

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

## DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW / CLASS 2 ADJUSTMENT .  
CLASS 1 DESIGN REVIEW CASE NO.: CU-SPR-ADJ-DR23-04**

**APPLICATION NO.: 22-124236-PLN**

**NOTICE OF DECISION DATE:** April 26, 2023

**SUMMARY:** Development of the second phase of the East Park Apartments, including an additional four buildings containing 42 dwelling units.

**REQUEST:** A Conditional Use Permit request to allow a new multi-family residential use, and Class 3 Site Plan Review and Class 1 Design Review for development of the second phase of the East Park Apartments, including an additional four buildings containing a total of 42 dwelling units, with a Class 2 Adjustment request to:

- 1) To allow buildings to be placed at an approximate 20-foot setback along State Street and Greencrest Street NE, instead of five feet as required by 702.020(e)(4); and
- 2) To eliminate the direct pedestrian access to adjacent sidewalk requirement for ground level units adjacent to State Street and Greencrest Street NE as required by 702.020(e)(5).

For a portion of property approximately 1.74 acres in size, zoned CR (Retail Commercial), and located at the 4900 Block of State Street - 97301 (Marion County Assessor Map and Tax Lot numbers: 072W29C / 00100 and 00101)."

**APPLICANT:** East Park LLC (Kiril Ivanov, Patricia Jones)

**LOCATION:** 4900 Block of State St, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapters 240.005(d) – Conditional Use; 220.005(f)(3) – Class 3 Site Plan Review, 250.005(d)(2) – Class 2 Adjustment; and 225.005(e)(1) – Class 1 Design Review

**FINDINGS:** The findings are in the attached Decision dated April 24, 2023.

**DECISION:** The **Hearings Officer APPROVES** the request for a Conditional Use, Class 3 Site Plan Review, Class 1 Design Review, and the Class 2 Adjustment request to increase the setback requirement along State Street and Greencrest Street NE; the Hearings Officer also **APPROVES** the Class 2 Adjustment request to eliminate the direct pedestrian access requirement for ground floor units abutting State Street. The Hearings Officer **DENIES** the Class 2 Adjustment request to eliminate the direct pedestrian access requirement for ground level units abutting Greencrest Street NE.

**NOTICE OF DECISION**

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005

**CITY OF Salem**  
**AT YOUR SERVICE**

### **SITE PLAN REVIEW:**

- Condition 1:** The final plat for this phase of the East Park Estates Planned Unit Development/Subdivision must be recorded prior to issuance of any civil site work or building permits. In the alternative, civil site work and/or building permits may be issued prior to the recording of the final plat if the applicant can demonstrate that the proposed development is in compliance with all the applicable development standards of the zoning code or has received approvals for any necessary Adjustments, and that the applicant has adopted a covenant on the subject property that (1) will prevent the separate sale of the subject property until demonstration that the proposed development is in compliance with all the applicable development standards of the zoning code or has received approvals for any necessary Adjustments, and (2) will give reciprocal access easements on the subject site that will exist until the replat occurs.
- Condition 2:** Convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of State Street, including sufficient right-of-way to accommodate public infrastructure at the property corners.
- Condition 3:** Construct a half-street improvement along the frontage of State Street to Major Arterial street standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 4:** Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Greencrest Street NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.
- Condition 5:** Construct a half-street improvement along the frontage of Greencrest Street NE to Collector standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 6:** As specified in the applicant's Traffic Impact Analysis, construct eastbound-to-northbound and westbound-to-southbound left-turn lanes at the intersection of State Street and Greencrest Street NE.
- Condition 7:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

### **CLASS 2 ADJUSTMENT:**

- Condition 8:** Proposed Buildings 30-32 must comply with the direct pedestrian access standard of SRC 702.020(e)(5) along Greencrest Street NE.
- Condition 9:** The adjusted development standards, as approved in this zoning adjustment, will only apply to the specific development proposal shown in the site plan. Any future development, beyond what is shown in the site plan, must conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

The rights granted by the attached decision must be exercised, or an extension granted, by the dates listed below, or this approval shall be null and void.

