

# CITY OF SALEM

## Written Testimony #1

### City Council

555 Liberty St SE  
Salem, OR 97301

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**Monday, August 10, 2020**

**6:00 PM**

**Virtual Meeting**

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**3.3 b. [20-303](#)**

Broadway Street NE at Pine Street NE Signal, Street, and Intersection Improvements—Intergovernmental Agreement No. 32964 for Right-of-Way Services.

Ward(s): 1, 5

Councilor(s): Kaser, Ausec

Neighborhood(s): Highland

Result Area(s): Safe, Reliable, and Efficient Infrastructure

**Recommendation:**

Authorize the City Manager to execute the Intergovernmental Agreement with the Oregon Department of Transportation for Right-of-Way Services for the Broadway Street NE at Pine Street NE Improvements Project (Attachment 1).

**Attachments:**

[IGA for ROW Services No 32964](#)

[Vicinity Map](#)

[Public Comment received 8-10-20.](#)

*Add- Written Testimony.*

**4. a. [20-260](#)**

City Council review of the Planning Administrator's decision for Class 3 Site Plan Review Case No. SPR20-19 for property located at 725 Market Street NE.

Ward(s): Ward 1

Councilor(s): Kaser

Neighborhood(s): Grant Neighborhood Association

Result Area(s): Welcoming and Livable Community

**Recommendation:**

Staff recommends that the City Council affirm the Planning Administrator's decision for Class 3 Site Plan Review Case No. SPR20-19.

**Attachments:**

[Vicinity Map and Site Plan](#)

[Grant Neighborhood Association Appeal](#)

[Planning Administrator Decision for Case No SPR20-19](#)

[Public Comments received by 8-10-20](#)

*Add - Written Testimony.*

**5. a. [20-295](#)**

Extension of the declaration of state of emergency related to the COVID-19 Pandemic

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Safe Community;

**Recommendation:**

Adopt resolution no. 2020-36, extending the declaration of a state of emergency within the city of Salem related to the COVID-19 Pandemic through January 12, 2021.

**Attachments:**

[Resolution No. 2020-36](#)

[Public Comment received 8-10-20](#)

*Add - Written Testimony.*

**5. b. [20-297](#)**

Extension of the Emergency Declaration related to unsheltered residents

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Safe Community; Welcoming and Livable Community.

**Recommendation:**

Adopt Resolution No. 2020-37 extending the declaration of emergency until January 12, 2021 to continue the vehicle camping pilot program.

**Attachments:**

[RESOLUTION extending unsheltered emergency declaration](#)

[Public Comments received 8-10-20](#)

*Add - Written Testimony.*

**5. c. [20-315](#)**

Motion from Councilor Nordyke requesting additional information on two potential trail connections between Candalaria and Fairmount neighborhoods.

Ward(s): 7

Councilor(s): Nordyke

Neighborhood(s): SCAN, SWAN, and Sunnyslope

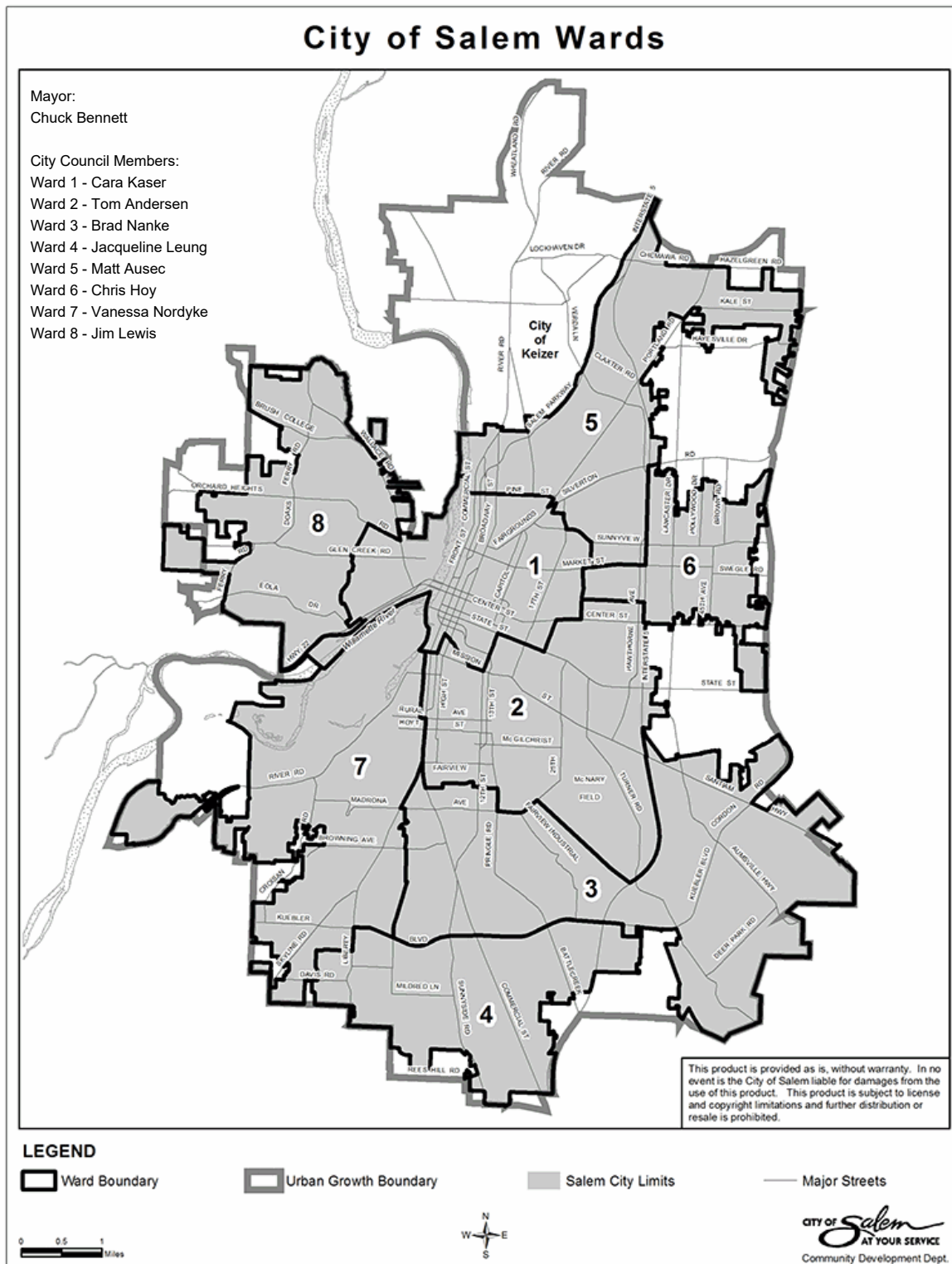
Result Area(s): Welcoming and Livable Community.

**Attachments:**

[20-223 June 22 2020 Staff Report](#)

[Public Comments received](#)

*Add- Written Testimony.*



## Amy Johnson

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**From:** Gary Obery <garyobery1@gmail.com>  
**Sent:** Monday, August 10, 2020 10:24 AM  
**To:** CityRecorder  
**Subject:** RE: Council Mtg agenda: Item 3.3b - Broadway Street project

Salem City Council,

I am writing to express my concern with the plans to construct an added right turn lane on northbound Broadway Street at Pine Street. I believe that the volumes, impact to Josey's parking lot, and degraded pedestrian safety for people who live and work in this area do not justify the small increase in traffic capacity offered by the right turn lane. As a former resident of this neighborhood and as a traffic engineer who deals with street design (and ped safety in particular) in my professional life, I feel qualified to say that this right turn lane is not needed and that it does more harm to the neighborhood than good. The negative impacts of the right turn lane include:

- less space for Josey's Café, significant impacts to parking lot
- less space for trees, sidewalks, benches, etc that might otherwise be built
- more impermeable surface and higher storm water runoff flows
- Higher speeds for northbound thru and right turning vehicles which is a hazard for bicyclists and pedestrians
- The right turn lane works counter to the goals for pedestrian safety and neighborhood cohesiveness of the ped safety project just ~3 blocks away at Pine & Maple.
- The right turn lane encourages more traffic on Broadway and on Pine. Trips destined to Keizer or I-5 should use Liberty Street instead of Broadway.
- The right turn lane pits the livability of the Highland neighborhood against the mobility of folks living outside the neighborhood if not outside of Salem.

Additional reasons that the northbound right turn lane should not be constructed include:

- My traffic analysis shows that even without the added right turn lane, the intersection will operate under the maximum volume-to-capacity ratio of 0.90 specified in the Salem TSP.
- Traffic volumes peaked on Broadway Street in 1999. Without additional lanes further south on Broadway, there is no way for traffic volumes on Broadway up at Pine to increase significantly. The flow on northbound Broadway is limited by the left turns at Hood St.
- Overbuilt streets and intersections offer no economic advantage for a city, even when the projects are largely constructed with state or federal dollars. Overbuilt streets are associated with inefficient land use, higher crash rates, lower property values, lower tax revenue, and higher maintenance costs.

Sincerely,  
Gary R. Obery, P.E.  
1610 Winter St SE, Salem

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**From:** Obery Family [mailto:oberyfamily@comcast.net]  
**Sent:** Sunday, August 9, 2020 6:52 PM  
**To:** 'Gary Obery' <garyobery1@gmail.com>; angela.heritageschool@gmail.com  
**Subject:** Council Mtg

Please submit comments on agenda items by 5:00 p.m., or earlier, on the day of the meeting at [cityrecorder@cityofsalem.net](mailto:cityrecorder@cityofsalem.net).

Public comment and testimony may also be provided during the meeting via Zoom at this link: <https://www.cityofsalem.net/Pages/Public-Comment-at-Salem-City-Council-Meeting.aspx>

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## Amy Johnson

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**From:** Carol DeCoursey <cdecoursey@gmail.com>  
**Sent:** Monday, August 10, 2020 3:14 PM  
**To:** citycouncil; CityRecorder  
**Subject:** Personal testimony on Site Plan Review Case # SPR 20-19  
**Attachments:** Cottage St Tree Removal Appeal.pdf

I am appealing to the Salem City Council to review and stay Permit SPR 20-19. The permit was granted on the basis of incorrect information. Here is a summary of what I found. There may be other errors, too.

1. The notice/permit states, "[T]he proposed construction [is] to expand the existing bus pull-through." This is incorrect. There is NO bus traffic and no "existing bus pull-through" on Cottage Street. This construction would be new construction for a new operation, not a modification to an existing operation.
2. The notice/permit states, "[T]he proposed construction [would] expand the ... on-street parking area." This is incorrect. This construction would repurpose a long section of the parking curb on the east side of Cottage, reserving it for bus pick-ups and drop-offs; it would remove 7 to 9 parking spaces in a neighborhood that has terrible parking problems already documented by the City. Since the school currently has only 8 spaces on-site and 19 classrooms, loss of those parking spaces will be a great loss to the staff in the school and the local residents.
3. The notice/permit states that all five trees to be removed are Halka Zelkova. This is incorrect. Only one of the five is a Halka Zelkova tree.
4. The notice/permit states that all five trees are less than 6" in diameter. This is incorrect. In fact, according to Diameter at Breast Height (DBH) methodology, four of the five trees are greater than 6" in diameter. The DBH method measures the trunk circumference of the tree at 48 inches from the ground, divides circumference by Pi (3.14), and rounds up to yield the measurement. The DBH measurements of those trees are 11 inches, 7 inches, 7 inches, and 6 inches. (See attached letter to Public Works Dept. for more detail.)
5. The notice/permit states, "The trees proposed for removal meet the criteria described in SRC 86.090(a)(8) because there are no reasonable alternatives available to accommodate the proposed construction ..." This is incorrect and somewhat misrepresents the applicable clause of the SRC. That clause states, "The Director may permit the removal of a City tree due to construction if there is no reasonable alternative." And that is the end of the sentence, leaving open the scope of the project that may be reconsidered. The Neighborhood Association has presented to the District and to the City several "reasonable alternatives" to a new bus pullout on Cottage Street that WOULD NOT require removal of those trees. I implore the City Council to consider those alternatives now -- some of which are far less expensive!
6. Removal of those trees goes against the Urban Tree Canopy Assessment of 2010 (UTC), which mandated the planting and preservation to create
  1. increased property worth,
  2. pollutant removal,
  3. stormwater runoff reduction,
  4. carbon sequestration, and
  5. energy savings.

7. Removal of those trees goes against TITLE VII (PERMITS, STREETS, AND PUBLIC WAYS), Section 86 (Trees on City-owned Property), Sec. 86.005 (Purpose) in three ways:
  1. Fewer trees will mean higher car speeds on Cottage Street
  2. The loss of street trees can lead to increased crime in a neighborhood that has been overcoming crime. *"Green Cities, Green Health" 2018, Urban Forestry/Urban Greening Research, USDA Forest Service and University of Washington.*

Because of these many errors, I assert that the permit was granted on incorrect information, and that if the correct information were considered, the permit would not be granted. I therefore beg the city to suspend this permit until all of the correct information is considered and the alternatives fully explored.

Carol DeCoursey  
740 Shipping St  
Salem, Oregon 97301  
Carol: 425-269-9630

# GRANT NEIGHBORHOOD ASSOCIATION

SALEM

OREGON

July 15, 2020

Jennifer Scott  
City of Salem, Public Works Department  
555 Liberty ST SE, Room 325  
Salem, OR 97301-3513

Re: **STREET TREE REMOVAL PERMIT APPLICATION NO. 20-108586-TR**  
**Grant Neighborhood - Grant Community School**

Dear Ms. Scott and Public Works Department,

This letter and accompanying filing fee of \$285 represents the official appeal by Grant Neighborhood Association pursuant to the Notice issued June 16, 2020.

