

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

**IN THE MATTER OF APPROVAL OF)
CONSOLIDATED CLASS 3 DESIGN)
REVIEW, CLASS 3 SITE PLAN REVIEW,)
CLASS 2 DRIVEWAY APPROACH PERMIT,)
AND TREE REGULATION VARIANCE)
CASE NO. 18-07, 1881 WILTSEY ROAD SE)**

**ORDER NO. 2018-02
DESIGN REVIEW / SITE PLAN
REVIEW / DRIVEWAY
APPROACH PERMIT / TREE
REGULATION VARIANCE
CASE NO. 18-07**

This matter coming regularly for hearing and deliberations before the City Council, at its February 25, 2019 and March 11, 2019, meetings, and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order modifying the decision of the Planning Commission in Design Review/Site Plan Review/Driveway Approach Permit/Tree Regulation Variance Case No. DR-SPR-DAP-TRV18-07, and approving the application.

PROCEDURAL FINDINGS:

- (a)** On October 5, 2018, Brandie Dalton of Multi-Tech Engineering, on behalf of Dave Montagne, Montagne Development, filed an application for development of a 111-unit apartment complex for property approximately 6.4 acres in size and located at 1881 Wiltsey Road SE - 97306.
- (b)** On December 19, 2018, the Planning Commission issued a decision approving the consolidated Class 3 Design Review, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance subject to conditions of approval.
- (c)** On January 14, 2019, at a regularly scheduled meeting, the City Council voted to initiate the review of the Planning Commission's decision. A public hearing before the City Council was scheduled for February 25, 2019.
- (d)** On February 25, 2019, City Council held a public hearing and received public testimony. The hearing was closed that night; however, the record was left open for additional written testimony until March 11, 2019 at 5:00 PM.
- (e)** The applicant has provide a 30-day extension to the 120-day State mandated deadline. The new 120-day State mandated deadline for final decision is April 19, 2019.
- (f)** On March 11, 2019, the City Council conducted deliberations and voted to modify the Planning Commission's decision to approve the applications subject to additional conditions of approval. The City Council hereby adopts the findings of fact and conclusions of law in the Decision in their entirety and the supplemental findings of fact found in Exhibit 1.

SUBSTANTIVE FINDINGS:

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

- (a)** The Class 3 Design Review, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance applications to develop an 111-unit multi-family apartment complex, as proposed and conditioned, meets the approval criteria set forth in SRC 225.005(e)(2), 220.005(f)(3), 804.025(d), and 808.045(d)(1).
- (b)** The findings, attached hereto as exhibit 1, are incorporated to this decision as set forth herein.
- (c)** The City Council therefore APPROVES the consolidated application with three new conditions of approval, and subject to conditions of approval from the December 19, 2018 decision of the Planning Commission.

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, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance Case No. DR-SPR-DAP-TRV18-07 is hereby modified to include the findings and facts in exhibit 1, and the following conditions of approval:

- Condition 1:** Prior to building permit issuance, where a proposed building crosses over an existing property line, either (1) pursuant to SRC 205.065, a property boundary verification shall be recorded, or (2) the property line shall be adjusted or removed.
- Condition 2:** Development of the solid waste service area shall conform to all applicable standards of SRC Chapter 800.
- Condition 3:** Prior to building permit issuance, the site plan shall be modified to include a minimum of two off-street loading spaces for the proposed use, meeting applicable location and dimension requirements of SRC Chapter 806.
- Condition 4:** Per SRC 807.030(d)(2), when more than 75 percent of the existing trees are proposed for removal, a minimum of two replacement trees shall be incorporated into the landscape plan and planted, in addition to the landscaping required under this chapter. For the removal of 79 trees in excess of 75 percent, a total of 158 replacement trees shall be provided.
- Condition 5:** Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Wiltsey Road SE.
- Condition 6:** Construct a property line sidewalk and install street trees along the frontage of Wiltsey Road SE to meet Collector street standards as specified in the PWDS and consistent with the provisions of SRC Chapter 803.

- Condition 7:** Convey land for dedication at the terminus of Candy Flower Court SE pursuant to PWDS.
- Condition 8:** Construct a cul-de-sac improvement at the terminus of Candy Flower Court SE to Cul-de-sac street standards as specified in the PWDS and consistent with the provisions of SRC Chapter 803.
- Condition 9:** Design and construct a storm drainage system at the time of development in SRC Chapter 71 and PWDS.
- Condition 10:** Modify the easterly driveway approach accessing Wiltsey Road SE to meet the requirements of SRC Chapter 804 and PWDS.
- Condition 11:** The applicant shall make every effort to preserve the 30" dbh significant tree. If the Fire Department determines that the roundabout does not work for fire operations, the significant tree may be removed.
- Condition 12:** Development plans shall be revised to protect and retain a minimum of three significant trees, and a minimum of 15 percent of the existing trees located on the property. All trees designated for preservation shall be marked and protected during construction.
- Condition 13:** All trees designated for preservation shall be marked and protected during construction. Any significant tree shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence, or its equivalent. Protection measures shall continue until the issuance of final occupancy.
- Condition 14:** Prior to approval of site development permits, the applicant shall provide a report prepared by a certified arborist identifying the health of each significant tree to be preserved, including identifying any prior impacts that have occurred within the root zone.
- The arborist report shall provide a detailed description of tree protection measures to be implemented, description of alternative construction techniques and materials if applicable, and remedial actions taken to mitigate negative impacts on the tree, if necessary.
- A final arborist report verifying the viability of the trees shall be provided prior to final inspection.
- Condition 15:** A minimum of eight Oregon White Oaks (*Quercus garryana*), with a minimum caliper of 2", shall be incorporated into the landscape design and replanted for the proposed development.

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.

Exhibit 1: Findings for DR-SPR-DAP-TRV 18-07

ADOPTED by the City Council this 25th day of March, 2019.

ATTEST:

City Recorder

Checked by: Aaron Panko