

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

**IN THE MATTER OF AMENDING) ORDER NO. 2017-04 DR-CU-SPR-DAP
THE DECISION OF THE PLANNING) CLASS 3 DESIGN REVIEW
COMMISSION FOR CLASS 3 DESIGN) CONDITIONAL USE / CLASS 3 SITE
REVIEW / CONDITIONAL USE /) PLAN REVIEW / CLASS 2 DRIVEWAY
CLASS 3 SITE PLAN REVIEW / CLASS) APPROACH PERMIT CASE NO.
2 DRIVEWAY APPROACH PERMIT) CASE NO. DR-CU-SPR-DAP17-05
CASE NO. DR-CU-SPR-DAP17-05)**

This matter coming regularly for hearing before the City Council, at its November 27, 2017, meeting, and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order amending the decision of the Planning Commission in Class 3 Design Review/Conditional Use/Class 3 Site Plan Review/Class 2 Driveway Approach Permit Case No. 17-05, and approving the application.

PROCEDURAL FINDINGS:

- (a) On September 21, 2017, the Planning Commission issued an order approving a consolidated application for a Class 3 Design Review/Conditional Use/Class 3 Site Plan Review/Class 2 Driveway Approach Permit (Case No. DR-CU-SPR-DAP 17-05) subject to conditions of approval.
- (b) On October 6, 2017, the Lansing Neighborhood Association filed a timely appeal pursuant to SRC 300.1010.
- (c) On November 27, 2017, the City Council conducted a hearing to receive evidence and testimony regarding the application; the public hearing was closed on November 27, 2017. The City Council conducted deliberations on November 27, 2017 and voted to amend the decision of the Planning Commission.

SUBSTANTIVE FINDINGS:

The City Council adopts the following as findings for this decision:

- (a) The development, as proposed and subject to conditions adopted in the Planning Commission’s September 21, 2017 decision order, meets all of the criteria for a class 3 design review approval set forth in SRC 225.005(e)(2).
- (b) The development, as proposed and subject to conditions adopted in the Planning Commission’s September 21, 2017 decision order, meets all of the criteria for a conditional use approval set forth in SRC 240.005(d).
- (c) The development, as proposed and subject to conditions adopted in the Planning Commission’s September 21, 2017 decision order, meets all of the criteria for a class 3 site plan review approval set forth in SRC 220.005(f)(3), with the following amended condition to clarify that the public sidewalks are to be reconstructed:

Condition 12: Provide street trees, ~~and~~ street lights, and sidewalks along the entire frontage of Lansing Avenue NE and Silverton Road NE according to Public Works Design Standards (PWDS).

- (d) The development, as proposed and subject to conditions adopted in the Planning Commission's September 21, 2017 decision order, meets all of the criteria for a class 2 driveway approach permit approval set forth in SRC 804.025(d).
- (e) The applicant's testimony dated November 27, 2017 asserts that the applicant is not required to demonstrate that the property is "buildable land" because the application was submitted prior to, but deemed complete after, the effective date of amendments to Senate Bill 1051. The City finds that new criteria under SB 1051 are not applicable to this development because the applicant was submitted prior to the effective date of the legislation
- (f) The applicant's testimony dated November 27, 2017, asserts that the subject property is redevelopable land within an urban growth boundary and is considered "buildable land" under OAR 660-008-005. The property is zoned CR (Retail Commercial). The City finds that the subject property is not "buildable land" as defined in OAR 660-008-005 because residential uses are not "permitted" as required by the law.
- (g) The City Council therefore AMENDS the application for a Class 3 Design Review/Conditional Use/Class 3 Site Plan Review/Class 2 Driveway Approach Permit, as proposed and subject to conditions adopted in the Planning Commission's September 21, 2017 order, with the following amendment to Condition 12:

Condition 12: Provide street trees, ~~and~~ street lights, and sidewalks along the entire frontage of Lansing Avenue NE and Silverton Road NE according to Public Works Design Standards (PWDS).

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF SALEM, OREGON:

Section 1. The Planning Commission's decision for Class 3 Design Review/Conditional Use/Class 3 Site Plan Review/Class 2 Driveway Approach Permit Case No. DR-CU-SPR-DAP 17-05 is hereby amended.

Section 2. This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

ADOPTED by the City Council this 11th day of December, 2017.

ATTEST:

City Recorder

Checked by: Pamela Cole