

Revisions to the Agenda

City Council

Monday, September 11, 2017 6:00 PM

Council Chambers

1.3c. [17-466](#) Proclamation recognizing 9/11 as a Day of Remembrance

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Add - Report added.

4.a. [17-438](#) Appeal of Hearings Officer's decision approving Quasi-Judicial Zone Change / Class 3 Site Plan Review / Class 1 and 2 Adjustments Case No. ZC-SPR-ADJ17-02 for property located at 390 Hawthorne Avenue SE - 97301

Ward(s): Ward 2

Councilor(s): Andersen

Neighborhood(s): SESNA

Removed - Removed item from agenda.

6.g. [17-464](#) Appeal of Planning Administrator's Decision denying the request for Class 2 Adjustments to increase the allowable square footage and reduce rear yard setbacks for an accessory shop building at a single family residence, for property approximately 0.46 acres in size, zoned RS (Single Family Residential), at 2249 Joplin Court S.

Ward(s): Ward 7

Councilor(s): Cook

Neighborhood(s): Sunnyslope

Add - Report added.



Staff Report

File #: 17-466
Version: 1

Date: 9/11/2017
Item #: 1.3c.

TO: City Council
THROUGH: Steve Powers, City Manager
FROM: Chuck Bennett, Mayor

SUBJECT:

Proclamation recognizing 9/11 as a Day of Remembrance

Ward(s): All Wards
Councilor(s): All Councilors
Neighborhood(s): All Neighborhoods

RECOMMENDATION:

Information Only.

Attachments:

1. Proclamation - 9/11 Remembrance

PROCLAMATION

WHEREAS, September 11 marks a somber day in United States history; and

WHEREAS, we remember the nearly 3,000 people who lost their lives on September 11, 2001, in New York City, Pennsylvania, and the Pentagon; and

WHEREAS, the grief and devastation to this national tragedy was met with heroism, compassion, and union of the American people; and

WHEREAS, we honor the valiance and fearlessness of hundreds of firefighters, police officers, and first responders, as well as ordinary people, whose instinct was to run toward untold danger to help those in need; and

WHEREAS, the sacrifices made by people on that horrific day remain etched in our minds forever; and

WHEREAS, we remain a hopeful America, inspired by the kindness and compassion of those who live here and our commitment to freedom and opportunity; and

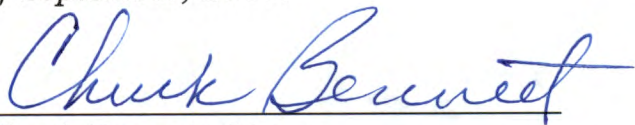
NOW, THEREFORE, I, Chuck Bennett, Mayor of the City of Salem, do hereby proclaim September 11, 2017, as

9/11 DAY OF REMEMBRANCE

and encourage the community to reflect on the terrible events of September 11, 2001, and honor those whose lives were lost, as well as the heroism of first responders.

DATED this eleventh day of September, 2017.




Chuck Bennett, Mayor

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Break

COMMUNITY DEVELOPMENT DEPARTMENT

TO: Mayor and City Council
FROM: Lisa Anderson-Ogilvie, AICP, Interim Community Development Director
DATE: September 8, 2017
SUBJECT: Appeal Withdrawn - ZC-SPR-ADJ17-02 (390 Hawthorne Avenue SE)

Agenda Item 4.a (17-438) is being removed from the agenda.

An appeal of Quasi-Judicial Zone Change / Class 3 Site Plan Review / Class 1 and 2 Adjustments Case No. ZC-SPR-ADJ17-02, was scheduled for a public hearing before the City Council on September 11, 2017. The appellant, Garten Services, Inc., has withdrawn their appeal, effective September 8, 2017 (see attachment 1).

No other appeals were filed and the appeal period has ended. Therefore, the June 30, 2017 decision of the Hearings Officer, approving the proposed 82-room hotel with conditions, is the final decision.

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Break



Staff Report

File #: 17-464

Version: 1

Date: 9/11/2017

Item #: 6.g.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Lisa Anderson-Ogilvie, AICP, Interim Community Development Director

SUBJECT:

Appeal of Planning Administrator's Decision denying the request for Class 2 Adjustments to increase the allowable square footage and reduce rear yard setbacks for an accessory shop building at a single family residence, for property approximately 0.46 acres in size, zoned RS (Single Family Residential), at 2249 Joplin Court S.

Ward(s): Ward 7

Councilor(s): Cook

Neighborhood(s): Sunnyslope

ISSUE:

Information only. City Council may assume jurisdiction of an appeal and schedule a public hearing for a future City Council meeting.

RECOMMENDATION:

Information Only.

SUMMARY AND BACKGROUND:

A Class 2 Zoning Adjustment decision is appealable to the Hearings Officer. Upon receipt of an appeal of a Class 2 Zoning Adjustment decision, notice of the appeal shall be provided to City Council. City Council may assume jurisdiction for review. If the City Council does not assume jurisdiction, the Hearings Officer shall hear the appeal, and the Hearings Officer's decision will be the final decision of the City.

