

Revisions to the Agenda #1

City Council

Monday, October 26, 2020

6:00 PM

Virtual Meeting

6.b. [20-409](#)

NOTICE OF APPEAL RECEIVED - The Grant Neighborhood Association appealed the decision for the Comprehensive Plan Map Designation, Neighborhood Plan Change, and Zone Change including a Class 3 Site Plan Review, Class 1 Design Review, and five Class 2 Adjustments for the development of 19 multi-family units and will be heard by City Council.

Planning Commission Decision - A consolidated application to change the Comprehensive Plan Map Designation, Neighborhood Plan Change, and Zone Change including a Class 3 Site Plan Review, Class 1 Design Review, and five Class 2 Adjustments for the development of 19 multi-family units - Approved.

Minor Comprehensive Plan Map Amendment / Neighborhood Plan Change / Zone Change / Class 3 Site Plan Review / Class 2 Adjustment / Class 1 Design Review Case No. CPC-NPC-ZC-SPR-ADJ-DR20-03 - Emily Reiman, DevNW, and Joseph Moore, GMA Architects, on behalf of Evergreen Presbyterian Church in Salem - 905 & 925 Cottage Street NE.

Ward(s): 1

Councilor(s): Kaser

Neighborhood(s): Grant

Revised - Report revised. The report was revised and an attachment was added to reflect an appeal that was received from Grant Neighborhood Association.



Staff Report

File #: 20-409

Version: 1

Date: 10/26/2020

Item #: 6.b.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

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RECOMMENDATION:

Information Only.

Olivia Dias
Planner III

Attachments:

1. Land Use Decision CPC-NPC-ZC-SPR-ADJ-DR20-03

10-12-2020

Olivia Dias

To: Salem Planning
Subject: RE: Grant Neighborhood Association Appeal of CPC-NPC-ZC-SPR-ADJ-DR20-03, 905 and 925 Cottage Street NE

From: Paul Tigan <paultigan@hey.com>
Sent: Monday, October 26, 2020 12:20 PM
To: Salem Planning <Planning@cityofsalem.net>; citycouncil <citycouncil@cityofsalem.net>
Cc: Sam Skillern <sam@salem1f.org>; Jeanne and Corbey Boatwright <cjboat835@yahoo.com>; Eric Bradfield <ebadfield@gmail.com>; aterp1@gmail.com
Subject: Grant Neighborhood Association Appeal of CPC-NPC-ZC-SPR-ADJ-DR20-03, 905 and 925 Cottage Street NE

Dear City of Salem Planning Staff and City Councilors -

This email is an appeal of the October 12, 2020 Decision of the City of Salem Planning Commission to approve the Minor Comprehensive Plan Map Amendment, Neighborhood Plan Change, Zone Change, Class 3 Site Plan Review, Class 2 Adjustment, and Class 1 Design Review for case CPC-NPC-ZC-SPR-ADJ-DR20-03, 905 and 925 Cottage Street NE.

We are sending this email to both Planning Staff and City Council as this consolidated application appears as Item 6.b. on the City Council Agenda this evening.

This appeal is on behalf of the Grant Neighborhood Association, which presented evidence and testimony at the October 6, 2020 City of Salem Planning Commission hearing, requesting that the application be denied in its entirety. Because this Appeal comes directly from the Grant Neighborhood Association, we request a waiver of the \$250 appeal fee.

Pursuant to SRC 300.1020, the Grant Neighborhood asserts that the decision regarding this Minor Comprehensive Plan Map Amendment, Neighborhood Plan Change, Zone Change, Class 3 Site Plan Review, Class 2 Adjustment, and Class 1 Design Review was made in error and should be overturned by the Salem City Council.

In addition to the appeal of the Planning Commission's decision outlined in brief below, the Grant Neighborhood Association incorporates by reference, and has attached here, our original response to the application from September 2, 2020.

