

Written Testimony # 2

City Council

Monday, December 9, 2019

6:00 PM

Council Chambers

4.a. [19-554](#)

Petitioner-Initiated Annexation of Territory Located at 4696 Center Street NE and 592 Hile Lane NE - 97301 (Annexation Case No. C-736)

Ward(s): 6

Councilor(s): Hoy

Neighborhood(s): ELNA

Recommendation:

1. Find that the Petitioners have signed a valid triple majority petition for annexation of the Territory, in conformance with Oregon Revised Statutes (ORS) Chapter 222;
2. Determine that Annexation Case No. ANXC-736 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2019-16 ANX (Attachment 2);
3. Change the Salem Area Comprehensive Plan (SACP) map designation of the southern part of the Territory (592 Hile Lane NE and Marion County Assessor Map and Tax Lot 072W29BC03801) from "Developing Residential" to "Multi- Family Residential";
4. Change the zoning of the Territory from Marion County UD (Urban Development) to City of Salem RM-II (Multiple Family Residential II); and
5. Withdraw the Territory from Marion County Fire District #1 and the East Salem Sewer and Drainage District.

Attachments:

[Vicinity Map](#)

[Order No. 2019-16 ANX Adopting the Final Decision](#)

[Planning Commission Recommendation on Land Use Designations](#)

[Fire Department Comments](#)

[Public Works Department Development Services Section Comments](#)

[Public Works Department Parks Comments](#)

[Finance Division Comments](#)

[Salem-Keizer School District Comments](#)

[Citizen Comments Received After the Planning Commission Hearing](#)

[Written Testimony received](#)

[Written Testimony received by 5:00 p.m. 12-9-19](#)

Add- Written Testimony.

5.b. [19-599](#)

Temporary permitted overnight emergency camping sites

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Safe Community

Recommendation:

Information Only.

Attachments:

[Eugene Rest Stop Salem Staff Visit Summary.pdf](#)

[Public Comment received](#)

[Revised Table](#)

[Public Comment received by 5:00 p.m. 12-9-19](#)

Add - Written Testimony.

Amy Johnson

From: Pamela Cole
Sent: Monday, December 09, 2019 4:28 PM
To: Amy Johnson; Ruth Stellmacher
Subject: Letter Responding to ELNA Letter [IWOV-PDX.FID4404807] - Testimony for 4696 Center St staff report ANXC-736 Legistar 19-554
Attachments: Center Street - 12.09.19 Letter to City of Salem Mayor and City Council.pdf
Importance: High

From: Hicks, Jane M. <JHicks@SCHWABE.com>
Sent: Monday, December 09, 2019 3:40 PM
To: Pamela Cole <PCole@cityofsalem.net>
Cc: Robinson, Michael C. <MRobinson@SCHWABE.com>; 'Bob@htipllc.com' <Bob@htipllc.com>; 'hans@htipllc.com' <hans@htipllc.com>
Subject: Letter Responding to ELNA Letter [IWOV-PDX.FID4404807]

Sent on behalf of Michael C. Robinson.

Dear Ms. Cole:

Attached is Michael Robinson's letter responding to ELNA's letter dated December 9, 2019.

Thank you,
Jane Hicks

Jane M. Hicks

Legal Assistant to Michael C. Robinson,
Garrett H. Stephenson, Thomas Griffin and Loren Snow
503-796-3746
jhicks@schwabe.com

Schwabe Williamson & Wyatt



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December 9, 2019

Michael C. Robinson

Admitted in Oregon

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VIA E-MAIL

Chuck Bennett, Mayor
City of Salem City Council
Salem City Hall
555 Liberty Street SE
Salem, OR 97301

RE: City of Salem File Annexation ANXC-736, 4696 Center Street NE and 592 Hile Lane NE

Dear Mayor Bennett and Members of the Salem City Council:

This office represents the Applicant. I am writing to respond to the December 9, 2019 letter by Susann Kaltwasser of the East Lancaster Neighborhood Association ("ELNA").

1. Introduction.

The Salem Planning Commission (the "Planning Commission") unanimously recommended approval of the annexation, Comprehensive Plan map and zoning map amendments to the City Council after two public hearings. The Planning Commission followed the staff recommendation of approval for the applications. No public agencies or departments found any deficiency in any public service, or found that the applicable approval criteria were not satisfied.

As an initial matter, the Applicant told the Planning Commission, that it will work with the surrounding property owners and ELNA to make sure that all questions are answered regarding the proposed development and that there is adequate opportunity for conversation between the Applicant, surrounding property owners and ELNA. The Applicant recognizes the importance of working with its neighbors and ELNA and will do so in this case.

2. Request.

These Applications request annexation from Marion County to the City of Salem, an amendment to the Salem Area Comprehensive Plan map designation from Marion County "Developing Residential" to "Multi-Family Residential" and a zoning map amendment to implement the Comprehensive Plan map designation from Marion County UD to City RM-II, contingent upon approval of the multi-family residential Comprehensive Plan map designation.

3. Applicant's final written argument.

Exhibit 1 to this letter is the Applicant's October 8, 2019 final written argument to the Planning Commission which addresses many of the issues before the City Council.

