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503-588-6173

DECISION OF THE HEARINGS OFFICER

VARIANCE CASE NO.: VAR25-01

APPLICATION NO.: 25-112252-PLN

NOTICE OF DECISION DATE: July 30, 2025

REQUEST: A Variance request to remove Condition 1 from CPC-NPC-ZC12-03 which requires development to provide a public or private local street connection through the proposed development from Davis Road S to the south line of the property and to the west property line aligning with Reserve Lane Private Way. Under the associated case PAR-UGA-SPR-ADJ-TRV-DAP-DR-TRP25-10 for the development of a 192-unit multi-family apartment complex, the development of an off-street parking area and drive aisle is proposed between the Davis Road S extension connection out to Reserve Lane S.

The subject property is 10.37 acres in size, zoned RM-II (Multiple Family Residential), and located at 1656 Davis Road S (Marion County Assessor's Map and Tax lot numbers: 083W16C / 101).

APPLICANT: Chris Jones

LOCATION: 1656 Davis Rd S, Salem OR 97302

CRITERIA: Salem Revised Code (SRC) Chapter 245.005(d) – Variance

FINDINGS: The findings are in the attached Decision dated July 30, 2025.

DECISION: The **Hearings Officer APPROVED** Variance Case No. VAR25-01 subject to the following conditions of approval:

Condition 1: The applicant shall provide public access easements for the length of both 24-foot-wide drive aisle and five-foot-wide sidewalks extending from Rise Street SE connection to Reserve Lane S.

The rights granted by the attached decision must be exercised, or an extension granted, by August 15, 2027, or this approval shall be null and void.

Application Deemed Complete:	<u>July 1, 2025</u>
Public Hearing Date:	<u>July 23, 2025</u>
Notice of Decision Mailing Date:	<u>July 29, 2025</u>
Decision Effective Date:	<u>August 15, 2025</u>
State Mandate Date:	<u>October 29, 2025</u>