Conditional Use: May 12, 2025

Class 3 Site Plan Review: May 12, 2027

Class 2 Adjustment: May 12, 2027

Class 1 Design Review: May 12, 2027

Application Deemed Complete: February 28, 2023

Public Hearing Date: March 22, 2023

Notice of Decision Mailing Date: April 26, 2023

Decision Effective Date: May 12, 2023

State Mandate Date: June 28, 2023

Case Manager: Aaron Panko, [APanko@cityofsalem.net](mailto:APanko@cityofsalem.net), 503-540-2356

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Thursday, May 11, 2023. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240, 220, 250, 225. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

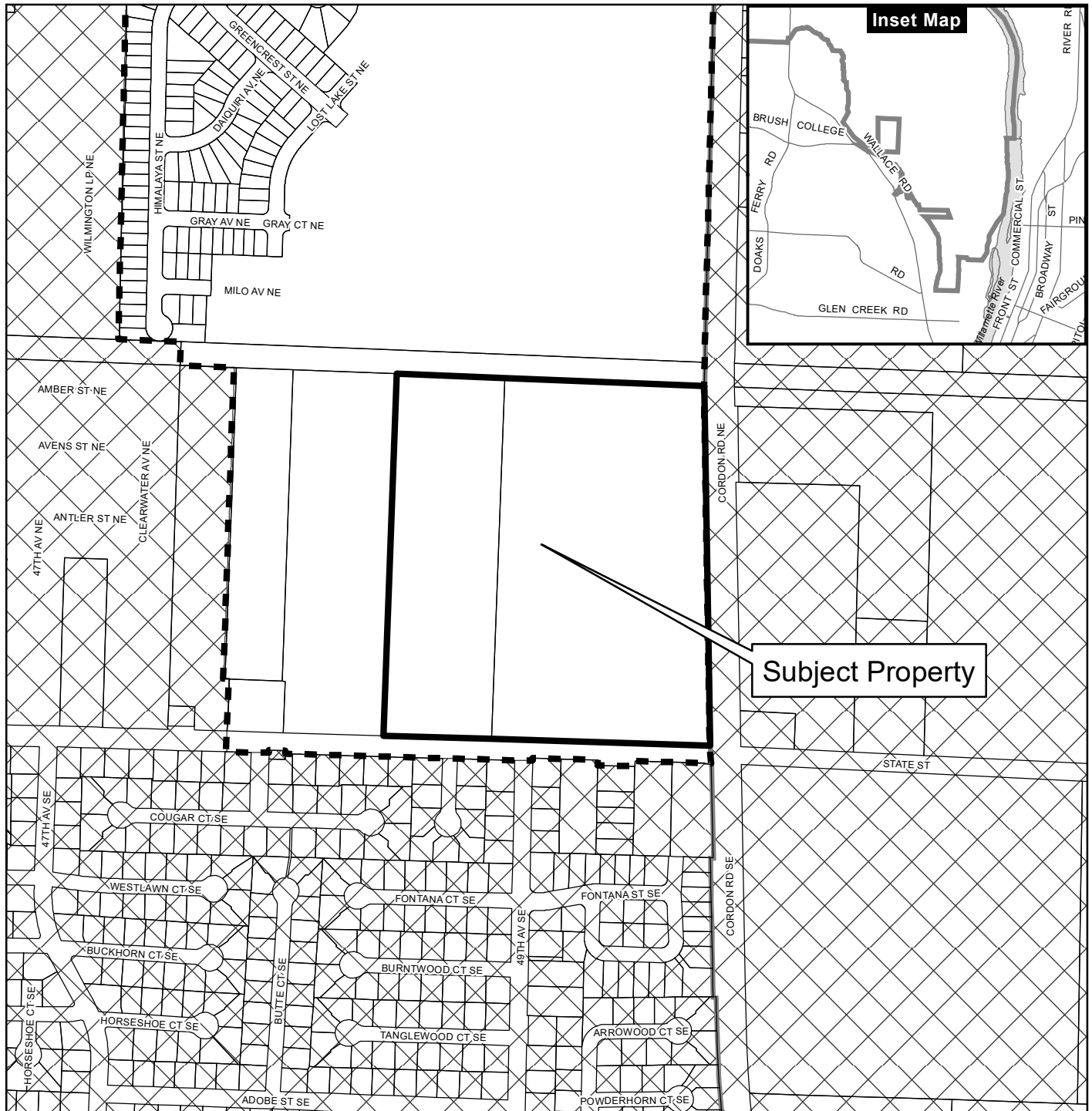
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

# Vicinity Map

## 4900 Block of State Street

### (Taxlots 072W29C / 00100 and 00101)



#### Legend

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

- Parks

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Community Development Dept.