Grounds for Appeal:

From the notice/permit, it appears the Permit was granted on erroneous information. Since those errors are material assertions in the **Request, Location, and Findings** sections of the Permit, we reasonably presume the Permit was issued in error and the Department would not have come to the same Finding if it were operating on the correct information, and might not have issued the Permit.

1. **Error #1 in Official Notice sent by email and posted on Trees.** The notice/permit states, "[T]he proposed construction [is] to expand the existing bus pull-through." There is NO bus traffic and no "existing bus pull-through" on Cottage Street. This construction would be new construction for a new operation, not a modification to an existing operation.
2. **Error #2 in Official Notice sent by email and posted on Trees.** The notice/permit states, "[T]he proposed construction [is] to expand the ... on-street parking area." This construction would repurpose a long section of the parking curb on the east side of Cottage, reserving it for bus pick-ups and drop-offs, and removing 7 to 9 parking spaces. Since the school currently has only 8 spaces on-site and 19 classrooms, loss of those parking spaces will be a great loss to the staff in the school and the local residents. The project's proposed expansion is to increase the pavement area of the street; it does not increase any of the actual parking area when it is defined as a parking space. As stated above, it removes parking spaces. The statement that this project would "expand the on-street parking area" is totally erroneous.



3. **Error #3 in Official Notice sent by email and posted on Trees (photo attached).** The notice/permit states that all five trees to be removed are Halka Zelkova. But only one of the five is a Halka Zelkova tree.
4. **Error #4 in Official Notice sent by email and posted on Trees.** The notice/permit states that all five trees are less than 6" in diameter. In fact, according to Diameter at Breast Height (DBH) methodology, only 1 tree meets this requirement. The DBH methodology:
  - a. measures the trunk circumference of the tree at 48 inches from the ground,
  - b. divides circumference by Pi (3.14), and
  - c. rounds up to find DBH measurement
  - d. Measurements show that 4 of the five trees are 6" or larger by DBH measurement:
    - i. 10.3 inches (11-inch DBH),
    - ii. 6.05 inches (7-inch DBH),
    - iii. 6.05 inches (7-inch DBH), and
    - iv. 5.07 inches (6-inch DBH).
6. **Error #5 in Official Notice sent by email and posted on Trees.** The notice/permit states, "The trees proposed for removal meet the criteria described in SRC 86.090(a)(8) because there are no reasonable alternatives available to accommodate the proposed construction ..." This somewhat misrepresents the applicable clause of the SRC. That clause states, "The Director may permit the removal of a City tree due to construction if there is no reasonable alternative." And that is the end of the sentence, leaving open the aspects of the project that may be considered *in the alternative*. The Neighborhood Association has presented to the District and to the City several "reasonable alternatives" to removing those trees and constructing a new bus pullout on Cottage Street. Though the District has initially rejected those alternatives, no independent observer has yet examined those proposals to determine whether they are "reasonable alternatives."

As the City's Planning Department knows, the Neighborhood Association and the School District are in robust and positive negotiations to seek alternative solutions to the bus-lane project and, in turn, the removal of trees and green-space. The District has notified us in writing that this exploration process will run into the fall based on the different committees and task forces which need to review the alternatives. Giving permission to cut the trees down on July 17 would be unnecessarily hasty given the District's stated schedule. Moreover, since alternatives are being sought as described above, the decision to cut down the trees violates Sec. 86.090-8.

## **TITLE VII - PERMITS, STREETS, AND PUBLIC WAYS**

### **Sec. 86.090. - City tree removal criteria.**

*(a)(8) The Director may permit the removal of a City tree due to construction if there is no reasonable alternative. The applicant shall be required to bear all cost of the tree's removal and replacement.*

Even with good intentions, a premature approval to cut the trees far in advance of the actual need

leaves the door open for mistakes. It is not uncommon on development projects for a subcontractor or worker to mistakenly proceed with a task or action. In fact, this has already happened once on the Grant School project, requiring a work stoppage. Granting approval now for tree removal unnecessarily exposes them to a similar mistake.

Moreover, COVID-19 school-attendance precautions being formulated by the Governor, the Oregon Department of Education, and Salem-Keizer Public Schools make it very unlikely that the medically-fragile students in the Medically Developmental Learning Center (MDLC) would actually accept students at Grant this fall. Again, a July 17 tree-cutting permission date is extremely premature given the very real possibility students will not be able to attend school.

All five trees were planted under the direction of the City of Salem's Arborist in partnership with Grant School teachers, parents and students, as well as Grant Neighborhood Association. They were planted during several "Earth Day/Tree City" beautification events at Grant School in the month of April over a period of years, an event the Mayor of Salem regularly attended. It seems like bad planning at best, and a violation of the City's own code, to remove these trees (see below).

## **TITLE VII - PERMITS, STREETS, AND PUBLIC WAYS**

### **Section 86: Trees on City-owned Property**

#### **Sec. 86.005. – Purpose**

*The purpose of this chapter is to provide a unified, consistent, and efficient means for the planning, planting, maintenance, and removal of trees located on city property and to limit the adverse impacts to city trees and city infrastructure. It is hereby declared that the public interest and welfare requires that the City conduct a program for the planting, maintenance, preservation, and removal of city trees, and that the City promote the development of tree canopy cover of all trees on city property.*

Removing the trees for a bus lane (as detailed in the attached letter from Grant Neighborhood Association) will have three negative impacts apart from the loss of canopy, shade, carbon-reduction, and beauty: a) Fewer trees will mean higher car speeds on Cottage Street; b) The loss of the trees and the parking strip means the loss of 7-9 parking spots in a neighborhood that has terrible (documented by City) parking problems; and, c) The loss of street trees can lead to increased crime in a neighborhood that has been overcoming crime. *"Green Cities, Green Health" 2018, Urban Forestry/Urban Greening Research, USDA Forest Service and University of Washington.*

Sincerely,

Sam Skillern  
Co-Chair,  
Grant Neighborhood Association  
sam@salem1f.org

Cottage Street Tree Removal

## Amy Johnson

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**From:** Aaron Terpening <Aaron@CBTwoarchitects.com>  
**Sent:** Monday, August 10, 2020 10:57 AM  
**To:** CityRecorder  
**Subject:** Written Public Testimony for SPR20-19  
**Attachments:** SPR20-19 COUNCIL TESTIMONY\_Owen Terpening.pdf

Please see the attached letter/petition from Owen Terpening to be included in the public testimony for the hearing at tonight's council on SPR20-19 Grant School.

Thank you,

Aaron Terpening, AIA, LEED® AP



500 Liberty St. SE, Suite 100  
Salem, Oregon 97301

P: 503.480.8700  
C:503.602.1311



Promote Sustainability.

Please consider the environment before printing this email.

Dear City Council and Mayor

This Letter is about the trees by Grant School. They make our school look very pretty. Lots of kids at the school would like to keep them to. I know because I go to Grant School. I'm almost in Fifth grade! I just finished Fourth. I also have another reason I want to keep the trees; the air around them is always fresh (unless they are dead). They also clean the air so that we can breathe it in. Teachers at the school always say "when you chop down a tree, plant 2 new seeds". Well you can't plant the seeds in concrete.

The trees have been at Grant for a very long time. I remember them from kindergarten. In my opinion, killing a tree is the same as killing an animal, cause they are both living things. If we keep replacing trees with concrete, there will be no more life. It will get harder to breathe, animals will die, and there will be too much pollution. To conclude, I would like to say, "keep the trees".

- Sincerely, Owen Terpening

Lydia

Alice Herrmann (P.S. with the letter)

Signatures:

Amorette Drexler

470 C. Katwin C.

430 14th St NE

Salem OR

ISAAC H.

1060 Cottage St. NE

Will Hoffman

1060 Cottage St. NE

Adolyn H.

Pearl & Deicks

Zachary H.

## Amy Johnson

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**From:** Aaron Terpening <Aaron@CBTwoarchitects.com>  
**Sent:** Monday, August 10, 2020 1:47 PM  
**To:** CityRecorder  
**Subject:** SPR20-19 Public Comment  
**Attachments:** SPR20-19\_Aaron\_Terpening\_Comments.pdf

Please enter the attached testimony into the record for the council hearing tonight regarding Grant School.

Thank you,

Aaron Terpening, **AIA, LEED® AP**



500 Liberty St. SE, Suite 100  
Salem, Oregon 97301

P: 503.480.8700  
C:503.602.1311



Promote Sustainability.

Please consider the environment before printing this email.

August 10, 2020  
SPR19-20  
Public Comment:

The City's staff report states that the applicant's proposal includes the request to "construct an on-street bus and ADA parking area on Cottage Street NE." This description falls well short of what is being proposed. The proposal includes the demolition of a pedestrian oriented environment and replaces it with an automobile-oriented environment. Grant neighborhood is one of a very few neighborhoods in our city that have almost no driveways, garages, or curb cuts. We have planter strips and beautiful street trees. The landscape strip provides a safety buffer between the pedestrian and the car. It provides beauty and the street trees provide desperately needed shade over the street, the sidewalk, and nearby structures reducing heat-island effect. In the application provided to the neighborhood, there is no survey of existing street trees. It inaccurately shows only two trees. There are five trees and their caliper are not noted. An existing conditions survey is a requirement for a Site Plan Review Application to be deemed complete. Is the application complete? Is there a survey which notes the location and size of the existing street trees?

In the applicant's proposal the planter strip is demolished and replaced with a landscape area against the building. The street trees are cut down and replacement trees are placed against the existing building too close to the to grow successfully. The existing zelkova is out in the planter strip (approx. 9 feet further away than the proposed new trees) and the branches are already coming close to the building (Attachment A). The proposed design is not our neighborhood standard and is not in our community's best interest. Should work in the public right of way be done with consideration for the concerns of the community?

The property already has a lengthy bus drop-off area on Market Street which serves the main entrance of the building. The applicant has stated their desire to drop-off students who are part of the DLC program close to the back entrance of the building so that they can arrive at the same time as the other students. This stated desire may be convenient, but it is not in the best interest of the children who will now be scuttled in through the back door while the rest of the student population goes through the main entrance. We hope the students can enter school together at the front door with everyone else.

I walk my kids to school and they wait at the front door until 8:45am when Principal Morris opens the doors and greets everyone. The buses have already come and gone, and the kids are simply waiting in line to enter. Could more buses come and go at the front door and provide an equitable and beneficial experience for all students? We are excited to welcome our new classmates at Grant and we want them to share in the school experience with us.

There may be an opportunity for a compromised design solution which respects the neighborhood character, protects the safety of our children, and is more equitable for all students. The new drop-off loading zone could be located on Cottage (See attachment B) as the applicant prefers but shortened to ½ (approx. 128 feet) block rather than the entire block length. A second parking cut-out could be placed on the other side of the street trees to serve two accessible stalls (approx. 80 feet). This would result in the saving of the two significant street trees and place the point of drop-off much closer to the main entrance of the building where a new accessible ramp has just been poured (Attachment C).

School will not be happening in person this fall. There is a small chance that it could happen for a couple weeks in November before going on Christmas break. Even in the best-case scenario, this school year



will likely only be half as long as a normal year (in person). The proposed work is in the public right of way and the public has significant concerns, there are existing similar facilities already on this site, and the proposed use is uncertain due to Covid-19. Please ask the applicant to consider its' other options and do not accept this proposal as currently designed.

Sincerely,

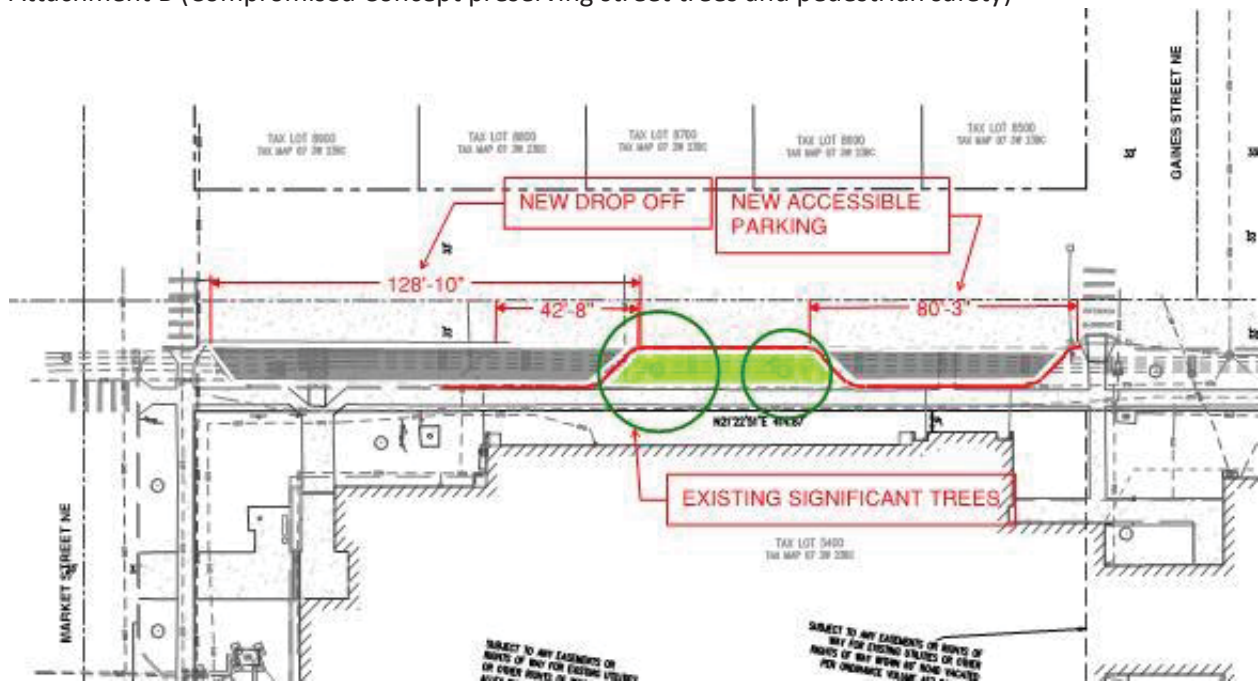
Aaron Terpening  
1270 Church Street NE  
Salem, OR 97301

Attachment A (Existing Zelkova canopy)





Attachment B (Compromised Concept preserving street trees and pedestrian safety)



Attachment C (New accessible ramp at main entrance)





## Amy Johnson

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**From:** Pamela Cole  
**Sent:** Monday, August 10, 2020 10:06 AM  
**To:** Amy Johnson; Ruth Stellmacher  
**Subject:** FW: plan review #spr20-19/application 20-104828-rp Testimony for Council Call-Up

Testimony for tonight's hearing.