Case Manager: Jacob Brown, jrbrown@cityofsalem.net, (503) 540-2347

NOTICE OF DECISION

PLANNING DIVISION
planning@cityofsalem.net

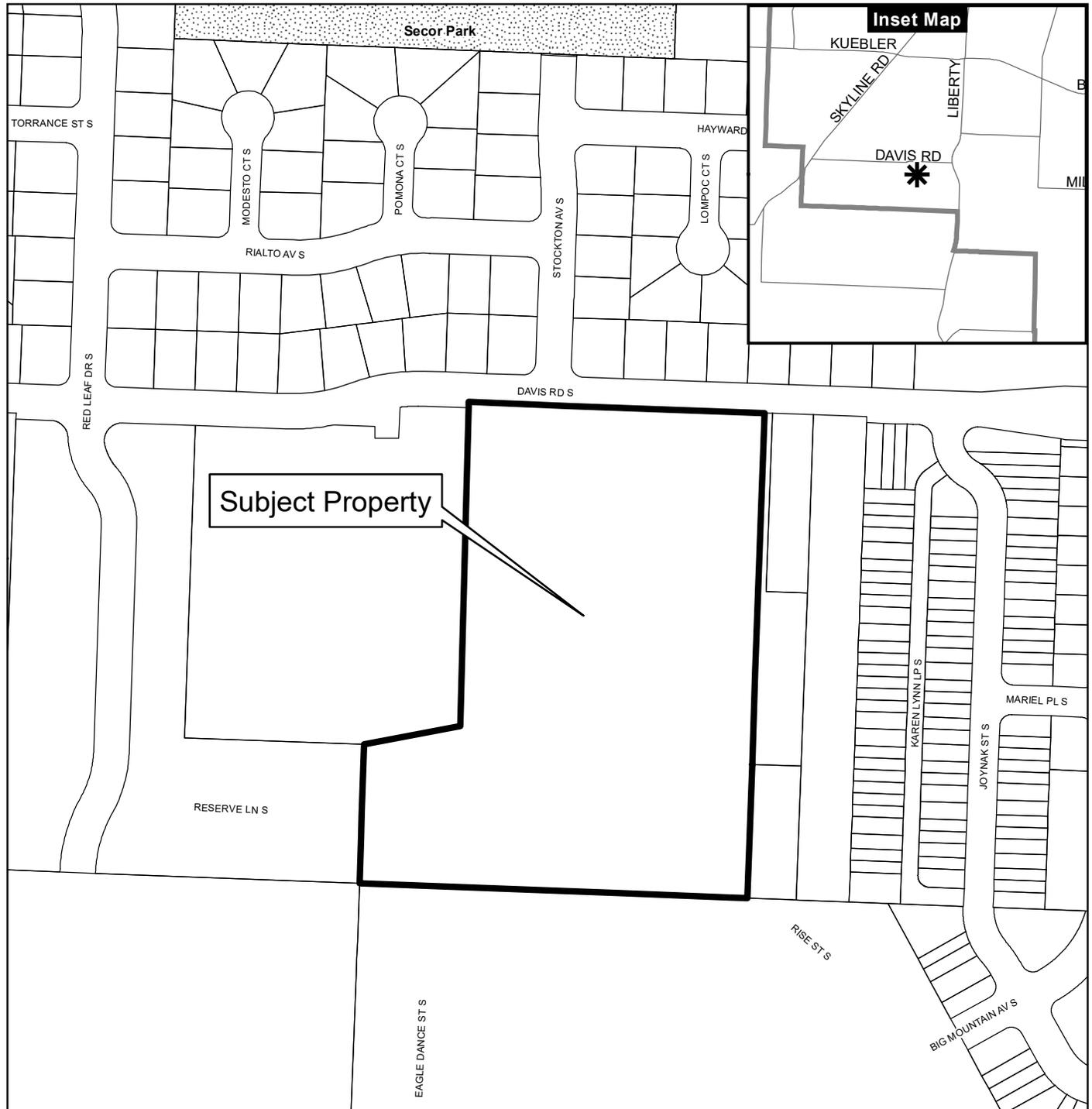
CITY OF Salem
AT YOUR SERVICE

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, in person at 440 Church St SE, Salem OR 97312, by mail P.O. Box 14300 Salem, OR 97309, or by email at planning@cityofsalem.net, no later than 5:00 p.m., Thursday, August 14, 2025. Any person who presented evidence or testimony at the hearing may appeal the decision. 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 245. 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 by contacting the case manager, or at the Planning Desk in the Permit Application Center, 440 Church St SE, Salem, during regular business hours.

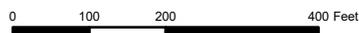
<http://www.cityofsalem.net/planning>

Vicinity Map 1656 Davis Road S



Legend

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



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SITE PLAN

DAVIS ROAD APARTMENTS

NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.
 DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

7790 SITE
 Design: M.D.G.
 Drawn: M.K.D.
 Checked: M.D.G.
 Issue Date: 5/6/25
 Scale: AS SHOWN



EXPIRES 06-30-2025
 JOB # 7790

SDR3

ADA HANDICAP ACCESSIBILITY NOTES:

1. ALL ON-SITE WALKWAYS, PEDESTRIAN CONNECTIONS TO THE PUBLIC SIDEWALK AND ROUTES TO BUILDING ENTRANCES ARE ACCESSIBLE WITH RUNNING SLOPES LESS THAN 5% AND CROSS SLOPE LESS THAN 2%. MAX. LANDINGS AT BOTTOM OF STAIRS AND EXT. FACE OF ENTRANCE DOORS SHALL HAVE A SLOPE IN THE DIRECTION OF TRAVEL NOT TO EXCEED 2%.
2. HANDICAP PARKING STALLS AND ACCESS AISLES ARE TO HAVE SLOPES IN ANY DIRECTION OF LESS THAN 2% MAX. GRAPHIC MARKINGS & SIGNAGE FOR HANDICAP AND VAN ACCESSIBLE STALLS WILL BE PER OSSC 2010 CHPTR. 11 AND ORS. REQUIREMENTS.
3. HANDICAP ACCESSIBLE CURB RAMPS SHALL HAVE A RUNNING SLOPE NOT TO EXCEED 1:12 MAX. AND A CROSS SLOPE NOT TO EXCEED 1%.
4. THE COMMUNITY BUILDING & ON-SITE LAUNDRY FACILITIES WILL BE FULLY HANDICAP ACCESSIBLE IN ACCORDANCE WITH ANSI A117.1 AND CHAPTER 11 OF THE 2010 OSSC.
5. 2% OF THE LIVING UNITS OR (3) UNITS WILL BE TYPE 'A' HANDICAP ACCESSIBLE. THESE INCLUDE A 1, 2 AND 3 BEDROOM UNIT AS INDICATED ON THIS SITE PLAN. THE BALANCE OF THE GROUND FLOOR LIVING UNITS WILL BE TYPE 'B' ADAPTABLE UNITS IN ACCORDANCE WITH ANSI A117.1.

