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DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE / CLASS 2 GREENWAY DEVELOPMENT PERMIT / CLASS
2 ADJUSTMENT CASE NO: CU-WGP-ADJ17-04**

APPLICATION NO. : 16-123160-ZO, 16-123131-ZO & 17-105726-ZO

NOTICE OF DECISION DATE: MAY 3, 2017

SUMMARY: An application for a conditional use, greenway development permit, and zoning adjustment to allow single-family or duplex dwellings on 8 lots in the IC (Industrial Commercial) zone.

REQUEST: A consolidated Conditional Use, Class 2 Greenway Development Permit, and Class 2 Zoning Adjustment to allow single family dwellings or duplexes on eight platted lots, for property approximately 1.5 acres in size, zoned IC (Industrial Commercial) and located at 102 Pine Street NE 97301 (Marion County Assessor Map and Tax Lot number: 073W15DA05000 and 073W15DA05100). The Conditional Use applies to the entire property; the Class 2 Greenway Development Permit applies to the four platted lots within Tax Lot 073W15DA05100, west of the alley; the Class 2 Zoning Adjustment applies to three of the platted lots within Tax Lot 073W15DA05100, west of the alley, and is required to develop single family dwellings or duplexes on lots that have no street frontage.

APPLICANT: Joe Green

LOCATION: 102 Pine Street NE

CRITERIA: Conditional Use: SRC 240.005(d)
Class 2 Greenway Development Permit: SRC 600.015(e)(2)
Class 2 Adjustment: SRC 250.005(d)(2)

FINDINGS: The findings are in the attached Order dated May 3, 2017.

DECISION: The Hearings Officer **APPROVED** Conditional Use CU-WGP-ADJ17-04 subject to the following conditions of approval:

Condition 1: The paved width of the alley shall be at least 24 feet and the development shall provide either (1) an approved turn-around or (2) fire sprinklers in the dwelling units on Lot 11. The Applicant shall sign the alley with "No Parking" signs and no parking shall be allowed in the alley.

Condition 2: The Applicant shall establish a separate deed for each platted lot prior to submitting a building permit for that lot.

Condition 3: The Applicant shall provide fences meeting the standards of SRC 800.050 along the side property lines of Lot 1 and 14 abutting Pine Street NE, the front property lines of Lots 1, 2, 3, and 4 abutting Front Street NE, and the side

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
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CITY OF Salem
AT YOUR SERVICE

property lines of Lots 4 and 11 abutting the adjacent property to the south; the fence on Lot 14 abutting Pine Street NE shall extend from the west edge of the sidewalk running along the west side of the alley to the riparian buffer border indicated on the proposed site plan.

Condition 4: The Applicant shall coordinate demolition activities with the Public Works Department and Building and Safety to ensure that any required erosion control or grading permits or other appropriate measures are in place to protect the topographical features of the bank and escarpment.

Condition 5: Prior to submittal of the first building permit application for the subject property west of the alley, the Applicant shall submit a landscaping plan to the Planning Administrator for the entire area west of the alley demonstrating compliance with the Riparian Buffer Enhancement standards of SRC 600.025(c)(3)(B), the landscaping standards of SRC 600.025(b), and the landscaping and irrigation requirements of SRC Chapter 807.

Condition 6: The Applicant shall provide a 30-foot-wide scenic easement to the city for future development of walkways, bicycle paths, and berms or landscaped areas within the right-of-way of Water Street indicated on the plat of Riverview Park Addition as 130 feet west of the alley. The applicant shall not be responsible for development of the walkways, bicycle paths, and berms or landscaped areas in the scenic easement.

Condition 7: Prior to any excavation, grading, or construction, a survey map, certified by a licensed Professional Land Surveyor, shall be submitted to the Director showing the Willamette Greenway Boundary and its relationship to the site and survey monuments thereon.

Condition 8: Prior to any excavation, grading, or construction, plans for removal and replacement of any native vegetation shall be submitted to and approved by the Director.

Condition 9: With submittal of each building permit application for an individual lot east of the alley, the Applicant shall submit a complete landscaping plan to the Planning Administrator demonstrating compliance with the minimum 15 percent development site landscaping requirement and the landscaping and irrigation standards of SRC Chapter 807.

Condition 10: The proposed development of each lot shall conform to the site plan and include a 24-foot-wide paved access, including the alley, with 5-foot-wide private sidewalks on each side.

Condition 11: Upon the sale of each lot, a private, reciprocal, permanent access easement shall be recorded for the 5-foot-wide private sidewalks on each side of the alley and the additional 8 feet of paved alley width on the east side of the alley.

Condition 12: The proposed dwelling units shall meet setbacks of at least 20 feet from the private sidewalks to the garages and at least 12 feet from the private sidewalks to the dwellings.

The rights granted by the attached decision must be exercised, or an extension granted, by May 19, 2019 or this approval shall be null and void.

Application Deemed Complete: March 20, 2017
Public Hearing Date: April 12, 2017
Notice of Decision Mailing Date: May 3, 2017
Decision Effective Date: May 19, 2017
State Mandate Date: July 18, 2017


Case Manager: Pamela Cole, pcole@cityofsalem.net

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., May 18, 2017**. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240, 600 and 250. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

AN APPLICATION FOR A CONDITIONAL USE, CLASS 2 GREENWAY DEVELOPMENT PERMIT, AND CLASS 2 ZONING ADJUSTMENT TO ALLOW SINGLE FAMILY DWELLINGS OR DUPLEXES ON EIGHT PLATTED LOTS, FOR PROPERTY APPROXIMATELY 1.5 ACRES IN SIZE, ZONED IC (INDUSTRIAL COMMERCIAL) AND LOCATED AT 102 PINE STREET NE 97301 (MARION COUNTY ASSESSOR MAP AND TAX LOT NUMBER: 073W15DA05000 AND 073W15DA05100). THE CONDITIONAL USE APPLIES TO THE ENTIRE PROPERTY; THE CLASS 2 GREENWAY DEVELOPMENT PERMIT APPLIES TO THE FOUR PLATTED LOTS WITHIN TAX LOT 073W15DA05100, WEST OF THE ALLEY; THE CLASS 2 ZONING ADJUSTMENT APPLIES TO THREE OF THE PLATTED LOTS WITHIN TAX LOT 073W15DA05100, WEST OF THE ALLEY, AND IS REQUIRED TO DEVELOP SINGLE FAMILY DWELLINGS OR DUPLEXES ON LOTS THAT HAVE NO STREET FRONTAGE.	} CU-WGP-ADJ17-04 } FINDINGS OF FACT, CONCLUSIONS AND DECISION
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DATE AND PLACE OF HEARING:

April 12, 2017, Salem City Hall, Community Development Department, Room 305, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Pamela Cole, Planner II
<u>Neighborhood Association:</u>	N/A
<u>Proponents:</u>	Joe Green, Applicant William Brandt, Applicant's Attorney and Brian Cobb, Applicant's Architect
<u>Opponents:</u>	Larry Claggett

CU-WGP-ADJ17-04

April 12, 2017

SUMMARY OF THE APPLICATION AND HEARING

The City of Salem held a duly authorized and noticed public hearing on three applications on April 12, 2017. The Applicant filed and the City accepted an application requesting a Conditional Use, an application for a Greenway development Permit, and a Zoning adjustment to allow single-family or duplex dwellings on 8 lots in the IC (Industrial Commercial) zone. All legally required disclosures and opportunity for objection was provided. No rebuttals, challenges or objections on jurisdictional grounds were advanced. The City's Planner, Ms. Pamela Cole, requested and the Hearing's Officer accepted into the Record of Proceedings the Staff Report and Supplemental Staff Report, and associated exhibits and attachments. The Applicant, Mr. Joe Green, submitted into the Record an oversized site Map and a three-ring binder with color copies of maps already in the Record. The Applicant indicated that the binder contained no new information, but did not focus the Hearings Officer's attention to any specific document or evidence contained in the binder. The Hearings Officer receives the oversized Map and color map copies. The Hearings Officer notes the binder contains 6 pages under tab "2" which lists individuals purportedly in support of the proposed project. The Applicant made no reference to or demonstration that these individuals are citizens of the City, reside in the neighborhood or otherwise established how these individuals support for the application was relevant to any applicable criterion. Accordingly, the Hearings Officer gives the list of names no particular weight in this decision.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "River-Oriented Mixed Use." The subject property is within the Urban Growth Boundary and the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned IC (Industrial Commercial). The zoning and use of surrounding properties is as follows:

North: Across Pine Street NE -- IC (Industrial Commercial); office for non-profit residential group home provider; specialty wood products manufacturing

East: Across Front Street NE -- IC (Industrial Commercial); eating and drinking establishment; parking lot; storage yard

South: IC (Industrial Commercial); office complex

West: Willamette River

No challenge to the above evidence was raised at the hearing. The Hearings Officer finds the subject site designated, zoned and sited as evidenced by the Staff Report.