### Pamela Cole

*Planner II*

City of Salem | Community Development Department  
555 Liberty St SE, Suite 305, Salem OR 97301  
[pcole@cityofsalem.net](mailto:pcole@cityofsalem.net) | 503-540-2309  
[Facebook](#) | [Twitter](#) | [YouTube](#) | [CityofSalem.net](#)

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**From:** Gretchen F <gforgue@aol.com>  
**Sent:** Friday, August 7, 2020 6:45 PM  
**To:** Pamela Cole <PCole@cityofsalem.net>  
**Subject:** plan review #spr20-19/application 20-104828-rp

To: Pamela Cole, Case Manager  
City of Salem, Planning Department  
555 Liberty St SE, Room 320  
Salem, OR 97301

From: Gretchen Forgue  
1335 Cottage St, NE  
Salem, OR 97301

Re: Application #20-104828-RP  
Grant Community School

Ms Cole,

This email is my response to the impending development proposal at the Grant Community School.

As noted above, I live on Cottage St NE, near the Grant School and across from the Grant Park. I agree wholly with the assessments the Grant Neighborhood Association brought forth in their 7/13/2020 letter of rebuttal. I won't reiterate it all, but note again the problems with parking and congestion.

I was surprised to learn that this project was going to continue. There is not enough space on this street to add busses and take away parking spaces. I can't even park in front of my own house during school days. I end up having to walk from a block over. I have not enjoyed having to do that, but have quietly made do. All of the homeowners on Cottage and surrounding streets should be able to park in front of their own homes.

There is an excess of walking traffic in this area during school hours, and parents will park in the middle of the street to do drop offs and often block access to Market Street. With both sides of these small streets (Cottage/Gaines/Hood) filled with cars, how will busses even be able to traverse this small very congested area. There aren't enough busses to warrant such major issues for the neighborhood. I also fear it will cause our homes to loose value. Lack of parking and congestion could be a factor in people moving into the neighborhood.

This current proposal is not a viable solution and I disagree with the plan. I had always hoped the school would at some point find a solution to the parking issue in this area, not make it worse.

Sincerely,  
Gretchen Forgue

Sent from [Mail](#) for Windows 10

## Amy Johnson

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**From:** mhdecoursey <mhdecoursey@gmail.com>  
**Sent:** Monday, August 10, 2020 3:39 AM  
**To:** citycouncil  
**Subject:** Personal Testimony on Site Plan Review Case No. SPR20-19  
**Attachments:** Personal-letter-bus-pullout.pdf

Please see the enclosed letter in written testimony appealing Case No. SPR20-19.

Mark H. DeCoursey  
740 Shipping St. NE  
Salem, Oregon 97301  
Cell: 425 891 0440

Mayor and City Council  
City of Salem, Oregon  
citycouncil@cityofsalem.net

August 10, 2020

re: Site Plan Review Case No. SPR20-19  
Removal of trees for bus pullout for Grant School

Mayor and Council Members:

Others have written or will testify with technical reasons why the Council should reconsider the decision of the Planning Commission to remove the trees on Cottage Street for a bus pullout.

I would like the Council to consider a humanistic reason that those appeals may not have mentioned. Considering that the District has practical alternatives for this bus service that do not include removing the trees:

Those trees were planted in a community Earth Day celebration with the participation of a class of grade school children less than a decade ago. Removing those trees now would be a betrayal of that promise. Contrary to statements in the application by the District, four of those five trees are larger than 5" in trunk diameter, by standard measurement, and only one is a Halka Zelkova. (The permit was granted on incorrect information.)

A tree is in many ways a symbol and an actuality of promise to future generations. I believe it was Carl Jung who wrote, "A promise to a child is easily made and easily broken—but not easily forgiven."

Surely, we have more respect for those children—and ourselves—than to make empty promises we have no intention to keep. Responsible adults make promises with the knowledge that the future cannot be known, but despite all temptation to the contrary, the promises will be kept. People who do not keep their promises lack integrity.

Expedient and cavalier promise-breaking is not the lesson we wish to teach the children who planted the trees, nor those who are currently in the school. We are adults and we keep our promises, as we expect of our children. The trees are a living, breathing reality—even as the children are an embodiment of promise, so are the trees.

Let us do all possible to rearrange our affairs to keep our promises.

Another possibility for the bus traffic has just been presented. On July 29, one of the larger trees on Winter at the intersection with Gains St. spontaneously split open and had to be removed—as though it were sacrificing itself for the greater good. Now it is possible to create a drive-through drop-off in the Winter Street parking lot without removing any trees, playgrounds, parking slots, or otherwise destroying working installations.

Sincerely,

Mark H. DeCoursey  
740 Shipping St. NE  
Salem, Oregon 97301  
Cell: 425 891 0440  
mhdecoursey@gmail.com









Fallen  
Tree

Gaines St NE

Winter St NE

Winter St NE  
Existing  
driveway

Seeds Of Promise Child  
Development Center

Seed of Faith  
International

pool

**Amy Johnson**

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**From:** Marissa Theve <marissatheve@gmail.com>  
**Sent:** Friday, August 07, 2020 12:17 PM  
**To:** CityRecorder  
**Subject:** testimony in support of the bus pull out for Grant Elementary School at 725 Market Street NE

Greetings,

My partner Elliott Lapinel and I (Marissa Theve, of 845 Gaines Street NE) are close neighbors to Grant Elementary (725 Market Street NE.). We commented during the original open comment period in support of the project, and maintain that position. We enjoy having the school nearby and hearing children play and shuffle from Boys and Girls Club to the school from our kitchen. As such, we are in support of the school's development of a bus pull-out that would facilitate increased ADA accessibility to the school. We feel that the potential increased parking pressure to our neighborhood is worth the benefit to students.

We understand the construction would temporarily increase noise and traffic in our area, and accept these consequences of the proposal. We agree that the project meets all legal requirements, but maintain our suggestion that the District consider using pervious pavement where feasible to increase stormwater infiltration and reduce nonpoint source pollution. Like the existing trees on the grounds, an area of pervious pavement could offer the school valuable hands-on lessons in environmental science and hydrology. That said, we trust the school district to balance what's overall best for the students, staff, infrastructure, environment, residents, and district budget.

Thank you for the additional opportunity for comment,  
Elliott Lapinel and Marissa Theve

--

Marissa Theve

Pronouns: she/her/hers

## Amy Johnson

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**From:** Nicholas Maselli <greenfleas@comcast.net>  
**Sent:** Monday, August 10, 2020 1:43 PM  
**To:** CityRecorder  
**Subject:** Proposed Grant School project

Dear Council Members:

I live at 690 Gaines St. NE and have lived at this address for 24 years. I am adamantly opposed to the new bus drop off proposal on Cottage at Grant Elementary school. I have seen many programs come and go at Grant and other schools in the Salem Keizer area. I was a former Special Education Instructional Aide for quite some time and let me assure you, new programs and change within Special Education programs are the one constant. The issue with this particular program is that changing the sidewalk structure to accommodate the needs of the students is unneeded and will cause undue hardship to the Grant neighborhood by taking out 8 or so parking spaces to an already over-stressed parking arrangement that is currently manifesting itself. Teachers, State Workers, and residents are all vying for open spaces in the morning. With children and families crossing the street at Gaines and Cottage and at Market and Cottage to go to school and with the buses that will be parked on Cottage, narrowing the street between Market and Cottage (making it more dangerous) I believe this is a poor choice.

The Grant Neighborhood Assn. has provided several viable alternatives that I feel would be better working solutions. Please consider those other choices for the safety of the students, families, staff and neighbors of Grant Elementary.

Thank You,

Nicholas Maselli  
690 Gaines St. NE  
5415204458



**Amy Johnson**

---

**From:** Paul Tigan <paultigan@hey.com>  
**Sent:** Monday, August 10, 2020 1:36 PM  
**To:** CityRecorder; citycouncil  
**Cc:** Sam Skillern; Jeanne and Corbey Boatwright; Eric Bradfield; Christopher Bechtel  
**Subject:** Grant NA Testimony for Tonight's Hearing: 725 Market St NE  
**Attachments:** Grant NA City Council Testimony 8-10-2020.pdf

Mr. Mayor & Councilors -

Please find the testimony/presentation for this evening's hearing on the Cottage Street bus lane at Grant Neighborhood School (725 Market St).

Sincerely,  
Paul Tigan  
Land Use Chair  
Grant NA



# GRANT NEIGHBORHOOD ASSOCIATION

Proposed Cottage Street Bus Lane

Appellant's Testimony

August 10, 2020



**We love Grant School.**

**As neighbors we are longtime partners, allies and advocates.**

**Our children are Grant Grizzlies.**

**We mentor students and volunteer after school.**



**We are not adversaries.**

**We are not critics, naysayers, or monkey-wrenchers.**

**However, we respectfully ask the Council to respond to our concerns regarding the proposed Cottage Street lane. It is not good for Grant.**

**For 25 years we have proven our devotion to Grant School.**

**For example:  
We raised \$100,000 and volunteer-built two playgrounds ...**



Every April, for Earth Day, we rally neighbors, teachers, families and partners for the annual Grant School Beautification Project ...



**We converted a  
concrete courtyard  
into a children's  
Learning Garden  
with raised beds and  
a greenhouse ...**





**We installed pavers and paths, built composting bins, and planted most of shrubs surrounding the school.**






**Over the years, in partnership with the City's Arborist, we also planted 15 trees, including 5 that would be cut for the bus lane. The next slides are a comparison of the greenway now, versus the bus-lane look ...**




  
This view is  
looking south  
down Cottage  
Street from  
Gaines.



  
This is a rendering  
of what the same  
view will look like  
after the project is  
implemented.



  
For 25 years it has been  
our joy to answer the call  
of Grant School and the  
School District to  
beautify our  
neighborhood school.





**In return, we have one small request:**

**Please don't build a bus lane on Cottage Street that would make a terrible parking and traffic situation even worse.**



**Key point: We have never been against the Medically-fragile Student program.**

**We welcome these new students and families to Gra School. And we recognize their needs.**

**However, the transportation pressures this program brings to the District's smallest school campus is an unreasonable burden for the neighborhood to bear.**

If the bus lane is approved, the school will use all three of its street frontages—Market, Winter and Cottage—for bus and car drop-offs. To our knowledge, no other school uses all its frontage in this way.

As an older urban Neighborhood, Grant has very few garages. Not only do most neighbors have to park on the streets, but State workers and school employees, as well. Multifamily housing developments in most of Grant are no longer required to provide parking off street.

**When you add the high volume of in-district transfer families who drive to Grant for our prized Dual-Language Immersion Program, the parking and traffic conditions are terrible. Especially on Cottage Street.**

**If school were in session we would have video or photos, which would be convincing.**



Grant has only 8 spots on campus for its 19 classrooms, which is way under code, but it's grandfathered in. We have accepted this and lived with it for years.


But adding a drastic and permanent change to Cottage Street—for 30 minutes of drop-offs in the morning and 30 minutes of pick-ups in the afternoon—will have a very negative affect on our neighborhood parking and traffic.

**For months we have been working with the District find a mutually-beneficial alternative.**

**We asked for a sit-down process to work through a number of alternatives. Because of COVID, these meetings were not possible.**

So we unilaterally suggested a number of ideas to the District and the City staff. At first, those ideas were rebuffed.

With persistence and good will, we were able to meet onsite in May with Supt. Christy Perry, Mike Wolfe, J. Smallwood and three school-board members. It was a positive meeting and the District assured us they would vet alternatives.



**We believe there are two highly-viable alternatives the Cottage Street bus lane, which is slated to cost \$150,000 - \$180,000, remove 7-9 precious parking spots, and radically alter the public right-of-way ...**

## 1. 190-foot Market Street Bus Lane

Grant already has a curb cut into the Right of Way for transportation purposes. It's on Market Street and is directly adjacent to the front door of the building and another double-door on Market Street.





## 1. 190-foot Market Street Bus Lane

Grant already has a curb cut into the Right of Way for transportation purposes. It's on Market Street and is directly adjacent to the front door of the building and another double-door on Market Street.



## **The Market Street Bus Lane has several benefits:**

- 1. It is completely built, permitted, and requires additional investment.**
- 2. The buses don't have to compete with or increase traffic as they would on Cottage or Winter Streets.**
- 3. It drops the students off at the front door (where ADA accessibility is currently being improved).**

**The Market Street Bus Lane has several benefits:**

- 4. It would require no removal of street trees.**
- 5. Even if less-than-ideal from the district's perspective, is the least disruptive alternative.**

---

## 2. The existing Winter Street parking lot on Grant's campus.


It currently handles car and truck parking, as well as garbage truck ingress and egress.