FACTS AND FINDINGS:

On August 7, 2017, the Planning Administrator issued a decision denying Class 2 Adjustment Case No. ADJ17-09, requesting adjustments to increase the maximum square footage for all accessory structures on a property zoned RS (Single Family Residential) from 1,000 square feet to 1,400 square

feet; and to decrease the minimum rear yard setback for an accessory structure from 6 feet to 3 feet. On September 1, 2017, applicant John Anderson filed an appeal of the decision (Attachment 1).

Christopher Green, AICP
Planner II

Attachments:

1. Appeal Request
2. ADJ17-09 Decision

09/07/2017



LAND USE APPEAL APPLICATION

RECEIVED

SEP 01 2017

1. GENERAL DATA REQUIRED [to be completed by the appellant]

ADJ17-09 10-17-17 COMMUNITY DEVELOPMENT
Case # Being Appealed Decision Date
2249 Joplin Ct S Salem OR 97302
Address of Subject Property
2249 Joplin Ct S Salem OR 97302
Appellants Mailing Address with zip code
VonniceBAnderson@yahoo.com 503-930-0039
Appellant's E-mail Address Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

Name Mailing Address with ZIP Code
E-Mail Address Day-time Phone / Cell Phone

2. SIGNATURES OF ALL APPELLANTS

Signature: Vonnice Anderson Date: 9-1-17
Printed Name: _____

Signature: _____ Date: _____
Printed Name: _____

3. REASON FOR APPEAL Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY

Received By: [Signature] Date: 9/1/17 Receipt No: 17-110919
Appeal Deadline: 9/1/17 @ 5:00 Case Manager: Chris Green

Subject: John Anderson 2249 Joplin Court S., Salem, OR 97302

From: John Anderson (andersoncraft@icloud.com)

To: vonnie3anderson@yahoo.com;

Date: Friday, September 1, 2017 9:41 AM

John Anderson 2249 Joplin Court S., Salem, OR 97302

I do not need a property line variance or adjustment. The foundation is at the 6 feet setbacks.

I do have a permit from your office to virtually double the size of my single family structure to approximately 3100 Square feet Permit number is. 17166790 BP .

The actual square footage of the structure in question is 288 ft.². If allowed to go ahead with the permit process I will convert the structure to a carport to park my boat in. To verify to my neighbors and other people in question that it is not a commercial use building.

I like cars and stuff. I tinker on old cars with my young children. That's what the shop is intended for cars and storage.

Not a commercial business. Interview my neighbors in the surrounding area that actually have visible site of the structure and they will verify that I am not noisy out of that shop and I don't have UPS and FedEx coming and going for shipping.

There are plenty of larger accessory structures in the county that are not commercially use buildings. Lots of people like cars. Lucky for me I have a big piece of property most people do not have a big piece of property and have the luxury of having a nice shop.

Sent from my iPhone

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 informacion, por favor llame
503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

CLASS 2 ADJUSTMENT CASE NO.: ADJ17-09

APPLICATION NO. : 17-110919-ZO

NOTICE OF DECISION DATE: AUGUST 17, 2017

SUMMARY: A request for adjustments to increase the allowable square footage and reduce rear yard setbacks for an accessory shop building at a single family residence.

REQUEST: A consolidated application containing the following requests:

- (1) A Class 2 Adjustment to increase the maximum square footage for all accessory structures on the property from 1,000 square feet, as set forth in SRC Chapter 511, to 1,400 square feet; and
- (2) A Class 2 Adjustment to decrease the minimum rear yard setback for an accessory structure from 6 feet to 3 feet.

The subject property is approximately 0.46 acres in size, zoned RS (Single Family Residential), and located at 2249 Joplin Court S (Marion County Assessor map and tax lot number 083W08DB00100).

APPLICANT: John and Yvonne Anderson

LOCATION: 2249 Joplin Court S / 97302

CRITERIA: Salem Revised Code SRC Chapter 250.005(d)(2)

FINDINGS: The findings are in the attached Decision dated August 17, 2017.

DECISION: The Planning Administrator **DENIED** Class 2 Zoning Adjustment Case No. ADJ17-09.

Application Deemed Complete: June 20, 2017
Notice of Decision Mailing Date: August 17, 2017
State Mandate Date: October 18, 2017

Case Manager: Chris Green, cgreen@cityofsalem.net, 503.540.2326

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., Friday, September 1, 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 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 Salem Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer 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>

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

BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

**CLASS 2 ZONING ADJUSTMENT
CASE NO. ADJ17-09
DECISION**

IN THE MATTER OF APPROVAL OF)	CLASS 2 ZONING ADJUSTMENT
CLASS 2 ZONING ADJUSTMENT)	
CASE NO. 17-09)	
2249 JOPLIN COURT S - 97302)	AUGUST 17, 2017

In the matter of the application for a Class 2 Adjustment submitted by John Anderson, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

Summary: A request to increase the maximum square footage for all accessory structures and decrease the minimum rear yard setback for an accessory structure.