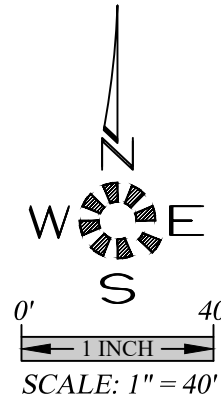
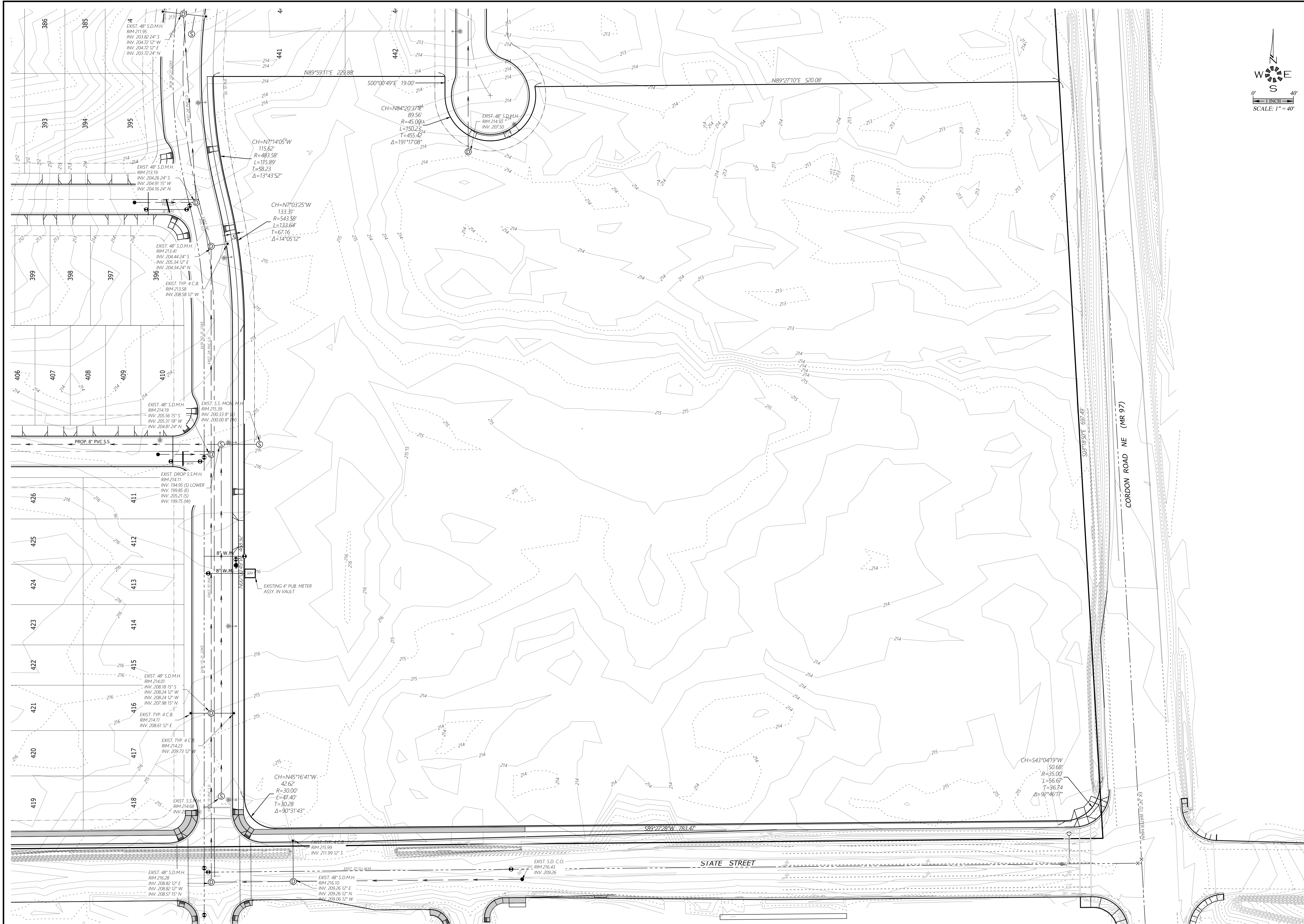
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0 100 200 400 Feet