3. Site Analysis

The City's Staff Report provided the following general site analysis which, in large part was undisputed:

The subject property includes two tax lots located on opposite sides of an alley. Each tax lot includes four platted lots. The Applicant's deed described the property as "Lots 1, 2, 3, 4, 11, 12, 13 and 14, Block 15, Riverview Park Addition to Salem." Staff found no evidence such as surveys or land use decisions that indicated that the lots have ever been replatted or otherwise combined. Therefore, they appear to remain as eight individual lots, although they have been combined into two tax lots.

The area of the subject property east of the alley (Lots 1, 2, 3, and 4 of Block 15, Riverview Park Addition) is developed with a parking lot. Each platted lot is 50 feet wide by 130 feet deep (6,500 square feet each). These lots have frontage on Front Street NE, a Major Arterial, and rear lot lines abutting an alley. Lot 1 is a corner lot and also has frontage on Pine Street NE, a local street.

The area of the subject property west of the alley (Lots 11, 12, 13, and 14 of Block 15, Riverview Park Addition) contains the remnants of a building used as an eating and drinking establishment. Most of the building was destroyed by fire, but part of the structure remains. The remaining building covers approximately 6,200 square feet, and the remaining patio/deck covers approximately 1,300 square feet.

Lots 11, 12, 13, and 14 were originally platted 50 feet wide by 130 feet deep (6,500 square feet each), but the Applicant's existing conditions plan indicated that these lots now include additional area to the low water line. Lot 14 is 10,833 square feet; Lot 13 is 11,023 square feet; Lot 12 is 11,156 square feet; and Lot 11 is 11,231 square feet. The original plat of the area showed Water Street on the west side of these lots. Water Street is not

developed, and current maps do not indicate street right-of-way in this area. Lots 11, 12, 13 and 14 have no street frontage, the Hearings Officer's notes the Applicant spent time discussing whether Water Street ever existed or was ever intended for use.

Approximately two-thirds of the property west of the alley is located within the Willamette Greenway Compatibility Review Boundary, as indicated on the existing conditions plan. The area within the Willamette Greenway Compatibility Review Boundary is also located within the Willamette Greenway Boundary, which runs approximately 12 feet west of, and parallel to, the western property line of the alley.

The western area of the property nearest the Willamette River and approximately 60 feet wide is mapped as floodway.

The area east of the alley is flat. The area west of the alley slopes gradually from the low water line to the high-water line, slopes more steeply from the high water line to the compatibility review boundary, and is almost flat between the compatibility review boundary and the alley. The majority of the remaining building footprint is in the flatter area, but the western part and the remaining patio/deck are located above the steep slopes.

Except as otherwise provided in the findings below, the Hearings Officer finds the Staff's general site analysis informative and useful in considering the relevant criteria.

4. Neighborhood and Citizen Comments

The subject property is located within the Highland Neighborhood Association (Highland). Notice was provided to Highland and surrounding property owners within 250 feet of the subject property and adjoining lot under common ownership.

The Supplement Staff Report noted receipt of comments asserting the applications should be denied on the basis of the City's plan to construct another bridge over the Willamette River which would cause Front Street realignment and impacting the development of the site. Additionally, the report noted that the land use chair of Highland emailed staff and asked whether or not an easement has been reserved for a multi-use path along the Willamette through this property. A neighboring property owner called staff and expressed concerns that commercial and industrial traffic in the area would create hazards for residents of the project and concerns that the proposed development is in the potential path of the proposed bridge across the

Willamette River. These concerns are noted and considered with the relevant criterion below.

The Hearings Officer noted the additional content provided in the Supplemental Staff Report and the testimony Mr. Larry Claggett provided at the public hearing.

5. City Department and Public Agency Comments

City Staff provided:

The Salem Community Development Department, Building and Safety Division, reviewed the proposal and identified no issues.

The Salem Fire Department reviewed the proposal and commented:

Fire has no issues with the zoning request, however Fire will have requirements at the time plans are submitted for permitting. The alley does not meet Fire code for Fire access and needs to be 20 feet wide and provide an approved turn around or the Applicant must install fire sprinklers in the dwelling units that are more than 150 feet from a street. Two fire hydrants are available for fire flow.

The Hearings Officer finds that the proposed pavement width is 24 feet, including the existing 16-foot-wide alley. The Hearings Officer notes the Applicant testified that parking would likely occur in the alley. To ensure fire access is unhindered, the following condition of approval will ensure that the proposed development complies with Fire code requirements:

Condition 1: The paved width of the alley shall be at least 24 feet and the development shall provide either (1) an approved turn-around or (2) fire sprinklers in the dwelling units on Lot 11. The Applicant shall sign the alley with “No Parking” signs and no parking shall be allowed in the alley.

The Public Works Department submitted comments indicating no concerns or additional requirements related to the conditional use application or adjustment application. On the Willamette Greenway permit application, the Public Works Department / Development Services commented:

The Applicant submitted a report by a professional engineer indicating that the flood carrying capacity of the Willamette River will not be impacted by the proposed development. The proposed development is not located within the

regulatory floodplain, reducing any potential impacts the hydraulic and flood carrying capacity of the river. The 100-year base flood elevation is 139-feet and the proposed development will be located at 140-feet or higher.

Portland General Electric (PGE) reviewed the proposal and indicated that development costs are determined by current tariff and service requirements and a 10-foot wide public utility easement would be required on all front street lots (Lot 14 with frontage on Pine Street NE and Lots 1, 2, 3, and 4 with frontage on Front Street NE).

Salem-Keizer Public Schools provided comments that the estimated increase of 9 students would result in no additional capital costs.

The Hearings Officer finds the above evidence informative, and useful in considering the applicable criteria, and useful in imposing the condition of approval.

6. Analysis of Conditional Use Criteria

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

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

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

Criterion 1:

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

Finding: SRC Chapter 551, Table 551-1 provided that single family detached dwellings and duplexes are allowed in the IC (Industrial Commercial) zone with a conditional use permit.

The Hearings Officer notes that the substantial evidence provided that the Applicant's deed currently describes the property as eight individual platted lots, with four platted lots in each of the two tax lots. The Hearings Officer notes that there has been no substantial evidence evidencing that the lots were ever replatted or otherwise legally combined through a land use action or survey, and it appears that they remain as separate lots. If the lots had been legally combined, the Applicant could have processed the application as a

multi-family development, which also would have been allowed with conditional use approval in the zone.

To ensure that a single building permit for each individual single-family detached dwelling or duplex may be processed and individual addresses may be established for each lot, staff recommended, and the Hearings Officer imposes, the following condition:

Condition 2: The Applicant shall establish a separate deed for each platted lot prior to submitting a building permit for that lot.

With the imposition of the condition of approval, the Hearings Officer finds that the proposal meets this criterion.

Criterion 2:

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

For conditional use applications, city staff analyzed the possible adverse impacts such as noise, odor, traffic, parking demand, visual impact, and increased criminal activity. City Staff analysis provided:

In comparison with the previous use, a large eating and drinking establishment open during the day and late at night, the proposed residential development would generate less noise and odor. It would generate 83 percent less traffic than the previous use, according to trip calculations by the Public Works Department. The proposal would meet requirements for a minimum of two off-street parking spaces per dwelling unit. By eliminating three two-way commercial driveways onto Pine Street NE and replacing them with a single two-way access by widening the pavement of the existing alley, the proposal would increase the area available for overflow on-street parking and reduce possible traffic conflicts. The proposal elevations indicated that the proposed three-story dwelling units would be well designed, would be well below the 70-foot maximum height allowable in the zone, and would have a positive visual impact. The proposed removal of the dangerous structure and its replacement with residential development is likely to reduce trespassing and potential criminal activity. The proposal includes fencing along the property lines abutting the adjacent property to the south, the property lines abutting Front Street NE, and the property lines abutting Pine Street NE, further reducing possible criminal activity and trespassing.

The Hearings Officer finds that the Applicant's statement and oral testimony also addressed specific possible impacts in the Greenway Compatibility

Review Boundary and Greenway Boundary. The Applicant demonstrated that the proposal would have no negative impact on the flood carrying capacity of the river; the impervious area would be reduced by 42 percent in the area east of the alley and 28 percent in the area west of the alley; and the proposed removal of the existing structure and redevelopment would enhance the riparian area.