## **The Winter Street loop has several benefits:**

- 1. It is located on school property and requires no impact to the public right of way.**
- 2. The buses don't have to compete with or increase traffic as they would on Cottage Street.**
- 3. It drops the students off in a safer, quieter, respectful location (the garden).**



- 
4. The pedestrian distance from the drop-off site to the double-door entry is comparable to that on Cottage Street, part of the path covered from the weather.
  5. The cost is not yet calculated, but presumably cheaper than the \$150,000-\$180,000 slated for the bus lane.
  6. Even though Grant staff would lose the 8 parking spots, S Alliance Church has a formal agreement in place that allows Grant staff to park -- for free -- one block north of the school 90-car lot on Hood and Cottage.

It would require only a minor widening of the existing driveway, and no tree removal, for a single in/out access point ...




... or the removal of one tree to create a second driveway and a vehicle loop for drop-offs.





**We have been assured by the District that they are working with an architect to calculate the costs and logistics of using the Winter Street lot.**

**They have told us we'll be meeting later this month to review alternatives, and we are grateful for this commitment.**



**However, the 120-day period for a City decision is coming up fast: August 27<sup>th</sup>**

**We have asked the District to request an extension, which would allow more time for the review process they've indicated will go into September as they seek approval of the Bond Construction Oversight Committee and the School Board.**





**In summary, we are not at all in favor of the Application and don't want it approved.**

**We also recognize that denial would create difficulties for the School District. If there is a way to condition the approval to keep the project on track but move the bus drop-off to Market or Winter Street, that would be optimal. Otherwise, we ask you to deny the permit.**



**We are hoping, as from the beginning, that we can work things out based on good will, good faith and creative thinking.**

---

**Thank you for this  
opportunity to present our  
case.**

**We look forward to working  
with the City and the School  
District on a mutually-  
beneficial solution.**

**Questions?**



## Amy Johnson

---

**From:** Caroline Brown <carolinejobrown@gmail.com>  
**Sent:** Monday, August 10, 2020 2:09 PM  
**To:** CityRecorder  
**Subject:** Agenda item 5.a and 5.b - Monday August 10 City Council Meeting

My name is Caroline Brown, I live in ward 1.

5.a - I support the extension of the state of emergency in Salem due to COVID-19 5.b - I support the extension of the state of emergency for Salems unsheltered community.

If COVID-19 is bad enough for the City council meetings to STILL be held via zoom, then it is bad enough to continually aid ALL Salem residents.

### Non-agenda Items

Today I am writing because the city of Salem has yet to make lasting change and listen to the voices of the MANY Salem residents speaking out for more equitable treatment of BIPOC people. I demand that our elected officials do the following

- 1) Require body cams by all Salem PD, and for that money to be spent out of Salem PDs current budget.
- 2) Work diligently to reallocate funds from the Salem PD budget and focus on lasting techniques to reduce crime in Salem. Helping the poor, disabled, homeless, under privileged in our community is a much more efficient and impactful way to change our city. Continuing to profit off of peoples hardship is an embarrassment to our beautiful and diverse city.
- 3) Permanently remove SRO's from the Salem-Keizer schools
- 4) Publicly and openly condemn the White Supremacists that have been harassing our community, and those speaking out for justice.
- 5) That mayor Chuck Bennett stop being a coward and face his constituents by attending ALL upcoming BLM and BIPOC related events. If minimum wage service industry workers can muster up the energy to fight for what is right, the LITERAL least he can do is SHOW UP!

## Amy Johnson

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## Amy Johnson

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**From:** J Stembridge <stembrij@yahoo.com>  
**Sent:** Monday, August 10, 2020 8:54 AM  
**To:** Chuck Bennett; Steve Powers; citycouncil; Jerry Moore; Treven Upkes; Jimmy Jones; Ashley Hamilton  
**Subject:** City Council Vote Tonight

Dear Mayor Bennett and City Council,

I would encourage you to extend the emergency ordinance allowing for public camping in city parks for those who are experiencing homelessness. Please do not let the ordinance expire on August 31, 2020. Covid is still very active, and closing the parks would again prompt camping on downtown streets, which would further endanger those who are homeless as well as those coming into downtown Salem.

Unless and until our city has the capacity to house those who are homeless, Salem will need to have spaces designated for people to exist.

Perhaps the one change to the ordinance might be to extend the designated parks to include Minto-Brown Park, which has vast areas of space that are well separated from neighborhood housing.

Thank you for providing portable bathroom and hand washing stations at Wallace Marine, Cascade Gateways, and Marion Square parks. Please add more such facilities to those parks and to Minto-Brown Park so that those who are living there have a chance to remain healthy and virus free.

I realize this is not an ideal solution to the issue of housing those who are homeless. But, it is a step in the right direction. And, it is an effort to be respectful and mindful of people who are living unsheltered in our community.

Thank you for your consideration,  
Sincerely,  
Joan and Jim Stembridge  
503 569-7968  
1695 Winter St. S.E. Salem, OR 97302

## Amy Johnson

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**From:** Elisabeth Potter <ewpwords@gmail.com>  
**Sent:** Monday, August 10, 2020 1:48 PM  
**To:** CityRecorder  
**Cc:** Julie Warncke; Jennifer Kellar  
**Subject:** Attachment: Agenda 5.c. Connector Trail through Salem Pioneer Cemetery  
**Attachments:** FOPC Comments for City Council re connector 8-10-20.docx

City Recorder Office: Please see attachment for my public comments pertaining to August 10 Council Meeting Agenda Item 5.c. Potential trail connecting Fairmount and Candalaria neighborhoods. Thank you. Elisabeth Potter

## **FRIENDS OF PIONEER CEMETERY**

Salem Pioneer Cemetery Endowed Fund c/o The Salem Foundation  
Pioneer Trust Bank, N. A., PO Box 2305, Salem OR 97308  
Website: [www.salempioneercemetery.org](http://www.salempioneercemetery.org)

Date: August 10, 2020

To: The Honorable Chuck Bennett, Mayor  
Members of the Salem City Council

From: Elisabeth Walton Potter

Subject: **Today's Council Meeting Agenda Item 5.c.**  
Motion re: potential trail connecting Fairmount and Candalaria neighborhoods

The following comments I offer as a descendant of pioneers interred in Salem Pioneer Cemetery and as a long-term citizen volunteer acting in the public interest and representing the interests of the descendant constituency in particular. I am a resident of the Candalaria neighborhood, Ward 7, in which the cemetery is located.

First, I want to acknowledge the courtesy of the Mayor and a majority of Council members who made time to accept our citizen support group's invitation to tour the cemetery grounds in several limited-number cohorts in June and July. The opportunity to show your parties the lay of the land and recent betterment work accomplished there by the City, through its Parks Operations and Recreation Services unit of the Public Works Department, and the Friends of Pioneer Cemetery was much appreciated.

With this brief statement, my object is to reaffirm the position of the support group leadership that has been made a part of the public record on the subject of a connecting trail across Salem Pioneer Cemetery since 2012. We wholeheartedly acknowledge the benefits of neighborhood connectivity where feasible, and we have been intrigued by visioning exercises on the part of dedicated bicycle trail advocates in which the cemetery could figure in a larger picture of heritage trail tourism. Nevertheless, as your citizen advisers, we are compelled to caution that, up to this point, we have been unable to envision any configuration of a through pathway requiring a gate to be opened in the cemetery's north boundary fence that does not have the potential to negatively impact the values that have gained the cemetery its status as a City Landmark, a property enrolled in the National Register of Historic Places (2013), and a Goal 5 resource subject to statewide land use planning regulations. Moreover, we would warn that certain notions for providing protection, such as a double-sided fenced travel corridor, would hinder established maintenance operations and disrupt vehicle circulation and access. Other possible consequences of bringing a flow of traffic *through* the cemetery, as opposed to destination traffic, might include a significant additional maintenance burden and liability claims, unless the City is indemnified, for damage to cemetery assets and for personal injury. Thank you, as always, for your consideration of public comments.

## Amy Johnson

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**From:** Kathleen Dewoina <Dewoina@bhhsnwrep.com>  
**Sent:** Friday, August 07, 2020 9:22 PM  
**To:** citycouncil; CityRecorder; SALEM Manager  
**Subject:** City Denial of Due Process of Law Agenda Item 5.c August 10, 2020  
**Attachments:** 8.10.2020 Denial of Due Process.pdf

Please find attached a memo regarding Denial of Due Process for inclusion in the records regarding lack of notice regarding City actions affecting my properties.

Respectfully,

Kathleen Dewoina



Kathleen Dewoina, Broker, GRI,  
CRIS, ABR  
Berkshire Hathaway  
HomeServices  
Real Estate Professionals  
1220 20<sup>th</sup> Street SE  
Salem, OR 97302

Office: 503-371-3013 x 1311  
Fax: 503-364-1453  
Cell or Text: 503-999-4535  
Email: dewoina@aol.com  
Website: [www.dewoina.com](http://www.dewoina.com)

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TO: City Recorder, City Council, and City Manager

FROM: Pioneer Alley, LLC

DATE: August 10, 2020

RE: Agenda Item 5.c. ADDITIONAL WRITTEN TESTIMONY ON PIONEER CEMETERY  
PEDESTRIAN PATH – State Guidelines


As a lawfully incorporated city, the City of Salem is a subdivision of the State of Oregon. The Oregon Department of Transportation ("ODOT") has issued Design Guides for Bicycle & Pedestrian Paths that are applicable here. Regarding a path-type of walkway, ODOT stated:

**"\* \* \* It is not realistic to plan and design a path for exclusive pedestrian use, as others will be attracted to the facility. \* \* \*"**

(Emphasis added.) ODOT, Oregon Highway Design Manual, Appendix L,  
*Oregon Bicycle and Pedestrian Design Guide*, 3rd Edition, pp.4-1 (2011)

Stated differently, it is the State's position that a pedestrian-only path will attract bicycles, skaters, scooters, etc. through Pioneer Cemetery. Pioneer Alley, LLC, encourages you to consider the State's recommendation that every pathway becomes a shared-use pathway and approve Option 2 (removal from Master Plans).

## Memorandum

To: City Recorder, Members of the City Council, and City Manager  
From: Kathleen Dewoina on behalf of Pioneer Alley, LLC   
Date: August 10, 2020  
Re: **City Denial of Due Process of Law**

This communication is for inclusion in the official record of the City of Salem City Council meeting on August 10, 2020, agenda item 5.c., "Motion from Councilor Nordyke requesting additional information on two potential trail connections between Candalaria and Fairmount neighborhoods" and in the official record of all future proceedings regarding Pioneer Alley, LLC ("Pioneer Alley") and/or its real property. ***Please consider this a formal request/demand for reasonable notice of city council meetings, neighborhood association meetings, staff meetings, joint staff and councilor meetings, ex parte communications, reports, proposed ordinances, emails, etc. where Pioneer Alley's property rights are or could be affected.***

Dr. Robert Chandler notes in his June 22, 2020 staff report that Pioneer Alley is an interested party. As the sole private, single-home property owner targeted for a private property taking in order to build a trail, the city's failure and refusal to provide Pioneer Alley notice of the path—by whatever various names—as an agenda item **deprives Pioneer Alley of due process rights** under the federal and state Constitutions.

Notice when the city council publishes its agenda on Thursday evening before a Monday meeting is inadequate, insufficient, and unreasonable notice. Even when the agenda is published on the webpage, not all the relevant material is always included, for example, the June 22, 2020 staff report (File #20-223, Item # 6.d.) was missing.

Instead, selective friends and colleagues supportive of Ms. Vanessa Nordyke seem to get advance notice, like the email by Ms. Nordyke to Christine Chute, on Tuesday, April 21, 2020 at 1:23 PM demonstrates ("Amen!" writes Ms. Nordyke)—apparently prior to publication on the city's legistar site.

- The affected real property owner whose private property rights are at stake received no notice for the April 27, 2020 meeting.
- The affected real property owner whose private property rights are at stake received no notice for the June 22, 2020 meeting.
- The affected real property owner whose private property rights are at stake received no notice for the August 10, 2020 meeting.



Memorandum  
City Recorder, City Council, City Manager  
August 10, 2020  
Page 2

Yet, Ms. Nordyke writes that it is not too late for voices to be heard. But, the affected real property owner is not given notice of opportunities to be heard.

File #20-315 was created on August 3, 2020. Pioneer Alley certainly was entitled to notice from the moment the file became a public record, that is, from the moment of file creation.

As a matter of civility and courtesy, as well as a matter of law, Pioneer Alley—as the real party in interest—should not have to check every item on every city council agenda to see what is hastily voted through without individual notice to the real party/property owner in interest.

Would you please provide Pioneer Alley due process of law . . . including prompt, adequate, reasonable notice?

Attachment: 6/22/20 Email to Erma Dowd & Julie Warncke from Jeanine Stice (documenting staff report missing from website)

## Ruth Stellmacher

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**From:** Jeanine Stice <nutritionetcetera@gmail.com>  
**Sent:** Monday, June 22, 2020 10:09 AM  
**To:** Irma Dowd; Julie Warncke  
**Cc:** citycouncil  
**Subject:** Neighborhood Association Communication re: Hoyt Cemetery Path

Good Morning Irma & Julie,

I am writing to see if there is a way to improve communication regarding city reports and information reaching the SWAN Neighborhood Association in a more direct manner. It has come to my attention the Staff Report was not included with the hyperlinks I received last Friday when some of our board members attempted to use the links to review it.