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**EXISTING  
CONDITIONS  
PLAN**

**EAST PARK APARTMENTS PH.2**

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6789B-PH.2 SDR2-XCOND

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Drawn:	A.R.B.
Checked:	J.J.G.
Date:	DEC. 2022
Scale:	AS SHOWN

REGISTERED PROFESSIONAL  
ENGINEER  
MARK D. GREGG  
JULY 14, 1978  
EXPIRES 06-30-2023  
JOB # 6789

**SDR2**



**42 TOTAL APARTMENT UNITS**  
**24 TYPE "A" 2-BD, 2-BA (952 S.F.) UNITS**  
**18 TYPE "C" 1-BD, 1-BA (728 S.F.) UNITS**

**77 TOAL PARKING STALLS**  
**61 STANDARD STALLS**  
**14 COMPACT STALLS**  
**2 HADICAP STALLS**  
**1 BICYCLE SPACES (1 RACK)**

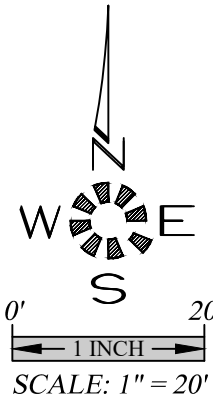
**1 TRASH COMPACTOR / RECYCLE**  
**1 U.S. MAIL BOX AREA**

- POLE LIGHT MAXIMUM 14' TALL
- POST LIGHT MAXIMUM 5' TALL
- WALL PACK MOUNTED ON BUILDING
- LOCATION OF ELECTRICAL SEPARATION WALL
- MAXIMUM 1:12 SLOPE ON SIDEWALK END RAMPs
- 6 BICYCLE SPACES.

★★ THE INDICATED LOWER FLOOR UNITS IN BUILDINGS 7, 9, 20, 21, 25, & 26 ARE TO BE TYPE A UNITS IN ACCORDANCE WITH THE 2014 OSSC SEC. 1107.6.2.1.1 (NOTED ON FLOOR PLANS). ALL OTHER LOWER FLOOR UNITS TO BE TYPE B UNITS IN ACCORDANCE WITH THE 2014 OSSC SEC. 1107.6.2.1.2

**ADA HANDICAP ACCESSIBILITY NOTES:**

- ALL ON-SITE WALKWAYS, PEDESTRIAN CONNECTIONS TO THE PUBLIC SIDEWALK AND ROUTES TO BUILDING ENTRANCES ARE ACCESSIBLE WITH RUNNING SLOPES LESS THAN 5% AND CROSS SLOPE LESS THAN 2% MAX. LANDINGS AT BOTTOM OF STAIRS AND EXT. FACE OF ENTRANCE DOORS SHALL HAVE A SLOPE IN THE DIRECTION OF TRAVEL NOT TO EXCEED 2%.
- HANDICAP PARKING STALLS AND ACCESS AISLES ARE TO HAVE SLOPES IN ANY DIRECTION OF LESS THAN 2% MAX. GRAPHIC MARKINGS & SIGNAGE FOR HANDICAP AND VAN ACCESSIBLE STALLS WILL BE PER OSSC 2010 CHPTR. 11 AND ORS. REQUIREMENTS.
- HANDICAP ACCESSIBLE CURB RAMPs SHALL HAVE A RUNNING SLOPE NOT TO EXCEED 1:12 MAX. AND A CROSS SLOPE NOT TO EXCEED 1%.
- THE COMMUNITY BUILDING & ON-SITE LAUNDRY FACILITIES WILL BE FULLY HANDICAP ACCESSIBLE IN ACCORDANCE WITH ANSI A117.1 AND CHAPTER 11 OF THE 2010 OSSC.
- 2% OF THE LIVING UNITS OR (3) UNITS WILL BE TYPE 'A' HANDICAP ACCESSIBLE. THESE INCLUDE A 1, 2 AND 3 BEDROOM UNIT AS INDICATED ON THIS SITE PLAN. THE BALANCE OF THE GROUND FLOOR LIVING UNITS WILL BE TYPE 'B' ADAPTABLE UNITS IN ACCORDANCE WITH ANSI A117.1.