No official written comments were received from adjacent property owners or the Highland Neighborhood Association regarding reasonably likely adverse impacts of the proposed development on the surrounding neighborhood. At the hearing, neighboring property owner, Mr. Larry Claggett, expressed concern that commercial and industrial traffic in and out of his property to the north of Pine Street would experience negative impacts if the potential residents or guests of the proposed development parked along the southern portion of Pine Street between Front Street and the alley serving to access the proposed development. The Hearings Officer notes that Mr. Claggett did not provide sufficient details or substantial evidence for the Hearings Officer to find that development site parking would necessarily overflow into Pine Street or sufficient evidence establishing precise turning maneuvers of vehicles of unknown length into and out of his property. Resort to the maps submitted into the record disclose an alley also serving Mr. Claggett's property. It is unclear whether that alley is developed (or developable) sufficient to provide additional ingress and egress for commercial vehicles in the event vehicles parking on Pine Street would in fact hinder ingress and egress from his site. In short, the Hearings Officer finds Mr. Claggett's testimony credible, but sufficiently speculative to fall short of establishing an adverse impact. If, in the future, overflow or other parking from this or other development in the area precludes ingress and egress of commercial vehicles from Mr. Claggett's property, the Hearings Officer would expect that City parking-related procedures would provide a remedy.

The Hearings Officer finds that the proposal meets this criterion.

Criterion 3:

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

City Staff's proposed finding and analysis provides:

The subject property is designated River-Oriented Mixed Use in the Salem Area Comprehensive Plan. The intent of this designation is to provide for a combination of urban uses which take advantage of the scenic, natural and recreational qualities of the riverfront and to provide opportunities for the

residents in the community to have both visual and physical access to the riverfront while allowing for the continuation of existing industries. A related policy states that the transition of the waterfront areas designated Commercial, Commercial Industrial or Industrial use to a mixture of commercial, office and high density residential uses shall be encouraged. A property developed in accordance with the intent and policy in the area is assumed to be reasonably compatible with the development of surrounding property.

The proposed development meets the intent of the designation because it is located in an area with a mix of commercial, office, and light industrial uses and would change the use of the property from commercial to residential. The proposed development takes advantage of the qualities of the riverfront because it is designed so that the private open space for the dwelling units west of the alley is oriented toward the riverfront. Because the proposed dwelling units are located near the alley, the development would not restrict visual access or physical access to the riverfront or have an impact on the continuation of existing industries.

The policy encourages high density residential uses. Multiple Family uses of three or more units per lot would also require Conditional Use approval. There are no minimum or maximum density requirements in the IC (Industrial Commercial) zone. The proposed development would result in a density of 5 to 10 units per acre when calculated for the entire subject property (1.6 acres) or 7 to 13 units per acre when calculated for the original platted lot area (1.2 acres). The proposed density is higher than residential densities in the RA (Residential Agriculture) and RS (Single Family Residential) zones and similar to the allowable density of 8 to 14 units in the RM-I (Multiple Family Residential) zone. Considering the limitations imposed by the development standards in the Greenway Compatibility Review Boundary and the Greenway Boundary, and the restrictions on development in the floodway, the proposed development would provide an appropriate residential density.

The proposed development would be the least intense use in the nearby vicinity as far as traffic generation, surrounded by commercial and industrial uses, and located on a busy minor arterial street. A neighboring property owner expressed concerns that commercial and industrial traffic in the area would create hazards for residents of the project.

No party submitted substantial evidence to rebut the City's proposed finding and analysis. The Hearings Officer concurs. To ensure that residents of the proposed development, particularly children, are protected from traffic impacts, Staff recommended, and the Hearings Officer imposes, the following condition:

Condition 3: The Applicant shall provide fences meeting the standards of SRC 800.050 along the side property lines of Lot 1 and 14 abutting Pine Street NE, the front property lines of Lots 1, 2, 3, and 4 abutting Front Street NE, and the side property lines of Lots 4 and 11 abutting the adjacent property to the south; the fence on Lot 14 abutting Pine Street NE shall extend from the west edge of the sidewalk running along the west side of the alley to the riparian buffer border indicated on the proposed site plan.

The Hearings Officer notes that the Applicant-proposed removal of the remaining burned-out building redevelopment with housing would have positive impacts on the livability and appropriate development of surrounding property. These include possible increases in value of the surrounding property and encouragement of additional development due to clean-up of the underutilized site; enhancement of the riparian buffer; and increased opportunities to use public transportation by locating housing in an urban area.

A neighboring property owner, and other unnamed persons, expressed concerns that the proposed development is incompatible with development of the surrounding property because it is in the potential path of the proposed bridge across the Willamette River.

In response, City Staff explained:

On December 5, 2016, the City Council adopted Ordinance Bill No. 14-16 amending the Transportation Systems Plan to include a future realignment of Front Street NE and the future bridge in the vicinity of this property. City Council's decision has been appealed and is currently under review by the Oregon Land Use Board of Appeals. While the subject property is within the footprint of the preferred alternative alignment for the Salem River Crossing bridge proposal, the City has not yet purchased the Applicant's property. If the preferred alternative bridge alignment receives all necessary environmental planning approvals and is funded, additional right-of-way will likely need to be acquired from the subject property, which will conflict with this housing development proposal. There is no prediction when the bridge will be constructed, however, and the Applicant has the right to develop the property at this time.

The TSP amendment includes a future realignment of Front Street south of Pine Street NE in order to accommodate a future Salem River Crossing. The future Front Street realignment is located within the subject property; any buildings constructed within this realignment would obstruct and may impact the future street improvement. However, there is no code or statutory

authority to deny or condition the application in light of the future realignment of Front Street NE.

Planning and Public Works staff discussed whether special setbacks or right-of-way dedication related to the proposed realignment of Front Street NE would be applicable to the proposal. If these special setbacks were applicable, they would have the effect of prohibiting the proposed development because required setbacks would be measured from the future right-of-way. Staff concluded that the proposed single family dwellings and duplexes on the eight platted lots would not generate enough trips to require right-of-way dedication at this time, and special setbacks are not applicable unless there is a right-of-way or street.

The Hearings Officer understands the City to explain and the substantial evidence to demonstrate that no current likelihood of bridge construction would impact the proposed development and no required rough proportionality to require additional right of way or special setbacks currently exists.

With the Condition 3, the Hearings Officer finds that the proposal meets this criterion.

7. **Analysis of Class 2 Willamette Greenway Permit Criteria**

SRC Chapter 600.015(a)(1) provided that:

Except as provided under paragraph (2) of this subsection, no intensification, change of use, or development within the Willamette Greenway Overlay Zone shall occur unless a Greenway Development permit has been granted pursuant to this Chapter.

SRC Chapter 600.015(b) establishes the following classes for a Greenway Development Permit:

(1) Class 1 Greenway Development Permit. A Class 1 Greenway Development Permit is a permit for any intensification, development, or change of use occurring within the Willamette Greenway, but outside of the Compatibility Review Boundary.

(2) Class 2 Greenway Development Permit. A Class 2 Greenway Development Permit is a permit for any intensification, development, or change of use occurring inside of the Compatibility Review Boundary.

Staff analysis demonstrated and the Hearings Officer finds that the proposed change of use and development on Lots 11, 12, 13, and 14 is within the Willamette Greenway and the Compatibility Review Boundary, and a Class 2 Greenway Development Permit is required. A small area of the lots is located outside of the Compatibility Review Boundary but inside the Willamette Greenway and could be processed separately as a Class 1 Greenway Development Permit; however, the Applicant has elected to process the entire application as a Class 2 Greenway Development Permit.

SRC Chapter 600.015(e)(2) establishes the following approval criteria for a Class 2 Greenway Development Permit:

Criterion 1:

The proposed intensification, development, or change of use is consistent with:

- (i) The Willamette River Greenway Plan;
- (ii) The Willamette Greenway Riparian Buffer Enhancement Guide;
- (iii) The applicable standards of this Chapter; and
- (iv) Where applicable, the stormwater runoff water quality standards adopted and administered by the Public Works Department.

City Staff Proposed Findings Explain:

(i) Consistency with the Willamette River Greenway Plan

The Oregon Greenway Plan is Goal 15 of the Oregon's Statewide Planning Goals & Guidelines. The Salem Area Comprehensive Plan (SACP) includes adopted Urban Area Goals and Policies consistent with Statewide Planning Goal 15. In turn, the Salem Zoning Code implements the SACP land use goals, and more precisely governs development of the subject property. Therefore, conformance with all applicable standards in SRC Chapter 600 is sufficient to establish consistency with the Greenway Plan. Development of the subject property, as proposed, is consistent with the Greenway Plan.