" The informational staff report regarding a possible pedestrian connection between Candalaria and Fairmount neighborhoods is on the agenda for City Council on Monday, June 22 (this is also referred to as Rural-Hoyt Trail Connection or Pioneer Cemetery Trail). The report is available at: <https://saalem.legistar.com/LegislationDetail.aspx?ID=4574775&GUID=5A2B9B0A-A34A-4DCD-9BDA-D643DEF4D4D5>. This report is provided in response to a motion approved by City Council on April 27 (for that report, see: <https://saalem.legistar.com/LegislationDetail.aspx?ID=4426394&GUID=F9DE591B-8C46-49AD-8AF0-E22A501A20C8>). Note that this meeting will be entirely virtual as described on the City web page at the link below. Public comment can be provided by email to [cityrecorder@cityofsalem.net](mailto:cityrecorder@cityofsalem.net) – please include the topic or agenda item (6.d) in your email so the City Recorder knows which agenda item is being referenced. Communications received in advance of the April 27 report are included in the record (Attachment 6 to the June 22 staff report).

If it weren't for it being forwarded directly to me from Elizabeth Potter, I would not have been able to forward it to them to review over the weekend. Over the weekend, I was copied on an email from Evan White, (sunnyslope) who had also read the report and accessed it from some source. And this morning I received an email noting there was extensive communication on the report in a bike blog post : <http://breakfastonbikes.blogspot.com/2020/06/city-council-june-22-problem-of-cemetery-path-connection.html>

Frankly, it is a bit frustrating as the Neighborhood Chair of the neighborhood association the land is directly in to continually receive information on this important project indirectly, and after others in the community have received and accessed the information. SWAN have received a wide variety of opinions on this issue for two decades, and have continually been at the table with vested interest. Is there something that can be done to insure all NAs receive these reports at the same time they are released to the public? The fact the breakfast blog post is so in depth in it's coverage seems to indicate they had time to review it thoroughly before they posted it Friday, while I had only received the agenda links by 9:30am Friday morning void of the report.

Thank you for your help with this.

Sincerely,  
Jeanine Stice  
SWAN Board Chair

**Amy Johnson**

---

**From:** dewoina@aol.com  
**Sent:** Monday, August 10, 2020 9:38 AM  
**To:** CityRecorder; citycouncil; SALEM Manager  
**Subject:** Pioneer Cemetery Path Agenda Item #5.c August 10, 2020  
**Attachments:** August 10 2020 Agenda Item #5.c Original PA Site Plan.pdf

Please include in the record the attached Rejected 2004 Site Plan for a Path through Pioneer Cemetery to connect Fairmount and Candalaria neighborhoods.

Thank you,

Kathleen Dewoina  
Managing Partner  
Pioneer Alley LLC

**For Inclusion in the Record of City of Salem City Council Meeting of  
August 10, 2020, including but not limited to agenda item # 5.c., the  
Previously Rejected Pioneer Cemetery Pedestrian Path**

To: City Recorder, City Council Members, and City Manager

From: Pioneer Alley, LLC

Date: August 10, 2020

RE: Agenda Item # 5.c. – Original Site Layout for Pioneer Alley, A Planned Unit Development,  
dated December 2, 2004

Mayor and Members of the City Council,

The Pioneer Alley, LLC, ("Pioneer Alley") Planned Unit Development (PUD) was itself a pioneer as the first planned unit development in Salem under five acres. Pioneer Alley was the first model pocket neighborhood approved in Salem.

Enclosed for the record is the Original Site Layout for Pioneer Alley. Please note the plan includes an alley for access to single-family homes and a dedicated path to Pioneer Cemetery.

The Salem City Council rejected Pioneer Alley's original site layout, inclusive of alley and path to Pioneer Cemetery.

Consequently, Pioneer Alley was forced to change its site layout. Location of structures and access were **completely** redesigned. The Salem City Council approved the existing site layout without any path to Pioneer Cemetery. Pioneer Alley relied on the City Council's rejection of the original site layout and the City Council's approval of the revised existing layout.

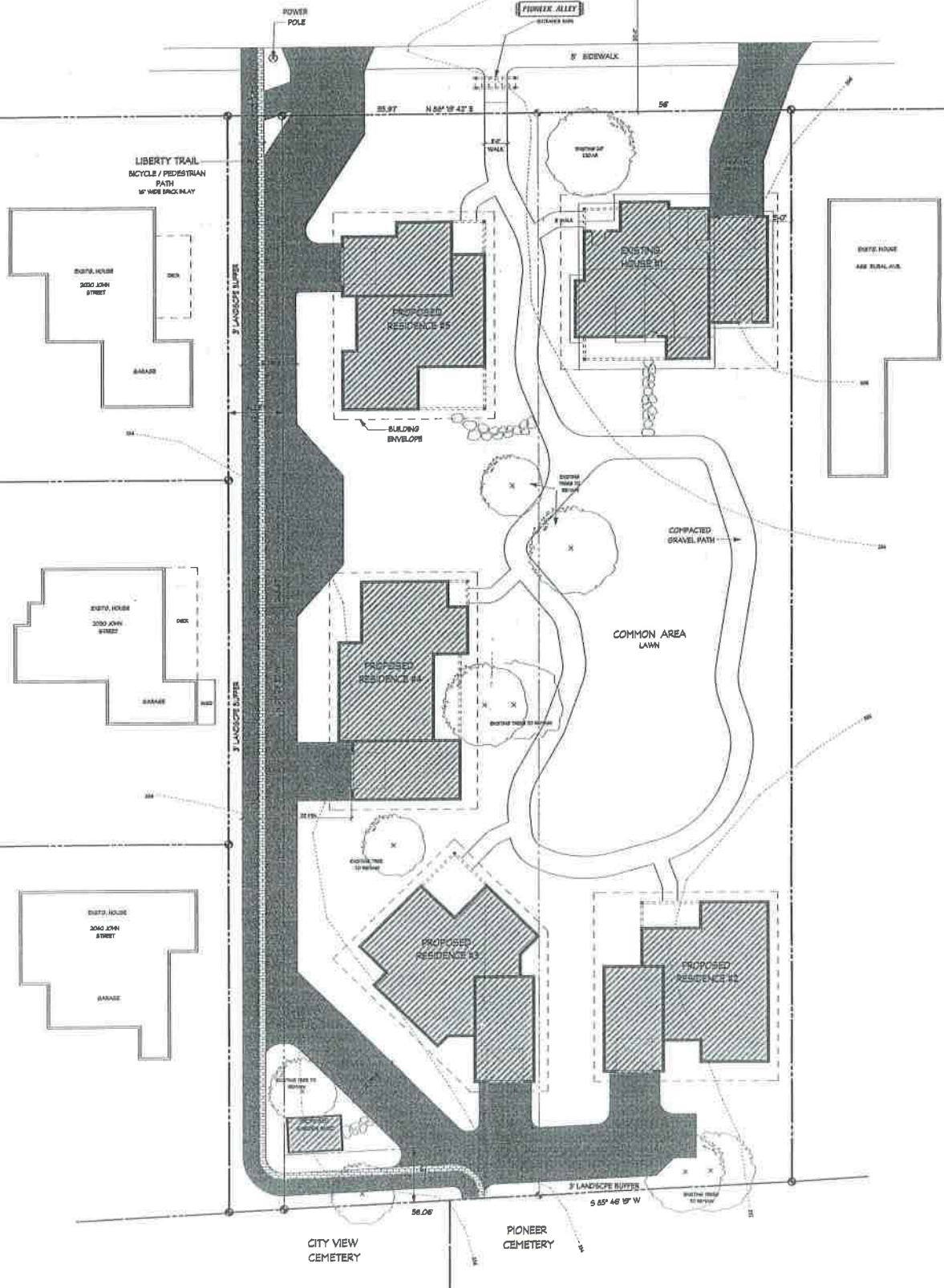
Enclosure: Pioneer Alley Conceptual Site Layout dated December 2, 2004

# Original Pioneer Alley PLD Proposal

with Public Access Path to Pioneer Cemetery  
**REJECTED** by - Salem City Council



♀ RURAL AVE.



--- JOHN ST. S ---

CONCEPTUAL SITE LAYOUT

PIONEER ALLEY  
 A PLANNED DEVELOPMENT

470 & 490 RURAL STREET S.  
 SALEM, OREGON

CONTACTS:

KATHY DEWOINA  
 DAVE & PAT MOSS  
 1510 FAIRMOUNT S. SALEM, OREGON  
 (503) 584-9788

DATE: NOVEMBER 1, 2004  
 SCALE: 1" = 40'-0"  
 SHEET NO. 1

Project Name: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Sheet No.: \_\_\_\_\_

## Amy Johnson

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**From:** dewoina@aol.com  
**Sent:** Monday, August 10, 2020 1:13 PM  
**To:** CityRecorder; citycouncil; SALEM Manager  
**Subject:** Aug 10 2020 Agenda Item #5.c Testimony not included in the record  
**Attachments:** Aug 10 2020 Agenda Item #5.c Testimony not included in the Record.pdf

Please add the attached information to the on-going record for the Rural Hoyt connection through Pioneer Cemetery and/or City View Cemetery.

Thank you for your thoughtful review.

Kathleen Dewoina  
Managing Partner  
Pioneer Alley LLC



To: Salem City Recorder, Salem City Councilors, & Salem City Manager  
From: Pioneer Alley, LLC/Kathleen Dewoina, Managing Partner   
Date: August 10, 2020  
RE: Written Testimony about Incomplete City Council Records for August 10, 2020 City Council Agenda Item # 5.c. (Previously Rejected Pioneer Cemetery Path); Completion of and Addition to City Council Record

At least two submissions for public testimony do not appear in the city council's records regarding the previously rejected Pioneer Cemetery Path. The first is my submission to the City Recorder and City Council on June 22, 2020 at 12:39 PM, where I objected to not receiving notice of the June 22, 2020 agenda item # 6.d. It was regarding "Written Testimony . . . about City Council June 22, 2020 Agenda Item 6.d." I am certain it was received because Ms. Vanessa Nordyke responded 24 minutes later, at 1:03 PM, stating in part:

"The community needs time to process, review, and submit input and comment based on the staff report."

Neither my written public testimony submission nor Ms. Nordyke's response were included in the minutes of the June 22, 2020 city council meeting. My written public testimony should be added to the record.

Additionally, my June 22, 2020 written public testimony sent at 12:39 PM was once again excluded, the second time from File # 20-223 on the August 10, 2020 agenda. It should be added to the record.

Although included in the documents placed online before the June 22, 2020 city council meeting as part of the council's agenda item # 6.d., Ms. Renee Phillips' written testimony submitted on June 22, 2020 at 11:38 AM is not included in File # 20-223 on the August 10, 2020 agenda. Her written testimony should be added.

For completeness of the record, with this submission, I am submitting 19 pages of attached written testimony, including the new written testimony submissions of the Essence of Pioneer Alley's Oral Testimony on June 22, 2020 and my August 10, 2020 memorandum (with attachment) regarding **City Denial of Due Process of Law**.

To: Honorable Members of Salem City Council

From: Kathleen Dewoina

Re: Rural-Hoyt Trail Connection

Date: April 22, 2020

**Background/Context.** For those members who were not on the Salem City Council in 2012-2013, or 2004-2005, or even as far back as 1985, please be aware that various prior City Councils have ultimately, repeatedly rejected a Rural-Hoyt Trail connection, also known as Pioneer Cemetery Path.

Most of the alley abutting the north side of the cemetery was vacated in 1987 and ceded not to the Cemetery, but to the adjacent properties. The perimeter fence was installed in that same timeframe. The effect of these measures was to control the area, reduce risk of hazards, and stop vandalism. Access today through a gate would defeat the protection the fence was built to provide.

**Legal Viability.** Should the City Council vote in favor of a motion to reopen a discussion between proponents and opponents, city lawyers should be the first to be consulted for the legal viability of such a trail or path.

The legal posture of the situation has changed since the City Council's last consideration in favor of a stronger position for the opponents. At the outset, the staff report should consider the cost to the taxpayers to pursue a trail or path, a goal that seems to be perpetuated by only a few constituents.

In part, the circumstances have changed: (1) an interim LUBA remand makes it clear that this matter falls under the Goal 5 inventory of historic resource; *see, for example*, Department of Land Conservation and Development OAR 660-00-23-0200; (2) additionally, since the City Council's last consideration, Pioneer City Cemetery has been registered as a State Historic Landmark with the Historic Preservation Plan now a prerequisite to change. Exhibit A

**Cost to Taxpayers.** The trail or path at this time will substantially impact the market value and use of the abutting properties such that the damages would be required to be paid pursuant to law. The impact would be to significantly decrease the market value of at least three to eight abutting properties. The average market values of homes in the south Salem neighborhood is in excess of \$450,000. Exhibit B.

**City Path or Trail Already Exists.** Residents of the area have an alternate path, Fairmount Park Trail. Perhaps the City could alert the Citizens and the Schools in the area of the existence of the Fairmount Park Trail. A path through Pioneer Cemetery would be a second path.

As to those who desire to teach children to respect Pioneer Cemetery, the Cemetery already has access from Hoyt Street. The existing access from Hoyt Street fosters peaceful quiet appreciation, serenity, reflection and respect.

**In sum.** It is time to make this decision and close this book on a path through Pioneer Cemetery because it is extremely expensive to go after this duplicate trail over and over again.

dewoina@aol.com

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**From:** Vanessa Nordyke <VNordyke@cityofsalem.net>  
**Sent:** Monday, June 22, 2020 1:03 PM  
**To:** Kathleen Dewoina  
**Subject:** Re: Agenda Item 6.d June 22, 2020

Thank you Ms Dewoina.

