

# 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.*

## ADMINISTRATIVE DECISION FOR CLASS 2 EXTENSION

**CASE NO.:** SUB12-01EXT2  
**AMANDA NO.:** 16-110906-LD LD  
**DATE OF DECISION :** July 11, 2016  
**PROPERTY LOCATION:** Battle Creek Road SE and Reed Road SE  
**OWNER:** Simpson Hills, LLC (Premier Management Services Corp.)  
**REPRESENTATIVE:** AKS Engineering and Forestry

### REQUEST

A Class 2 Extension to extend the approval for a tentative subdivision plan (Subdivision Case No. SUB12-01) by two years to December 21, 2018. SUB12-01 granted approval to divide approximately 103 acres into 5 lots ranging in size from 7.35 acres to 31.19 acres.

The subject property is approximately 103 acres in size, zoned FMU (Fairview Mixed Use) and located north of the intersection of Battle Creek Rd SE and Reed RD SE, 97302 (Marion County Assessor's Map and Tax Lot Numbers: 083W11 /00300 and 00400).

### BACKGROUND

On December 5, 2012, the Planning Administrator approved the Fairview Hills subdivision, a proposal to divide approximately 103 acres into 5 lots. The tentative subdivision approval was set to expire on December 21, 2014.

On June 4, 2014, an extension was granted to extend the approval of the tentative subdivision plan for Fairview Hills subdivision (Case No. SUB12-01EXT1) for a period of two years until December 21, 2016.

On May 23, 2016, the applicant submitted a request to extend the approval of the tentative subdivision plan for Fairview Hills subdivision (Case No. SUB12-01EXT1) for a period of two years (Attachment A). On June 9, 2016, the application for the Class 2 Extension was deemed complete and public notice was provided pursuant to Salem Revised Code (SRC) requirements.

### FINDINGS

1. Tentative subdivision plat No. 12-01 was approved on December 5, 2012 (Attachment C). However, due to unforeseen circumstances, the applicant was not able to commence with development of the project within the initial 2-year effective period of the subdivision approval, or prior to the expiration of subsequent two-year extensions granted in 2014. This subdivision implements

approved Fairview Refinement Plan Case No. 12-01, the tentative subdivision plan must be completed prior to expiration of the Refinement Plan. As a result, the applicant has requested a second and **final** 2-year extension, which would extend the expiration period for the tentative subdivision plan approval to December 21, 2018.

## **2. Analysis of Extension Criteria:**

Under the City's Unified Development Code, extension requests are classified under one of the following two classes:

- **Class 1 Extension.** A Class 1 Extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application; or
- **Class 2 Extension.** A Class 2 Extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.

Because there have been changes to the standards and criteria used to approve the original application, this extension request is classified as a Class 2 Extension.

## **3. Neighborhood Association and Citizen Comments**

- A. The subject property is located within the Morningside Neighborhood Association. No written comments were received from Morningside Neighborhood Association on the extension request.
- B. All property owners within 250 feet of the subject property were mailed notification and request for comments on the proposed extension. Prior to the comment deadline, one nearby property owner submitted comments.

- Shiara and Nathan Powell submitted comments describing that the speed limit on Battlecreek Road needs to be reduced due to construction. Mr. and Mrs. Powell expressed concerns about visibility and traffic safety.

**Staff Response:** Approval criteria in SRC 300.0850(b)(2) specify that a Class 2 Extension "shall be granted if there have been no changes to standards and criteria used to approve the original application that would require modification of the original approval." As described in Finding #7 below, the adoption of the Unified Development Code did not result in substantive changes to approval criteria or standards that would require modification of the original approval. Therefore, the Class 2 Extension requested by the applicant must be approved.

The amended tentative subdivision plan contains a number of conditions requiring off-site improvements to mitigate traffic impacts on the street network in the vicinity, including dedicating 30-foot-wide half width right of way along the entire frontage of Battle Creek Road SE, dedication of a 36-foot-wide half width right of way along the entire frontage of Reed Road SE, convey full width right-of-way from 2<sup>nd</sup> Street between lot 1 and Reed Road SE, contribution to neighborhood traffic calming devices, and improvements to the several sections of Reed Road SE, Battle Creek Road SE and Lindburg Road SE. If the applicant does not exercise approval rights granted in SUB12-01, prior to the expiration date of the final extension, the approval will be rendered null and void. In that event, any proposal for a tentative subdivision on the subject property would require a new application and be subject to an updated evaluation based on conditions in the vicinity at that time.