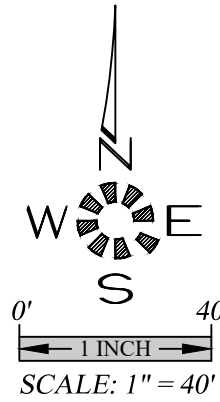




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STELLA STREET TO BE  
CONSTRUCTED PRIOR TO  
STOCKPILING OF  
COMBUSTIBLE MATERIALS.



**42 TOTAL APARTMENT UNITS**  
**24 TYPE "A" 2-BD, 2-BA (952 S.F.) UNITS**  
**18 TYPE "C" 1-BD, 1-BA (728 S.F.) UNITS**

**1 TRASH COMPACTOR / RECYCLE**  
**1 U.S. MAIL BOX AREA**

PARKING TOTALS				
	STANDARD	COMPACT	HANDICAP	TOTAL
PHASE 1	393	77	14	484
PHASE 2	61	14	2	77
OVERALL PARKING	454	91	16	561

**PHASE 1:**

**3 LOADING ZONES**

- POLE LIGHT MAXIMUM 14' TALL
- POST LIGHT MAXIMUM 5' TALL
- WALL PACK MOUNTED ON BUILDING
- LOCATION OF ELECTRICAL SEPARATION WALL
- MAXIMUM 1:12 SLOPE ON SIDEWALK END RAMPS
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**SITE PLAN**

**EAST PARK APARTMENTS PH.2**

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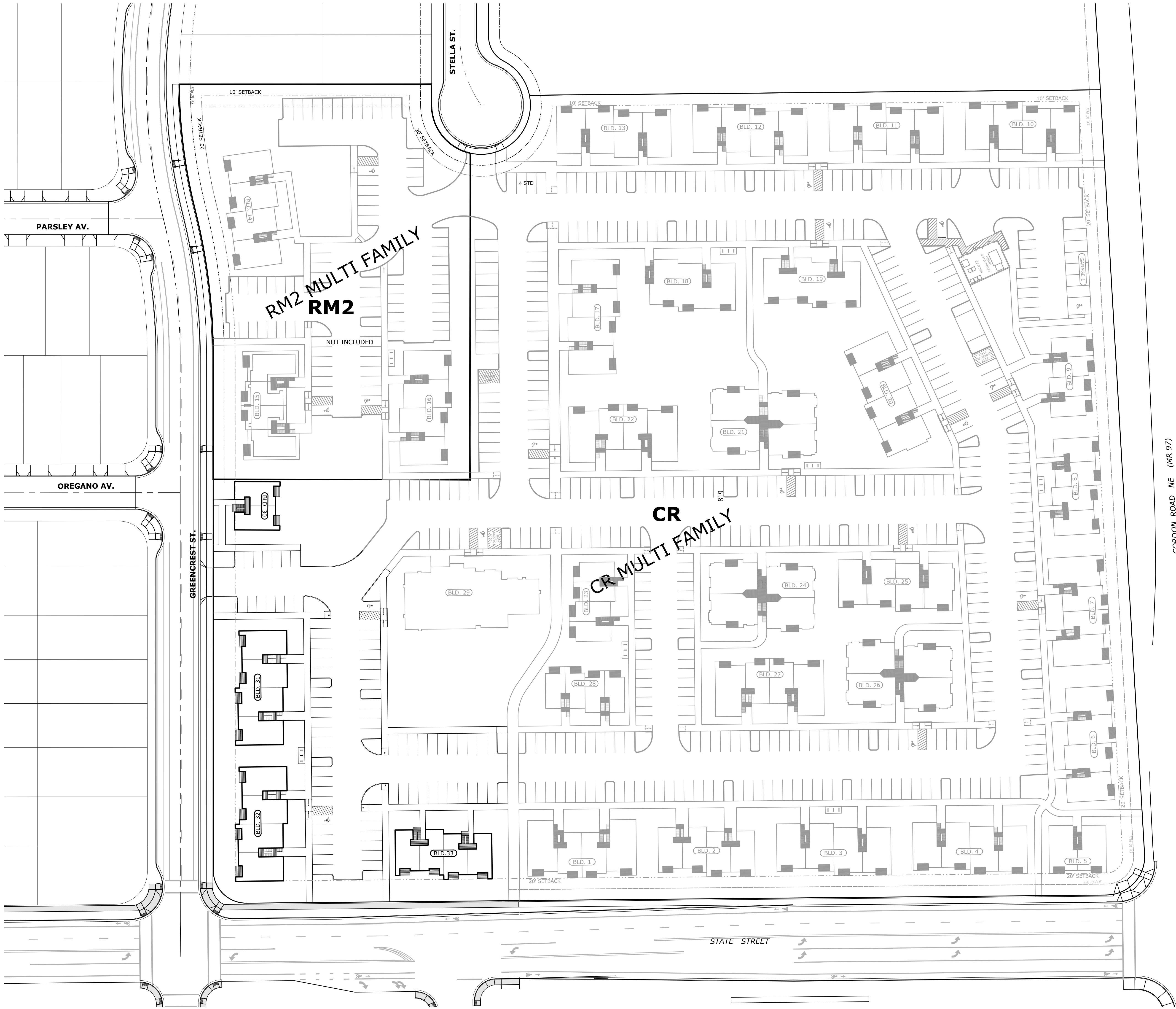
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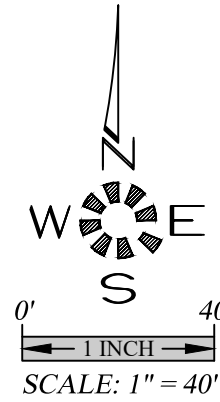
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CORDON ROAD NE (MR 97)