(ii) Consistency with the Willamette Greenway Riparian Buffer Enhancement Guide

The proposed building footprints are located outside of the Willamette Riparian Buffer Area. However, removal of approximately 2,765 square feet of the remaining structure will occur within the riparian buffer. Therefore, the proposed project must be consistent with the Willamette Greenway Riparian Buffer Enhancement Guide.

The Hearings Officer notes that the Applicant's written statement indicated that the structure would be permanently removed on a per lot basis in conjunction with individual building permits, and this would allow the remaining structure to be used for staging equipment, minimizing machine impact in the riparian buffer and Greenway Boundary.

The Applicant's statement also indicated that the project would include enhancement with native riparian plants and ground cover selected from the city's Guide to Salem's Common Native Riparian Plants (also known as the City of Salem Native Plant List). An enhancement plan, in accordance with the Willamette Greenway Riparian Buffer Enhancement Guide, is required because riparian buffer enhancement was chosen by the Applicant as a mitigation measure under SRC 600.025(c)(3).

(iii) Consistency with the applicable standards of SRC Chapter 600

SRC 600.020 – Uses

Except as otherwise provided in this section, any use or activity that is a permitted, special, conditional, or prohibited use or activity in the underlying zone is a permitted, special, conditional, or prohibited use or activity in the Willamette Greenway Overlay Zone.

(a) Uses in Riparian Buffer. The following uses and activities, when allowed in the underlying zone, shall be the only uses and activities allowed within the riparian buffer of the Willamette Greenway Overlay Zone:

- (1) Uses and activities excepted from a Greenway Development Permit under SRC 600.015(a)(2);
- (2) Riparian restoration and enhancement activities; and
- (3) Water-dependent and water-related uses and activities.

The City Staff provided:

The proposed use is allowed as a conditional use in the underlying zone. The proposed building footprints will not be located within the riparian buffer of the Willamette Greenway Overlay Zone. The only proposed uses in the riparian buffer will be riparian restoration and enhancement activities. The Applicant will be removing an existing structure and enhancing the riparian vegetation.

SRC 600.025(a) – General Standards

(1) Existing predominant topographical features of the bank and escarpment shall be preserved and maintained, with the exception of disturbance necessary for:

(A) The construction or establishment of a water-related, water-dependent, or river oriented use or activity; and

(B) Measures necessary to reduce existing or potential bank and escarpment erosion, landslides, or flood hazard conditions.

(2) The slope, soil characteristics, and other physiographic conditions existing within the land area between the ordinary low water line and the Willamette Greenway Boundary shall be considered to assure that the proposed intensification, development, or change of use will not adversely affect the stability of the land area.

(3) The hydraulic effect of the Willamette River on the bank shall be considered in the design of any proposed intensification, development, or change of use.

(4) The hydraulic and flood carrying capacity of the river shall be considered in the design of any proposed intensification, development, or change of use.

(5) Impact on the riparian buffer resulting from the proposed intensification, development, or change in use shall be minimized.

The existing structure will be removed. The Applicant's statement indicated that excavation less than two feet and 25 yards will occur for proper footing placement. To ensure that necessary measures are in place to reduce existing or potential bank and escarpment erosion related to the structure removal, City Staff recommended and the Hearings Officer imposes the following condition:

Condition 4: Coordinate demolition activities with the Public Works Department and Building and Safety to ensure that any required erosion control or grading permits or other appropriate measures are in place to protect the topographical features of the bank and escarpment.

The Hearings Officer notes that the Applicant provided a geotechnical report concluding that the geology and topography of the site and the surrounding area, with proper construction control, will not adversely affect the proposed project, and the project will have negligible geologic impact on adjacent properties or the risk of slope instability, and, with the use of generally accepted construction techniques and by strictly following the recommendations contained in the report and in the building code, the site is geologically suitable for the proposed development.

The Applicant provided a report signed by a Professional Engineer regarding the hydraulic and flood carrying capacity of the river. The Engineer concurred that the proposed development does not include any development within the regulatory floodplain and will have no impact on the floodplain, and that the flood carrying capacity of the river will not be impacted by the proposed development. The only proposed work within the regulatory floodplain is the removal of the existing restaurant building foundation consisting of timber piles.

Development and construction will not infringe into the Riparian Buffer Area. The proposal will remove impervious area of approximately 2,765 square feet, restore natural bank slopes, and increase the cover and diversity of native vegetation.

SRC 600.025(b) - Landscaping

(1) Landscaping shall conserve, or if disturbed by the development activity restore to the greatest extent possible, vegetative cover within the Willamette Greenway Boundary. Landscaping is not required where it would significantly interfere with a water-dependent or water-related use or activity.

(2) Native vegetation removed from the riparian buffer shall be replaced with native vegetation which is compatible with and enhances the functions of the riparian buffer.

(3) Trees and shrubs shall be provided as follows:

(A) A minimum of 1 tree shall be provided for every 20 feet of river frontage.

(B) A minimum of 1 shrub shall be provided for every 2 feet of river frontage.

(C) All trees and shrubs shall be planted within and generally riverward of the Willamette Greenway Boundary.

(D) The planting standards included under subparagraphs (A) and (B) of this paragraph are for calculation purposes only, and do not require linear planting. Groupings of trees, shrubs, or both are encouraged, particularly along the riverbank.

(4) Areas which are not paved or revetted shall be planted with living ground cover.

Trees and vegetation exist within the riparian buffer boundary. No trees or native vegetation are proposed for removal. The Applicant proposed to restore approximately 6,000 square feet of natural area after the removal of the remaining restaurant structure. The Applicant proposed to restore and enhance the riparian area as a water quality mitigation measure. A minimum of 10 trees and 100 shrubs shall be provided for the 200 feet of river frontage.

SRC 600.025(c) -- Water Quality

(1) Water Quality Development Standards, Generally. In order to protect and improve water quality within the Willamette Greenway Boundary, a riparian buffer, as set forth in paragraph (2) of this subsection, along with one or more of the mitigation measures, as set forth in paragraph (3) of this section, shall be established.

City Staff explained:

The Applicant established the riparian buffer through SRC 600.025(c)(2)(A)(i) and selected Riparian Buffer Enhancement (SRC 600.025(c)(3)(B)) as a mitigation measure.

(2) Riparian Buffer. A riparian buffer shall be established as set forth in this paragraph.

(A) Boundary. The Applicant shall establish the riparian buffer boundary by choosing one of the following two methods:

(i) Method 1. Method 1 provided a relatively simple methodology for establishing a uniform riparian buffer boundary based on three bank slope measurements. The three bank slope measurements shall be taken along the Willamette River, one at each property line and one located at the center of the property, as determined by measuring the property line parallel to the Willamette River, and dividing it by two. Example: A 150-foot property line adjoining the Willamette River would result in bank slope measurements starting at the first property line, the 75-foot mark, and then the other property line. The riparian buffer boundary pursuant to Method 1 shall be established as set forth in Table 600-1.

The Hearings Officer finds that the Applicant calculated the slope and found that one or more of the bank slope measurements were greater than or equal to 25%. Therefore, a 75-foot riparian buffer from the ordinary high water line is required, as shown on the site plan.

(3) Mitigation Measures. A mitigation plan, to mitigate the effects of any intensification, development, or change of use, shall be provided based on one of the following mitigation measures:

(B) Riparian Buffer Enhancement. Enhancement in the riparian buffer may be provided as a mitigation measure. Enhancement shall comply with the following standards:

(i) Enhancement shall be provided at a ratio of 0.25:1, where 0.25 represents enhancement area and 1 represents development area.

- (ii) Enhancement shall comply with the Willamette Greenway Riparian Buffer Enhancement Guide.
- (iii) All plants shall be selected from the City of Salem Native Plant List and shall be of a species designated appropriate for each riparian section.
- (iv) Where enhancement includes removal of impervious surfaces or previous fill, exposed soils shall be replanted with a mixture of ground cover, shrubs, and trees.
- (v) All plantings shall occur within 1 year of the permit date unless another date is approved in the Greenway Development Permit.