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

- The Public Works Department and Building and Safety Division reviewed the proposal and indicated that they have no comments.
- The Salem Fire Department reviewed the proposal, indicating no concerns with the extension, and noting:
  - Primary and secondary fire department access shall be provided in accordance with the Salem Fire Prevention Code and shall address phasing plans. Multi-family housing access requirements include secondary fire department access for projects having more than 100 dwelling units, or more than 200 dwelling units when approved automatic fire sprinkler systems are installed.
  - Section 11, Construction Phasing of Streets, addresses our earlier concerns related to secondary access requirements of the Oregon Fire Code. As shown, conceptual secondary access is provided for each phase of the project, which meets our requirements. Actual location(s) of secondary emergency vehicle access will be reviewed and approved during the construction phases.

#### **5. Public and Private Service Provider Comments**

Notification and request for comments on the proposed extension was distributed to public and private agencies and service providers for the subject property. No comments were received from public or private service providers prior to the comment deadline.

## **6. Class 2 Time Extension Approval Criteria**

SRC 300.850(b)(4)(B) establishes the following approval criterion which must be met in order for a Class 2 Time Extension to be approved:

*A Class 2 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval.*

## **7. Analysis of Class 2 Time Extension Approval Criteria**

***A Class 2 Extension shall be granted if there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval.***

**Finding:** Subdivision 12-01 was approved in 2012 under the requirements of former SRC Chapter 63 (Subdivisions). Since the approval of the tentative subdivision plan, the City's zoning and development codes were amended as part of the City's Unified Development Code (UDC) project. The UDC was a multi-year project to update the City's zoning and development codes to make them easier to understand and administer. The intent of the project was to reorganize and streamline, but not to make major policy changes to existing standards and criteria.

The standards and criteria applicable to subdivisions were included in the standards and criteria updated as part of the UDC. However, because the UDC was not intended to make policy changes, none of those revisions require modification of the original subdivision approval. Minimum lot size and dimensions, street standards, and other requirements applicable to the subdivision remain the same. Because there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval, this criterion is met.

## **DECISION**

Based on the requirements of SRC 300.850(b)(4)(B), the proposed Class 2 Extension complies with the requirements for an affirmative decision.

The Class 2 Extension to extend the approval for the Fariview tentative subdivision plan (Subdivision Case No. SUB12-01), on property approximately 103 acres in size, zoned FMU (Fairview Mixed use) and located at north of the intersection of Battle Creek Rd SE and Reed RD SE (Marion County Assessor Map and Tax Lot Numbers: 083W16DB01500, 083W11 /00300 and 00400) is hereby **APPROVED**. **The extension shall be valid through December 21, 2018.**