4. Response to ELNA's December 9, 2019 letter.

A. The City Council can find that the requested Comprehensive Plan map designation of "Multi-Family Residential" and implementing zoning map designation of "RM-II" are the most appropriate designations for this property based on the approval criteria in Salem Revised Code ("SRC") 260.060(c)(5)(A)-(D).

Salem Revised Code ("SRC") 260.060(c)(5)(A)-(D) provides approval criteria for annexations that propose a change in the Comprehensive Plan designation that is different from the equivalent designation in SRC Table 260-1. The Planning Commission's recommendation for approval to the City Council addressed these four criteria at Pages 15-20. Further, the Staff Report to the Planning Commission addressed these factors as well and found them satisfied, as did the Planning Commission.

The City Council can find that the criteria are satisfied for the requested Comprehensive Plan map and zoning map designations for the property to be annexed, keeping in mind that the northern part of the property, the part most immediately adjacent to the manufactured home park, is already designated "Multi-Family Residential" on the Salem Area Comprehensive Plan map.

B. The Planning Commission correctly found that the 2015 Salem Housing Needs Analysis ("HNA") shows a deficit of acreage and dwelling units for multi-family residential development.

ELNA asserts that the Planning Commission relied upon incorrect evidence to make its finding that SRC 260.060(c)(5)(C) (requiring a demonstration that, "social, economic or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate; . . .") is satisfied. The Planning Commission recommendation at Page 18 correctly found that the 2015 Salem Housing Needs Analysis (the "HNA") identifies a deficit of approximately 2,897 multi-family residential dwellings and 207 acres of land designated for multifamily residential development. In other words, even if the Applicant inadvertently switched the figures, the Planning Commission relied on the correct figures in the HNA.

The City Council can find that this standard is satisfied and that designating the entire area for multi-family development is appropriate because it addresses the City's deficiency in land area and dwelling units for multi-family residential housing, whereas the City has a surplus of land designated for single-family detached housing.

C. The City Council can find that the Planning Commission correctly found that SRC 260.060(c)(5)(C) is satisfied because of a change in social, economic or demographic patterns in the nearby vicinity.

The August 6, 2019 Staff Report to the Planning Commission at Pages 11 and 12 and the Planning Commission recommendation at Page 18 addressed this criterion and found it to be satisfied. ELNA argues that the criterion is not satisfied. Both the staff and the Planning Commission found that substantial evidence in the whole record demonstrated that this criterion has been satisfied.

The staff addressed this issue in the August 6, 2019 Staff Report to the Planning Commission at Pages 11 and 12 and concluded that the criterion was satisfied based on the City's HNA. The Planning Commission made the same finding and recommendation to the Salem City Council at Page 18.

The staff and the Planning Commission relied on the City's HNA. The City is required to follow the assumptions in data in its acknowledged Comprehensive Plan. *D.S. Parklane Development, Inc. v. Metro*, 165 Or App 1, 22, 990 P2d 1206 (2000). Because the City's HNA shows a shift in the City's social, economic or demographic patterns such the proposed Comprehensive Plan map designation is warranted, the City Council can rely on the HNA as the basis for this finding.

ELNA argues that the phrase "nearby vicinity" should be interpreted to be the 250-foot notice area radius. As the staff told the Planning Commission, this interpretation is far too narrow and is inconsistent with the City's prior interpretation.

The City Council can reject these arguments.

D. The City Council should not reject the acreage and dwelling unit needs identified in the City's HNA.

ELNA argues that the multi-family acreage and dwelling unit deficit should be ignored or reduced. However, as noted above, that is not possible because the City must rely upon its acknowledged land use documents.

E. The height of the proposed zone will not cause a lack of compatibility with the residents of the manufactured home park.

SRC 260.060(c)(5)(B) requires that "the Comprehensive Plan and zone designation is compatible with the development patterns in the nearby vicinity."

ELNA argues that the proposed Comprehensive Plan and zoning map designations will allow the height of the multi-family dwellings to be incompatible with the adjacent manufactured home park. The City Council can find that ELNA is incorrect for the following reasons.

The Applicant's October 8, 2019 final written argument to the Planning Commission addressed the issue of building height at Pages 5 and 6. The City Council can find, noting that the area immediately adjacent to the manufactured home park on the west is already designated for multi-family development in the Salem Area Comprehensive Plan, that development in the RM-II zoning district will not be incompatible with the manufactured home park. Contrary to ELNA's assertion, new dwellings to the west will not block sunlight.

Additionally, the Planning Commission findings for this criterion at Pages 16-18 addressed this issue and explained that while a fifty foot maximum height is allowed in the RM-II zoning district, a three-story building is likely to be thirty-five feet in height and even if this property were zoned single-family residential, the thirty-five feet maximum height in that zoning district will still be higher than the manufactured homes, so there is no difference in impact between a multi-family structure and a single-family structure. The Planning Commission recommendation, based on the August 6, 2019 Staff Report to the Planning Commission at Pages 10-12 explains in greater detail the height and setback relationship between the two zones.

Finally, the City Council can find that there is nothing inherently incompatible between multi-family residences and single-family residences. Because development of this site is subject to further public review of the development, and because the Applicant is committed to working with the neighbors, they have a further opportunity to comment on the building design.