The Hearings Officer notes that the Applicant is proposing no development within the riparian buffer. The proposed impervious area of the development area (building footprints and driveways) within the Greenway Boundary is approximately 10,100 square feet. The Applicant's statement indicated that approximately 2,765 square feet of impervious cover will be removed from the riparian buffer, natural bank slopes will be restored according to recommendations in a geotechnical report, and coverages and diversity of native vegetation will be increased. The enhancement area shall be a minimum of 2,525 square feet. Appropriate plants will be selected from the city's Guide to Salem's Common Native Riparian Plants and in compliance with the Willamette Greenway Riparian Buffer Enhancement Guide. To ensure compliance, City Staff recommended and the Hearings Officer imposes the following condition:

Condition 5: Prior to submittal of the first building permit application for the subject property west of the alley, the Applicant shall submit a landscaping plan to the Planning Administrator for the entire area west of the alley demonstrating compliance with the Riparian Buffer Enhancement standards of SRC 600.025(c)(3)(B), the landscaping standards of SRC 600.025(b), and the landscaping and irrigation requirements of SRC Chapter 807.

SRC 600.025(d) – Structures

All buildings, structures, and exterior mechanical equipment shall be screened, colored, or surfaced so as to blend with the riparian area. Colors shall be natural earth or leaf tones. Surfaces shall be non-reflective. Screening shall be sight-obscuring.

The Applicant submitted a description of color and exterior surface materials and provided a color design simulation indicating that the colors of the fiber cement siding will be browns, greens, and grays. The fences will be natural cedar, and mechanical equipment will generally be light gray and green.

SRC 600.025(e) – Lighting

- (1)** Lighting shall not flash, if visible from the Willamette River, and shall not be focused or oriented onto the surface of the Willamette River.
- (2)** The maximum aggregate intensity of all lighting falling on the surface of the Willamette River shall not exceed one-tenth foot-candle per square foot.
- (3)** No red or green lights shall be visible from the Willamette River.
- (4)** Notwithstanding any other provision of this section, lighting necessary for safety of pedestrians may be provided for public or private walkways.

No lighting is proposed other than what may typically be provided for dwellings. Lighting shall meet these standards. The proposed private sidewalk will be located outside of the Greenway Boundary.

SRC 600.025(f) – Screening of Parking and Unenclosed Storage

Parking, loading, and unenclosed storage areas shall be screened from the Willamette River and from adjacent properties by:

- (1)** A sight-obscuring berm; or
- (2)** A sight-obscuring hedge, a minimum of 6 feet in height at maturity. Hedges shall, when planted, be no less than 3 feet in height and shall be of a species capable of attaining a minimum height of 6 feet within 3 years after planting.

No unenclosed storage areas or loading areas are proposed. The parking areas are located east of the proposed buildings and will be screened from the River by the buildings. The parking areas will be screened from adjacent properties by cedar fences.

SRC 600.025(g) – View Corridors

- (1)** Whenever right-of-way located wholly or partially within the Willamette Greenway Overlay Zone is vacated, the city shall retain a scenic easement or other equivalent interest in the area vacated to provide visual access to the Willamette River across the entire width of the vacated right-of-way, or for a width of 30 feet, whichever is less, and along the entire length of the vacated right-of-way. Subject to approval by the City Council, the abutting property owner, or owners, may substitute an area with equivalent size and dimensions under like restriction, if the substitute area provided comparable or better visual access to the Willamette River.
- (2)** The area covered by the scenic easement or other equivalent interest shall be limited to use for walkways, bicycle paths, and berms or landscaped areas; provided, however, that within an area of 7.5 feet on either side of the

centerline of the scenic easement or other equivalent interest, landscaping and berms shall not exceed 3 feet in height.

No right-of-way is proposed to be dedicated or vacated as part of this process. The Hearings Officer finds no substantial evidence sufficient to persuade the Hearings Officer that the Water Street right-of-way shown on the Riverview Park Addition west of Lots 11, 12, 13, and 14 has been vacated; nor was substantial evidence submitted demonstrating that the street was ever developed. City Staff proposed that the Hearings Officer not find that scenic easements are required for this application. City Staff reported and the Hearings Officer finds that the Applicant voluntarily offered to provide a scenic easement. The Applicant' proposed scenic easement, renders moot any requirement to make a specific finding on this issue. City Staff recommended, and the Hearings Officer imposes, the following condition:

Condition 6: The Applicant shall provide a 30-foot-wide scenic easement to the city for future development of walkways, bicycle paths, and berms or landscaped areas within the right-of-way of Water Street indicated on the plat of Riverview Park Addition as 130 feet west of the alley. The Applicant shall not be responsible for development of the walkways, bicycle paths, and berms or landscaped areas in the scenic easement.

SRC 600.025(h) - Public Access

Where practical, public access to and along the Willamette River should be provided by easement, dedicated right-of-way, or other appropriate legal means.

Because the property will be developed with single family dwellings or duplexes and the proposed scenic easement will be located approximately 37 feet west of the closest proposed building footprint and the right-of-way of Pine Street NE extends to the Willamette River, the Hearings Officer finds it is practical to provide public access through the scenic easement.

(iv) Where applicable, consistency with the stormwater runoff water quality standards adopted and administered by the Public Works Department

City Staff proposed that this criterion is not applicable to the proposed development of single family detached dwellings and duplexes. No testimony controverted this proposed finding and the Hearings Officer concurs with staff.

SRC Chapter 600.015(f) -- Conditions of Approval

(1) Conditions may be imposed on any Greenway Development Permit necessary to ensure that proposed intensification, development, or change of use complies with the Willamette River Greenway Plan and the purpose of this Chapter, and preserves and enhances the natural, scenic, historic, and recreational qualities of the Willamette River Greenway.

Conditions of approval are listed above and under Criterion 2.

(2) In addition to any conditions imposed under paragraph (1) of this subsection, every Greenway Development Permit shall include the following conditions:

Condition 7: Prior to any excavation, grading, or construction, a survey map, certified by a licensed Professional Land Surveyor, shall be submitted to the Director showing the Willamette Greenway Boundary and its relationship to the site and survey monuments thereon.

The Willamette Greenway Boundary is approximately 12 to 13 feet west of the alley. The Hearings Officer notes that the staff provided copies of the approved Greenway Boundary map to the Applicant.

Condition 8: Prior to any excavation, grading, or construction, plans for removal and replacement of any native vegetation shall be submitted to and approved by the Director.

Criterion 2: The proposed intensification, development, or change of use complies with all applicable development standards in the UDC.

City Staff proposed findings explain:

The proposed single-family detached dwellings and duplexes comply with all applicable development standards of the IC (Industrial Commercial) zone and other provisions of the Salem Revised Code, except for the standard requiring 40 feet of street frontage for a single-family dwelling or 16 feet of frontage for a duplex. The Applicant has requested a Class 2 Adjustment to the standard for street frontage.

IC Zone Development Standards for Single Family Dwellings and Duplexes (SRC Chapter 551)

Lot Standards (SRC 551.010(a), Table 551-2)

The IC zone has no lot area, lot width, or lot depth standards for the proposed uses. The street frontage requirement is a minimum of 40 feet for Single Family uses and a minimum of 16 feet for all other uses, including duplexes. The Applicant has requested an adjustment to this standard for Lots 11, 12, and 13.

Setbacks (SRC 551.010(b), Table 551-3)

Minimum setbacks abutting a street are 5 feet for all single family and duplex buildings and 20 feet for garages. Minimum interior front setbacks are 0 feet for all single family and duplex buildings and 20 feet for garages. Minimum interior side setbacks are 0 feet for single family and duplex buildings. Minimum interior rear setbacks are 0 feet for single family and duplex buildings and per SRC Chapter 806 for garages. The proposed development meets or exceeds all of the required setbacks.

Lot Coverage and Height (SRC 551.010(c), Table 551-5)

There is no maximum lot coverage for buildings and accessory structures. The maximum height for all uses is 70 feet. The proposed buildings will be no more than three stories in height. The proposed development meets the applicable standards.

Landscaping (SRC 551.010(d))

Required setbacks shall be landscaped in conformance with the landscaping and irrigation requirements of SRC Chapter 807, which requires one plant unit per 20 square feet of required setback; 40 percent of the required plant units must be trees. A minimum of 15 percent of the development site shall be landscaped. The site plan indicated that over 73 percent of the subject property west of the alley and over 42 percent of the subject property east of the alley will be landscaped. Compliance with the landscaping, irrigation, and plant unit requirements will be verified when the Applicant submits the landscaping plan required under recommendation Condition 5 prior to the first building permit for a single family detached dwelling or duplex west of the alley. For the property east of the alley, which is not in the Greenway Boundary, City Staff recommended and the Hearings Officer imposes the following condition:

Condition 9: With submittal of each building permit application for an individual lot east of the alley, the Applicant shall submit a complete landscaping plan to the Planning Administrator demonstrating compliance with the minimum 15 percent development site landscaping requirement and

the landscaping and irrigation standards of SRC Chapter 807.