Request: A consolidated application for adjustments for an accessory shop building at a single family residence containing the following requests:

(1) A Class 2 Adjustment to increase the maximum square footage for all accessory structures on the property from 1,000 square feet, as set forth in SRC Chapter 511, to 1,400 square feet; and

(2) A Class 2 Adjustment to decrease the minimum rear yard setback for an accessory structure from 6 feet to 3 feet.

The subject property is approximately 0.46 acres in size, zoned RS (Single Family Residential), and located at 2249 Joplin Court S (Marion County Assessor map and tax lot number 083W08DB00100).

DECISION

The Planning Administrator **DENIED** Class 2 Zoning Adjustment Case No. ADJ17-09.

OWNER: John & Yvonne Anderson

APPLICANT: John Anderson

BACKGROUND:

The subject property is zoned RS (Single Family Residential) and is approximately 0.46 acres in size, larger than the citywide average for new single family residential lots but fairly typical of lots in the immediate vicinity. In 2002, the existing single family dwelling was constructed on the subject property. On August 8, 2007, a building permit was issued for an accessory shop building on the property.¹ Building plans showed a 25-by-40-foot structure, for a total of 1,000 square feet in size, equal to the maximum allowable square footage for all accessory structures on a lot zoned RS.² The site plan included with the permit application designated the south property line as the front property line, and showed a 21 foot setback between the shop building and the north (rear) property line.

In April 2017, staff investigated a complaint regarding the shop building. Upon inspecting the site, staff found that the existing shop building had been expanded without permits to a total area of approximately 1,400 square feet. This approximate size of the shop and location of the addition relative to the originally permitted structure is confirmed by Marion County Assessor's Office files. The addition was constructed northward from the existing building, extending the shop to at or near the north boundary of the property.

On May 26, 2017, the applicant submitted a Class 2 Adjustment application to the Planning Division, seeking to adjust the maximum square footage and rear yard setback to accommodate the expanded shop building. The application was deemed complete for processing on June 22, 2017. Notice of filing was sent to surrounding property owners and the neighborhood association pursuant to Salem Revised Code (SRC) requirements on June 23, 2017.

FINDINGS OF FACT:

1. Site Analysis

The Salem Area Comprehensive Plan Map (SACP) designates the subject property as "Single Family Residential." The subject property is zoned RS (Single Family Residential).

The subject property is Lot 12 of the Sunnyridge Heights No. 13 subdivision, platted in 1978, and is approximately 0.46 acres in size. The lot takes access from a 20-foot-wide flag lot accessway extending southward to Joplin Court S. A single family residence was constructed on the subject property in 2002, with a habitable square footage of 1,581 square feet and an attached garage of 462 square feet in size. Abutting properties are developed with single family dwellings; most lots in the vicinity are roughly one-half acre in size, similar to the

¹ File No. 07-112984-BP.

² At that time, the maximum square footage requirement was set forth in SRC 131.180(b). It remained in effect with the subsequent adoption of the Unified Development Code (UDC) and is now contained in SRC Chapter 511, Table 511-5.

subject property. The abutting property to the north has a single family residence and shop building at the southeast corner but is otherwise primarily covered by wooded hillside falling towards Croisan Creek to the west.

a. Zoning and use of surrounding properties includes:

North: RA (Residential Agriculture); single family dwelling and forest land

South: RS (Single Family Residential); single family dwelling

East: RS (Single Family Residential); single family dwelling

West: RS (Single Family Residential); single family dwelling

b. A vicinity map illustrating the location of the property is included as Attachment A, and made a part of this order. A site plan showing the existing structures, entrances, vehicular circulation areas, and property lines is included as Attachment B. The complete statement from the applicant is included as Attachment C.

2. Adjustment Proposal

SRC Salem Revised Code Chapter 250 provides a process to allow deviations from the development standards of the UDC for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative way to meet the purposes of the code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist. The applicant has requested two Class 2 Adjustments related to the accessory shop building located on the subject property. One of the adjustments would increase the maximum aggregate total square footage for all accessory structures on the property from 1,000 square feet to 1,400 square feet. The other adjustment would reduce the applicable minimum rear yard setback from 6 feet to 3 feet.

Salem Revised Code (SRC) Chapter 511-5 establishes maximum allowed square footages for accessory structures in the RS (Single Family Residential) zone as follows:

Table 511-5: Maximum Square Footage for All Accessory Structures	
Main Building Gross Area	Maximum Aggregate Total Square Footage for All Accessory Structures
1,200 square feet or less.	600 square feet
Greater than 1,200 square feet.	1,000 square feet or 50% of main building gross area, whichever is less.