Because of the setbacks of the manufactured home park dwellings on their own property, the setbacks of the proposed multi-family dwellings on the property to be annexed, and the fact that the buildings will likely be thirty-five feet in height, the City Council can note that even if this issue were relevant to compatibility, the proposed development of the property to the west of the manufactured home park (already designated for multi-family use in the Salem Area Comprehensive Plan) will not be incompatible with the manufactured home park.

F. The City Council can find that stormwater drainage on the property is acceptable and that the Applicant will conduct a wetland delineation on its property.

ELNA asserts that stormwater drainage is problematic in this area. The November 21, 2019 memorandum from Glenn J. Davis, PE, CFM, Chief Development Engineer, City of Salem Public Works Department, to the Salem Community Development Department notes that "the Water System Master Plan, Waste Water Management Plan, and Stormwater Management Plan provide the outline for facilities adequate to serve the proposed zone."

The Applicant agreed to conduct a wetland delineation for the property prior to development (**Exhibit 1 at Page 8**).

5. CONCLUSION.

For all of these reason, and based upon the Staff Reports to the Planning Commission and the Planning Commission recommendation to the City Council, the City Council can find that the approval criteria for annexation and the requested Comprehensive Plan map and zoning map

Chuck Bennett, Mayor
December 9, 2019
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designations are satisfied by substantial evidence in the whole record. The Applicant respectfully asks that the City Council follow the Planning Commission's unanimous recommendation and approve the requested actions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael C. Robinson", with a stylized flourish at the end.

Michael C. Robinson

MCR/jmhi
Enclosure

cc: Mr. Hans Thygeson (*via email*) (*w/enclosure*)
Mr. Bob Sanders (*via email*) (*w/enclosure*)
Ms. Pamela J. Cole (*via email*) (*w/enclosure*)

PDX\135076\250185\MCR\26785472.1

October 8, 2019

Michael C. Robinson

Admitted in Oregon

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mrobinson@schwabe.com

VIA E-MAIL

SUBMITTED ON OCTOBER 8, 2019 BEFORE 5:00 P.M.

Ms. Chane Greggs, President
Salem Planning Commission
Salem City Hall
555 Liberty Street NE
Salem, OR 97301

RE: City of Salem File No. CPC-ZC19-07 (the "Application") for the Property
Located at 4696 Center Street NE and 592 Hile Lane NE (the "Site"); Applicant's
Final Written Argument due on October 8, 2019 by 5:00 p.m.

Dear Ms. Greggs:

This office represents Center Street Holdings, LLC, the Applicant for the above-referenced Application. This letter is the Applicant's final written argument allowed under ORS 197.763(6)(e). This letter does not contain new evidence. The exhibits attached to this letter were in the record as of October 1, 2019.

1. INTRODUCTION.

A. Status.

The Salem Planning Commission (the "Planning Commission") allowed the public hearing to be reopened and the City provided the required notice for the continued public hearing on October 1, 2019. The Planning Commission, with a quorum present, conducted the public hearing and heard a Staff Report, the Applicant's presentation, testimony from opponents to the Application and the Applicant's rebuttal. No party asked that the public hearing be continued or the evidentiary record held open. The Planning Commission closed the public hearing and evidentiary record. The Applicant did not waive final written argument and the Planning Commission adopted a motion allowing the Applicant's final written argument to be submitted no later than Tuesday, October 8, 2019 at 5:00 p.m.

The Planning Commission will deliberate to a tentative decision on the Application at its public meeting on October 15, 2019 at 5:30 p.m.

Exhibit 1

Page 1 of 13

B. Cooperation with neighbors and the East Lancaster Neighborhood Association (“ELNA”).

The Applicant shares the Planning Commission’s recognition of the importance of responding to neighbors and ELNA testimony. Notwithstanding that the neighbors and ELNA oppose this Application, the Applicant commits to continue to reach out to the neighbors and ELNA when it submits its Site Plan Review (“SPR”) Application pursuant to Salem Revised Code (“SRC”) Chapter 220 and its Design Review (“DR”) Application pursuant to SRC Chapter 225. The Applicant has noted the issues raised and will address them in the SPR and DR Applications. As explained throughout this letter, many of the issues that the neighbors and ELNA are concerned about are appropriately addressed in the SPR and DR Applications and not in this Application.

C. Staff Reports.

The Salem Planning Department issued two staff reports, the first for the initial evidentiary hearing on August 6, 2019 and the second for the continued public hearing on October 1, 2019. The Applicant agrees with the findings and the recommendations for approval contained in the Staff Reports.

D. Applicant’s letters.

The record contains three letters from the Applicant responding to testimony by the neighbors and ELNA dated August 20, 2019, August 27, 2019 and September 27, 2019. This final written argument addresses the major issues raised throughout the hearing, written testimony received after September 27, 2019 and oral testimony received at the October 1, 2019 continued public hearing.

E. Applicant’s request.

Based on the staff reports and the oral and written argument and substantial evidence submitted by the Applicant demonstrating compliance with the applicable approval criteria for the annexation application and the Comprehensive Plan map and zoning map amendments, the Applicant respectfully requests that the Planning Commission follow the Planning Department’s recommendation and recommend approval of the annexation application to the Salem City Council and approve the Comprehensive Plan map and zoning map amendment Application.