Off-Street Parking, Loading, and Driveways (SRC Chapter 806)

SRC Chapter 806 requires two parking spaces per single family dwelling and two parking spaces per dwelling unit for each duplex. For each dwelling unit, the Applicant is proposing a garage and driveway that comply with applicable standards.

Preservation of Trees and Vegetation (SRC Chapter 808)

SRC Chapter 808 addresses preservation of heritage trees, significant trees, trees and native vegetation in riparian corridors, and trees on contiguous lots or parcels of 20,000 square feet or greater. No heritage trees or significant trees have been identified on the subject property. The subject property consists of two tax lots, each of which is a contiguous parcel of 20,000 square feet or greater. The riparian corridor for the Willamette River is measured as 75 feet from top of bank. The Applicant has indicated this line on the site plan. No trees or native vegetation are proposed for removal within the riparian corridor or from either tax lot.

Floodplain Overlay Zone (SRC Chapter 601)

The western area of the subject property adjacent to the Willamette River is within the 100-year floodplain, as shown on the site plan. No development is proposed within the floodplain.

Wetlands (SRC Chapter 809)

The subject property is not mapped as a wetland.

As conditioned, the Hearings Officer finds this criterion satisfied.

Criterion 3: The proposed intensification, development, or change of use will, to the greatest extent possible, provide the maximum possible landscaped area, open space, or vegetation.

City Staff explained:

The proposed development will remove impervious cover from the property and restore riparian vegetation. No trees or native vegetation are proposed for removal within the Willamette Greenway Riparian Buffer or within 75 feet of top of bank. The proposed single family dwellings and duplexes will be located outside of the Willamette Greenway Riparian Buffer in an area previously

occupied by a large eating and drinking establishment and parking and vehicle use areas. The dwellings are proposed to be up to three stories in height to reduce building footprints. The single family dwellings and duplexes will be constructed with front and side yards similar to those required in residential zones and rear yards greater than those required in residential zones, ensuring private open space. The development will exceed the minimum of 15 percent required per development site.

No substantial evidence rebutted City Staff analysis or findings, and the Hearings Officer adopts the analysis and finds that the proposal meets this criterion.

8. Analysis of Class 2 Adjustment Criteria

SRC 250.005(d)(2) establishes the following approval criteria for a Class 2 Adjustment. The Applicant's completed written statement addresses the Class 2 Adjustment approval criteria.

Criterion 1:

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

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

City Staff proposed the following findings and analysis of which no participant challenged: The Applicant is requesting an adjustment to allow development of detached single-family dwellings and/or duplexes on three platted lots that have no street frontage (Lots 11, 12, and 13 of Block 15 of Riverview Park Addition). The Applicant provided a copy of the Riverview Park Addition plat recorded in 1890 and explained in the written statement for the adjustment that the street named "Alder" on the plat is now Pine Street NE and the street named "Pine" on the plat is now Hickory Street NE.

The subject property for the adjustment is unusual because it consists of three lots that were platted with eastern frontage on an alley and western frontage on Water Street. Water Street does not exist and will likely never be developed due to the topography and location adjacent to the Willamette River.

Single-family detached dwellings and duplexes are allowed in the IC (Industrial Commercial) zone as conditional uses, (and the Hearings Officer has found that the proposed development meets the criteria for a conditional use.) Because these three lots are individual lots that only have alley access, they can only be developed with single-family dwellings or duplexes if access is provided through the alley.

The development standards of the IC (Industrial Commercial) zone require 40 feet of street frontage for single-family dwellings or 16 feet of street frontage for other uses including duplexes. Lots 11, 12, and 13 are nonconforming with respect to these standards. New development on these lots must comply with current standards unless an adjustment is approved. The standard is applicable to the proposed development. Therefore, the proposal must equally or better meet the purposed of the street frontage standard.

The purposed of the requirement for street frontage is to ensure that adequate access, parking, light, air, and yards are provided for individual dwelling units.

The Applicant proposed to increase the paved width of the alley from 16 feet to 24 feet and to provide 5-foot-wide sidewalks on both sides. No parking would be allowed on the alley. The proposed configuration would be similar to a private street. All vehicular access to the proposed units would be through the alley, which would provide a single, safe access point onto Pine Street NE. The proposed width of the pavement would exceed the required width of 24 feet for a two-way drive aisle in a commercial parking lot that serves 90-degree parking spaces.

Each dwelling unit would have at least one parking space in a garage and at least one parking space in a driveway leading to the garage, meeting the requirement of SRC Chapter 806, Table 806-1 for two off-street parking spaces per dwelling unit. The proposed development would result in closure of three existing commercial driveways onto Pine Street NE. This would result in approximately 70 feet of paved street available for on-street parking on the west side of the alley and 100 feet of paved street available for on-street parking on the east side of the alley.

The lot widths of 50 feet exceed the minimum requirement that would be required for single family dwellings and duplexes in the RS (Single Family Residential) zone, and this allows the proposed dwelling units room to have adequate light, air, and yards. The proposed dwelling units would have setbacks and yards similar to those of dwelling units in the RS (Single Family Residential) zone, except setbacks in the RS zone are measured from the property line abutting the street or an access easement line, whichever is closest to the dwelling, and setbacks for the proposed units would be measured from the private sidewalk. The setbacks from a local street in the RS zone would be 20 feet to a garage and 12 feet to a dwelling. Each proposed garage would be set back at least 20 feet from the private sidewalk, and each dwelling unit would be set back more than 12 feet from the private sidewalk.

To ensure that the proposed development equally or better meets the purpose of the standard for lot frontage, staff recommended, and the Hearings Officer imposes, the following conditions:

Condition 10: The proposed development of each lot shall conform to the site plan and include a 24-foot-wide paved access, including the alley, with 5-foot-wide private sidewalks on each side.

Condition 11: Upon the sale of each lot, a private, reciprocal, permanent access easement shall be recorded for the 5-foot-wide private sidewalks on each side of the alley and the additional 8 feet of paved alley width on the east side of the alley.

Condition 12: The proposed dwelling units shall meet setbacks of at least 20 feet from the private sidewalks to the garages and at least 12 feet from the private sidewalks to the dwellings.

The Hearings Officer finds that the proposed development, as conditioned, satisfies this criterion.

Criterion 2:

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

The Hearings Officer finds that the subject property is not located within a residential zone and thus this criterion is not applicable.

Criterion 3:

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

The Hearings Officer finds a single adjustment has been requested. Accordingly, this criterion is not applicable.

DECISION

The Hearings Officer APPROVES the Applications for a conditional use, Willamette Greenway permit, and adjustment for property located at 102 Pine Street NE, subject to the following CONDITIONS OF APPROVAL:

- Condition 1:** The paved width of the alley shall be at least 24 feet and the development shall provide either (1) an approved turn-around or (2) fire sprinklers in the dwelling units on Lot 11. The Applicant shall sign the alley with “No Parking” signs and no parking shall be allowed in the alley.
- Condition 2:** The Applicant shall establish a separate deed for each platted lot prior to submitting a building permit for that lot.
- Condition 3:** The Applicant shall provide fences meeting the standards of SRC 800.050 along the side property lines of Lot 1 and 14 abutting Pine Street NE, the front property lines of Lots 1, 2, 3, and 4 abutting Front Street NE, and the side property lines of Lots 4 and 11 abutting the adjacent property to the south; the fence on Lot 14 abutting Pine Street NE shall extend from the west edge of the sidewalk running along the west side of the alley to the riparian buffer border indicated on the proposed site plan.
- Condition 4:** The Applicant shall coordinate demolition activities with the Public Works Department and Building and Safety to ensure that any required erosion control, or grading permits or other appropriate measures are in place to protect the topographical features of the bank and escarpment.
- Condition 5:** Prior to submittal of the first building permit application for the subject property west of the alley, the Applicant shall submit a landscaping plan to the Planning Administrator for the entire area west of the alley demonstrating compliance with the Riparian Buffer Enhancement standards of SRC 600.025(c)(3)(B), the landscaping standards of SRC 600.025(b), and the landscaping and irrigation requirements of SRC Chapter 807.
- Condition 6:** The Applicant shall provide a 30-foot-wide scenic easement to the city for future development of walkways, bicycle paths, and berms or landscaped areas within the right-of-way of Water Street indicated on the plat of Riverview Park Addition as 130 feet west of the alley. The Applicant shall not be responsible for

development of the walkways, bicycle paths, and berms or landscaped areas in the scenic easement.