The main building on the subject property is a single family residence with a gross

area of 2,043 square feet.³ Accordingly, the maximum allowed square footage for all accessory structures on the property is 1,000 square feet. The applicant requests to adjust this maximum to 1,400 square feet in order to allow an accessory shop building of that size.

The accessory building is located in the rear yard of the subject property. As set forth in SRC 800.020(4), the front property line of a flag lot shall be “the outside property line that is an extension of the flag lot accessway or the property line separating the flag portion of the lot from the lot between it and the street from which access is provided to the flag lot ...” As applied to the subject property, the front lot line could either be designated as the south or east property lines. On the 2009 building permit application the construction of a 1,000 square foot accessory structure, the applicant designated the south property line as the front lot line. Regardless of which eligible property line is designated as the front property line (thereby establishing the opposite line as the rear property line), setbacks for accessory structures are determined by the location of the structure within a specific “yard” rather than just relative to a property line. SRC 112.060(c) defines a rear yard as “the area located between the main building and the rear lot line, extending across the full width of the lot.” If the rear yard is oriented to the west of the house, the accessory structure is located almost entirely within this yard. If the rear yard is oriented to the north of the house, the accessory structure projects northward of the foundation line of the house, into the rear yard.

Based on the 2009 building permit application, the accessory structure is 15 feet in height. SRC Chapter 511, Table 511-3, establishes the minimum rear yard setback for accessory structures in the RS zone greater than 9 feet in height as one foot of setback for each one-foot of height over 9 feet. Therefore, the minimum setback for the 15-foot-tall accessory structure is 6 feet from rear yard property lines. The applicant has requested an adjustment to reduce this minimum setback to 3 feet.

3. Neighborhood Association Comments

Notice of the request was sent to the Sunnyslope Neighborhood Association. The neighborhood association provided comments that are included as Attachment D.

In summary, Sunnyslope Neighborhood Association expresses the following concerns with the proposal:

- **Proposal Not Presented at Neighborhood Association Meeting:**
Sunnyslope Neighborhood Association’s comments raise concern that the applicant did not attend meetings or present the proposal to the neighborhood association prior to submitting the application.

Staff Response: As stated on the form used for land use application

³ According to Marion County Assessor’s records, the habitable area of the residence is 1,581 square feet and the attached garage is 462 square feet in size.

submittals, “The City of Salem recognizes, values, and supports the involvement of residents in land use decisions affecting neighborhoods across the city and strongly encourages anyone requesting approval for any land use proposal to contact the affected neighborhood association(s) as early in the process as possible.” However, contact with the neighborhood association is not mandated by approval criteria for the requested adjustments, and cannot be taken into consideration in the decision on the proposal.

- **Magnitude of Adjustments Requested:** Comments from the neighborhood association express concern that the 40 percent increase in allowed square footage and 50 percent decrease in minimum setback represent “significant deviations” from applicable standards that are not explained in application materials. The neighborhood association speculates that the increased size of the shop building would allow for the applicant to conduct a commercial use on the premises.

Staff Response: Staff addresses concerns regarding the magnitude of the requested adjustments in further detail in findings regarding applicable criteria contained in section 7 of this report. While most commercial uses are prohibited as primary uses in the RS zone, certain home occupations may be operated in conjunction with household living uses, subject to the additional special use standards set forth in SRC 700.020. Findings contained in section 7 also address the possibility that otherwise permissible home occupations or other non-residential uses could be conducted within the larger building at a scale or scope which is no longer subordinate to the primary residential use.

- **Impact on Livability and Appearance of Residential Area:** Comments from the neighborhood association describe that some neighbors in the vicinity objected to the shop when it was constructed and that further development of the property to the north would bring other residences in closer proximity to the shop building.

Staff Response: The neighborhood association does not identify specific impacts on the livability or appearance of the residential area from the size and location of the shop building as adjusted. Staff addresses this criterion in findings contained in section 7.

- **Inadequate Justification for Granting Adjustments:** Comments from the neighborhood association cite the decision of the Land Use Board of Appeals (LUBA) in *Spooner v. City of Salem* (LUBA No. 2005-146) as a similar case in which an applicant sought a deviation to maximum square footage allowances for an accessory structure on a similarly sized (0.46 acre) residential property. The neighborhood association contends that the *Spooner* decision establishes a precedent in which this type of deviation from the standards cannot be granted only on the basis of the applicant’s desire for a larger structure.

Staff Response: While many of the relevant facts in the 2005 *Spooner* case are similar, including lot size and an application seeking administrative relief from the maximum accessory structure square footage standard in the RS zone, the appeal in *Spooner* centers on whether the applicant satisfied a specific criterion necessary to grant a variance, at that time set forth at SRC 115.020(a). That criterion required a finding that, in summary, “special conditions applying to the land, buildings, or use” created an unreasonable hardship or practical difficulty most effectively relieved by a variance.