2. MAJOR ISSUES RAISED IN THIS APPLICATION.

This part of the final written argument addresses the major issues raised in this proceeding. Each major issue identified and is followed by the Applicant’s response.

A. Appropriateness of multi-family residential development on the Site.

The most important issue to the neighbors and ELNA appears to be whether a multi-family residential development is appropriate on this Site. The staff reports have analyzed this issue and have concluded that the answer is “yes.” The Applicant agrees with the staff reports. The Planning Commission can reach the same conclusion for the following three reasons.

First, the north two parcels (Tax Lots 3100 and 3200) are already designated for Multi-Family Residential on the Salem Area Comprehensive Plan (the “Plan”) (August 6, 2019 Staff Report at Page 2 and 9). Only the two south parcels (Tax Lots 3600 and 3801) are subject to an amendment to the Plan and zoning map designations (August 6, 2019 Staff Report at Page 2 and 9).

Second, the August 6, 2019 Staff Report at Page 10 explains why this areas is suitable for multi-family residential development, including access to transit, schools, waste collection and disposal, commercial services and recreation areas. The public infrastructure providing for water, sanitary sewer, public storm and transportation is adequate to serve the proposed development. The August 6, 2019 Staff Report at Page 10, Staff Report Attachment C, July 1, 2019 City of Salem Public Works Department Memorandum states: “The proposed development meets applicable criteria related to Public Works infrastructure,” and that: “The water, sewer and storm infrastructures are available within the surrounding streets/areas and appear to be adequate to serve the proposed development. Site-specific infrastructure requirements will be addressed in the Site Plan Review process in SRC Chapter 220,” and finally that: “The Assistant City Traffic Engineer concurs with the TPR analysis findings that the proposed change will not have a significant impact on the existing transportation system.”

Finally, the Planning Commission can note the configuration of the four parcels subject to this Application (Applicant’s Drawing P1 (**Exhibit 1**)). The four parcels connect to Center Street NE, a Major Arterial Street. Pursuant to the Marion County Public Works Department comment, all vehicular access from the four parcels will be to Center Street NE. Because of the configuration of the four parcels, only two buildings on the Site are likely to abut only three of the manufactured home park lots (Applicant’s Drawing P6.1 (**Exhibit 2**)). The majority of the abutting lots in the manufactured home park will be adjacent to the Site’s driveway and parking spaces but not buildings.

While the conceptual site plan is not before the Planning Commission for approval, the conceptual site plan demonstrates that the Site can accommodate the number of dwelling units and density allowed in the proposed Plan map and zoning map designations and will be constructed on the property so as to have the least impact on the adjacent manufactured home park.

The Planning Commission can find based on argument and evidence in the record that the Site is appropriately designated for multi-family residential development.

B. Compatibility.

Much of the testimony concerned whether the proposed development will be compatible with the manufactured home park. Staff correctly pointed out in the September 24, 2019 Staff Report at Page 3 why the proposed density will be compatible with the nearby uses.

Multi-family residential density adjacent to single-family residential development is not inherently incompatible. Compatibility, as explained below, is based on a number of factors. Were differing abutting densities inherently incompatible, it would be almost impossible to accommodate the variety of needed housing types in the City.

Many of the issues related to density also relate to compatibility. The August 6, 2019 Staff Report at Pages 10-11 addresses Annexation Criterion 2 ("Whether the Comprehensive Plan and zone designation is compatible with development patterns in the nearby vicinity"). The Staff Report correctly explains why the proposed Plan and zoning map designations are compatible with the development patterns in the nearby vicinity, not just the manufactured home park, which is only one part of development in the nearby vicinity. Because the north two parcels abutting the west side of the manufactured home park are already designated for Multi-Family Residential development in the Plan, the zoning map designation must implement that Plan map designation. Only the south two parcels are subject to a new Plan designation.

The density allowed by the proposed Plan and zoning map designations are mitigated by the requirement for internal open space (September 24, 2019 Staff Report at Page 3), by required building setbacks (September 24, 2019 Staff Report at Pages 2 and 3) and because the height of the proposed buildings will be about the same as the maximum building height allowed in the Residential Agriculture ("RA") and Single-family Residential ("RS") zoning districts (thirty-five feet maximum height in those zoning districts and the proposed three story buildings will not exceed thirty-five feet in height) (September 24, 2019 Staff Report at Page 2).

The multi-family zoning allows only fifty-percent lot coverage by buildings, whereas the RS zoning district allows sixty percent coverage (September 24, 2019 Staff Report at Page 3).

The density of the proposed zone is comparable to the RA and RS zoning districts, considering the allowance of accessory dwelling units (August 6, 2019 Staff Report at Page 11).

The Planning Commission can find that the north two parcels are designated for multi-family residential development, the south two parcels will abut only the two southwestern lots in the manufactured home park, the conceptual site plan proposes that the majority of buildings will be located *away* from the manufactured home park and that open space, setbacks, lot coverage and height requirements will reduce the impact of the additional density on the manufactured home park (August 6, 2019 Staff Report at Pages 8 and 11).