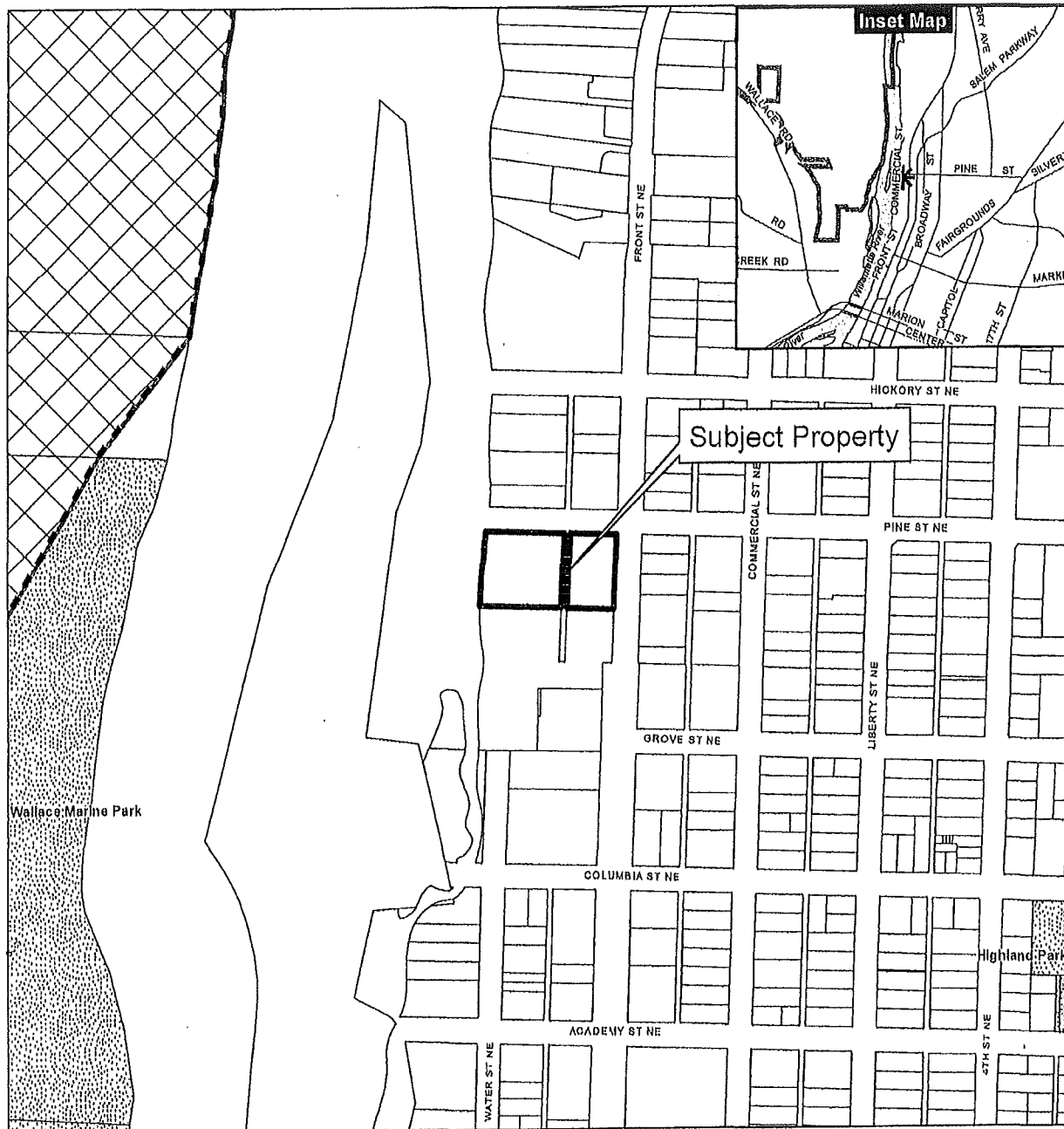
- Condition 7:** Prior to any excavation, grading, or construction, a survey map, certified by a licensed Professional Land Surveyor, shall be submitted to the Director showing the Willamette Greenway Boundary and its relationship to the site and survey monuments thereon.
- Condition 8:** Prior to any excavation, grading, or construction, plans for removal and replacement of any native vegetation shall be submitted to and approved by the Director.
- Condition 9:** With submittal of each building permit application for an individual lot east of the alley, the Applicant shall submit a complete landscaping plan to the Planning Administrator demonstrating compliance with the minimum 15 percent development site landscaping requirement and the landscaping and irrigation standards of SRC Chapter 807.
- Condition 10:** The proposed development of each lot shall conform to the site plan and include a 24-foot-wide paved access, including the alley, with 5-foot-wide private sidewalks on each side.
- Condition 11:** Upon the sale of each lot, a private, reciprocal, permanent access easement shall be recorded for the 5-foot-wide private sidewalks on each side of the alley and the additional 8 feet of paved alley width on the east side of the alley.
- Condition 12:** The proposed dwelling units shall meet setbacks of at least 20 feet from the private sidewalks to the garages and at least 12 feet from the private sidewalks to the dwellings.

DATED: May 3, 2017



David E. Coulombe, Hearings Officer

Vicinity Map 102 Pine Street NE



Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

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

This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet



SITE INFORMATION

ADDRESS: 102 N.E. PINE STREET, SALEM, OR 97301
 TAX LOT NUMBER(s): 073W15DA, 5100 & 5000
 SITE AREA: 70,243 SF =
 44,243 SF (WEST) + 26,000 SF (EAST)









NEIGHBORHOOD ASSOCIATION: HIGHLAND NEIGHBORHOOD ASSOC

ZONE: IC (INDUSTRIAL COMMERCIAL)
 COMP PLAN MAP DESIGNATION: RIVER ORIENTED MIXED USE


OVERLAY(s): WILLAMETTE GREENWAY AND WILLAMETTE GREENWAY COMPATIBILITY REVIEW BOUNDARY


USE(s): SINGLE FAMILY & TWO-FAMILY DUPLEX RESIDENTIAL - CONDITIONAL USE
 RIVERFRONT: TABLE 551-1: DESIGNED FOR SEPARATE OWNERSHIP

