II refinement plan and is located at 3990 Old Strong Road SE (Marion County Assessor Map and Tax Lot Numbers: 083W11A00100, 00200, and 00300).

**APPLICANT:** Covey Rowhouses, LLC (Sam Lapray)

**LOCATION:** 3990 Old Strong Rd SE, Salem OR 97302

**CRITERIA:** Salem Revised Code (SRC) Chapters 250.005(d)(2) – Class 2 Adjustment; 250.005(d)(1) – Class 1 Adjustment

**FINDINGS:** The findings are in the attached Decision dated August 1, 2022.

**DECISION:** The **Planning Administrator APPROVED** Class 1 Adjustment and Class 2 Adjustment Case No. ADJ22-11 subject to the applicable standards of the Salem Revised Code and the findings contained herein.

The rights granted by the attached decision must be exercised, or an extension granted, by August 17, 2024, or this approval shall be null and void.

Application Deemed Complete:	<u>July 15, 2022</u>
Notice of Decision Mailing Date:	<u>August 1, 2022</u>
Decision Effective Date:	<u>August 17, 2022</u>
State Mandate Date:	<u>November 12, 2022</u>

Case Manager: Bryce Bishop, Planner III, [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net), 503-540-2399

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m., Tuesday, August 16, 2022. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 250. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

## **BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM**

### **DECISION**

<b>IN THE MATTER OF THE APPROVAL OF</b>	<b>)</b>	<b>FINDINGS AND ORDER</b>
<b>CLASS 1 ADJUSTMENT AND CLASS 2</b>	<b>)</b>	
<b>ADJUSTMENT CASE NO. ADJ22-11;</b>	<b>)</b>	
<b>3990 OLD STRONG ROAD SE</b>	<b>)</b>	<b>AUGUST 1, 2022</b>

### **REQUEST**

A consolidated application for a Class 1 and Class 2 Adjustment to increase the maximum allowed front and side building setbacks abutting a street and to increase the maximum allowed driveway depth for lots within the Strong Heights subdivision. The application includes the following:

- 1) A Class 1 Adjustment to:
  - a) Increase the maximum allowed front building setback abutting a street required under the Fairview Refinement Plan II refinement plan from 20 ft. up to a maximum of approximately 22.5 ft. for Lots 1, 3, 4, 9, 10, 11, 15, 16, 24, 25, 27, and 29; and
  - b) Increase the maximum allowed driveway depth required under the Fairview Refinement Plan II refinement plan from 20 feet up to a maximum of approximately 24 ft. for Lots 3, 9, 11, 12, 13, 15, 16, 22, 23, 24, and 27.
- 2) A Class 2 Adjustment to:
  - a) Increase the maximum allowed front building setback abutting a street required under the Fairview Refinement Plan II refinement plan from 20 ft. up to a maximum of approximately 44.2 ft. for Lots 2, 5, 6, 7, 8, 14, 17, 18, 19, 20, 21, 26, and 28;
  - b) Increase the maximum allowed side building setback abutting a street required under the Fairview Refinement Plan II refinement plan from 20 feet to approximately 29.7 ft. for Lot 22; and
  - c) Increase the maximum allowed driveway depth required under the Fairview Refinement Plan II refinement plan from 20 feet up to a maximum of approximately 46.2 ft. for Lots 1, 2, 4, 5, 6, 7, 8, 10, 14, 17, 18, 19, 20, 21, 25, 26, 28, and 29.

The property is zoned FMU (Fairview Mixed-Use) within the Fairview Refinement Plan II refinement plan and is located at 3990 Old Strong Road SE (Marion County Assessor Map and Tax Lot Numbers: 083W11A00100, 00200, and 00300).

### **PROCEDURAL FINDINGS**

1. On May 2, 2022, an application for a Class 1 Adjustment was filed by Sam Lapray on behalf of the applicant and property owner, Covey Rowhouses, LLC, to increase the maximum allowed front setback abutting and the maximum allowed driveway depth for lots in the approved Strong Heights subdivision within the Fairview Refinement Plan II refinement plan area of the former Fairview Training Center site.

2. After subsequent review of the application identified the need to also apply for a Class 2 Adjustment to increase the maximum allowed side setback abutting a street for Lot 22 and increase the maximum allowed front setback abutting a street and the maximum allowed driveway depth for specific lots within the subdivision beyond 20 percent, the additional requested application materials were submitted by the applicant and the application was deemed complete for processing on July 15, 2022.
3. On July 15, 2022, notice of the proposal was also provided pursuant to Salem Revised Code (SRC) requirements. The state-mandated 120-day local decision deadline for the application is November 12, 2022.

## **SUBSTANTIVE FINDINGS**

### **1. Proposal**

The proposed Class 1 Adjustment and Class 2 Adjustment seek to increase the maximum allowed front and side setbacks abutting a street and the maximum allowed driveway depth for various specific identified lots in the approved Strong Heights subdivision within a portion of the Fairview Refinement Plan II refinement plan area of the former Fairview Training Center site located at 3990 Old Strong Road SE (**Attachment A**).