Evidence in the record, especially the oral testimony of the Applicant at the October 1, 2019 continued public hearing, demonstrates that the Applicant has a history of good management of similar multi-family projects and there is no reason to believe that this property

will be an exception. The concern about the behavior of future residents in the multi-family dwellings is speculative, not relevant to the approval criteria and is contrary to the testimony of the Applicant, which has a long history of developing multi-family projects, based on the October 1, 2019 oral testimony.

The Planning Commission can find based on argument and evidence in the record that the proposed Plan map and zoning map designations will be compatible with development patterns in the nearby vicinity, including the manufactured home park.

C. Landscaping and fencing buffers.

Much of the testimony requested a landscaping and fence buffer between the Site and the manufactured home park. The September 24, 2019 Staff Report at Page 3 explains the requirements for landscaping and fence buffers for this development where it abuts RA and RS zoned property, including a minimum of one tree, not less than 1.5 inches in caliper, for every thirty linear feet of abutting property width and a minimum of six-foot tall, decorative, sight-obscuring fence or wall constructed of commonly-used materials for fences and walls.

The Planning Commission can find that the future SPR and DR Applications must comply with mandatory landscaping and fencing buffer requirements in the SRC. The Applicant commits to meeting with the neighbors and the ELNA to discuss how best to implement these buffer requirements.

D. Building height.

The September 24, 2019 Staff Report at Page 2 and the August 6, 2019 Staff Report at Page 8 describe the height of the proposed development. As Staff correctly points out, the future buildings will likely not be more than three stories in height, which is no greater than the thirty-five maximum height allowed in the RA and RS zoning districts.

Some witnesses argued that if the Application was approved the development would cause the loss of “sunlight and privacy” for the manufactured home. This is incorrect.

Center Street NE is located to the north of the manufactured home park and the Site. This Site is located to the west of the manufactured home park (Application Drawing P1). This means that this Application will not affect the sunlight received from the south. For the three manufactured home park dwellings located to the north of the two south parcels, the building setbacks, combined with the Site’s building setbacks, will minimize the impact of the Site’s buildings on the manufactured home park’s sunlight.

The Planning Commission can note that Applicant Drawing P1 shows that Royalty Court NE in the manufactured home park runs almost the entire length of the western border of the manufactured home park, which means that the manufactured home park dwellings are separated from the Site by the width of their own setbacks, the width of Royalty Court NE and the setbacks required for the Site’s buildings.

The Planning Commission can find that none of the abutting properties will lose sunlight or privacy. Privacy will be assured by the required landscaping and fence buffers and the fact that there is no pedestrian or vehicular connection between the properties. Each manufactured home will continue to receive sunlight because much of the Site area abutting the manufactured home park will not contain buildings and for the three lots at the southwest corner of the manufactured home park which will be near two of the proposed buildings, the existing setbacks from those dwellings combined with the Site's building setbacks will assure that the manufactured home park lots will not be in shadows.

The Planning Commission can find based on argument and evidence in the record that the Site's building height will not interfere with sunlight or privacy in the manufactured home park and the Site's buildings will likely be no greater than the maximum height allowed in single-family residential zoning districts.

E. Public infrastructure.

The Planning Commission can find that the Application demonstrates that public and private facilities and services are adequate to serve the proposed development.

First, the July 1, 2019 Public Works Memorandum demonstrates that all infrastructure, including transportation, storm drainage, water, and sanitary sewer, is expected to be adequate to serve the proposed multi-family development. Second, the August 6, 2019 Staff Report at Pages 6 and 7 describes the public and private agencies that received a request for comments on the Application from the City and their responses. None of the responding agencies, other than ELNA, objected to the Application.

While the Planning Department did not request a response from the Salem Police Department, the August 6, 2019 Staff Report explained: "If the property is annexed, it would be under the jurisdiction of the Salem Police Department. Theft or other illegal activities is a police matter and should be addressed by the Salem Police Department, which would have law enforcement jurisdiction over the subject property and vicinity. Approval criteria for a Comprehensive Plan change and zone change concurrent with annexation do 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 subject property would exceed what would otherwise occur from any of legal development of property within the City." (August 6, 2019 Staff Report at Pages 8 and 9.)

The Planning Commission can find based on argument and evidence in the record that public and private services and facilities serving the Site will be adequate.

F. Transportation.

The transportation testimony fell into one of two categories: either requesting that a Transportation Impact Analysis ("TIA") be prepared, or asserting that streets will be inadequate

to support development with the proposed Plan and zoning map amendments. The Planning Commission can find that both questions are answered in favor of the Application.

First, the record contains a technical memorandum dated December 27, 2018 by Branch Engineering that addresses the requirements of OAR 660-012-0060(1) and (2), the Oregon Transportation Planning Rule (the “TPR”). The TPR applies to amendments to acknowledged Comprehensive Plan and zoning maps and requires that the Applicant demonstrate that there will be no “significant affect” by the proposed Application on surrounding streets. The six-page memorandum addresses the requirements of the TPR and concludes that the TPR is satisfied because:

“ . . . [A]pproval of the proposed zone change and Comprehensive Plan amendment . . . will not result in a significant affect on existing or planned transportation facilities in the current year or at the end of the year 2035 planning horizon year identified in the current adopted City of Salem Transportation System Plan.” (Memorandum at Page 6.)