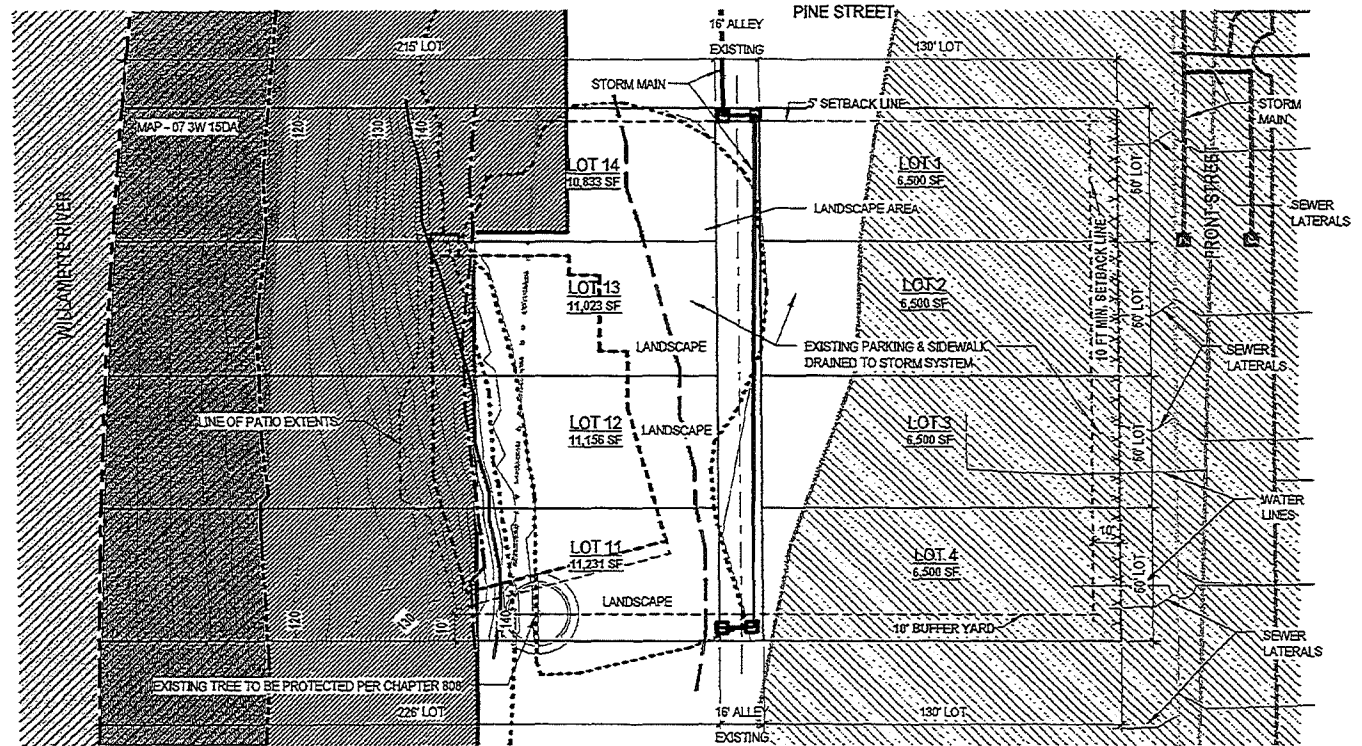
LEGEND

-  LOW WATER LINE, ELEV 108, FROM 1975 DSL MAP
-  HIGH WATER LINE, ELEV 118, FROM 1975 DSL MAP
-  COMPATIBILITY REVIEW BOUNDARY 150 FT FROM ORDINARY LOW WATER LINE PER WILLAMETTE GREENWAY PERMIT
-  RIPARIAN BUFFER BORDER, PER 600.24, TABLE 600-1 PAGE 8, 75 FT FROM HIGH WATER
-  RIPARIAN CORRIDOR, PER 111.090 (, 75 FT FROM TOP OF BANK
-  100 YEAR FLOOD LEVEL, ELEV 139, FROM 1975 DSL MAP
-  2 FT CONTOURS ABOVE ELEVATION 140
-  EXISTING BUILDING OUTLINE

 FLOODWAY

 FLOOD PLANE - 500 YEAR

 LANDSLIDE HAZARDS - 2



TOTAL SITE AREA: 70,243 SF = [44,243 SF (WEST) + 26,000 SF (EAST)]

SITE PLAN 1

1" = 40'-0"



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 (f) 503.776.9013



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APPLICATION FOR: CONDITIONAL USE & WILLAMETTE GREENWAY CLASS 2 PERMITS

REFERENCE DRAWING:
EXISTING SITE PLAN
LOTS 1-4 & 11-14; RIVERVIEW ADDITION

DATE: MAR 13, 2017
 SCALE: As indicated
 PROJ. NO.: 2015-13 DWN BY: btc

A-1

SITE UTILITIES

SEWER LINES

LOTS 1-2, 3 & 4 HAVE INDIVIDUAL SEWER LATERALS WHICH CONNECT TO THE MAIN LINE. AN ADDITIONAL LATERAL, WHICH WAS CONNECTED TO THE BURNED DOWN RESTAURANT, RUNS TO THE WEST SIDE LOTS. THIS WAS REFERENCED IN THE 'PRE APPLICATION CONFERENCE' AS REUSABLE.

A DOCUMENT FILED WITH THE CITY, 251930-250, DATED 9/30/83, REFERENCES A REPAIR ON A 6" SERVICE LINE. THIS LINE NEEDS TO BE VERIFIED BY A TV INSPECTION.

WATER LINES

THERE ARE TWO WATER LINES, AS NOTED ON THE CITY UTILITY MAP WHICH ENTER ON THE EAST SIDE OF THE EAST LOTS, (1) 2" AND (1) 3/4".

STORM SEWER LINE

A DEDICATED STORM LINE RUNS THE FULL LENGTH OF THE ALLEY WITH TWO CATCH BASINS ON EACH END. THE NEW PROJECT WILL REDUCE THE FLOW TO THIS SYSTEM BY OVER 50%.

LEGEND

- FLOODWAY
- LANDSLIDE HAZARDS - 2
- FLOOD PLANE - 500 YEAR
- | LOT # | LOT NUMBER | LANDSCAPE % |
|---------|------------|-------------|
| ###.0% | ### | ### |
| ####.0% | #### | #### |
- LOW WATER LINE, ELEV 108, FROM 1975 DSL MAP
- HIGH WATER LINE, ELEV 118, FROM 1975 DSL MAP, (TOP OF BANK)
- COMPATIBILITY REVIEW BOUNDARY 150 FT FROM ORDINARY LOW WATER LINE PER WILLAMETTE GREENWAY PERMIT, PER 600.010 PAGE 3
- RIPARIAN BUFFER BORDER, PER 600.25, TABLE 600-1 PAGE 8, 75 FT FROM HIGH WATER
- RIPARIAN CORRIDOR, PER 111.080 f, 75 FT FROM TOP OF BANK
- 100 YEAR FLOOD LEVEL, ELEV 139, FROM 1975 DSL MAP
- 2 FT CONTOURS ABOVE ELEVATION 140
- GOOD NEIGHBOR FENCE, WOOD, 5 FT TYPICAL

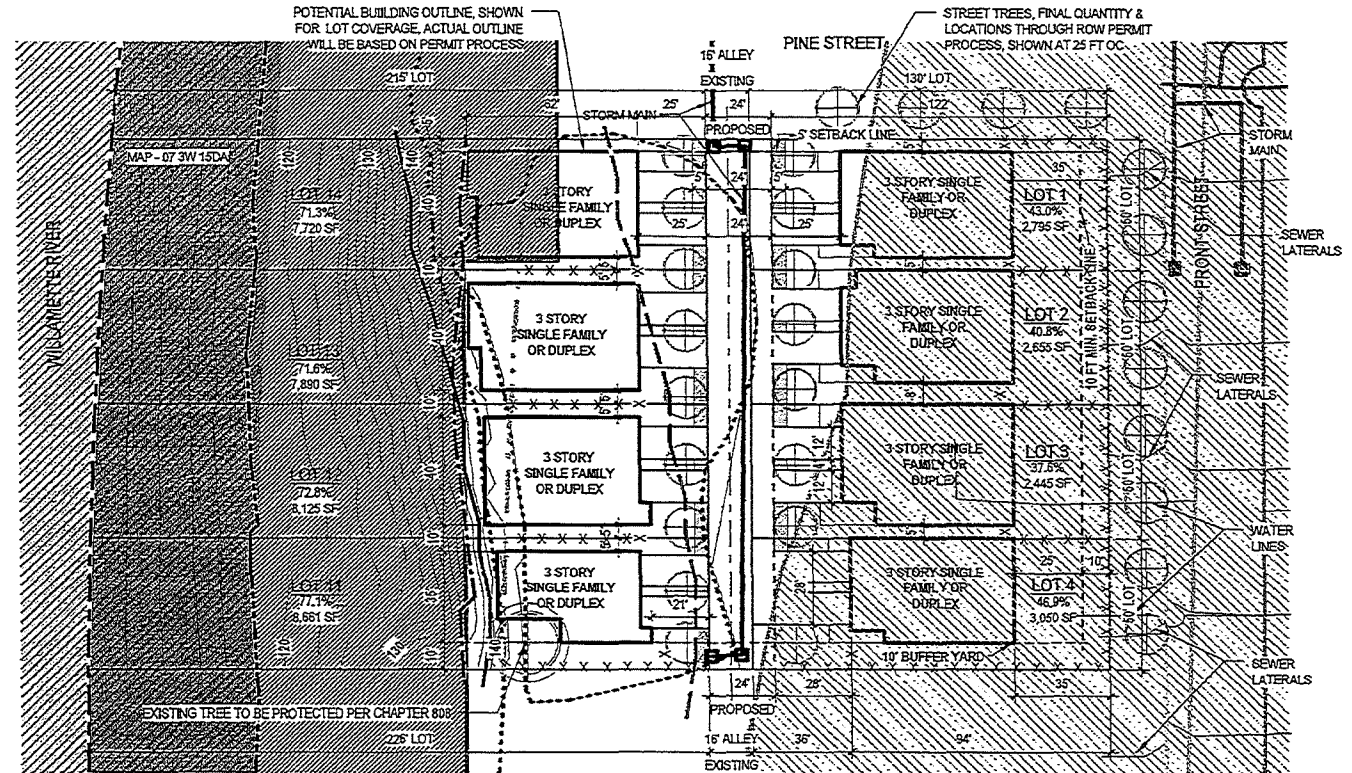


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TOTAL LANDSCAPE AREA: 43,335 SF (61.7%) =
WEST: 32,390 SF (73.2%)
EAST: 10,945 SF (42.0%)

TOTAL SITE AREA: 70,243 SF = [44,243 SF (WEST)] + 26,000 SF (EAST)]

PROPOSED DEVELOPMENT SITE PLAN



1" = 40'-0"

APPLICATION FOR: CONDITIONAL USE & WILLAMETTE GREENWAY CLASS 2 PERMITS

REFERENCE DRAWING:

PROPOSED SITE PLAN

LOTS 1-4 & 11-14; RIVERVIEW ADDITION

DATE: MAR 13, 2017

SCALE: As indicated

PROJ. NO.: 2015-13 DRAWN BY: BTC

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