

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

IN THE MATTER OF DENIAL OF A)	ORDER NO. 2022-9-CU-
CONDITIONAL USE PERMIT, CLASS 3)	SPR-ADJ-DAP-DR21-05
SITE PLAN REVIEW, CLASS 2)	CONDITIONAL USE, CLASS
ADJUSTMENT, CLASS 2 DRIVEWAY)	CLASS 3 SITE PLAN REVIEW,
APPROACH PERMIT, AND CLASS 1)	CLASS 2 ADJUSTMENT,
DESIGN REVIEW)	CLASS 2 DRIVEWAY
)	APPROACH PERMIT, CLASS 1
)	DESIGN REVIEW CASE NO.
4900 BLOCK OF STATE STREET - 97301)	CU-SPR-ADJ-DAP-DR21-05

This matter coming regularly for hearing before the City Council, at its May 9, 2022, meeting, and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order affirming the decision of the Hearings Officer to deny Conditional Use, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review Case No. CU-SPR-ADJ-DAP-DR21-05, and denying the application.

PROCEDURAL FINDINGS:

- (a)** On September 22, 2021, a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review consolidated application was submitted for property located at the 4900 Block of State Street (Attachment 1). After receiving additional information, the collective application was deemed complete for processing on December 1, 2021.
- (b)** A public hearing was conducted on December 22, 2021. The Hearings Officer continued the public hearing to January 26, 2022 to allow for additional findings and testimony to be submitted.
- (c)** Prior to the continued hearing, the applicant submitted an updated site plan and updated written response which were included in the supplemental staff report dated January 26, 2022. On January 26, 2022, the Hearings Officer conducted the continued hearing, closed the public hearing, and left the record open for additional written comments and final argument by the applicant.
- (d)** On February 9, 2022, an open record memo, including staff rebuttal testimony in response to the updated plans and findings provided by the applicant was provided to the Hearings Officer. The applicant provided final argument on February 16, 2022.
- (e)** On March 9, 2022, the Hearings Officer issued a decision denying the collective application.
- (f)** On March 15, 2022, a timely Notice of Appeal was filed by the applicant. At the March 28, 2022 regularly scheduled meeting, the City Council voted to initiate review of the appeal filed by the applicant.

(g) The 120-day State mandated deadline for final decision has been extended by the applicant to May 26, 2022.

(h) On April 25, 2022, the City Council held a public hearing, received public testimony, and then closed the hearing. The City Council conducted deliberations and voted to affirm the Hearings Officer's decision denying Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review Case No. CU-SPR-ADJ-DAP-DR21-05.

SUBSTANTIVE FINDINGS:

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

(a) The Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review collective application to develop a new multi-family apartment complex containing 291 dwelling units for property approximately 10.7 acres in size, as proposed, fails to comply with the approval criteria set forth in SRC 240.005(d) for granting a Conditional Use Permit.

(b) Because the Conditional Use Permit was not granted for the proposed use, the Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review applications processed collectively with the Conditional use Permit were denied as well.

(c) The facts and findings, attached hereto as exhibit 1 and the facts and findings of the Hearings Officer's decision, attached hereto as exhibit 2, are incorporated to this decision as set forth herein.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF SALEM, OREGON:

Section 1. The City Council affirms the decision of the Hearings Officer and DENIES Conditional Use, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit and Class 1 Design Review Case No. CU-SPR-ADJ-DAP-DR21-05.

Section 2. This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

Exhibit 1: Facts and Findings for CU-SPR-ADJ-DAP-DR21-05

Exhibit 2: Hearings Officer Decision Findings of Fact and Conclusions

ADOPTED by the City Council this 9th day of May 2022.

ATTEST:

City Recorder

Checked by: Aaron Panko