- 216 TOTAL PARKING STALLS**
161 STANDARD STALLS
48 COMPACT STALLS
7 HANDICAP STALLS*
2 12'x20' LOADING ZONES
192 BICYCLE SPACES IN 24 RACKS (REQUIRED)
1 CLUBHOUSE / MANAGER'S OFFICE
4 TRASH ENCLOSURE / RECYCLE
3 U.S. MAIL BOX AREA

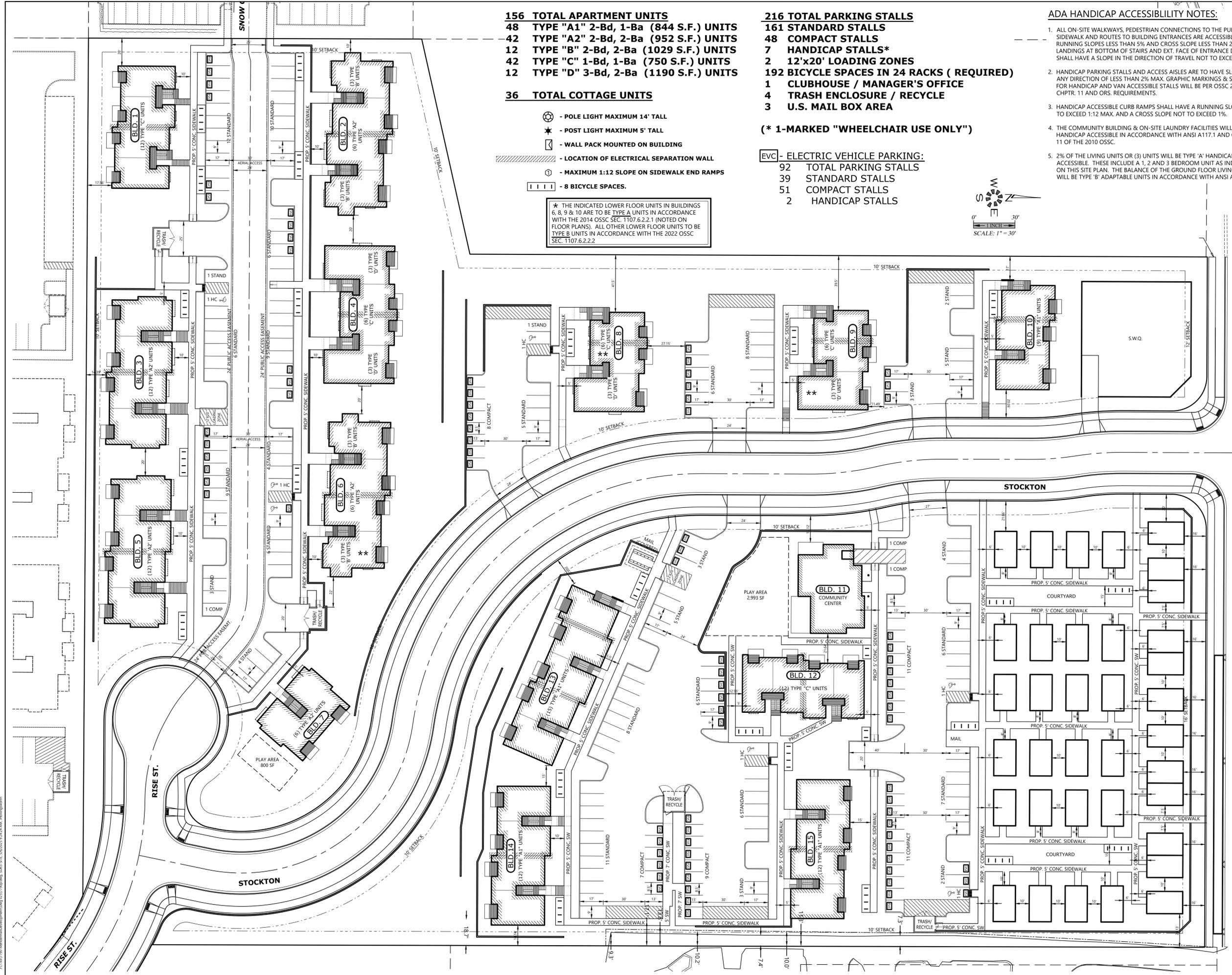
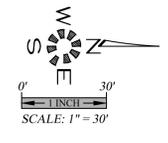
(* 1-MARKED "WHEELCHAIR USE ONLY")