Second, the City of Salem Public Works Department reviewed the Applicant’s TPR memorandum and concluded in its July 1, 2019 Memorandum at Page 3:

“The TPR analysis demonstrates that the proposed CPC/ZC will not have a significant [a]ffect on the transportation system as defined in OAR 660-012-0060. The Assistant City Traffic Engineer concurs with the TPR analysis findings that the proposed change will not have a significant impact on the existing transportation system.”

The Planning Commission can find based on argument and evidence in the record that the TPR is satisfied and that transportation facilities will not be adversely affected by the proposed multi-family residential development.

G. Conclusion.

The Planning Commission can find that the major issues, to the extent they relate to applicable approval criteria, can be resolved in favor of the Application. Those issues related to Site and building design are appropriately addressed at the SPR and DR Application stage.

**3. RESPONSE TO WRITTEN AND ORAL TESTIMONY RECEIVED SINCE
ISSUANCE OF SEPTEMBER 24, 2019 STAFF REPORT.**

A. Written testimony.

a. Two emails dated October 1, 2019 from Mr. Douglas Debber.

i. Landscaping requirement. Mr. Debber submitted the landscaping requirements found in SRC Chapter 807. To the extent these landscaping requirements are mandatory, the Applicant will adhere to them in the SPR and DR Applications.

ii. Crime. The August 6, 2019 Staff Report at Pages 8 and 9 appropriately responds to this issue.

iii. Loss of sunlight and privacy. As noted above, the SPR and DR Applications will meet the landscaping and fence buffer requirements and appropriate setbacks will assure that sunlight and privacy will not be lost, especially at Mr. Debber's home, which will be at least one hundred feet from the nearest building on the Site.

B. Oral testimony at the October 1, 2019 public hearing.

a. Testimony by Ms. Suzanne Kaltwasser.

i. Density. Ms. Kaltwasser raised the issue of density. The August 6, 2019 Staff Report at Page 11 explains that with the inclusion of accessory dwelling units ("ADUs"), the RA and RS zoning districts would have about the same density as will the proposed Plan and zoning map designations.

ii. Height. Ms. Kaltwasser raised the issue of height. As explained in the August 6, 2019 Staff Report at Page 8, because the Applicant said it will build three story buildings, the multi-family buildings will be about thirty-feet to thirty-five feet high, no more than the maximum height in the RA and RS zoning districts.

iii. Wetlands. There is no evidence that this Site contains any wetlands but the Applicant will conduct a wetland study with the SPR and DR Applications.

iv. "Character" of the neighborhood. Ms. Kaltwasser argued that the phrase "character" is ambiguous and the City must interpret it. First, none of the applicable approval criteria use the term "character" and Ms. Kaltwasser did not cite to an applicable approval criterion. It is possible that she meant Annexation Criterion 2 found in the August 6, 2019 Staff Report at Page 10,

which requires the Application to be compatible with development patterns in the vicinity. The Staff Report appropriately addresses that issue and explains why this proposed development will be compatible with the development patterns in the vicinity, not just the manufactured home park.

Ms. Kaltwasser may also have been referring to the “public interest” standard found in Annexation Criterion 4 in the August 6, 2019 Staff Report at Pages 10 and 12-14. The August 6, 2019 Staff Report appropriately explains why the public interest is served by the Planning Commission’s approval of the Plan map and zoning map changes.

v. Interpretation of ambiguous phrases. Ms. Kaltwasser argued that several approval criteria are ambiguous and must be defined. Relevant case law by the Oregon Land Use Board of Appeals (“LUBA”) allows the City to interpret ambiguous phrases in its final land use decision.

vi. Loss of views. Ms. Kaltwasser argued that the adjacent manufactured home park will lose its views. As explained above, this will not be the case but, in any event, no applicable approval criterion requires an analysis of the impact on views.

b. Testimony by Mr. Douglas Debber.

i. Loss of views and privacy. This Application will not cause loss of views or privacy but even to the extent those factors are adversely impacted, no relevant approval criteria are applicable to these issues.

ii. Applicant’s contact with Mr. Debber. Mr. Debber’s oral and written testimony explained that the Applicant’s representatives had spoken to him at his house and that he declined to sign the petition offered to him. Mr. Thygeson explained at the October 1, 2019 continued public hearing why his representatives sought to speak with Mr. Debber. To the extent that Mr. Debber was offended by the request to discuss the Application, the Applicant has apologized to Mr. Debber. However, this issue is not relevant to an approval criterion.

c. Testimony by Ms. Patricia Mick.

i. Owner-occupied townhomes. Ms. Mick argued that the Applicant should propose owner-occupied townhomes. The August 6, 2019 Staff Report at Page 12 explains the City’s significant multi-family housing deficit. The August 6, 2019 Staff Report, Attachment B, Application Page 9 explains that the City has a 2,800 deficit of multi-family zoned land.

ii. **Different building layout.** Ms. Mick argued that the Application should propose a different building layout. The August 6, 2019 Staff Report at Page 10 explains that the conceptual site plan is not before the Planning Commission for approval. The Applicant commits to speaking with the neighbors again about the proposed Site development.

iii. **Traffic.** Ms. Mick argued that neither the Applicant nor the City have adequately studied the traffic impact of this Application. The record contains the TPR Analysis prepared by the Applicant and the City's concurrence with the Applicant's TPR analysis.