In 2012, the City Council adopted Ordinance 12-12, which provided for the zoning adjustment process as a means of allowing deviations from certain standards that continue to meet the intended purpose of those standards. The UDC contains provisions for relief through either the variance or zoning adjustment processes, each of which apply in different circumstances and require compliance with different approval criteria. Because the subject case involves an adjustment rather than a variance, LUBA’s decision in *Spooner* is not directly applicable.

- **Fire Safety:** Comments from the neighborhood association express concern with access to the property during a fire emergency, due to its location on a flag lot accessway at the terminus of a dead-end street. The comments suggest that the size and proximity of the accessory building to the property line would worsen potential access issues.

Staff Response: The Salem Fire Department reviewed the proposal and submitted comments indicating no concerns with the requested zoning adjustments.

4. Public Comments

Property owners within 250 feet of the subject property were mailed notification of the proposed adjustment. Six comments were received from area property owners. All comments received are herein incorporated into this report by reference and included in the case file.

Two of the comments received indicate they have reviewed the proposal and had no objections to it. One comment expresses general support for the proposal. The remaining three comments raise issues, in summary, regarding the following issues:

- **Location of Accessory Uses and Personal Property Relative to Property Line:** Two comments express concerns that in the years since the subject addition to the shop was built in approximately 2009, personal property typically associated with household living or accessory uses, such as vehicles in disrepair, have been repeatedly placed on the property to the north, which is undeveloped where it abuts the subject property. These comments raise further concerns that the existing shop addition is, in fact, on or near the property line, rather than three feet away as suggested in the requested adjustment to setbacks.

Staff Response: The placement of personal property on a neighboring property without permission is a matter of trespassing or civil law not a part of this review. Staff findings in section 6 below analyze in further detail the potential for the scale of accessory activities within the larger building to impact the appearance or livability of residential properties in the vicinity. Staff has not verified the distance between the accessory structure subject to the adjustment and the property line, but has confirmed with the applicant that the requested adjustment is to allow a 3-foot rear yard setback. Therefore, regardless of the actual location of the shop building, the requested adjustment would not allow the building to be closer than 3 feet from the property line.

- **Potential Impacts on Current and Future Residential Development in Vicinity:** Three comments raise concerns, in summary, that the proposal would detract from the livability and appearance of the residential area by introducing a larger scale of accessory use and structure to the predominantly single family residential area, that the structure would be inconsistent with the development pattern on surrounding parcels due to neighboring property owners adhering to the unadjusted standards for accessory structure size and setbacks, and that future development on the parcel to the north would be impacted by the close proximity and large size of the shop building.

Staff Response: Staff findings in section 6 below address the potential impacts of the shop building and requested adjustments on residential properties in the vicinity. Staff concurs that this analysis must take into account possible impacts on future residential uses on the undeveloped portion of the abutting property, presumed to be developed in accordance with the current RA (Residential Agriculture) and “Developing Residential” Comprehensive Plan Map designation.

- **Size of Accessory Structure Relative to Primary Residence:** One comment expressed concern that the requested adjustment does not meet the underlying purpose of maximum square footage for accessory structures standard due to the shop building’s size relative to the residence.

Staff Response: Staff findings in section 6 below address the issue of the size of the shop building relative to the residence in further detail.

5. Public and Private Agency Comments

- **Community Development Department, Building and Safety Division,** reviewed the proposal and submitted comments indicating that a 3 foot setback to the rear property line is allowed in the building code for an accessory structure to a single family residence. The building cannot be used as a commercial structure. Any portion of the structure along the property line would need a one hour fire-rated wall, with details to be shown on the building permit application.
- **Salem Fire Department and Public Works Department** reviewed the

proposal and submitted comments indicating no concerns with the proposal.

- **Portland General Electric (PGE)** reviewed the proposal and submitted comments indicating that development costs are determined by current tariff and service requirements.

6. Analysis of Adjustment Criteria

The purpose of zoning adjustments is to provide a process to allow deviations from the development standards of the Unified Development Code (UDC) for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative way to meet the purposes of the code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist.

SRC 250.005(a)(1)(B) states that:

A Class 2 Zoning Adjustment is an adjustment to any development standard in the UDC other than a Class 1 Adjustment, including an adjustment to any numerical development standard in the UDC that increases or decreases the standard by more than 20 percent.

SRC 250.005(d)(2) states that an application for a Class 2 Adjustment shall be granted if all of the following criteria are met:

- (A) *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.***

Applicant's Statement: A written statement provided by the applicant is included as Attachment C.

Finding: Accessory structures are defined in SRC Chapter 111 "as a building or structure that is incidental and subordinate to, and dependent upon, the principal use on the same premises." The principal use on the premises is single family residential, which is consistent with the RS (Single Family Residential) zoning of the subject property. Development standards for accessory structures, including the maximum allowed square footage standard at question in the requested adjustment, are meant in part to ensure that the scale and extent of accessory uses and related activities remain incidental and subordinate to the primary use.