Olivia Glantz, Planner II  
Planning Administrator Designee

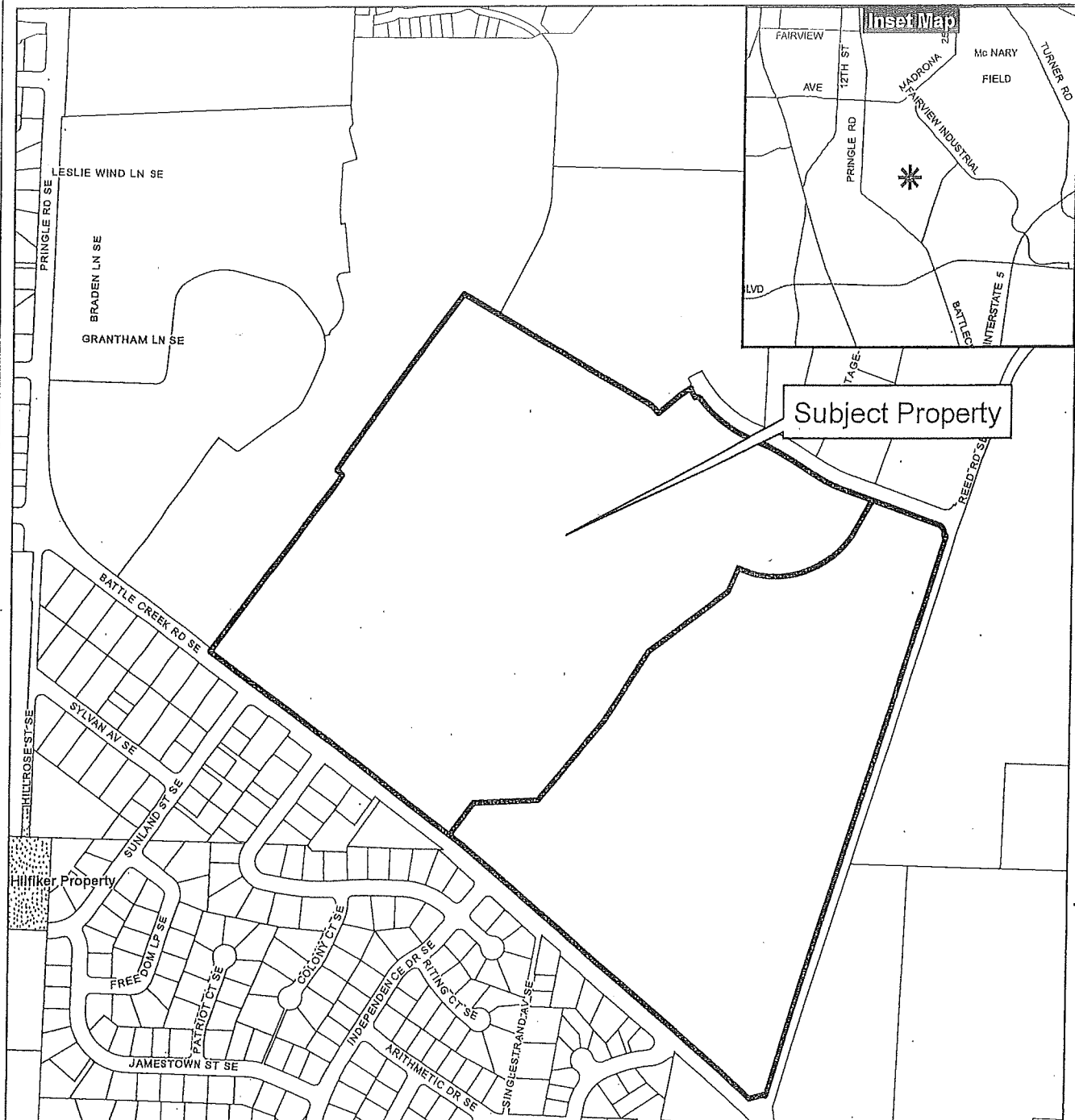
Attachments:     A. Vicinity Map  
                      B. Applicant's Extension Request  
                      C. Decision of the Planning Administrator approving Case No.  
                              SUB012-01

Application Deemed Complete: June 9, 2016  
Decision Mailing Date: July 11, 2016  
Decision Effective Date: July 27, 2016  
State Mandated Decision Date: October 7, 2016

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 **Friday, July 26, 2016 by 5:00 p.m.** The notice of appeal must contain the information required by SRC 300.1020. The notice of 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 notice of appeal is untimely and/or lacks the proper fee, the notice of appeal will be rejected. The Salem Hearings Officer will review the appeal at a public hearing. The Hearings Officer may amend, rescind, or affirm the action or refer the matter to staff for additional information.

# Vicinity Map

## 083W1100300 & 083W1100400



### Legend

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

Parks

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

0 100 200 400 Feet



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# Land Use Approval Extension Request

## APPLICANT INFORMATION

(Check one box below for designated contact person regarding this application)

☒ Applicant Name: SIMPSON HILLS LLC c/o MATTHEW HARRELL Daytime Phone: 360-213-1529  
 Mailing Address: 2260 MCGILCHRIST ST. STE 100 Fax Number: \_\_\_\_\_  
 City/State: SALEM, OR. Zip: 97302 Email: matt.harrell@hawret.com  
☐ Agent: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_ Email: \_\_\_\_\_