### **2. Applicant's Plans and Statement**

Land use applications must include a statement addressing the applicable approval criteria and be supported by proof they conform to all applicable standards and criteria of the Salem Revised Code. The site plan submitted by the applicant showing the layout of the approved subdivision along with the building envelopes, setbacks, and driveway depths for the proposed dwellings to be constructed on the lots is included as **Attachment B**.

The written statement provided by the applicant addressing the applicable approval criteria associated with the proposal is included as **Attachment C**.

### **3. Summary of Record**

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 22 109336

### **4. Salem Area Comprehensive Plan (SACP)**

The subject property is designated Mixed-Use on the Salem Area Comprehensive Plan map.

The Comprehensive Plan designations of surrounding properties include:

<b>Comprehensive Plan Map Designations of Surrounding Properties</b>	
North	Across Old Strong Road SE, Industrial
South	Across Strong Road SE, Mixed-Use
	Across Reed Road SE, Community Service Hospital
East	Across Reed Road SE, Industrial Commercial
West	Mixed-Use

## 5. Zoning

The subject property is zoned FMU (Fairview Mixed-Use). The zoning of surrounding properties is as follows:

<b>Zoning of Surrounding Properties</b>	
North	Across Old Strong Road SE, IBC (Industrial Business Campus)
South	Across Strong Road SE, FMU (Fairview Mixed-Use) within the Fairview Refinement Plan II refinement plan
	Across Reed Road SE, PH (Public and Private Health Services)
East	Across Reed Road SE, IC (Industrial Commercial)
West	FMU (Fairview Mixed-Use) within the Fairview Refinement Plan II refinement plan

## 6. Existing Conditions

The subject property consists of three tax lots (Marion County Assessor Map and Tax Lot Numbers: 083W11A00100, 00200, and 00300) and totals approximately 4.46 acres in size. On October 29, 2021, tentative approval was issued to divide the subject property into a 29-lot residential subdivision. As of this date the final subdivision plat has not yet been recorded, but the applicant is proceeding with the steps necessary to complete the subdivision in conformance with the tentative plan approval.

As shown on the site plan provided by the application, the subject property has frontage on three streets, Old Strong Road SE to the north, Strong Road SE to the south, and Reed Road SE to the east.

## 7. Public and Private Agency Review

Notice of the proposal was provided to City Departments, public agencies, and to public & private service providers. The following comments were received:

- A. City of Salem Building and Safety Division** – Reviewed the proposal and identified no issues or objections.
- B. City of Salem Public Works Department** – Reviewed the proposal and identified no issues or objections.

## **8. Neighborhood Association and Public Comments**

The subject property is located within the boundaries of the Morningside Neighborhood Association.

### Neighborhood Association Contact

SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), applications for Class 1 Adjustments and Class 2 Adjustments do not require neighborhood association contact.

### Neighborhood Association Comments

Notice of the application was provided to the neighborhood association pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. No comments were received from the neighborhood association.

### Public Comments

In addition to providing notice to the neighborhood association, notice was also provided, pursuant to SRC 300.520(b)(1)(B)(ii), (iii), (vi), & (vii), to property owners and tenants within 250 feet of the subject property. No public comments were received.

### Homeowners' Association

SRC 300.520(b)(1)(B)(iv) requires notice to be provided to any active and duly incorporated Homeowners' Association (HOA) applicable to the property. The subject property is not located within a Homeowners' Association.

## **DECISION CRITERIA**

## **9. Analysis of Class 1 Adjustment Approval Criteria**

Salem Revised Code (SRC) 250.005(d)(1) sets forth the following criteria that must be met before approval can be granted to an application for a Class 1 Adjustment. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Class 1 Adjustment application, or for the issuance of conditions of approval to ensure the criteria are met.

***SRC 250.005(d)(1)(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.***

**Finding:** The applicant has requested a Class 1 Adjustment to two development standards included in the Fairview Refinement Plan II refinement plan in order to allow their proposed development of the 29 lots approved within the Strong Heights subdivision. The two development standards requested for Class 1 Adjustment include:

- a) Maximum Front Building Setback Abutting Street. Increase the maximum allowed front building setback abutting a street required under the Fairview Refinement Plan II refinement plan (*Section 7 – Development Standards, Table 1*) from 20 ft. up to a maximum of approximately 22.5 ft. for Lots 1, 3, 4, 9, 10, 11, 15, 16, 24, 25, 27, and 29; and
- b) Maximum Driveway Depth. Increase the maximum allowed driveway depth required under the Fairview Refinement Plan II refinement plan (*Section 7 – Development Standards, Table 1*) from 20 feet up to a maximum of approximately 24 ft. for Lots 3, 9, 11, 12, 13, 15, 16, 22, 23, 24, and 27.

**Maximum Front Building Setback Abutting Street (Refinement Plan Section 7 – Development Standards, Table 1):**

The written statement provided by the applicant (**Attachment C**) indicates, in summary, that the purpose underlying the specific development standard proposed for adjustment will be equally or better met. The applicant explains that the requested adjustment to increase the maximum allowed front building setback abutting streets within the subdivision will make the proposed development better for parking, flow of traffic, and future tenants, neighbors, and visitors.