ZONE KEY  
RM2 - MULTI FAMILY RESIDENTIAL  
CR - RETAIL COMMERCIAL



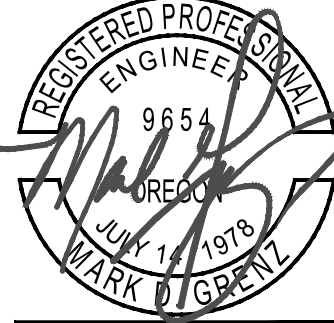
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ZONING MAP

EAST PARK APARTMENTS PH.2

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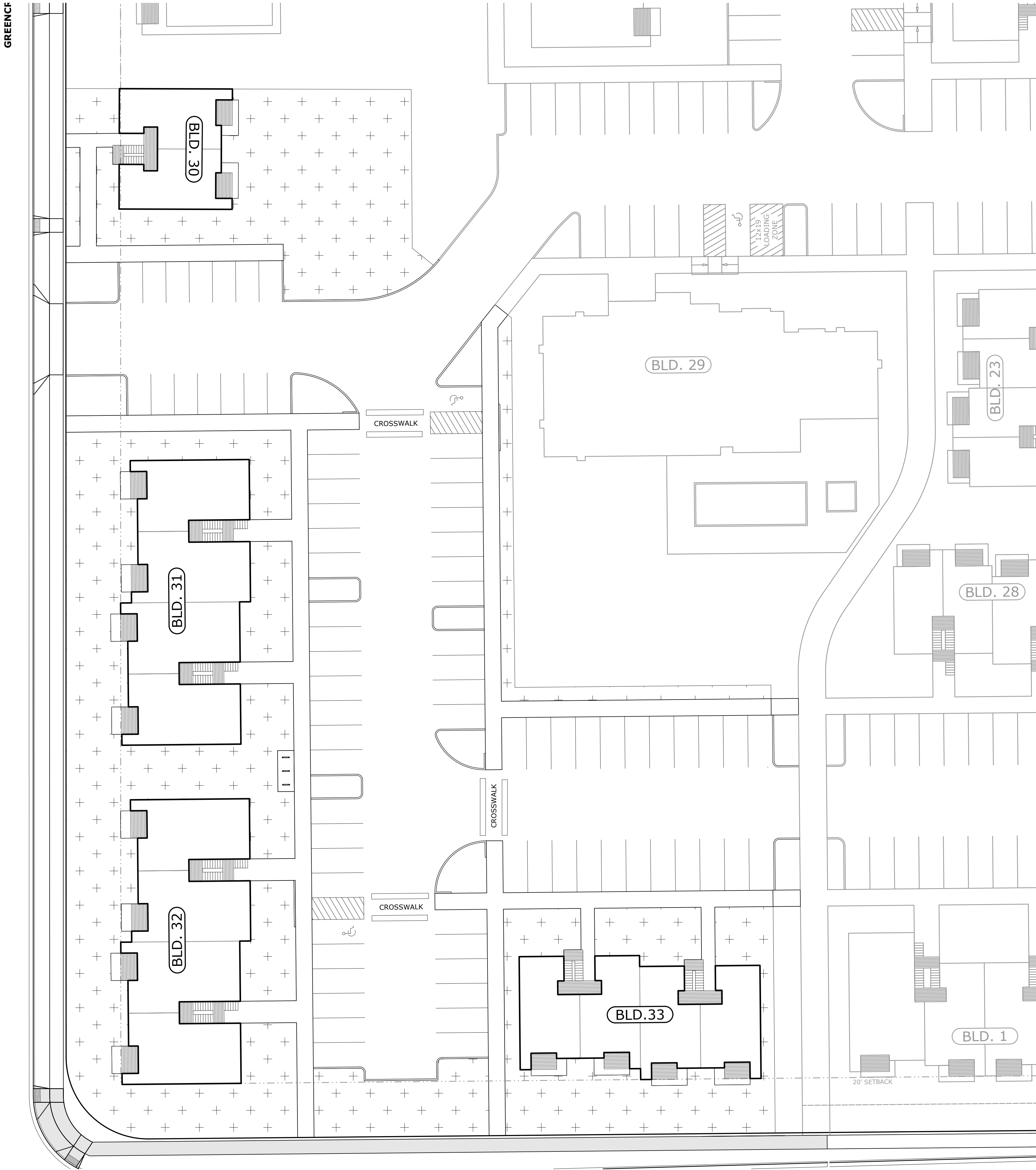
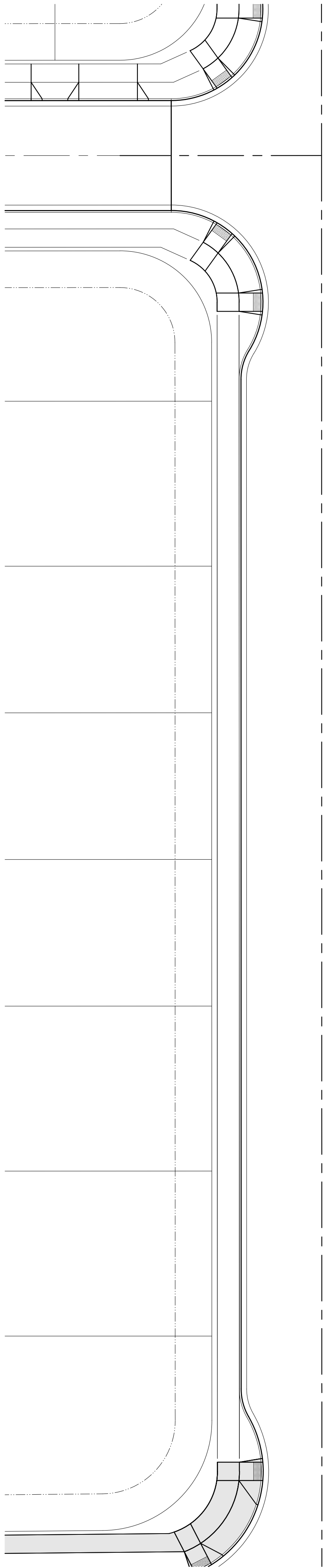
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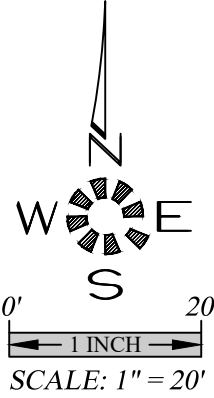


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SITE AREAS	
BOUNDARY	75,708 S.F. (1.74 AC)
PERVIOUS AREA:	
OPEN SPACE	
COMMON OPEN SPACE	25,446 S.F. (33.61%)
INTERIOR PARKING LOT LANDSCAPING	1,341 S.F. (1.77%)
IMPERVIOUS AREA	
PARKING AREA	27,549 S.F. (36.38%)
SIDEWALK	8,021 S.F. (10.58%)
BUILDINGS	13,351 S.F. (17.66%)

 = COMMON OPEN SPACE



MULTI/TECH

ENGINEERING SERVICES, INC.  
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OPEN SPACE PLAN