## PROPERTY INFORMATION

SOUTH OF (NEW) LINDBURG RD. & REED RD. & BATTLE CREEK 1/4-104/ T8 R3 W11 - TL# 300 & #400  
 (Street Address or Location of Subject Property) (Total Size of Subject Property) (Assessor Tax Lot Numbers)  
1/4-40 AC  
FMU Mu  
 (Zoning) (Comp Plan Designation)

## LAND USE APPROVAL THAT EXTENSION IS REQUESTED FOR

FAIRVIEW SUBDIVISION SUB-12-01 8/27/16  
 (Application Type) (Case No.) (Expiration Date)

## AUTHORIZATION BY PROPERTY OWNER(S) / APPLICANT

(Property owners and contract purchasers are required to authorize the filing of this application and must sign below)

- ① All signatures represent that they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② I (we) hereby grant consent to the City of Salem and its officers, agents, employees, and/or independent contractors to enter the property identified above to conduct any and all inspections that are considered appropriate by the City to process this application.
- ③ I (we) hereby give notice of the following concealed or unconcealed dangerous conditions on the property: NONE KNOWN

[Signature] GREGORY TIGBOT 5/23/16  
 (Signature) (Print Name) (Date)  
2260 MCGILCHRIST ST. STE. 100 SALEM, OR 97302  
 (Address - Include Zip)  
 \_\_\_\_\_  
 (Signature) (Print Name) (Date)  
 \_\_\_\_\_  
 (Address - Include Zip)

STAFF USE ONLY - DO NOT WRITE BELOW - STAFF USE ONLY

Received By: \_\_\_\_\_ Date: \_\_\_\_\_ Receipt No. 16-110906

16-110909

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

DECISION OF THE PLANNING ADMINISTRATOR  
SUBDIVISION CASE NO. SUB12-01  
APPLICATION NO.: 12-101900-LD

NOTICE OF DECISION & MAILING DATE: December 5, 2012

**REQUEST:** To subdivide approximately 103 acres into 5 lots ranging in size from approximately 7.35 acres to 31.19 acres for property that is zoned FMU (Fairview Mixed Use) and located north of the intersection of Battle Creek Rd SE and Reed Rd SE, 97302 (Marion County Assessor's Map and Tax Lot numbers: 083W11 / 00300 & 00400).

**APPLICANT:** SIMPSON HILLS LLC

**LOCATION:** 0 BATTLE CREEK RD SE

**CRITERIA:** Salem Revised Code Chapter 143C

**DECISION:**

The Planning Administrator **GRANTED** Subdivision No. SUB12-01 subject to the following conditions of approval, which must be completed prior to final plat approval, unless otherwise indicated:

**A. The following must occur prior to Final Plat approval:**

**Condition 1:** Comply with the conditions of UGA Preliminary Declaration 04-8 dated November 15, 2004 and amendments thereto, and the approved refinement plan. Phasing of the UGA requirements is based on triggers specified in the Improvement Agreement between the City and the developer.

**Condition 2:** Convey land for dedication of a 36-foot-wide half-width right-of-way along the entire frontage of Battle Creek Road SE.

**Condition 3:** Consistent with the City-approved alignment, convey land for dedication of a 36-foot-wide half-width right-of-way along the entire frontage of Reed Road SE. Provide a preliminary design for the full-width minor arterial improvement of Reed Road SE from Lindburg Road SE to Battle Creek Road SE as approved by the Public Works Director.

**Condition 4:** Convey full-width right-of-way for 2<sup>nd</sup> Street between lot 1 and Reed Road SE.

**Condition 5:** Provide a conceptual design of 1<sup>st</sup> Street between Lindburg Road SE and A Street pursuant to Condition 10 of Fairview Refinement Plan 12-01. Provide adequate width within Lot 1 to construct 1<sup>st</sup> Street without the need for encroaching on adjacent properties.

**Condition 6:** Pursuant to the street phasing plan approved in Fairview Refinement

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Plan 12-01, vehicular access to lots within the subdivision may be provided by either:

- a. Constructing Lindburg Road SE as a minimum 28-foot-wide turnpike improvement between lot 1 and Reed Road SE; or
- b. Constructing 2<sup>nd</sup> Street as a minimum 30-foot-wide turnpike improvement between lot 1 and Reed Road SE.