Staff concurs with the findings included in the applicant's written statement. Within the Fairview Refinement Plan II refinement plan a minimum 10 ft. and maximum 20 ft. front building setback abutting a street is required. The purpose underlying the maximum 20-foot setback is to promote an attractive and walkable community where buildings are located generally close to the street in a manner that frames the street right-of-way.

As shown on the site plan provided by the applicant (**Attachment B**), the furthest that any of the dwellings proposed to be constructed on Lots 1, 3, 4, 9, 10, 11, 15, 16, 24, 25, 27, and 29 will be setback from the front lot line abutting a street is approximately 22.5 ft. The proposed 2.5-foot increase to the maximum allowed 20-foot setback will not result in buildings being setback significantly farther from the street than is otherwise required under the refinement plan and the dwellings will still frame the private street right-of-way as envisioned by the refinement plan. As such, the underlying purpose of the maximum front building setback abutting a street standard will continue to be satisfied by the proposed development and this approval criterion is met.

**Maximum Driveway Depth (Refinement Plan Section 7 – Development Standards, Table 1):**

The written statement provided by the applicant (**Attachment C**) indicates, in summary, that the purpose underlying the specific development standard proposed for adjustment will be equally or better met. The applicant explains that the requested adjustment will improve safety and walkability of pedestrians on the sidewalk and provide adequate space for parking and maneuverability of vehicles; thereby making the proposed development better for parking, flow of traffic, and future tenants, neighbors, and visitors.

Staff concurs with the findings included in the applicant's written statement. Within the Fairview Refinement Plan II refinement plan the maximum allowed driveway depth for single family dwellings and duplexes is 20 ft. The underlying purpose of this maximum driveway depth is to limit the overall length of driveways serving single family and duplex dwellings in order to align with the maximum allowed 20-foot front building setback abutting a street and minimize the amount of land utilized for off-street parking.

As shown on the site plan provided by the applicant (**Attachment B**), the longest driveway that any of the dwellings proposed to be constructed on Lots 3, 9, 11, 12, 13, 15, 16, 22, 23, 24, and 27 will have is 24 ft. The proposed 4-foot increase to the maximum allowed driveway depth will not result in driveways that are significantly longer than would otherwise be allowed under the refinement plan and the small amount of additional space provided in the driveway will, as indicated by the applicant, provide more room for vehicles to park in the driveway without hanging over into the private street and obstructing pedestrians on the sidewalk. As such, the underlying purpose of the maximum driveway depth standard will continue to be satisfied by the proposed development and this approval criterion is met.

***SRC 250.005(d)(1)(B): The proposed adjustment will not unreasonably impact surrounding existing or potential uses or development.***

**Finding:** The written statement provided by the applicant indicates that proposed adjustments will not unreasonably impact surrounding existing or potential uses or development.

Staff concurs with the applicant. The proposed adjustments to increase the maximum 20-foot building setback up to a maximum of 22.5 feet and increase the maximum allowed driveway depth up to maximum of 24 feet will not result in unreasonable impacts on surrounding existing or potential uses or development because both adjustments in this case ask for relatively small increases in the amount of setback and driveway depth between the proposed dwellings on the lots and the abutting private street. The increase in setback and driveway distance between the dwellings and the street provides for additional space for vehicles to reasonably park within the driveway and minimizes the potential of vehicles hanging over into the private street and obstructing pedestrian access and accessibility along the sidewalk. This approval criterion is met.



## 10. **Analysis of Class 2 Adjustment Approval Criteria**

Salem Revised Code (SRC) 250.005(d)(2) sets forth the following criteria that must be met before approval can be granted to an application for a Class 2 Adjustment. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposal's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Class 2 Adjustment application, or for the issuance of conditions of approval to ensure the criteria are met.

***SRC 250.005(d)(2)(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.***

**Finding:** The applicant has requested a Class 2 Adjustment to three development standards included in the Fairview Refinement Plan II refinement plan in order to allow their proposed development of the 29 lots approved within the Strong Heights subdivision. The three development standards requested for Class 2 Adjustment include:

- a) Maximum Front Building Setback Abutting Street. Increase the maximum allowed front building setback abutting a street required under the Fairview Refinement Plan II refinement plan (*Section 7 – Development Standards, Table 1*) from 20 ft. up to a maximum of approximately 44.2 ft. for Lots 2, 5, 6, 7, 8, 14, 17, 18, 19, 20, 21, 26, and 28;
- b) Maximum Side Building Setback Abutting Street. Increase the maximum allowed side building setback abutting a street required under the Fairview Refinement Plan II refinement plan (*Section 7 – Development Standards, Table 1*) from 20 feet to approximately 29.7 ft. for Lot 22; and
- c) Maximum Driveway Depth. Increase the maximum allowed driveway depth required under the Fairview Refinement Plan II refinement plan (*Section 7 – Development Standards, Table 1*) from 20 feet up to a maximum of approximately 46.2 ft. for Lots 1, 2, 4, 5, 6, 7, 8, 10, 14, 17, 18, 19, 20, 21, 25, 26, 28, and 29.