- EVC - ELECTRIC VEHICLE PARKING:**
92 TOTAL PARKING STALLS
39 STANDARD STALLS
51 COMPACT STALLS
2 HANDICAP STALLS

- 156 TOTAL APARTMENT UNITS**
48 TYPE "A1" 2-Bd, 1-Ba (844 S.F.) UNITS
42 TYPE "A2" 2-Bd, 2-Ba (952 S.F.) UNITS
12 TYPE "B" 2-Bd, 2-Ba (1029 S.F.) UNITS
42 TYPE "C" 1-Bd, 1-Ba (750 S.F.) UNITS
12 TYPE "D" 3-Bd, 2-Ba (1190 S.F.) UNITS

- 36 TOTAL COTTAGE UNITS**
- ⊙ - POLE LIGHT MAXIMUM 14' TALL
 - ★ - POST LIGHT MAXIMUM 5' TALL
 - ▣ - WALL PACK MOUNTED ON BUILDING
 - ▨ - LOCATION OF ELECTRICAL SEPARATION WALL
 - ⊖ - MAXIMUM 1:12 SLOPE ON SIDEWALK END RAMPS
 - |||| - 8 BICYCLE SPACES.

* THE INDICATED LOWER FLOOR UNITS IN BUILDINGS 6, 8, 9 & 10 ARE TO BE TYPE A UNITS IN ACCORDANCE WITH THE 2014 OSSC SEC. 1107.6.2.2.1 (NOTED ON FLOOR PLANS). ALL OTHER LOWER FLOOR UNITS TO BE TYPE B UNITS IN ACCORDANCE WITH THE 2022 OSSC SEC. 1107.6.2.2.2



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**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

AN APPLICATION FOR A VARIANCE TO)	
REMOVE CONDITION 1 FROM CPC-)	
NPC-ZC12-03 ON PROPERTY ZONED)	VAR25-01
RM-II LOCATED AT 1656 DAVIS ROAD S,)	
SALEM, OREGON (MARION COUNTY)	
ASSESSOR'S MAP AND TAX LOT)	FINDINGS OF FACT, CONCLUSIONS,
NUMBER 083W36C /101))	AND DECISION

DATE AND PLACE OF HEARING:

On July 23, 2025, at 5:30 p.m., a properly noticed hearing was held before the City of Salem Hearings Officer at the Community Room, Salem Police Department, 333 Division Street NE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Jacob Brown, Planner II
<u>Neighborhood Association:</u>	Sunnyslope Neighborhood Association
<u>Proponents:</u>	Chris Jones
<u>Opponents:</u>	None.

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on July 23, 2025, regarding the Applicant's request. During the hearing, Jacob Brown requested that the Staff Report be entered into the Record, and the Hearings Officer granted the request.

On June 16, 2025, an application for variance was submitted by Chris Jones. The application was deemed complete on June 30, 2025. The 120-day state mandated local decision deadline for the application is October 29, 2025.

The Hearing Notice was provided on July 2, 2025, to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) and stated that the date for the hearing was July 23, 2025. The property was posted on July 10, 2025 consistent with the requirements of SRC 300.620(b)(3) for a Type III application.

The public hearing was held on July 23, 2025.