**Condition 7:** Consistent with the applicant's plan titled, "Conceptual Utility Plan," provide easements and construct water and sewer services to serve each lot as specified in *Oregon Revised Statutes (ORS) 92.090*.

**Condition 8:** Provide a storm maintenance easement along the waterway within the subject property as designated on the City's Waterway Map. The easement width shall be ten feet from the top of bank or fifteen feet from centerline, whichever is greater.

**Condition 9:** Consistent with the applicant's plan titled, "Tentative Subdivision Plan," dedicate minimum 15-foot-wide easements for the proposed multi-use pedestrian paths.

- B.** The following conditions are applicable to development of individual lots. Unless otherwise stated, as used in these conditions, "development" is as defined in SRC 66.020(h). For the purposes of implementing these conditions, the uses and activities listed under SRC 66.020(h)(3) Exceptions A – F shall also constitute 'development.'

**Condition 10:** Construct a minimum 34-foot-wide linking street improvement of Reed along the entire frontage of the subject property. Required phase: "Development on Lot 1, 2, or 3."

**Condition 11:** Construct a minimum 40-foot-wide three-quarter arterial street improvement of Reed along the entire frontage of Lot 3. Required phase: "Development on Lot 3."

**Condition 12:** Construct a minimum 40-foot-wide three-quarter arterial street improvement of Reed along the entire frontage of Lot 5. Required phase: "Development on Lot 5."

**Condition 13:** Construct a minimum 40-foot-wide three-quarter arterial street improvement of Battle Creek along the entire frontage of Lot 5. Required phase: "Development on Lot 5."

**Condition 14:** Construct a minimum 40-foot-wide three-quarter arterial street improvement of Battle Creek along the entire frontage of Lot 4. Required phase: "Development on Lot 4."

**Condition 15:** Construct Lindburg from Reed Road SE to the west line of Lot 3 and intersection improvements along Reed to accommodate required turning movements. Required phase: "Development on Lot 1, 2, or 3."

**Condition 16:** Construct Lindburg from the west line of lot 3 to the northeast line of Lot 1. Required phase: "Development on Lot 1 or 2."

**Condition 17:** Construct 1<sup>st</sup> Street from Lindburg to A Street and construct A Street from 1<sup>st</sup> Street to 2<sup>nd</sup> Street. The configuration of 1<sup>st</sup> Street and A Street

shall provide connectivity to neighboring properties and extend to the exterior lines of the subject properties consistent with SRC 63.225(p) and pursuant to Condition 9 of Fairview Refinement Plan 12-01.  
Required phase: "Development on Lot 1."

**Condition 18:** Construct a three-quarter improvement of 2<sup>nd</sup> Street along the frontage of each parcel. Required phase: "Development on any lot within the subdivision shall improve its property frontage along 2<sup>nd</sup> Street."

**Condition 19:** Construct the northern multi-use path linking Lot 1 and Battle Creek Road in Attachment 2. Required phase: "Development on Lot 1 or 4."

**Condition 20:** Construct the southern multi-use path linking Lot 2 and Battle Creek Road in Attachment 2. Required phase: "Development on Lot 2 or 4."

**Condition 21:** No development beyond the transportation and utility infrastructure approved in Fairview Refinement Plan 12-01 shall occur on Lot 4 or Lot 5 until the applicant for such development has obtained final approval of a Fairview Refinement Plan.

**Condition 22:** Development of the private street network shown on Exhibit A shall occur at the time of Site Plan Review pursuant to the phasing plan approved in Fairview Refinement Plan 12-01.

The rights granted by the attached decision must be exercised by December 21, 2014, or this approval shall be null and void.

A copy of the decision is attached.

Application Deemed Complete: February 13, 2012  
Notice of Decision Mailing Date: December 5, 2012  
Decision Effective Date: December 21, 2012  
State Mandate Date: February 12, 2013

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., December 20, 2012. Any person who presented evidence or testimony at the hearing may appeal the decision. The appeal must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 143C. 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.

Case Manager: Jason Richling, Planner II, 503-540-2326 or [jrichling@cityofsalem.net](mailto:jrichling@cityofsalem.net)