### **Maximum Front Building Setback Abutting Street (Refinement Plan Section 7 – Development Standards, Table 1):**

The written statement provided by the applicant (**Attachment C**) indicates, in summary, that the purpose underlying the specific development standard proposed for adjustment will be equally or better met. The applicant explains that the requested adjustment to increase the maximum allowed front building setback abutting streets within the subdivision will make the proposed development better for parking, flow of traffic, and future tenants, neighbors, and visitors.

Staff concurs with the findings included in the applicant's written statement. Within the Fairview Refinement Plan II refinement plan a minimum 10 ft. and maximum 20 ft. front

building setback abutting a street is required. The purpose underlying the maximum 20-foot setback is to promote an attractive and walkable community where buildings are located generally close to the street in a manner that frames the street right-of-way.

As shown on the site plan provided by the applicant (**Attachment B**), the furthest that any of the dwellings proposed to be constructed on Lots 2, 5, 6, 7, 8, 14, 17, 18, 19, 20, 21, 26, and 28 will be setback from the front lot line abutting a street is approximately 44.2 ft. The greater proposed front setback depths for these lots is necessitated by either the shape/configuration of the lot in relation to the alignment/curvature of the abutting street, which requires the dwellings to be sited farther from the street, or where an existing tree designated for preservation on a lot requires the dwelling to have a greater setback so as to avoid impacts to the tree. In all cases, however, the increase to the maximum allowed 20-foot setback will not result in buildings being setback at such distances that they will undermine and conflict with the underlying purpose of the maximum front setback. Instead, the buildings will be setback a necessary reasonable distance from the street that both fulfills the underlying purpose of the standard while also recognizing and responding to the physical limitations associated with the site and configuration of the lots. As such, the underlying purpose of the maximum front building setback abutting a street standard will continue to be satisfied by the proposed development and this approval criterion is met.

**Maximum Side Building Setback Abutting Street (Refinement Plan Section 7 – Development Standards, Table 1):**

As is the case with front yards abutting streets, the Fairview Refinement Plan II refinement plan also establishes the same minimum 10 ft. and maximum 20 ft. building setback for side yards abutting a street. The purpose underlying the maximum 20-foot setback is to promote an attractive and walkable community where buildings are located generally close to the street in a manner that frames the street right-of-way.

In the case of the proposed development, one lot, specifically Lot 22, is a corner lot where a portion of the side of the proposed dwelling exceeds the maximum allowed 20-foot side setback abutting a street.

As shown on the site plan provided by the applicant (**Attachment B**), the proposed dwelling on Lot 22 is setback approximately 10.8 feet at its closest point to the side property line abutting the street in conformance with the applicable minimum and maximum setback requirements. From that point, however, the side setback increases to a maximum of approximately 29.7 feet from the side property line abutting the street. The increased setback in this case is necessitated by the shape of the proposed building, the shape of the lot with the curve radius of the cul-de-sac bulb encroaching into it, and the location of the lot at a corner where driveway location is limited.

Despite the approximate 29.7-foot side street setback from the street, the proposed 9.7-foot increase to the maximum allowed 20-foot setback will not result in buildings being setback significantly farther from the street than is otherwise required under the refinement plan and the dwelling will still frame the private street right-of-way as

envisioned by the refinement plan. As such, the underlying purpose of the maximum side building setback abutting a street standard will continue to be satisfied by the proposed development and this approval criterion is met.

**Maximum Driveway Depth (Refinement Plan Section 7 – Development Standards, Table 1):**

The written statement provided by the applicant (**Attachment C**) indicates, in summary, that the purpose underlying the specific development standard proposed for adjustment will be equally or better met. The applicant explains that the requested adjustment will improve safety and walkability of pedestrians on the sidewalk and provide adequate space for parking and maneuverability of vehicles; thereby making the proposed development better for parking, flow of traffic, and future tenants, neighbors, and visitors.

Staff concurs with the findings included in the applicant's written statement. Within the Fairview Refinement Plan II refinement plan the maximum allowed driveway depth for single family dwellings and duplexes is 20 ft. The underlying purpose of this maximum driveway depth is to limit the overall length of driveways serving single family and duplex dwellings in order to align with the maximum allowed 20-foot front building setback abutting a street and minimize the amount of land utilized for off-street parking.

As shown on the site plan provided by the applicant (**Attachment B**), the longest driveway that any of the dwellings proposed to be constructed on Lots 1, 2, 4, 5, 6, 7, 8, 10, 14, 17, 18, 19, 20, 21, 25, 26, 28, and 29 will have is 46.2 ft. The longest proposed driveway lengths are associated with the dwellings on Lots 5 to 8, Lot 14, Lots 17 to 21, and Lot 31 and are a result of either the shape/configuration of the lots in relation to the curvature/alignment of the abutting street, which necessitates driveways longer than the maximum twenty feet allowed, or a tree that has been identified for preservation within the subdivision which requires the dwellings and the associated driveways to be sited to avoid impacts to the tree.

In all cases, however, the proposed increase to the maximum allowed driveway depths will not result in driveways that will undermine the underlying purpose of the maximum driveway depth standard. The proposed increased driveway depths will instead provide for additional space for vehicles to reasonably park within the driveways and minimize the potential of vehicles hanging over into the private street and obstructing pedestrian access and accessibility along the sidewalk. This approval criterion is met.