Point #1 - Equally or better suited designation

*Salem Revised Code, 64.025(e)(2)(A)(ii) - The Minor Plan Map Amendment is justified based on the existence of one of the following ... **Equally or Better Suited Designation.** A demonstration that the proposed designation is equally or better suited for the property than the existing designation.*

*Salem Revised Code, 265.005(e)(1)(A)(iii): The zone change is justified based on one or more of the following ... A demonstration that the proposed zone change **is equally or better suited for the property than the existing zone.** A proposed zone is equally or better suited than an existing zone if the physical characteristics of the*

property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

The Planning Commission's decision has failed to conform to the above sections of the Salem Revised Code. Specifically, the Planning Commission has not adequately demonstrated how the specific properties 905 and 925 Cottage Street NE are *equally* or *better* suited as Multifamily and High-Rise Residential as required for amendments to the City of Salem's Comprehensive Plan (SRC 64) and Zoning (SRC 225).

The rationale provided for the decision is inadequate because it relies on characteristics that are not unique to the properties themselves (e.g., the need for additional housing units throughout the entire city, being within 1/4 mile of Cherriots bus route), while failing to consider the actual particularities of property and its relationship to the surrounding land uses, as the code requires. In this case, the Planning Commission states that the proposed changes "provides an ability to buffer higher intensity uses from single family uses" (Decision, page 11) - a **factual error** in the decision based on the Planning Commission's own description that the properties are bounded on all four sides by single-family homes (Decision, page 3). In this case, there are no "higher intensity uses" which require "buffering." The creation of a high-rise residential "Donut Hole" would, in fact, create the problem the Planning Commission believes this project would solve.

Further, justifying the most disruptive zoning change possible in the residential code, from single-family to Residential High Rise, should be based on something more compelling than proximity to a bus route or adjacency to a collector route, especially one that is only 55 feet wide (D Street NE). As show in the map below, over 90% of the Grant Neighborhood lies within 1/4 mile of the core Cherriots network. We categorically reject this characteristic as a rationale for rezoning properties in our neighborhood as over-broad and non-deterministic.



[image.png 139 KB](#)

Point #2 - Inadequacy of the Open House to Satisfy Statewide Planning Goal #1 and SRC 300.320(b)(2)

This decision is in error because the Applicant failed to hold the required open house. The applicant's May 4, 2020 open house does not apply to this *consolidated* application because that open house was for only a minor comprehensive plan amendment and zone change. Only when it became clear how unpopular their project was with the neighbors, the applicant revised their application to consolidate all of the city's review of the project into one process. However, in such a case of consolidated approvals, the City requires that the applicant disclose the entirety of the plan to the neighbors in an open house. Specifically, SRC 300.320(b)(2) requires:

"[w]hen multiple land use applications are consolidated into a single application and one or more of the applications involved include a requirement for an open house and the other applications require a combination of neighborhood association contact or no neighborhood association contact, ***the entire consolidated application shall require an open house.*** (emphasis added)

This provision applies here because the Comprehensive Plan Amendment from Single-Family to Multifamily requires an open house, and the other portions of the consolidated application (e.g., Site Plan Review with adjustments) require a combination of neighborhood association contact or none at all.

However, the open house that was held in May literally pre-dated the existence of any Site Plan or any of the proposed (and now approved) adjustments and design review. The Planning Commission's decision is in error

because it is based on the May Open House being *close enough*. The Grant Neighborhood has also raised this point with the planning staff from the City. Close enough is not the standard. Page 6 of the Decision states: "the Open House presented by the applicant did include the site plans...". This is a **factually incorrect** statement. The applicant did not present a site plan that meets the standard of this requirement, and further, the applicant offered assurances that they would be going through site plan review after the change to Commercial Office (as envisioned in May) was finalized and they closed on the property.

But now they have substantially changed their project, consolidated every approval needed by the City to move forward with it, and failed to properly engage the public as required. They have not held a subsequent open house or appeared at our regular scheduled and noticed meetings, despite our invitations. That the Grant Neighborhood Association is highly engaged in a proposal to remarkably change our neighborhood does not satisfy their public engagement requirements under the Code or State of the Oregon Planning Goals.

Point #3 - Statewide Planning Goal 5

The decision is in error because the project, as approved, represents an **adverse effect** to properties that are eligible for listing on the National Register of Historic Places and are therefore significant historic resources under this planning goal. The condition of approval from the Planning Commission, however, is insufficient to protect this property because the developer is only obligated to engage with the SHPO and consult under the NHPA if they receive federal funds for this phase of the project. The proponent could finance this portion of the project with private funds and continue their work unabated, arguing they have no legal responsibility to protect these eligible historic resources.