At a smaller, subordinate scale, accessory structures typically found in conjunction with single family residences, such as sheds, shops, and detached garages support

the day-to-day storage, recreational, and home occupation needs commonly associated with household living. At a larger scale, accessory structures may result in impacts of noise, traffic, and other activity more characteristic of commercial or industrial development, even if the uses themselves are undertaken for non-commercial purposes. Comments from surrounding property owners indicate that since the larger shop building was constructed, accessory household uses, such as vehicle repair and storage of personal property, already consumes a large area of the property and has at times spilled over onto the parcel to the north.

The shop building proposed by the applicant is 1,400 square feet in size, or approximately 89 percent as large as the living space within the primary residence. While correspondence from the applicant indicates that there are future plans to expand the single family residence, no construction has taken place or building permit application has been submitted to this effect. For residences greater than 1,200 square feet in size, the maximum square footage standard for accessory structures is established as no more than 50 percent of the total square footage of the residence. By tying the maximum square footage to a ratio, the standard ensures that accessory structures are scaled to remain subordinate to, and dependent upon the primary residential use regardless of building size.

However, the code specifically departs from the 50 percent ratio at 1,000 square feet, which is established as the maximum allowable square footage for accessory structures on any household living use in the RS zone, regardless of primary structure size. This overall limit on accessory structure size reflects that uses inhabiting a space of 1,000 square feet or greater are unlikely to remain incidental and subordinate to a single family residence. The applicant's proposed shop exceeds this overall maximum by 400 square feet, or approximately 40 percent.

Under the adjustments, the size and location of the accessory structure relative to adjacent residential properties would not equally meet the underlying purpose of the standards in maintaining a zone primarily characterized by household living with smaller, subordinate accessory uses and structures. Therefore, neither requested adjustment satisfies this criterion.

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

Finding: The subject property is located within the RS (Single Family Residential) zone, and is surrounded on all sides by residentially-zoned properties. As described in findings on criterion (A) above, the underlying purpose of the standards subject to adjustment are meant to ensure that the development of accessory structures within the RS zone are compatible with the predominant single family residential use. Therefore, the standards in question relate directly to preventing accessory development from detracting from the livability or appearance of the residential area.

Because the accessory structure is located within the rear yard of a relatively large property, obscured from the right-of-way by the existing single family residence, the

potential impact of the accessory structure on appearance is less than it would be for a structure in a more visible location. However, the size of the building, which significantly exceeds the unadjusted maximum size of a residential accessory structure, and the close proximity to the property line detract from the appearance of the subject property and surrounding residential area. As described above, the maximum accessory structure standard also serves to limit the size and scope of activities housed within buildings such as shops. Activities such as storage, parking, or shop work that may not detract from the residential area when limited to a maximum of 1,000 square feet may have impacts that detract from the livability of the residential area when carried out at the scale allowed by the much larger building.

Staff finds that the scale and location of the development on the site would detract from the livability and appearance of the residential area and therefore do not meet the criterion.

(C) 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.

Finding: The applicant has requested two adjustments; one to increase the maximum square footage of accessory structures on the property and one to reduce the applicable rear yard setback for those structures. SRC 511.001 describes the purpose of the RS zone as implementing the “Single Family Residential” designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The RS zone generally allows Single Family residential uses, along with a mix of other uses that are compatible with and/or provide services to the residential area.”

Both adjustments relate to development standards for the accessory shop building. When taken together, the cumulative effect of these adjustments results in an accessory structure which is significantly larger than the maximum square footage allowed in the zone and situated closer to the abutting residential property than allowed in single family residential districts. As described in findings on criteria (A) and (B) above, the requested size of the accessory building is nearly as large as the habitable square footage of the single family residence on the site, providing such a large space for non-residential uses that those uses may surpass the single family residence as the primary use on the property.

Staff finds that the proposal does not meet this criterion.

DECISION:

The requested Class 2 Adjustments to (1) increase the maximum square footage for all accessory structures on the property from 1,000 square feet, as set forth in SRC Chapter 511, to 1,400 square feet, and (2) decrease the minimum rear yard setback for an accessory structure from 6 feet to 3 feet, for property approximately 0.46 acres in

size, zoned RS (Single Family Residential), and located at 2249 Joplin Court S (Marion County Assessor's Map and Tax Lot number: 083W08DB00100) are hereby **DENIED**.