***SRC 250.005(d)(2)(B): If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.***

**Finding:** The subject property is designated Mixed-Use on the Salem Area Comprehensive Plan Map and zoned FMU (Fairview Mixed-Use). Pursuant to SRC 110.025(a), Table 110-1, the FMU zone is specifically classified as a mixed-use zone rather than a residential zone. Under the FMU zone and the Fairview Refinement Plan II refinement plan, a wide variety of non-residential uses are allowed together with

residential use. Because the subject property is not located specifically within a residential zone, this approval criterion is not applicable to the proposed development.

Despite this approval criterion not being applicable to the proposal, the requested adjustments to the maximum allowed front and side building setbacks abutting a street and maximum allowed driveway depth still, however, will not result in impacts to the appearance or livability of the surrounding area. Instead, they will allow for the provision of additional space between the proposed dwellings and the street in order to provide improved safety and walkability for pedestrians on the sidewalk and adequate space for the parking and maneuverability of vehicles without encroaching into the private street area.

***SRC 250.005(d)(2)(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.***

**Finding:** Pursuant to SRC 530.001, the purpose of the FMU (Fairview Mixed-Use) zone is to implement the mixed-use designation of the Salem Area Comprehensive Plan by establishing a master planning process through which allowed uses are identified and standards for development within the zone are established that:

- (a) Encourage innovative planning resulting in mixed-use development, improved protection of open spaces and natural features, and greater housing and transportation options;
- (b) Encourage the innovative integration of park and school uses;
- (c) Encourage developments that recognize the relationship between buildings, their use, open space, and infrastructure; providing varied opportunities for innovative and diversified living environments in line with the principles of sustainable development and sustainable business practices;
- (d) Support affordable housing options and mixed-income neighborhoods;
- (e) Facilitate the resourceful use of land through the arrangement of land uses, buildings, circulation systems, open space, and infrastructure;
- (f) Encourage economic opportunity;
- (g) Preserve, to the greatest extent possible, existing natural areas and open space that may not otherwise be protected through conventional development;
- (h) Recognize and preserve the historical and archeological significance of buildings, structures, and sites, and encourage historic resource designation of those buildings, structures, and sites that merit official recognition; and
- (i) Encourage energy conservation and improved air and water quality.

The subject property is located within the Fairview Refinement Plan II refinement plan, which is the approved refinement plan governing the use and development of this portion of the former Fairview Training Center site. Although adjustments have been requested to three separate development standards included within the refinement plan, all three of the standards are essentially related in concept and have to do with the maximum allowed setback between a building and a street.

As identified in this decision, the proposed increase to the maximum allowed building setbacks and maximum allowed driveway depths will allow for the provision of additional space between the proposed dwellings and the street in order to provide improved safety and walkability for pedestrians on the sidewalk and adequate space for the parking and maneuverability of vehicles without encroaching into the private street area. As a result, the proposed adjustments, neither individually or in combination, will result in a development pattern that is inconsistent with the overall purpose of the FMU zone or the approved refinement plan. This approval criterion is met.

### CONCLUSION

Based upon review of SRC 250.005(d), the findings contained under sections 9 and 10 above, and the comments described, the requested Class 1 and Class 2 Adjustments comply with the requirements for an affirmative decision.