Please be advised that I do not intend on making any motions based on the information report in the agenda for today's meeting. The community needs time to process, review, and submit input and comment based on the staff report.

Vanessa Nordyke  
Salem City Council, Ward 7  
City phone: (971) 707-3732

---

**From:** Kathleen Dewoina <Dewoina@bhhsnwrep.com>  
**Sent:** Monday, June 22, 2020 12:39:38 PM  
**To:** CityRecorder <CityRecorder@cityofsalem.net>; citycouncil <citycouncil@cityofsalem.net>  
**Subject:** Agenda Item 6.d June 22, 2020

Please add the attached submittal to the record for Agenda Item 6.d related to Rural Hoyt connection. I will be submitting testimony related to the options later today.

Thank you,  
KD



Kathleen Dewoina, Broker, GRI,  
CRIS, ABR  
Berkshire Hathaway  
HomeServices  
Real Estate Professionals  
1220 20<sup>th</sup> Street SE  
Salem, OR 97302

Office: 503-371-3013 x 1311  
Fax: 503-364-1453  
Cell or Text: 503-999-4535  
Email: dewoina@aol.com  
Website: [www.dewoina.com](http://www.dewoina.com)

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To: City of Salem City Council

From: Kathleen Dewoina, Managing Partner  
Pioneer Alley LLC

Date: June 22, 2020

RE: Written Testimony about

**Third** Pedestrian Connection (through Pioneer Cemetery and across privately-held Pioneer Alley LLC Planned Unit Development) between Candalaria and Fairmount neighborhoods; City Council June 22, 2020 Agenda Item 6.d.

As Public Works Director Peter Fernandez and Assistant Public Works Director Robert Chandler note in their June 22, 2020 report, Pioneer Alley LLC, *first* submitted a Planned Unit Development ("PUD") *with a dedicated north-south alley connection* between Pioneer Cemetery and Rural Street; hence, the PUD name: **Pioneer Alley**.

After a public hearing in 2005, the City of Salem **City Council voted against the proposed north-south alley connection** that unequivocally would have allowed for pedestrian access to Pioneer Cemetery. At considerable cost, the PUD was redesigned and built accordingly.

Once again, the subject of a third pedestrian connection is on the council's agenda for June 22, 2020 as an informational item. Pioneer Alley LLC is the sole private property owner, that is, the sole interested party, in Option 5, as proposed by the Public Works Director Fernandez and Assistant Public Works Director Chandler.

Please note that, as the interested private property owner, I would like as much notice as possible for upcoming agenda items related to this property. It was not available on Legistar over the weekend.

dewoina@aol.com

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**From:** dewoina@aol.com  
**Sent:** Monday, June 22, 2020 3:56 PM  
**To:** 'cityrecorder@cityofsalem.net'; 'citycouncil@cityofsalem.net'  
**Subject:** Agenda Item 6.d Council Meeting 6 22 2020  
**Attachments:** 1758\_001.pdf

Please add the attached Public Testimony to Agenda Item 6.d for tonight's meeting.

KD

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**From:** copiers@bhhsnwrep.com <copiers@bhhsnwrep.com>  
**Sent:** Monday, June 22, 2020 1:20 PM  
**To:** Kathleen Dewoina <Dewoina@BHHSNWREP.com>  
**Subject:** DO NOT REPLY from Salem 2nd Floor B&W

To: City of Salem City Council

From: Kathleen Dewoina, Managing Partner   
Pioneer Alley LLC

Date: June 22, 2020

RE: **Third** Pedestrian Connection (through Pioneer Cemetery and across privately held Pioneer Alley LLC Planned Unit Development) between Candalaria and Fairmount neighborhoods. Additional Written Testimony.

As two pedestrian connections already exist, please kindly note that in less than six blocks, proponents want **three** different connections.

The *Comprehensive Park System Master Plan* for historical areas is internally inconsistent in that it *specifically* provides only for an ADA-compliant internal pathway system, including looped walking paths, and then *generally* budgets \$144,000 for a "Rural Ave SE [sic]/ Hoyt Connector." To give effect to both provisions works only if a second, landscape-buffered sideway is placed to the west of the current sidewalk on Commercial Street (see discussion under Option 3, below) or the funds are spent to improve the Fairmount Park Trail (see discussion under Option 4, below).

As compared to the sidewalk along Commercial Street, the third proposed connection does not shorten the distance between the neighborhoods to the shopping area.

The report does not provide costs to compare each option.

Option 3. (1) The staff report dated June 22, 2020, addressing improving pedestrian facilities along Commercial Street, presupposes that the sidewalk is inadequate. No inadequacy is described or identified. The sidewalk appears to meet the specifications required by the City of Salem. If the sidewalk on the west side of Commercial Street between Rural and Hoyt is inadequate as stated, the City of Salem needs to immediately take whatever steps are necessary to make it adequate for **all** the citizens and guests of the City, not just those who want a third option between the Candalaria and Fairmount neighborhoods.

As to the report's discussion of the sidewalk, it should be made clear for the record that the six-foot bike path separates, that is, buffers, the five plus-foot sidewalk from vehicular traffic. Neither staff nor proponents of a third path within six blocks cite any pedestrian-vehicular accidents or pedestrian-bicycle accidents in that area.



It appears that staff erred in stating that the City of Salem would have to purchase city-owned cemetery property from itself in order to move the sidewalk west of its location along the bike path.

There is room within the landscape area along Commercial Street to either move the sidewalk or build a second sidewalk without removal of the existing trees or disturbing the fence along the east boundary of the cemetery. A landscape-buffered sidewalk can be placed within the street right of way with removal of the shrubs, not the trees. Installation of cable barriers are probably the most cost-effective answer for safety concerns along Commercial Street. While effective at capturing vehicles, cable barriers are relatively inexpensive and easy to maintain. The topography would not require a retaining wall the entire length of this segment, particularly if the existing sidewalk was kept in place for ADA accessibility.

Option 4. *Regardless of any Pioneer Cemetery connection*, if the Fairmount Park Trail is not ADA compliant as the staff report admits, given the City's commitment to pedestrian and bicycle transportation, bringing an existing connection up to par should be more cost effective than constructing a new connection. Wet areas could be graveled, small "bridges" could be built, switchbacks could reduce steepness.

Option 5. The report neglects to address what steps and at what cost this option would require to be compliant with ADA standards and Goal 5. Detrimental impacts must be determined in advance.

**The current Transportation Systems Plan does not authorize this option.**

Pioneer Cemetery is upslope of the public easement; **grading modification likely would be required within the historic cemetery.** Groundwater drainage and seepage likely would create mud and water flows down the path onto the private property.

The proposed north-south connection is upslope of the public easement as well.

Additionally, the City would have to keep stormwater runoff from any path through the historic cemetery from entering the private property's stormwater runoff.

Dogs could not be walked in the pedestrian path, even on leash. SRC 94.020(2), as Pioneer Cemetery is posted as prohibited by the Director to dogs.

Dogs and other animals are not allowed by the private property owner on private property.

It's highly unlikely the amount budgeted in the *Comprehensive Park System Master Plan* would be sufficient to build a connection through the historic cemetery.

Like the property owner of City View Cemetery, as of June 22, 2020, *the private property owner informs you that it is not interested in providing an easement for the purposes of a pedestrian pathway.*

The driveway is private, not shared with the public.

Among other things, an easement would destroy current infrastructure, require a taking, and relocating/reconfiguring the driveway, and forcing the private property to be non-conforming with the city's codes (including—but not limited to—access, fire, setbacks), etc.

Existing tree and shrub and other landscaping would have to be removed.

The path would be located too close to existing structures on the private property, invading the privacy of the private property residents.

In addition to other things, the staff-described “currently unopened alley right-of-way” as well as maps and diagrams are based on **inaccurate factual, historical, and legal predicates.**

**For Inclusion in the Record of City of Salem City Council Meeting of  
August 10, 2020, including but not limited to agenda item # 5.c., the  
Previously Rejected Pioneer Cemetery Pedestrian Path**

To: City Recorder, City Council Members, and City Manager  
From: Pioneer Alley, LLC  
Date: August 10, 2020  
RE: Essence of Pioneer Alley, LLC's/Kathleen Dewoina's (Managing Partner's) Oral Testimony  
at the City Council Meeting on June 22, 2020

Mayor and Members of the City Council,

My name is Kathleen Dewoina. I am the managing partner for the interested-party, private-property landowner Pioneer Alley LLC. Thank you for this opportunity to present oral testimony.

A Pioneer Cemetery pedestrian path would be the third connector within about six blocks. That's overkill. And, to reach the shopping area some have described, the cemetery path doesn't shorten the distance as compared to the Commercial Street sidewalk. So, it wouldn't be a short cut.

The Commercial Street sidewalk connector is currently buffered by a 6-foot bike path. If more protection is desired, a cable barrier is a more cost-effective solution, or a second, parallel sidewalk within the Commercial Street right-of-way and outside the cemetery fence could be added.

Option 5, whether choice 1 or 2, would need substantial ground modification within the historic cemetery, which, as you know, is prohibited. We can't be raising the dead, at least not that way.

Just as the owner of City View Cemetery is not interested in granting an easement over his privately-owned property, **my partners are not interested in granting an easement across Pioneer Alley.**

Also, Option 5, choice 1 would create significant water problems from drainage off the cemetery onto private property, not to mention a plethora of other problems.

**As presented, Option 5, choice number two is riddled with the wrong facts, the wrong maps, the wrong history, and the wrong legal posture.**

Option 5 is not realistic. It would be more expensive for taxpayers than it is worth.

City funds are more responsibly spent on the two existing connections, either by making improvements to the Fairmount Park Trail or by creating a landscaped buffer with the addition of a second sidewalk or installation of a cable barrier, or all three of the above.

I have submitted more detailed comments in writing. I hope you get a chance to review those.

Also, I would like to add that our project at Pioneer Alley, LLC, was the result of a huge amount of effort on behalf of the City, as well as my deceased business partner, Dave Moss. It took us over three years of planning in order to put three works of infrastructure in the ground and redevelop a sorely neglected part of south Salem. We accomplished that with the able assistance of the Planning Commission, then under Dan Dorn, and Community Development Planning Directors Dave Pratt and Glenn Gross.

We really hope that as the City chooses to reevaluate this issue you realize ***what a treasure we have there now*** and **the risk you knowingly, intentionally, willfully place on this planned development by placing a pedestrian or bike path through it.**

Thank you for your consideration.

**From:** Vanessa Nordyke <[VNordyke@cityofsalem.net](mailto:VNordyke@cityofsalem.net)>

**Date:** June 22, 2020 at 1:10:11 PM PDT

**To:** renee phillips <[renphil@me.com](mailto:renphil@me.com)>

**Subject:** Re: SW corner Rural/John Sj

Thank you so much for your input and heartfelt concerns, Ms. Phillips. I appreciate it. I do not anticipate any action being taken on the staff report at tonight's meeting. I anticipate that there will be further discussion of the staff report at upcoming neighborhood association meetings. I encourage you to contact your neighborhood association and attend the next meeting to participate in the public dialogue. The proposal has been discussed at several prior public neighborhood association meetings, but it is not too late to make your voice heard.

Sincerely, Vanessa

Vanessa Nordyke

Salem City Council, Ward 7

City phone: (971) 707-3732

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**From:** renee phillips <[renphil@me.com](mailto:renphil@me.com)>

**Sent:** Monday, June 22, 2020 11:38:50 AM

**To:** citycouncil <[citycouncil@cityofsalem.net](mailto:citycouncil@cityofsalem.net)>

**Subject:** SW corner Rural/John Sj

I am familiar with the property located on the SW corner of Rural/John S. Prior to development it was a jumble off random buildings and overgrown space and somewhat of an eye sore. Someone with vision developed the Rural/John corner into a peaceful, co-hesive desirable little enclave. The transformation enhanced the sites value as well as surrounding values.

I am fortunate to live in and enjoy a peaceful, co-hesive neighborhood as well. I live in Gaiety Hill area on Church St. I know many of my neighbors and enjoy community commonalities. We enjoy the liveliness of street bicyclists, skate boarders, joggers, dog walkers, hospital workers, city worker walkers, families and a sundry of others who pass through our area on a daily basis. However, increasingly common, we find ourselves sharing our space with folks who do not seem to share the intrinsic values of our neighborhood.

Our area is experiencing an up-tick in public urination, defecation, drug dealers and users, overdoses, homelessness, thefts, break-ins, random debris and other undesirable behavior.

My home sits approximately 46 long-legged paces off the street. About a week or so ago (while working in the front yard) I watched a disheveled, 30ish man, who seemed to be under the influence of a mind altering substance (while no expert, please know my own family has been profoundly impacted by drug addiction, deaths, incarcerations; just saying, I know what impairment looks like). This compromised young man walked approximately 35 long-legged paces into my yard. Every hair on the back of my neck stood up. It was only after he looked up and saw my yard man near my porch that he quickly turned and walked away.

My home is in view of the public. This proposed bike path is NOT! Ingress/egress is hidden through a quiet cemetery, numerous mature trees, lush vegetation, secret corners and obstructed views. This

seems, to me, to be a magnet for undesirable activities. This bike path proposal seeks to divide these private yards and disrupt the peace of this somewhat secure enclave. This proposal would in No WAY enhance the safety and security of those who call this area "home".

Ask yourself if you would want this situation for your son/daughter? your elderly father/mother? your widowed sister, or soft spoken brother? Would any one of the above like to deal with questionable folks crossing through their yard at all hours day or night? That the city council is even considering this proposal is incomprehensible given the evolving needs and awareness of our current turbulent world.