4. CONCLUSION.

The Applicant appreciates the testimony by its neighbors and ELNA and understands their views. The Application and the Staff Reports demonstrate how the applicable approval criteria are satisfied by substantial evidence. None of the opponents' testimony demonstrates that the Applicant has failed to satisfy the applicable approval criteria by substantial evidence.

The Planning Commission can find that the applicable approval criteria are satisfied. The Applicant respectfully requests that the Planning Commission recommend approval of the annexation application to the Salem City Council and that it approve the Comprehensive Plan map and zoning map amendment Application.

Very truly yours,



Michael C. Robinson

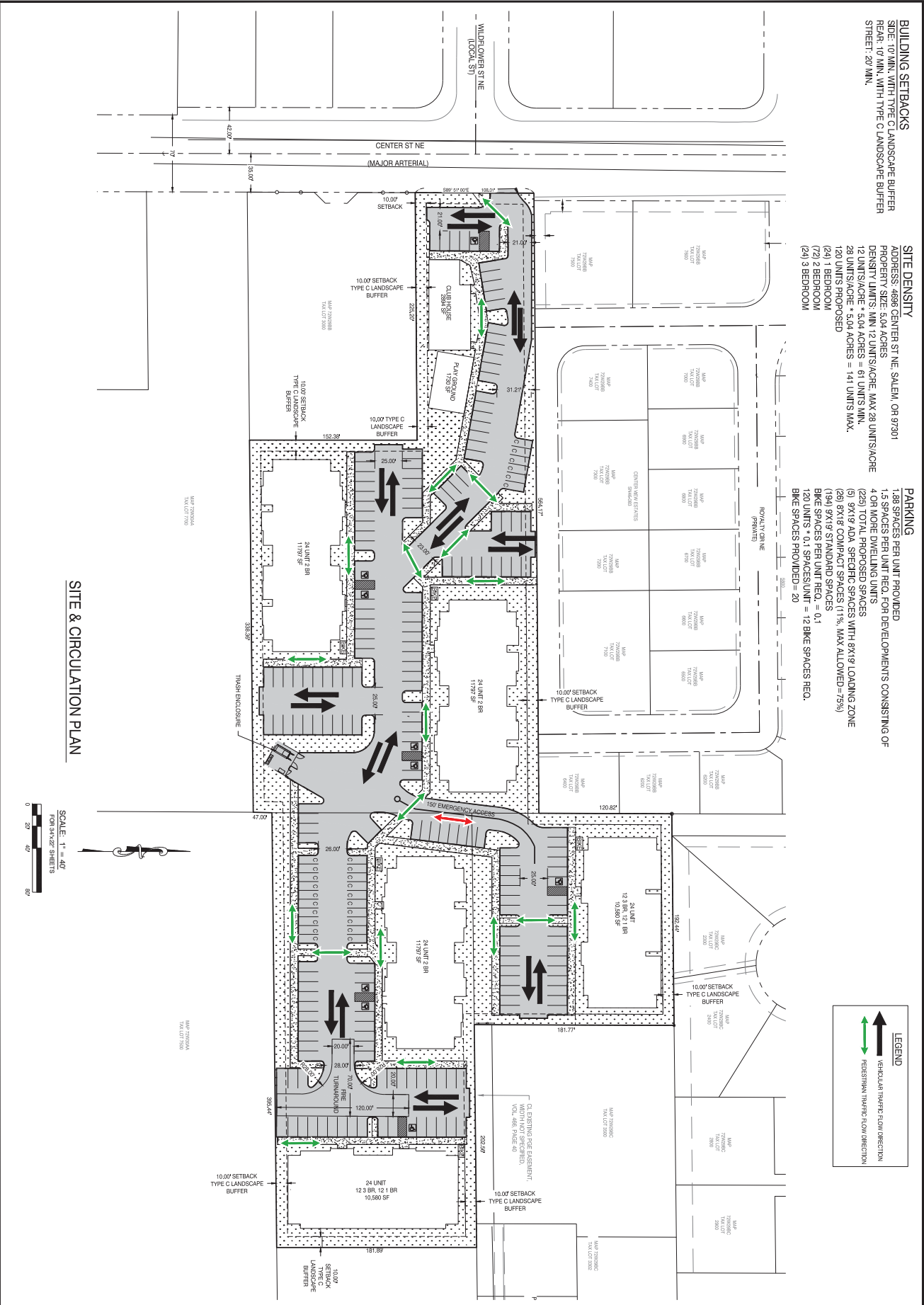
MCR/jmhi
Enclosures

Cc Mr. Hans Thygeson *(via email) (w/enclosures)*
Mr. Bob Sanders *(via email) (w/enclosures)*
Ms. Pamela Cole *(via email) (w/enclosures)*
Ms. Kristen Straus *(via email) (w/enclosures)*

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EXHIBITS

- Exhibit 1** Applicant's Drawing P1
- Exhibit 2** Applicant's Drawing P6.1



BUILDING SETBACKS
SIDE: 10' MIN. WITH TYPE C LANDSCAPE BUFFER
REAR: 10' MIN. WITH TYPE C LANDSCAPE BUFFER
STREET: 20' MIN.