### IT IS HEREBY ORDERED

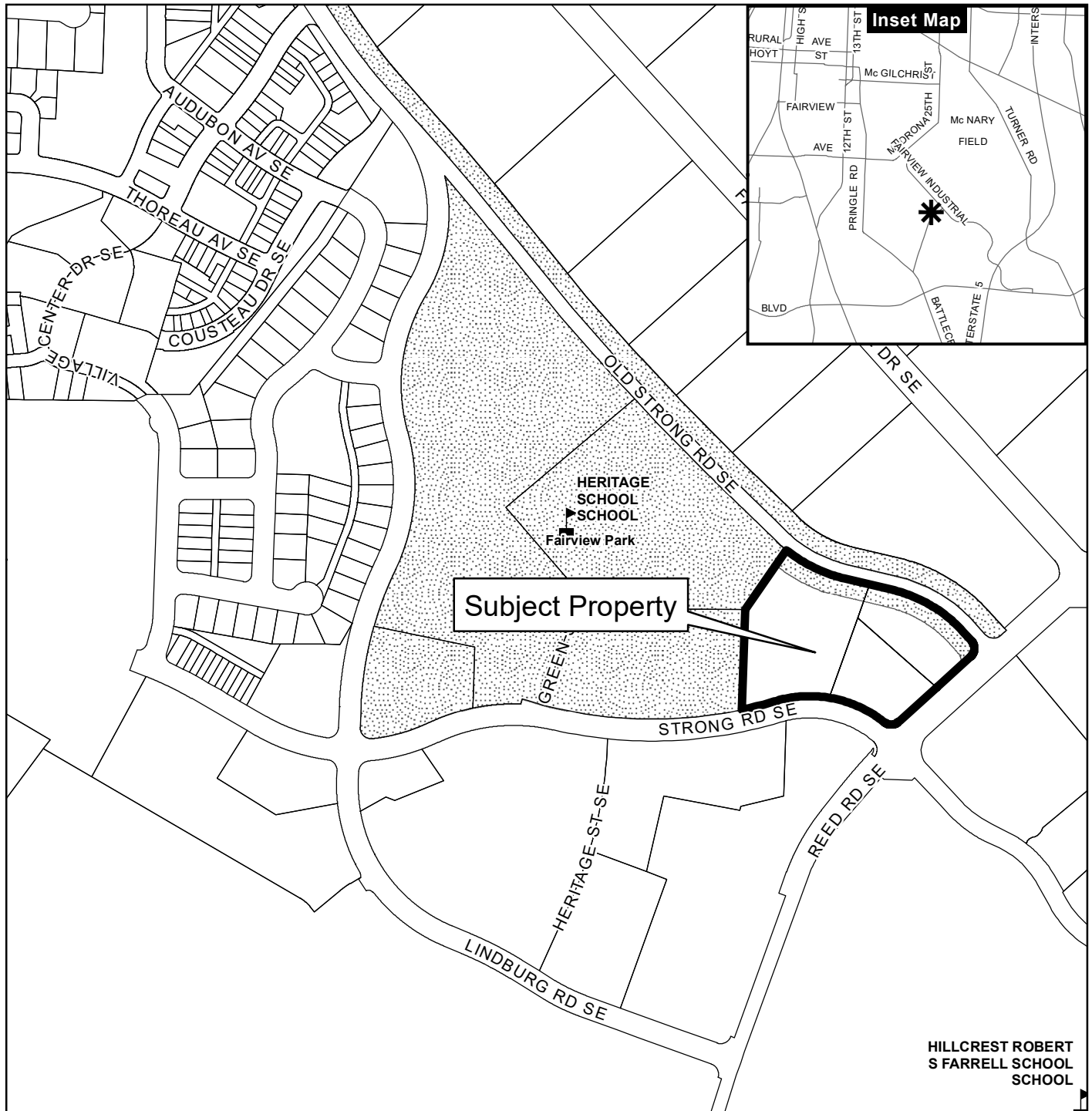
The requested Class 1 Adjustment and Class 2 Adjustment to increase the maximum allowed front and side building setbacks abutting a street and to increase the maximum allowed driveway depth for lots within the Strong Heights subdivision and located at 3990 Old Strong Road SE (Marion County Assessor Map and Tax Lot Numbers: 083W11A00100, 00200, and 00300), are hereby **APPROVED** subject to SRC Chapters 250 and 530, and the Fairview Refinement Plan II refinement plan.



Bryce Bishop, Planner III, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments: A. Vicinity Map  
B. Applicant's Site Plan  
C. Applicant's Written Statement

# Vicinity Map 3990 Old Strong Road SE



## Legend

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

0 100 200 400 Feet



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

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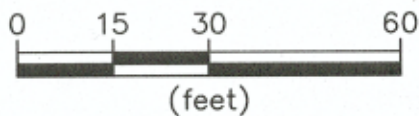
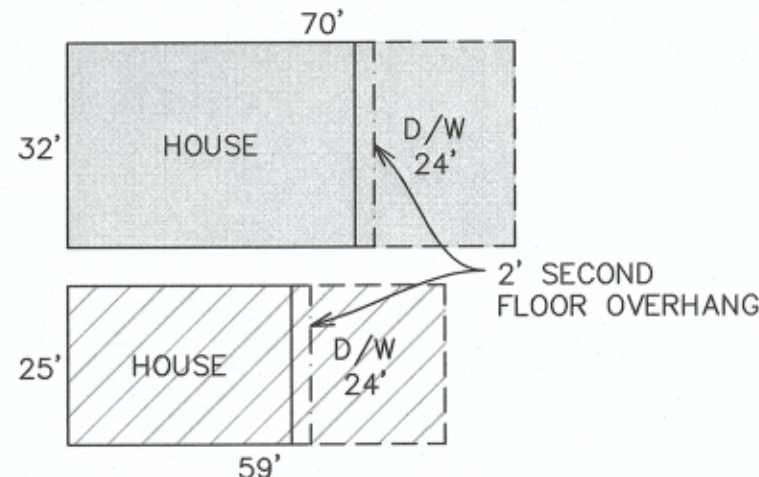
PARCEL SUMMARY

MIN LOT SIZE	2,590 SF	
MAX LOT SIZE	7,401 SF	
AVG LOT SIZE	3,922 SF	
PARCEL SIZE	194,288 SF	4.46 AC
29 / 4.46 =	6.5 LOTS/AC	2.35 AC
HOA	91,884 SF	2.11 AC

ALL LOTS TO HAVE ADU OVER THE GARAGE.