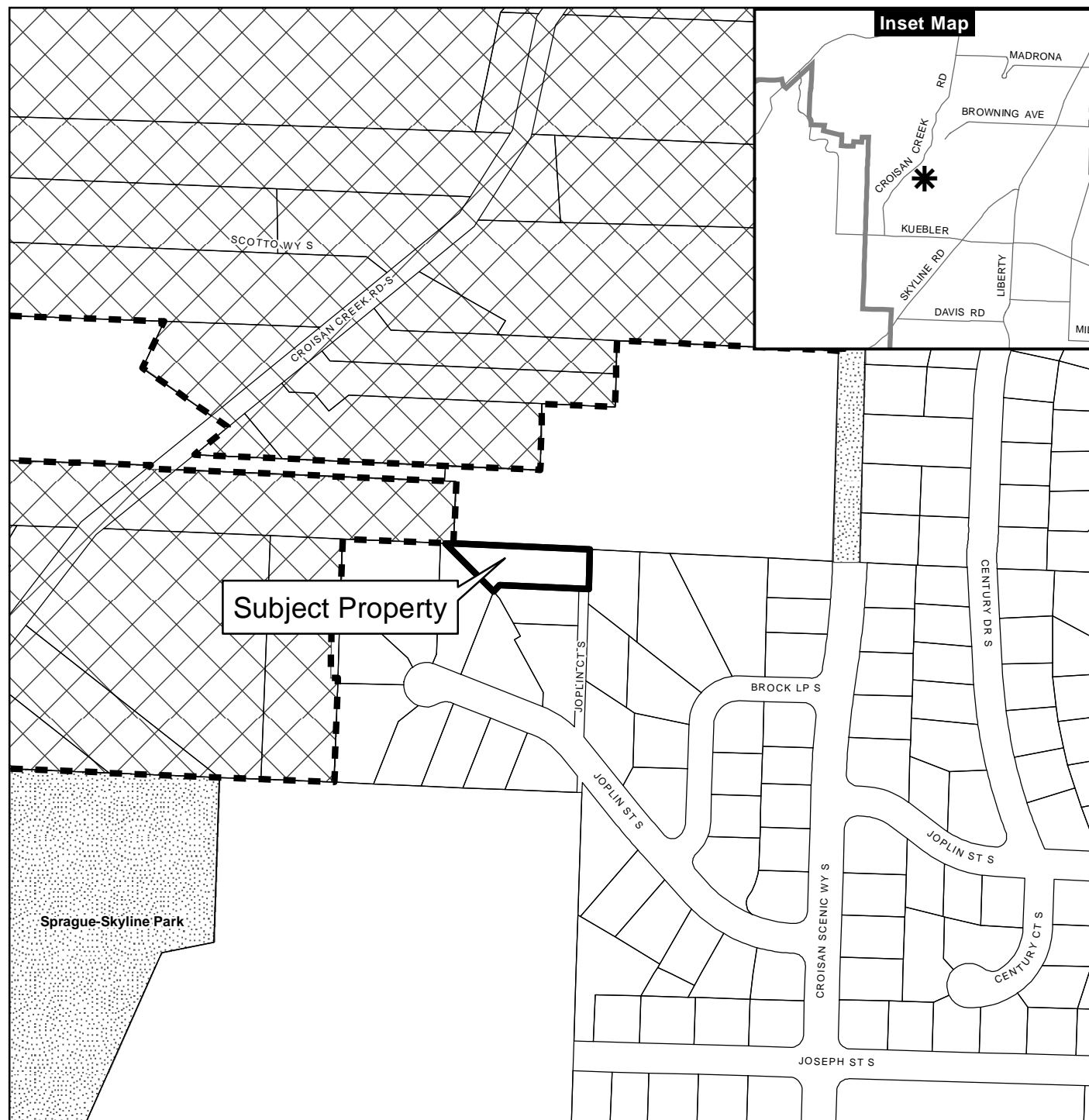
Christopher Green, AICP, Planning Administrator Designee

- Attachments: A. Vicinity Map
B. Site Plan
C. Applicant's Statement
D. Sunnyslope Neighborhood Association comments

Application Deemed Complete: June 20, 2017
Decision Mailing Date: August 17, 2017
State Mandated Decision Date: October 18, 2017

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., Friday, September 1, 2017.** The appeal must state where the decision failed to conform to the provisions of the adjustment ordinance (SRC Chapter 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 Salem Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action or refer the matter to staff for additional information.

Vicinity Map 2249 Joplin Court S



Legend

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



Front

Natural
Landscape
Trees +
@

20' Easement

20' = drop
20' = pond

Joplin CT

Side

Side

Addition in
Question

NOTE: OUTFALL STORM DRAINS
AT CREEK. DO NOT CROSS
PROPERTY LINE. (217-124)
OUTFALL TO CITY STANDARDS.

3'3" Property Line

6' Property Line

Forest
Natural
Landscape

Back

LOT #12

Scale 1" = 25'

N

Subject: As shown on the plot plan there's 35 feet of grassy
From: John Anderson (andercraft@icloud.com)
To: vonnie3anderson@yahoo.com;
Date: Thursday, May 25, 2017 1:21 PM

As shown on the plot plan there's 35 feet of grassy unlandscaped backyard.
Blacktop driveway in front and north side of house and in front of existing shop .
House sits 75 feet away from shop.
Behind shop is wooded natural landscape forest.
Approximately 100 feet to property line behind addition in question.
Addition in question 2 x 6
8' walls. 16" on center Engineered trusses.
Over all height of the building 14'.