SITE DENSITY

ADDRESS: 4696 CENTER ST NE, SALEM, OR 97301
PROPERTY SIZE: 5.04 ACRES

DENSITY UNITS: MIN 12 UNITS/ACRE, MAX 28 UNITS/ACRE
12 UNITS/ACRE * 5.04 ACRES = 61 UNITS MIN.

28 UNITS/ACRE * 5.04 ACRES = 141 UNITS MAX.
120 UNITS PROPOSED

(24) 1 BEDROOM

(72) 2 BEDROOM
(24) 3 BEDROOM

PARKING
4.88 SPACES

1.88 SPACES PER UNIT PROVIDED
1.5 SPACES PER UNIT REQ. FOR D

4 OR MORE DWELLING UNITS
(225) TOTAL PROPOSED SPACES

(26) 8'X18' COMPACT SPACES (11% MAX ALLOWED=75%)

(194) 9'X19' STANDARD SPACES

$$120 \text{ UNITS} \times 0.1 \text{ SPACES/UNIT} = 12 \text{ BIKE SPACES REQ.}$$

BIKE SPACES PROVIDED = 20

LEGEND

VEHICULAR TRAFFIC FLOW DIRECTION
↓
PEDESTRIAN TRAFFIC FLOW DIRECTION

SITE & CIRCULATION PLAN

SCALE: 1" = 40'
FOR 34"x22" SHEETS

JOB NO.	18-180
DRAWN BY:	AJH
DRAWING:	P6.1

SHEET TITLE:

**PROPOSED
CONCEPTUAL
PLAN**

PROJECT:
CENTER STREET APARTMENTS

PROJECT LOCATION:
SALEM, OREGON

CLIENT:
HTI INVESTMENTS LLC

H.A. M^cCOY
ENGINEERING & SURVEYING, LLC
1110 SW Lake Blvd, Suite 201 Redmond, OR 97756
Hayes McCoy
PR, PLS, CWRE
541-623-7554 hayes@ham-engr.com

DRAWING STATUS:	DATE:	No.	REVISION:	DATE
<input checked="" type="checkbox"/> SITE PLAN	03/21/19	<input type="text"/>		
<input type="checkbox"/>		<input type="text"/>		
<input type="checkbox"/>		<input type="text"/>		
<input type="checkbox"/>		<input type="text"/>		
<input type="checkbox"/>		<input type="text"/>		
<input type="checkbox"/>		<input type="text"/>		
		<input type="text"/>		



Amy Johnson

From: Lynelle Wilcox <lynelle@comcast.net>
Sent: Monday, December 09, 2019 3:32 PM
To: Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder
Subject: Testimony for 12/9 City Council meeting: Shelter bed space is RARELY available

On page 5 of the staff report, in the Other Considerations section, the report states that “ Existing shelters report they have space available on most nights.”

As a homeless advocate who often assists people who are trying to get into shelters, that has not been my experience. Most people have needed to call or show up daily and see when a bed is available. A bed is rarely available immediately - it usually takes days or weeks of checking. Yet in case my experience is the exception and not the rule, I called the mens Union Gospel Mission and the women’s Shelter Simonka house. I spoke with Sean at the UGM administration office for data on the men’s mission, and with Dede at Simonka house.

Simonka House has beds for 90 women and children. As of today, they have 70 women and 27 kids staying there. They have space for up to 25 mats, offered on an emergency basis, when weather is 32 degrees or below. Emergency shelter is from 8pm to 8am. They are full on a daily basis. They turn away 150 women each month.

UGM men’s mission has beds for 150. They have space for up to 48 mats, offered nightly in the winter. They’re at capacity almost every evening.

I wasn’t able to reach anyone at Salvation Army, yet I am in the area often and they post bed availability each day in their food bank office window. It is rare that they indicate any openings, yet when they do, it is an opening for one man, or one woman, or one of each. That posting is rare. Usually the numbers reflect no beds available. It often takes weeks for someone to get into Salvation Army.

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As far as warming centers, First Presbyterian has the highest capacity of 87 - 78 mats plus 8 people sitting. It is often filled to capacity.

Church at the Park can take overflow if there are enough volunteers to open that site. They tend to have many people who sleep in their cars and come inside for warmth and hot beverages and rest rooms.

Capitol Park and Friends Church can take overflow when there are enough volunteers to open both sites. I believe they each have a capacity of 56 guests. It is common not to have enough volunteers to open all sites.

♥♥. \*..\*.. ♥. \*.. ♥\*..\*..\*.. ♥\*..\*..\*.. ♥♥. \*..\*.. ♥♥. \*..\*.. ♥♥

the highest art is the art of living an ordinary life in an extraordinary manner.

and...

with our thoughts, we make the world.

♥♥.\*\*\*.♥.\*\*\*♥\*.\*\*\*♥\*.\*\*\*.♥♥.\*\*\*.♥♥.\*\*\*.♥♥