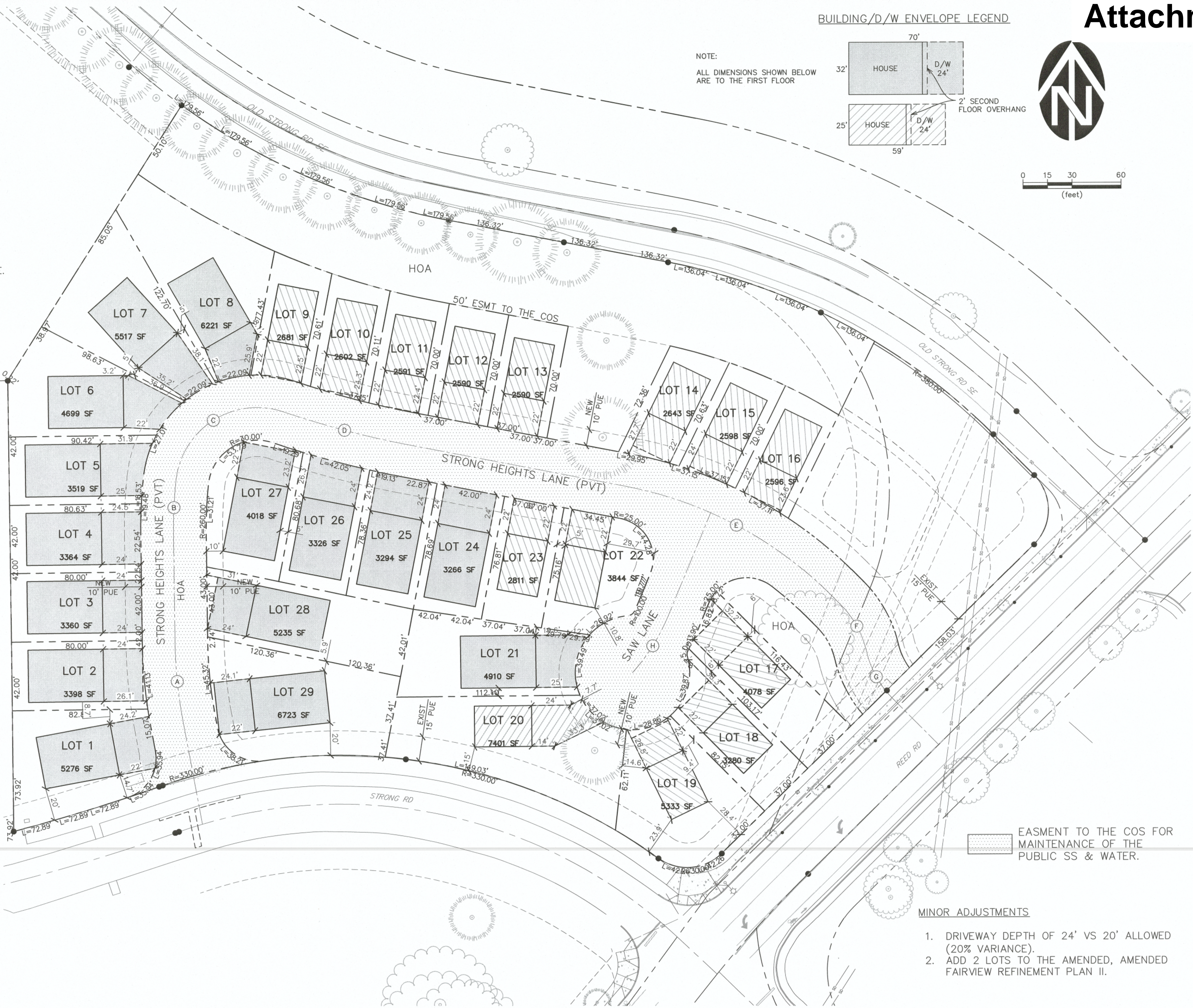
BUILDING/D/W ENVELOPE LEGEND

NOTE:  
ALL DIMENSIONS SHOWN BELOW  
ARE TO THE FIRST FLOOR



CURVE DATA

	RADIUS	LENGTH	DELTA
(A)	280'	48.8'	N80°00'45"E
(B)	280	33.6	N83°07'24"E
(C)	50'	89.6'	N12°43'39"W
(D)	547.4'	77.6'	N81°52'30"E
(E)	240'	144.4'	N55°31'00"E
(F)	60'	33.3'	N58°12'42"E
(G)	60'	33.3'	N58°12'42"E
(H)	120'	41.3'	N70°16'45"E



MINOR ADJUSTMENTS

1. DRIVEWAY DEPTH OF 24' VS 20' ALLOWED (20% VARIANCE).
2. ADD 2 LOTS TO THE AMENDED, AMENDED FAIRVIEW REFINEMENT PLAN II.

WARD DEVELOPMENT, LLC  
STRONG HEIGHTS SUBDIVISION

OVERALL LOT LAYOUT

DRAWING  
G-3

JOB NUMBER  
2720.7000.0



WESTECH ENGINEERING, INC.  
CONSULTING ENGINEERS AND PLANNERS  
3841 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302  
Phone: (503) 585-2474 Fax: (503) 585-3996  
E-mail: westech@westech-eng.com

VERIFY SCALE	NO.	DATE	DESCRIPTION
BAR IS ONE INCH ON ORIGINAL DRAWING			
DO NOT SCALE DIMENSIONS FROM THIS SHEET, ADJUST SCALES ACCORDINGLY			
DSN.	SAW	1	
DRN.	SAW		
CKD.	SAW		
DATE:	FEB 2021		



## Summary Table & Written Statement

**Type II -- (2) Class 1 adjustments: 1) Front Abutting Street setback & 2) Driveway Depth setback for the 29 lots at Strong Heights**

**Strong Heights Subdivision (29 lots) located at tax lots: 083W11A00100, 083W11A00200, 083W11A00300  
Salem OR**

**April 29, 2022**

### ***Summary Table***

Zoning Designation: FMU – Fairview Mixed-Use  
Total Site Area: 4.46 acres & 194,227 SF  
Approved: Strong Heights Subdivision (29 lots) -- Final Plat is submitted

### ***Written Statement***

#### **(2) Class 1 Adjustments that are being requested:**

1. Front Abutting Street setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision.
2. Driveway Depth setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision.