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 “Multi-Family Residential.” The subject property is within the Urban Growth Boundary and outside of the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned RM-II (Multi-Family Residential). The zoning and uses of the surrounding properties include:

North: Across Davis Road S, RS (Single Family Residential)

South: RM-II (Multi-Family Residential)

East: RM-II (Multi-Family Residential)

West: RM-II (Multi-Family Residential)

2. Site Analysis

The subject property is 10.37 acres in size and is located at 1656 Davis Road S. Under case PAR-UGA-SPR-ADJ-TRV-DAP-DR-TRP25-10 the subject property was approved for a partition and the development of a 192-unit multi-family apartment complex, the development of an off-street parking area and a drive aisle between the Davis Road S extension connection out to Reserve Lane S. Under associated case CPC-NPC-ZC12-03, the developer was required to provide a public or private local street connection through the proposed development from Davis Road S to the south line of the property and to the west property line aligning with Reserve Lane Private Way.

The development site has approximately 550 feet of frontage along Davis Road S—which is designated as a Collector Street in the Salem Transportation System Plan (TSP). The subject properties are located within the Urban Growth Boundary and outside of the Urban Service Area.

3. Neighborhood and Citizen Comments

The subject property is located within the Morningside Neighborhood Association (SGNA). Pursuant to SRC 300.620(b)(2)(B)(vii), the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On January 13, 2025, the applicant contacted the Association, meeting the requirements of SRC 300.310(c).

Two comments were received from Sunnyslope Neighborhood Association indicating concerns with variance impacting the connectivity of the development to Davis Road S and Mildred Lane S. The Sunnyslope Neighborhood Association also shared concerns of the timing of improvement for Liberty Road S with specific issues on intersection of Liberty and Mildred Lane S.

Notice was provided to surrounding addresses, property owners, and tenants within 250 feet of the subject property on July 2, 2025 and the property was posted on July 10, 2025. The subject property is not located within a homeowners association (HO).

At the time of the hearing on this matter, one public comment had been received that expressed concern about traffic, construction related impacts, and increased crime.

4. City Department and Public Agency Comments

The Salem Building and Safety Division reviewed the proposal and expressed no concerns.

The Salem Fire Department reviewed the proposal and proposal and expressed no concerns.

The Salem Development Services Division reviewed the proposal and provided comments that were integrated into the staff report.

No comments from public agencies were received as of the date of completion of the staff report.

5. Analysis of Variance Criteria

SRC Chapter 245.005(a)(1) provides that unless otherwise provided in the UDC, buildings, structures, or land shall not be developed contrary to the applicable development standards of the UDC unless a variance has been granted pursuant to this chapter. This provision also lists nine (9) conditions where a variance may not be granted. None of these conditions are applicable to this application.

SRC Chapter 245.005(d)(1) establishes the following two approval criteria for a conditional use permit:

SRC 245.005(d)(1): There is an unreasonable hardship or practical difficulty created by the physical characteristics of the land.

Finding 1: Under the Comprehensive Plan Change, Neighborhood Plan Change, and Zone Change, CPC–NPC–ZC12–03, the subject property’s comprehensive plan designation was changed from Developing Residential to Multi–Family Residential and zoning was changed from Single Family to Multi–Family. The decision conditioned the following:

Condition 1: At the time of development, provide a public or private local street connection through the proposed development from Davis Road S to the south line of the subject property and to the west property line aligning with Reserve Lane Private Way. Alternative street design standards may be approved through Type II Site Plan Review.

Finding 2: The applicant is requesting a variance to only eliminate Condition 1, which currently requires the development to provide a public or private street connecting Davis Road S to the north, Reserve Lane S to the west, and recently developed Rise Street S to the south. Under the separate Case No. PAR-UGA-SPR-ADJ-TRV-DAP-DR-TRP25-10 to develop a 192-unit multifamily complex, the applicant is proposing to provide a local street connecting Davis Road S to Rise Street S via a southward extension of Stockton Avenue S. At the southern intersection of the Stockton Avenue S and Rise Street S, the applicant proposes a cul-de-sac where a drive aisle with a public access easement and private parking on either side is proposed that connects westward to Reserve Lane S. As the applicant is not proposing a local street connecting to Reserve Lane S, the applicant seeks a Variance to eliminate the Condition 1 which will allow the connectivity via a parking area.