Point #4 - SRC 64.025(e)(2)(E): The amendment is in the public interest and would be of general benefit.

The Planning Commission's decision is in error when justifying the comprehensive plan change based on public interest and general benefit. While no one denies the need for more housing within the City of Salem, a proper finding of "public interest" and "general benefit" would balance the impacts of such an amendment against its possible benefits. There is no indication that the Planning Commission has seriously weighed the costs of such a decision, instead relying upon a citywide need to justify the outcome without adequately describing the impact.

This **kind of rationale is very much not in the public interest** because it breeds distrust in our decision making, growing cynicism that any agreement between two willing parties takes precedence over the plan of how we want our city to grow or what impacts that agreement might have on the local community.

The Neighborhood Association and neighbors have brought forth legitimate and serious concerns about vastly increasing the density of use of these properties based on parking, traffic, and the substantial likelihood that this zone change will open the door for future zone changes in the immediate area, altering the character of this close in residential neighborhood until it is lost entirely. These are legitimate concerns that do not reflect the public interest and that the Planning Commission has failed to even acknowledge.

Further, while the Grant Neighborhood recognizes that zoning is not static, there must be some room for the logic of the plan and the vicinity of a property to influence whether or not a change to the plan and zone is appropriate. The city recently released its draft vision for **Our Salem** and after years of the kind of

engagement suggested by the same HNA that supposedly justifies this project, the city suggests ***absolutely no changes to these properties at all.***

Rather than addressing the need in the 2015 HNA, ad hoc decisions to create “Donut Holes” of this kind undermine the long-term vision of the City to welcome 60,000 more residents by 2035. 0.30 acres and 19 front doors is not worth the erosion of the public interest. Therefore, the Planning Commission is in error when they approve this project with such rationale.

Point #5 - Grant Neighborhood Plan (SRC Chapter 64)

The Planning Commission’s decision is in error because it somehow justifies this project under the Grant Neighborhood Plan, which specifically calls for the denial of zone changes that would allow more intensive residential uses in the Single Family zone. The Planning Commission wants it both ways, saying that the Neighborhood Plan both justifies the project, but where it does not support the project, is invalid under State law and City code.

The Grant Neighborhood Association would respond to the Planning Commission’s erroneous decision that we recognize the fluid nature of zoning and have participated fully and vigorously in the rezoning of properties throughout our neighborhood with the specific intent to increase the density of housing and other developments.

No one, however, says that *every* zone change that is requested has to be approved, and the treatment of our plan as solely useful as justifying zone changes, but wholly irrelevant when not, is a misreading of the usefulness of the Neighborhood Planning concept within the City.

The Planning Commission’s decision is erroneous because it asserts that the project is within intent of the Grant Neighborhood Plan, which is a **factually incorrect** statement. If the Planning Commission believes that the Grant Neighborhood Plan serves no purpose, then it should recommend that the City Council rescind it as binding policy under SRC 64.

The Grant Neighborhood Association has provided its original comments to the Planning Commission and City Staff as attachments to this appeal. We would request that the City Council review our work and input as part of their *de novo* review of this consolidated application.

Thank you for your time and consideration,

The Grant Neighborhood Association

Enclosures:

Grant NA Appeal 905.925 Cottage (pasted above)

GNA Letter to Staff in re 905 925 Cottage (Sept 2, 2020)

Attachment A Grant NA response to Zoning Criteria (Sept 2, 2020)

Attachment B Grant NA Site Plan Review Comments (Sept 2, 2020)

Attachment C Grant NA High Rise Use in Central Salem (Sept 2, 2020)

Attachment D Grant NA Surrounding Neighborhood Photos (Sept 2, 2020)



[Attachment B Grant NA Site Plan Review Comments .pdf 191 KB](#)



[Attachment D Surrounding](#)

[Neighborhood Photos.pdf 11.4 MB](#)



[GNA Letter to Staff in re 905 925 Cottage Sep-2-2020.pdf 507 KB](#)



[Attachment A Grant NA Response to Zoning Criteria.pdf 1.48 MB](#)



[Attachment C High Rise Use in Central](#)

[Salem.pdf 6.17 MB](#)



[Grant NA Appeal 905.925 Cottage.pdf 728 KB](#)