Addition in question does not interfere with any of my neighbors views it is tucked underneath the wooded area.
Building has been there since April 2009 painted to match the house pictures will show.
Addition in question is an extension of the existing shop.
The footprint of the addition 12'8" outside of concrete foundation to existing shop
Front to back outside of the foundation 28'
Plus the 3' x 4' closet space

I understand setbacks are 5' to property line on sides of property.
There is a 3' x 4' pop out as a closet that is 3'2" to the property line I would like a variance for that to
leave it as existing if not then I will remove that section so it is within the 5' setback guidelines
(Is not a living space)
Nor ever intended to be one

Sent from my iPhone



ATTACHMENT C

Christopher Green

From: epwhitehouse@comcast.net
Sent: Saturday, July 01, 2017 6:25 PM
To: Sally Long; Christopher Green
Cc: Alan Alexander
Subject: Re: Notice of Filing - Request for Comments: Case No. ADJ17-09 for 2249 Joplin Court S

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Green:

Thank you for giving us the opportunity to comment on this application.

1) The applicant did not come to any meetings of the Sunnyslope Neighborhood Association. We will not be meeting again in time for a Board vote on this application. We would have been glad to discuss this application if we had been given the opportunity to do so.

2) The site map attached to the application is confusing. It is not clear what accessory building is already in place, if any, or where an addition would be made to that accessory building. The clearest statement is in the Notice of Filing, which states that the maximum footage would be increased by from 1,000 to 1,400 square feet AND that the minimum rear yard set back would be reduced from 6 feet to 3 feet. A 40% increase in building size and a 50% reduction in setback are pretty significant deviations from the the standards set forth in SRC 511.

3) Why does the applicant want to increase the accessory building size by 40%? Does the applicant intend to conduct a commercial business from this property?

4) A previous neighbor, living directly south of this property, who has since moved, was very upset when the current shop building was constructed. It would seem to me that it would be hard to make a finding that the "proposed development will not detract from the livability or appearance of the residential area." There will be future neighbors when the property to the North is also developed.

5) "Wanting to be bigger" should not be the exclusive reason for granting a deviation from the standards. This property, approximately 0.46 acres in size, is almost exactly the same size of the property at issue in Spooner v City of Salem LUBA No. 2005-146 (0.48 acres), which was remanded.

Respectfully,

Evan White, Sunnyslope NA Land Use Chair

5)

From: "Sally Long" <SJLong@cityofsalem.net>
To: "Sally Long" <SJLong@cityofsalem.net>

Cc: "Christopher Green" <CGreen@cityofsalem.net>

Sent: Friday, June 23, 2017 2:31:08 PM

Subject: Notice of Filing - Request for Comments: Case No. ADJ17-09 for 2249 Joplin Court S

Good Afternoon,

The Notice of Filing and Request For Comments for Class 2 Adjustment Case No. ADJ17-09 is attached for your information. Comments are due by **5:00 p.m., July 7, 2017.** Hard copies go out in the mail today to those of you who are to receive one.

Application Summary: A request for adjustments to increase the allowable square footage and reduce rear yard setbacks for an accessory shop building at a single family residence.

Please direct questions or comments to the **CASE MANAGER:**

Chris Green, AICP, Planner II

CGreen@cityofsalem.net

503.540.2326

Regards,

Sally Long (Studnar)

Planning Staff

Sjlong@cityofsalem.net

503.540.2311

Christopher Green

From: epwhitehouse@comcast.net
Sent: Wednesday, July 05, 2017 7:40 PM
To: Christopher Green; Sally Long
Cc: Alan Alexander
Subject: Fwd: Notice of Filing - Request for Comments: Case No. ADJ17-09 for 2249 Joplin Court S

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Chris, since the deadline for comment is tomorrow at 5 PM, I'd appreciate knowing if you got my e-mail, and this additional comment.

Another area of concern with this application is the following:

6) Fire safety must be one of the reasons why the SRC sets accessory dwelling maximum size limits and also imposes setback requirements. These requirements seem particularly important for this property because Joplin Ct S. is a narrow one-way dead-end street. If a fire emergency occurred, the easiest access for the fire department probably would be to park on Joplin St. S, drag the hoses through one or more of the four neighboring properties to the South, and then cross over Joplin Creek in order to gain access to property in order to fight the fire.

Thanks, Evan White, Sunnyslope NA Land Use Chair

From: epwhitehouse@comcast.net
To: epwhitehouse@comcast.net
Sent: Saturday, July 1, 2017 6:30:02 PM
Subject: Fwd: Notice of Filing - Request for Comments: Case No. ADJ17-09 for 2249 Joplin Court S

From: epwhitehouse@comcast.net
To: "Sally Long" <SJLong@cityofsalem.net>, "cgreen" <cgreen@cityofsalem.net>
Cc: "Alan Alexander" <awa8025@aol.com>
Sent: Saturday, July 1, 2017 6:25:29 PM
Subject: Re: Notice of Filing - Request for Comments: Case No. ADJ17-09 for 2249 Joplin Court S

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