Finding 3: Due to the size topography, street connection requirements, and density requirements, Condition 1 is outdated and infeasible, and creates a hardship. First, Reserve Lane was not constructed to full street standards, making it impractical to provide a street connection to the west that could be constructed to full street standards. In addition, fire regulations and public works design standards have changed, requiring greater widths for aerial access and additional clear asphalt space before parking stalls.

Second, the topography of the site creates complications in locating buildings and site improvements throughout the site. Plans demonstrate that there is increased difficulty within the southwestern portion of the site where the grade increases greatly with a 15 to 20% slope throughout, requiring extensive retaining walls to locate the apartment buildings and parking areas. In addition to providing the full 60-foot-width required for a local street, the buildings would need to be setback additional 20 feet per the RM-II setback standards for structures abutting a street. At the time of the condition in 2012, assessment of the feasibility of the connectivity via local streets was not made. The prior decision makes no mention of the existing grade of the site in the context of providing the connectivity required under the condition.

Finding 4: The RM-II zone requires a minimum 15 units per acre and Parcel 2 is approximately 4.62 acres in size; thus requiring a minimum 69 residential units. As proposed, Parcel 2 is to be developed with 105 units. To provide the local street out to Reserve Lane S and meet development standards such as setbacks, between three to four buildings containing 57 to 69 residential units would have to be removed from the proposal and would bring the development below the minimum density required.

Finding 5: The design of Reserve Lane S creates additional practical difficulty because the existing street does not meet current full local street standards, which

requires a 60-foot width. The original development of Reserve Lane S in 2016 was only required to provide a 26-foot width with five-foot sidewalks on either side. As indicated by the plans, the applicant is providing 24-foot-wide drive aisle with a one-foot mountable curb, and additional two feet of asphalt before striping of a parking stall on either side thus providing a maximum width of 30 feet for potential maneuvering area. Five-foot wide concrete sidewalks are proposed on the edges of the parking area and connects into existing sidewalk of Reserve Lane S.

The condition imposes a practical difficulty for development on the property due to physical improvements and reduction of residential units required to accommodate a Local Street to Reserve Lane S when an alternative connection can be provided and meet the criteria. The overall intent of the original condition to provide connectivity to adjoining streets is met through the proposed connections with the public maintaining the same level of connectivity through recommended condition of approval.

Conclusion: The Hearings Officer concludes that the proposal meets this criterion.

SRC 245.005(d)(2): The variance will not result in adverse effects that are unreasonably detrimental to the public health, safety, and welfare or to property or improvements in the vicinity.

Public comments expressed concerns about traffic, construction impacts, and crime impacts. These concerns are addressed separately as follows:

Traffic: Concern was that the development would have a negative impact on Davis Road S, connectivity with abutting streets, and the timing of the signal improvement at Liberty Road S and Mildred Lane S.

Finding 6. The applicant has submitted a site plan for the proposed new multi-family development. Because the frontage of the subject property along Davis Road S does not meet current standards for its classification of street, per the Salem TSP, site review approval will be conditioned upon the dedication of additional right-of-way and the provision of half-street improvements along the development frontage of Davis Road S. In addition, construction of an off-site linking street improvement along Davis Road S is required for an additional length of 170 feet east to the boundary of the Vannatta Subdivision. The required linking street improvement will provide a 34-foot pavement width ensuring an adequate improvement width along Davis Road S to accommodate traffic volumes generated by the proposal.

Finding 7: The applicant's proposed site plan results in the extension of new local streets through the subject property. Rise Street S will be extended from the northern boundary terminating in a cul-de-sac. Stockton Avenue S will be extended north/south through the subject property providing a connection between Davis Road

S and Rise Street S. The variance request is to remove a condition of approval from a previous land use decision (CPC–NPC–ZC12–03) which requires construction of a local street connection to Reserve Lane S. Reserve Lane S is a private local street which abuts the subject property at the southwest boundary and connects to Red Leaf Drive S, which is designated as a collector street, that will eventually be extended to Mildred Lane S. The applicant’s proposed site plan shows a private off–street parking area for the apartment complex located between Rise Street S and Reserve Lane S, which will require a condition of approval requiring an access easement to be placed across the off–street parking area allowing for vehicle and pedestrian connectivity between Rise Street S and Reserve Lane S through the parking area, meeting the intent of the connectivity requirement.