There are other alternatives at hand: including a nearby street!; an existing bike path just west of this proposal; and numerous bike friendly streets already.

Prior to doing something terribly undesirable to all those who would be adversely impacted in the Rural/John corner, please ask yourself if this is something you would actually impose on yourself? Your truthful answer should be a resounding NO!

Thank You

Renee Phillips  
645 Church St. SE  
Salem, OR 97301



dewoina@aol.com

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**From:** dewoina@aol.com  
**Sent:** Monday, June 22, 2020 4:54 PM  
**To:** 'cityrecorder@cityofsalem.net'; 'citycouncil@cityofsalem.net'  
**Subject:** Agenda Item 6.d June 22 2020  
**Attachments:** Renee Phillips Testimony.pdf; Kathryn Moss Reynolds Testimony Rural Hoyt Connection.pdf; Pat Moss Testimony Re Rural Hoyt Connection.pdf

Please add the attached testimony to Agenda 6.d for tonight's meeting. I did not see it posted. I know these were submitted earlier.

Thank you,

KD

- 12 -

**From:** renee phillips <renphil@me.com>  
**Sent:** Monday, June 22, 2020 9:07 AM  
**To:** Kathleen Dewoina  
**Subject:** SW corner Rural/John S

To:

I am familiar with the property located on the SW corner of Rural/John S. Prior to development it was a jumble off random buildings and overgrown space and somewhat of an eye sore. Someone with vision developed the Rural/John corner into a peaceful, co-hesive desirable little enclave. The transformation enhanced the sites value as well as surrounding values.

I am fortunate to live in and enjoy a peaceful, co-hesive neighborhood as well. I live in Gaiety Hill area on Church St. I know many of my neighbors and enjoy community commonalities. We enjoy the liveliness of street bicyclists, skate boarders, joggers, dog walkers, hospital workers, city worker walkers, families and a sundry of others who pass through our area on a daily basis. However, increasingly common, we find ourselves sharing our space with folks who do not seem to share the intrinsic values of our neighborhood.

Our area is experiencing an up-tick in public urination, defecation, drug dealers and users, overdoses, homelessness, thefts, break-ins, random debris and other undesirable behavior.

My home sits approximately 46 long-legged paces off the street. About a week or so ago (while working in the front yard) I watched a disheveled, 30ish man, who seemed to be under the influence of a mind altering substance (while no expert, please know my own family has been profoundly impacted by drug addiction, deaths, incarcerations; just saying, I know what impairment looks like). This compromised young man walked approximately 35 long-legged paces into my yard. Every hair on the back of my neck stood up. It was only after he looked up and saw my yard man near my porch that he quickly turned and walked away.

My home is in view of the public. This proposed bike path is NOT! Ingress/egress is hidden through a quiet cemetery, numerous mature trees, lush vegetation, secret corners and obstructed views. This seems, to me, to be a magnet for undesirable activities. This bike path proposal seeks to divide these private yards and disrupt the peace of this somewhat secure enclave. This proposal would in NO WAY enhance the safety and security of those who call this area "home".

Ask yourself if you would want this situation for your son/daughter? your elderly father/mother? your widowed sister, or soft spoken brother? Would any one of the above like to deal with questionable folks crossing through their yard at all hours day or night? That the city council is even considering this proposal is incomprehensible given the evolving needs and awareness of our current turbulent world.

There are other alternatives at hand: including a nearby street!; an existing bike path just west of this proposal; and numerous bike friendly streets already.

Prior to doing something terribly undesirable to all those who would be adversely impacted in the Rural/John corner, please ask yourself if this is something you would actually imposed on yourself? Your truthful answer should be a resounding NO!

Thank You

Renee Phillips  
645 Church St. SE  
Salem, OR 97301

June 21, 2020

TO: Mayor & City Council

FROM: Kathryn Moss Reynolds

RE: Item 6.d - A pedestrian connection between Candalaria and Fairmount neighborhoods.

I am writing on behalf of my father, Dave Moss, who passed away in 2015.

My father began his home-building work with the goal of creating sustainable community. He wanted to take places that were unloved, or run-down, and build homes that people would want to live in. In the Pioneer Alley LLC PUD, each home makes sense for the occupant inside and works with the surrounding land. He took pride in making each home unique to the lot. These were no cookie-cutter homes where windows look directly into the neighbor's bathroom because "that's how the model is laid out". These are homes that fit into the property.

I tell you this because you will hear people quoting his 2005 request to create a pedestrian/bike pathway. He had created a multi-home community layout with the pathway as an integral part. He worked hard to make the path a reality and was opposed by City View Cemetery, the SCAN Board of Directors, the SCAN Bike Advisory Committee and the Friends of Pioneer Cemetery.

With the pedestrian/bike path proposal blocked, he redesigned the community to create more open space while preserving the original trees, and, as always, make each home fit best into the lot. This community has been a model of development. **A new pathway, as suggested, would tear through the communal space that is an essential and treasured part of the Pioneer Alley PUD community.**

**Forcing a new pedestrian pathway through the community is a measure too late and destroys the legacy of community that my father worked tirelessly to build.** On his behalf, I strongly advise that the vacated alley remain vacated and no pedestrian pathway inserted, as has been determined by 3 previous Councils.

June 22, 2020

Mayor Bennett & City Council Members:

My name is Patricia Moss. I live on Fairmount Ave S. My husband, Dave Moss, created the Pioneer Alley Planned Unit Development (PUD) with his partner Kathy Dewoina.

Dave was a local community member in the Fairmount Ave Neighborhood. Throughout his time living in Fairmount, he gave his heart and soul to building a strong community and improving both his personal property and community-accessible areas. He saw the Pioneer Alley PUD as an opportunity to be part of the local business development and give back to the community by creating beautiful quality homes that neighbors would want to live in.


This was a project of love for Dave. He worked hands-on every day to create a legacy to the community he loved. He poured blood (sometimes literally!), sweat and tears into realizing his vision. This is a community-directed development; not an external project brought in by external developers that do not understand preserving the beauty of the neighborhood. Local ownership means local oversight and quick response to concerns raised by tenants and neighbors. It means that the developer (Dave and Kathy) have had a tangible and emotional incentive to creating something that isn't a profit-generator, but community of homes.

The Pioneer Alley PUD has been a model of a new type of community development. Dave redesigned the layout to incorporate green space and communal areas. In the years that he worked on the PUD, the City had asked him to speak with other inquiring developers to share how he created a new PUD that fit within the neighborhoods. Dave focused on reconstructing derelict properties that were an eyesore and danger to neighboring property. One of the houses formerly on the property now owned by Pioneer Alley LLC had burned and was left to the rats. He replaced the unlivable building with a beautiful home. This PUD is a testament to his legacy of creating beautiful and affordable properties. Renters in Pioneer Alley PUD are long-term tenants that value the homes like their own property. These are homes built with quality in mind, not quantity.

Creating a pedestrian pathway straight through the middle of the Pioneer Alley PUD tears apart the communal space and destroys the quality of the homes. The communal space is a KEY and necessary aspect of a PUD and is part of the beauty of the neighborhood.

**I oppose the plan to insert a pedestrian walkway through the communal space. It would be a destruction of the community and of the legacy into which Dave poured his love and service to this community.**

## Memorandum

To: City Recorder, Members of the City Council, and City Manager  
From: Kathleen Dewoina on behalf of Pioneer Alley, LLC   
Date: August 10, 2020  
Re: **City Denial of Due Process of Law**

This communication is for inclusion in the official record of the City of Salem City Council meeting on August 10, 2020, agenda item 5.c., "Motion from Councilor Nordyke requesting additional information on two potential trail connections between Candalaria and Fairmount neighborhoods" and in the official record of all future proceedings regarding Pioneer Alley, LLC ("Pioneer Alley") and/or its real property. ***Please consider this a formal request/demand for reasonable notice of city council meetings, neighborhood association meetings, staff meetings, joint staff and councilor meetings, ex parte communications, reports, proposed ordinances, emails, etc. where Pioneer Alley's property rights are or could be affected.***

Dr. Robert Chandler notes in his June 22, 2020 staff report that Pioneer Alley is an interested party. As the sole private, single-home property owner targeted for a private property taking in order to build a trail, the city's failure and refusal to provide Pioneer Alley notice of the path—by whatever various names—as an agenda item **deprives Pioneer Alley of due process rights** under the federal and state Constitutions.

Notice when the city council publishes its agenda on Thursday evening before a Monday meeting is inadequate, insufficient, and unreasonable notice. Even when the agenda is published on the webpage, not all the relevant material is always included, for example, the June 22, 2020 staff report (File #20-223, Item # 6.d.) was missing.

Instead, selective friends and colleagues supportive of Ms. Vanessa Nordyke seem to get advance notice, like the email by Ms. Nordyke to Christine Chute, on Tuesday, April 21, 2020 at 1:23 PM demonstrates ("Amen!" writes Ms. Nordyke)—apparently prior to publication on the city's legistar site.

- The affected real property owner whose private property rights are at stake received no notice for the April 27, 2020 meeting.
- The affected real property owner whose private property rights are at stake received no notice for the June 22, 2020 meeting.
- The affected real property owner whose private property rights are at stake received no notice for the August 10, 2020 meeting.



Memorandum  
City Recorder, City Council, City Manager  
August 10, 2020  
Page 2

Yet, Ms. Nordyke writes that it is not too late for voices to be heard. But, the affected real property owner is not given notice of opportunities to be heard.

File #20-315 was created on August 3, 2020. Pioneer Alley certainly was entitled to notice from the moment the file became a public record, that is, from the moment of file creation.

As a matter of civility and courtesy, as well as a matter of law, Pioneer Alley—as the real party in interest—should not have to check every item on every city council agenda to see what is hastily voted through without individual notice to the real party/property owner in interest.

Would you please provide Pioneer Alley due process of law, including prompt, adequate, reasonable notice?

Attachment: 6/22/20 Email to Erma Dowd & Julie Warncke from Jeanine Stice (documenting staff report missing from website)

## Ruth Stellmacher

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**From:** Jeanine Stice <nutritionetcetera@gmail.com>  
**Sent:** Monday, June 22, 2020 10:09 AM  
**To:** Irma Dowd; Julie Warncke  
**Cc:** citycouncil  
**Subject:** Neighborhood Association Communication re: Hoyt Cemetery Path

Good Morning Irma & Julie,

I am writing to see if there is a way to improve communication regarding city reports and information reaching the SWAN Neighborhood Association in a more direct manner. It has come to my attention the Staff Report was not included with the hyperlinks I received last Friday when some of our board members attempted to use the links to review it.

" The informational staff report regarding a possible pedestrian connection between Candalaria and Fairmount neighborhoods is on the agenda for City Council on Monday, June 22 (this is also referred to as Rural-Hoyt Trail Connection or Pioneer Cemetery Trail). The report is available at: <https://saalem.legistar.com/LegislationDetail.aspx?ID=4574775&GUID=5A2B9B0A-A34A-4DCD-9BDA-D643DEF4D4D5>. This report is provided in response to a motion approved by City Council on April 27 (for that report, see: <https://saalem.legistar.com/LegislationDetail.aspx?ID=4426394&GUID=F9DE591B-8C46-49AD-8AF0-E22A501A20C8>). Note that this meeting will be entirely virtual as described on the City web page at the link below. Public comment can be provided by email to [cityrecorder@cityofsalem.net](mailto:cityrecorder@cityofsalem.net) – please include the topic or agenda item (6.d) in your email so the City Recorder knows which agenda item is being referenced. Communications received in advance of the April 27 report are included in the record (Attachment 6 to the June 22 staff report).

If it weren't for it being forwarded directly to me from Elizabeth Potter, I would not have been able to forward it to them to review over the weekend. Over the weekend, I was copied on an email from Evan White, (sunnyslope) who had also read the report and accessed it from some source. And this morning I received an email noting there was extensive communication on the report in a bike blog post : <http://breakfastonbikes.blogspot.com/2020/06/city-council-june-22-problem-of-cemetery-path-connection.html>

Frankly, it is a bit frustrating as the Neighborhood Chair of the neighborhood association the land is directly in to continually receive information on this important project indirectly, and after others in the community have received and accessed the information. SWAN have received a wide variety of opinions on this issue for two decades, and have continually been at the table with vested interest. Is there something that can be done to insure all NAs receive these reports at the same time they are released to the public? The fact the breakfast blog post is so in depth in it's coverage seems to indicate they had time to review it thoroughly before they posted it Friday, while I had only received the agenda links by 9:30am Friday morning void of the report.

Thank you for your help with this.

Sincerely,  
Jeanine Stice  
SWAN Board Chair

## Amy Johnson

---

**From:** dewoina@aol.com  
**Sent:** Monday, August 10, 2020 3:40 PM  
**To:** CityRecorder; citycouncil; SALEM Manager  
**Subject:** Aug 10 2020 Agenda #5.c. Additional Testimony Objection to Motion  
**Attachments:** Aug 10 2020 Agenda Item #5.3 Additional Testimony Objection to Motion.pdf

Please add the attached written testimony to the agenda item 5.c. for tonight's council meeting.

Thank you,

Kathleen Dewoina  
Managing Partner  
Pioneer Alley LLC

TO: City Recorder, City Council, and City Manager

FROM: Pioneer Alley, LLC *Kathleen Deane, Managing Partner*

DATE: August 10, 2020

RE: ADDITIONAL TESTIMONY ABOUT PIONEER CEMETERY PATH;

Today's Agenda Item # 5.c.

The posture this matter has taken and the haste with which it has been rushed gives the appearance of private promises given, a council decision made behind closed doors, and a **predetermined outcome**.