The request is being made for the following reasons:

- a) To improve safety & walkability of the pedestrian on the sidewalk.
- b) To provide adequate space for the parking & maneuverability of vehicles.

#### **Zoning: Fairview Mixed-Use Zone (530.)**

Fairview Refinement Plan II dated 4-2016 states the following:

1. Front Abutting Street setbacks are Minimum of 10' and Maximum 20' on page 21
2. Driveway Depth Maximum 20' for single family on page 23



### **Zoning of Surrounding Properties**

North: Right of Way for Old Strong Rd SE & IBC (Industrial Business Campus)

South: Right of Way Strong Rd SE & FMU (Fairview Mixed-Use)

Right of Way Reed Rd SE & IC (Industrial Commercial)

East: Right of Way for Old Strong Rd SE & IBC (Industrial Business Campus)

West: Right of Way Strong Rd SE & FMU (Fairview Mixed-Use)

### **Homeowners Association**

The subject property is not subject to an active and duly incorporated Homeowner's Association (HOA) registered with the Oregon Secretary of State.

### **SRC Chapter 250 Adjustments**

#### **Sec. 250.005. Adjustments.**

##### **(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 project will have (2) Class 1 adjustments for this project: 1) Front Abutting Street setback & 2) Driveway Depth setback.

#### **The (2) Class 1 Adjustments are:**

1. Front Abutting Street setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision.
2. Driveway Depth setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision.

(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.

**Response:** The project does not include an adjustment to any of the standards, guidelines, or requirements listed in (A) through (K) above. The project meets the applicable design review standards for multiple family development. This standard is met.

(b) *Procedure type.* Class 1 and Class 2 adjustments are processed as a Type II Procedure under SRC chapter 300.

**Response:** The (2) Class 1 adjustments will be processed as a Type II procedure.

(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.

**Response:** A Site Plan with the applicable information required in (A) through (F) above has been submitted. This requirement is met.

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

**Response:** The Topo and Existing Conditions Survey has been submitted. This requirement is met.

- (1) An application for a Class 1 adjustment shall be granted if all 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:** 1) **Front Abutting Street setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision:** This adjustment will do the following:

- 1) Improve safety & walkability of the pedestrian on the sidewalk.
- 2) Provide adequate space for the parking & maneuverability of vehicles.

The purpose underlying the specific development standard proposed for adjustment will be equally or better met. The UDC does not state a specific purpose for driveway setbacks. This adjustment will make the proposed development better for the parking, flow of traffic, future tenants, neighbors, and visitors – this adjustment will not unreasonably impact the surrounding, existing, potential uses, or development. This standard is met.

**Response:** 2) **Driveway Depth setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision:** This adjustment will do the following:

- 1) Improve safety & walkability of the pedestrian on the sidewalk.
- 2) Provide adequate space for the parking & maneuverability of vehicles.

The purpose underlying the specific development standard proposed for adjustment will be equally or better met. The UDC does not state a specific purpose for driveway setbacks. This adjustment will make the proposed development better for the parking, flow of traffic, future tenants, neighbors, and visitors – this adjustment will not unreasonably impact the surrounding, existing, potential uses, or development. This standard is met.

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

**Response:** 1) **Front Abutting Street setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision:** This adjustment will do the following:

- 3) Improve safety & walkability of the pedestrian on the sidewalk.
- 4) Provide adequate space for the parking & maneuverability of vehicles.

The purpose underlying the specific development standard proposed for adjustment will be equally or better met. The UDC does not state a specific purpose for driveway setbacks. This adjustment will make the proposed development better for the parking, flow of traffic, future tenants, neighbors, and visitors – this adjustment will not unreasonably impact the surrounding, existing, potential uses, or development. This standard is met.

**Response:** 2) **Driveway Depth setback of Maximum 20' be increased 20% to 24' -- for all the lots at Strong Heights Subdivision:** This adjustment will do the following:

- 3) Improve safety & walkability of the pedestrian on the sidewalk.
- 4) Provide adequate space for the parking & maneuverability of vehicles.

The purpose underlying the specific development standard proposed for adjustment will be equally or better met. The UDC does not state a specific purpose for driveway setbacks. This adjustment will make the proposed development better for the parking, flow of traffic, future tenants, neighbors, and visitors – this adjustment will not unreasonably impact the surrounding, existing, potential uses, or development. This standard is met.

(e) *Transfer of adjustments.* Unless otherwise provided in the final decision granting the adjustment, an adjustment shall run with the land.

**Response:** The Applicant acknowledges that the adjustment runs with the land.