Finding 8: A traffic signal is required to be constructed at the intersection of Davis Road S and Liberty Road S as a condition of development for the subject property established by Comprehensive Plan Map Amendment, Neighborhood Plan Change, and Zone Change Case No. CPC–NPC–ZC12–03. The Liberty Road and Davis Road signal is currently under construction by the City through a Capital Improvement Project (CIP 1638). Construction of the signal is anticipated to be completed in 2026. Because this signal is required by the CPC/ZC for the subject property, the signal shall be operational prior to issuance of a Certificate of Occupancy for any structure within the development. This will ensure the proposed development does not have a functional impact on the intersection and that the negative impacts of the proposed development are adequately mitigated.

Finding 9: Submitted with the site review application was a February 28, 2025 Traffic Impact Analysis (TIA). The TIA states that a signal is required of the Liberty Road S/Davis Road S intersection and also identifies completion of a planned signal at the intersection of Liberty Road S and Mildred Lane S as a needed improvement to meet mobility standards. This signal was required to be designed and the improvement secured as a condition of approval for the Liberty Road Subdivision (Case No. SUB–UGA–ADJ20–05). Construction of the signal is a condition of approval for the Liberty Road Apartments West (Case No. SPR–ADJ–DAP–DR24–35), with a requirement that the signal be fully operational prior to occupancy for any building in the complex.

Finding 10: If development of the proposed multi–family complex occurs prior to the Liberty Road Apartments West development, it is possible that traffic generated by the proposed complex will utilize the route from Rise Street S to the intersection of Liberty Road S and Mildred Lane S prior to the signal being complete. To mitigate for this impact, as a condition of approval of the site plan review, a gate must be provided to restrict non–emergency vehicle access to Rise Street S until the intersection at Liberty Road S and Mildred Lane S is complete.

Because of conditions of approval established with this decision and PAR-UGA-SPR-ADJ-TRV-DAP-DR-TRP25-10, impacts to the surrounding transportation system by traffic generated by development of the subject property will be adequately

mitigated. As traffic is primarily addressed through the Site Plan Review Application, additional conditions of approval on the subject Variance Application are not recommended.

Construction Impacts. Comments received expressed concern for mud and gravel on the streets, and excessive dust during construction.

Finding 11: Future development of the property will be subject to the requirements of Salem Revised Code Chapter 75 (Erosion Prevention and Sedimentation Control) and Chapter 82 (Clearing and Grading). Permits are required for grading work that exceeds minimum thresholds, and all grading work must meet prescribed codes and standards aimed at mitigating construction runoff, providing site controls at each construction vehicle access point, and providing dust suppression to the maximum extent practical. There is no evidence in the record to suggest that construction impacts from the proposed development will not be adequately mitigated by existing Code provisions. Further, it should be pointed out that development without the proposed variance would likely result in greater construction impacts due to the existing topography.

Crime Impacts. Comments received expressed concern for crime generated from the development.

Finding 12: Theft or other illegal activity is a police matter and is addressed by the Salem Police Department, which has law enforcement jurisdiction over the subject property and vicinity. Approval criteria for a variance does not address anticipated changes in crime levels, and no evidence has been provided to support the speculation that any crime perpetrated by future residents of the proposed multifamily development would exceed what would otherwise occur from any other legal development of property within the City.

Condition 1: The applicant shall provide public access easements for the length of both 24-foot-wide drive aisle and five-foot-wide sidewalks extending from Rise Street SE connection to Reserve Lane S.

Conclusion: As conditioned, the Hearings Officer concludes that the proposal meets this criterion.

DECISION

Based upon the Facts and Findings herein, the Hearings Officer **APPROVES** the application for a variance eliminating Condition 1 of CPC-NPC-ZC12-03 for an associated development of a 192-unit multifamily complex, located at 1656 Davis Road S, subject to the following condition of approval:

Condition 1: The applicant shall provide public access easements for the length of both 24-foot-wide drive aisle and five-foot-wide sidewalks extending from Rise Street SE connection to Reserve Lane S.

DATED: July 30, 2025

A handwritten signature in cursive script that reads "Gary Darnielle". The signature is written in black ink on a light-colored background.

Gary Darnielle, Hearings Officer