It's time for some transparency here. It's also a good time to follow the public meeting and record rules of law.

The last time the Pioneer Cemetery Trail was on the council agenda, Ms. Vanessa Nordyke wrote:

"The community needs time to process, review, and submit input and comment based on the staff report."

There has been no full and fair airing. The city council has **not** given the community that opportunity. If you wish to further the motion, please give Pioneer Alley, LLC, ("Pioneer Alley") reasonable notice of that opportunity.

The June 22, 2020 staff report gave six (6) options for connectivity. By narrowing the study to only two options, as the proposed motion does, council is selectively eliminating four practical options, **including improvements to an existing connecting path** (Fairmount Park).

Option 1 (no action) costs nothing and the leaves the neighborhoods with two connections within about six blocks.

Option 2 (removal of path from Master plans) may bring additional sale and property tax revenue into the city coffers.

The sidewalk along Commercial Street (Option 3) is buffered from traffic by a six-foot wide bike path. No pedestrian-vehicle collisions have been identified in this location. Any inadequacies in the sidewalk are correctable with minor improvements.

Option 4 would make improvements to the existing trail through Fairmount Park. Surely, study of this option makes common sense as a levelheaded alternative to a pedestrian-only path through a cemetery. As one of three trail options proposed, it is just as worthy of additional

study (inclusive of planning-level construction estimates) as are Options 5 and 6. From their comments, many of the proponents of the Pioneer Cemetery Path want to ride their bicycles through Pioneer Cemetery. Significantly, Option 4 is the only option that would likely result in a shared use path so that bicycles could legitimately use it, too.

Before the council has staff embark on further study, the citizen taxpayers you represent are entitled to know what the **legal viability** of the Pioneer Cemetery Path is. This is not something that should be kept secret from the citizen taxpayers as an attorney-client confidence. There are times when the City Attorney's advice and opinion should be made known to the citizen taxpayers you represent and who pay his salary . . . and this is one of them. The City Attorney should share his expertise and the years-long attorney costs the taxpayers have paid and will be paying for appeals, as well as an estimate of how long the appeal process in all its various forms will take and the final outcome. A Pioneer Cemetery Path is unlikely to come to fruition during any of your current terms of office, including those just elected to a new four-year term.

Additionally, before the council has staff embark on further study, the citizens you represent are entitled to know what the **cost to taxpayers for that study** will be. Engineer and surveyor man hours are going to be spent on the study. Professional city staff time is expensive. (1) With all staff benefits included, we are entitled to know how much the study will cost before the council jumps into it. (2) We also are entitled to know what other city projects are delayed by staff prioritizing time on this study.

The motion carefully omits the potentially very large cost of acquiring property or easements. Condemnation proceedings are costly. The citizens are entitled to know all the costs, including acquisition, damages, and attorney fees. Don't put the citizen taxpayers in the position of paying for a study when the costs of acquisition or damages are too high.

Another reason to include Option 4, the Fairmount Hill mixed-use path, in any study is the **lack** of acquisition costs and the negligible potential for damage payments.

We will repeat that Option 5 is a challenging topography for a Pioneer Cemetery Path. Please review my June 22, 2020 written testimony. The private driveway, the stormwater drainage, and the other underground infrastructure make either Option 5 (1) or (2) unaccommodating for a pedestrian path under federal ADA standards. There just isn't room or grade or space for a landing at the gate. No easement can place an unreasonable burden on the servient land; an AMA-friendly pedestrian path through the Pioneer Alley Planned Unit Development will do just that.

Furthermore, any study of Option 5 must provide a realizable plan for exclusion of dogs and bicycles, along with policing and pooper-scooper persons to enforce the plan.

Option 6 may be feasible provided that the private City View Cemetery property owner agrees, that the city pay all costs, and that the pedestrian path be placed at the “flattest” area of the cemetery for the least burial ground disruption, which would be at 550 Rural Avenue S. At 550 Rural Avenue S, the grade road/drive is fairly level with the cemetery property, it does not present the stormwater and grade problems that Pioneer Cemetery does, there is some parking, and the clubhouse at 550 Rural Avenue is a place meant for socialization, in contrast to the privacy of the homes and yards at Pioneer Alley.

I renew my request for transparency and decisions to be made in public.

Thank you for your thoughtful consideration.



## Amy Johnson

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**From:** dewoina@aol.com  
**Sent:** Monday, August 10, 2020 4:04 PM  
**To:** CityRecorder; citycouncil; SALEM Manager  
**Subject:** Aug 10 2020 Agenda Item 5.c. ADDITIONAL TESTIMONY--State Guidelines  
**Attachments:** Aug 10 2020 Agenda Item #5.c Additional Testimony State Guidelines.pdf

Please add the attached testimony regarding State Guidelines for Paths.

Thank you,

Kathleen Dewoina  
Managing Partner  
Pioneer Alley LLC

**Amy Johnson**

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**From:** Jeanine Stice <nutritionetcetera@gmail.com>  
**Sent:** Monday, August 10, 2020 2:29 PM  
**To:** CityRecorder  
**Subject:** SWAN attachment : agenda 5.c connector Trail through Pioneer Cemetery  
**Attachments:** Pedestrian Connector, Candalaria and Fairmont Neighborhoods (1).pdf

City Recorder Office,

Please see attached SWAN position and public comments pertaining to August 10 Council Meeting Agenda Item 5.c on the connecting trail between Fairmont and Candalaria neighborhoods.

Sincerely,  
Jeanine Stice, Chair  
on behalf of SWAN Board of Directors

July 27, 2020

**TO:** Mayor Chuck Bennett, Councilor Nordyke, Councilor Anderson, City Council,  
Robert Chandler, PhD, PE

**FROM:** Southwest Association of Neighbors (SWAN)

**RE:** Pedestrian Connection between Candalaria and Fairmont Neighborhoods

Council has recently received a report detailing over 35 years of history for a connector pathway between Candalaria and Fairmont neighborhoods with 6 options for consideration to provide direction to Public Works and Transportation Planning. The Southwest Neighborhood Association (SWAN) is supportive of neighborhood connectivity through the development of safe pedestrian pathways but is also committed to a larger vision of community connectivity that promotes, protects and enhances the unique character, history and cultural heritage of our neighborhoods. The Hoyt/Rural connector offers an excellent opportunity to begin to implement this vision as it relates to the potential impact of a pathway through Pioneer Cemetery, a nationally recognized historical site with deep roots into the cultural heritage of Salem's founders. SWAN has devoted many hours researching, holding special meetings, consulting with friends of Pioneer Cemetery, reaching out to neighbors and attending tours in order to thoroughly understand and make a recommendation that moves this issue forward in the best way possible for all concerned. We believe Option 5 is most aligned with the needs required for connectivity and responsible preservation if executed in accordance with the recommendations we outline below.

SWAN cannot support the other Options put forward to Council for the following reasons:

**Option 1:** Taking no action is a missed opportunity and we do not encourage it.

**Option 2:** Removing the path from master plans and vacating the pedestrian access easement is a poor choice but is supported if there is a *removal and hold* on the transportation system master plan and pedestrian easement until a plan is put forward for the protection of Pioneer Cemetery. As Salem moves toward implementing neighborhood connectors and urban trails this would eliminate a connectivity option between neighborhoods which we greatly value.

**Option 3:** Improving pedestrian facilities along Commercial Street would require purchasing land, cutting down established trees, construction of a retaining wall due to topography and determination of impacts to the historic Pioneer Cemetery. This does not address the issue of eliminating the need to use Commercial Street as a connector between neighborhoods and SWAN does not see this as a viable option.

**Option 4:** Constructing a trail through Fairmont Park with connections to Rural and Crestview would utilize an existing trail that is unpaved, steep and often muddy. Improving this trail would require considerable modification of the topography on an often unstable hillside to make it viable. This does

not address the issue of convenient off street connectivity between neighborhoods that is sought with the Hoyt/Rural connector.

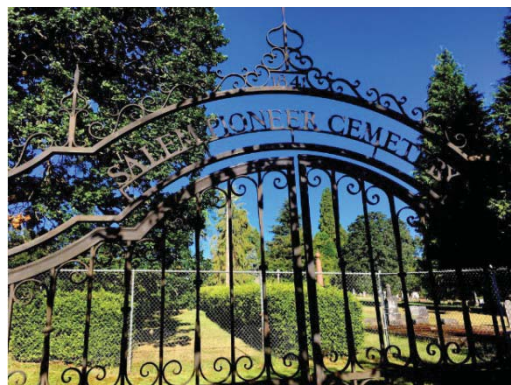
**Option 5** represents the most direct connection between neighborhoods with a link between John Street and Hoyt through Pioneer Cemetery but poses risks to the cemetery if preservation and protection fail to be fully incorporated. Accommodating a trail/path through the cemetery would only require a width of 36 inches and a length of approximately 500 feet ending at a landing leading to John Street over an unopened alley right-of-way. **This route makes the most sense but would require design elements providing for protection and security of historic Pioneer Cemetery if it is pursued.** The significant amount of vandalism, damage and destruction occurring at Pioneer Cemetery prior to placement of the current chain link fence around the property must not be ignored. Vandalism continues to be a concern today evidenced by openings being cut into the chain link fence and several unauthorized uses at property located adjacent to the cemetery at Hoyt and Commercial Street which ultimately required fence placement and padlocks for protection. It is therefore imperative that any consideration of a pathway through Pioneer Cemetery require that the cemetery be fully enclosed.

A path connection along the western border of the cemetery is a good choice if it is pursued slowly and methodically with design input from the public and preservation of Pioneer Cemetery as the keystone of design/build concepts. If there is no provision for historic property and artifact protection included in follow through to Option 5, SWAN recommends tabling the neighborhood connector until such time as a design/build plan including protection for the heritage of Pioneer Cemetery can be developed.

**Option 6:** Constructing a connection that includes City View Cemetery to which the owner has stated he is not interested in providing an easement for a pedestrian pathway. Additionally this option would need similar design assurances and construction plans to provide protection against vandalism, theft and destruction of property. SWAN would not support this option without security concerns being addressed for both historic properties.

## **RECOMMENDATION**

Pioneer Cemetery lies wholly within the boundary of the Southwest Association of Neighbors (SWAN) in Ward 7 and we recognize the opportunity and responsibility to get this right! Input from invested members of our neighborhood association along with cemetery volunteers and neighbors have helped to craft a vision for a possible pedestrian connection between Rural and Hoyt through Pioneer Cemetery. SWAN envisions protecting an irreplaceable State and City of Salem asset with a first class trail connector showcasing this historical gem and providing pedestrian access.



Protecting historic urban cemeteries and utilizing them for education, architecture and tourism as windows into the past is not unusual. Outstanding examples of historic urban cemeteries abound and Salem could be a part of this heritage process through well-executed planning of this connector which could lead to more urban path connections throughout the city. Boston links 2.5 miles of trail into the Freedom Trail. While not Boston, we have an opportunity to create a heritage trail of our own that could be linked with wayfare signage to Minto Brown Park, Riverfront Park and downtown Salem. The connector through Pioneer Cemetery could highlight the memorial to black pioneers, heritage markers for pioneers and show off the Chinese shrine. It would welcome users to learn about the history of Salem with the placards, historic display boards or maybe engraved stones similar to those found on the Capital Mall placed along the trail. Not only would our history benefit but it could encourage volunteerism by exposing visitors to other cemetery assets such as the historic rose collection, significant white oak and madrona trees in addition to educational opportunities from grade school to university archaeology and architecture studies.



The trail would be bordered with an architectural wrought iron fence and three gates on the western edge of the cemetery extending from the northwest corner to the southern entrance enclosing the entire cemetery. This enclosure is a fundamental requirement for security and protection against theft, vandalism and overall destruction of Pioneer Cemetery which required the necessity of a chain link fence to be build in the 1980's the first place. This threat still exists today and cannot be emphasized enough.





The design proposal (see Attachment 1) envisions a 6 foot pathway, well within ADA specifications, at the northwest corner leading from the easement on John Street into Pioneer Cemetery fenced on one side by the current City View barbed wire fencing and chain link fencing along the other side attaching to the current storage area fencing. It would require removal of the existing arborvitae hedge and other vegetation as well as lighting for security. The current storage area would not need to be relocated. The design does not address a gate at this entrance which may be a concern for residents in the immediate area due to potential increased foot traffic.



Current South entrance gate



North end near Storage Area

After approximately 75 feet, the trail would widen onto a road that currently exists. Three gates would provide easy access for maintenance and visitors to access existing roads into the cemetery with a larger main gate in the center to resemble the architectural style of the original gate on Commercial. Again, no gate is currently envisioned on the southern boundary as the iron fencing would be attached to the current chain link fence at either end fully enclosing the cemetery. Although a second enclosure may seem redundant and a potentially unnecessary expense, the dual benefits of a deterrence to the vandalism that has plagued this site and a visual structure consistent with historical urban cemeteries outweigh the cost.

We ask the Council to consider a request for further study, possible site renderings, cost analysis of this vision and public input. If pursued with community partners, grants may be awarded for projects of this type that include historical preservation grants, active transportation grants and cultural awareness and education grants so the city would not need to rely on sparse general funds.

SWAN seeks your support to envision what is possible for our community. We see an opportunity that goes beyond a pedestrian connection between Candalaria and Fairmont neighborhoods to a greater community connectivity that showcases gems like Pioneer Cemetery to its fullest historic and cultural potential while still honoring the need to preserve and protect.

Submitted on behalf of the Southwest Association of Neighbors,

Jeanine Stice, SWAN Chair

Ted Burney, SWAN Land Use Chair