EAST PARK APARTMENTS PH.2

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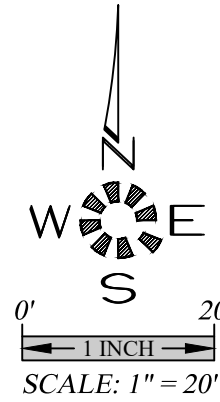
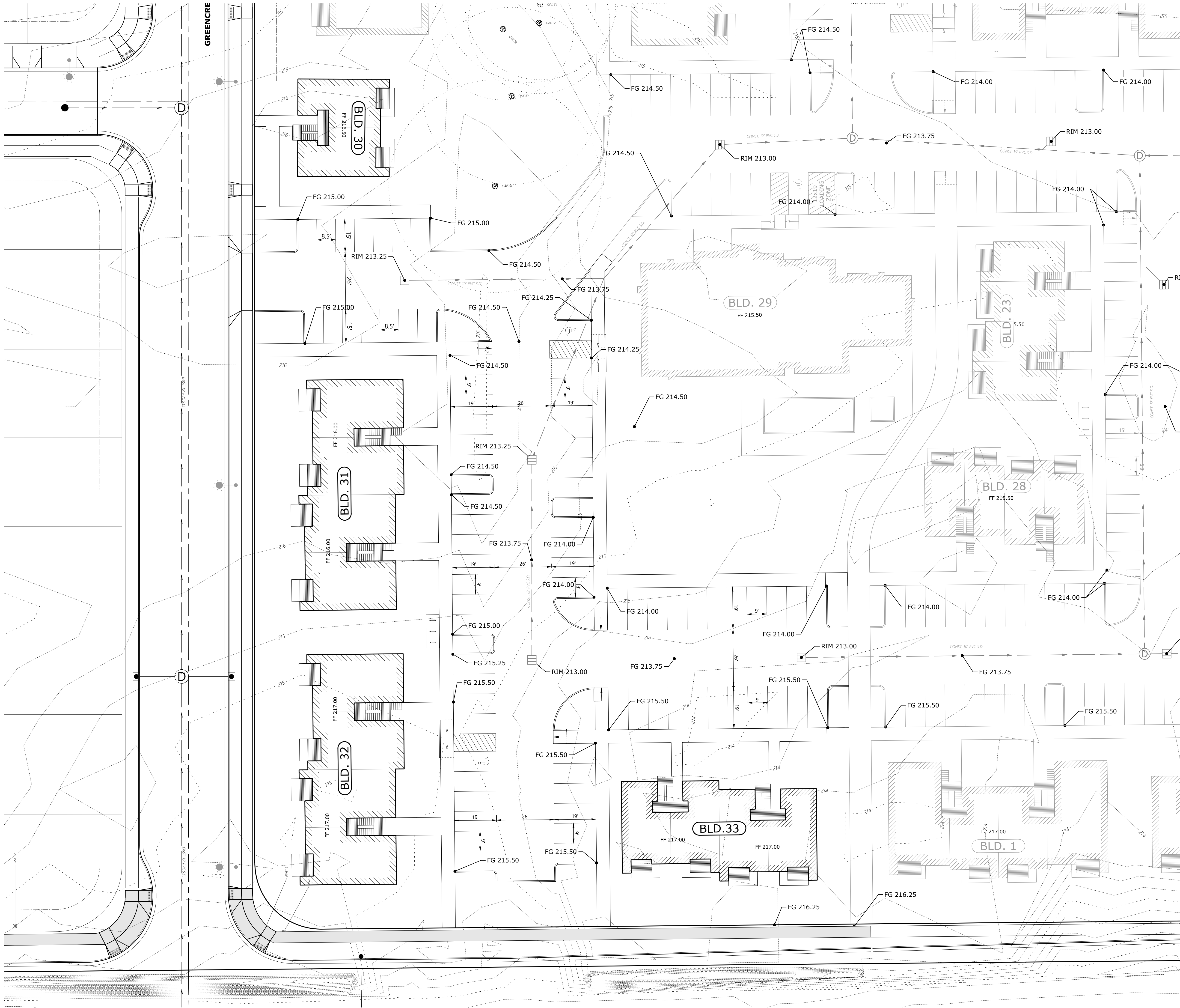
REGISTERED PROFESSIONAL  
ENGINEER  
9694  
JULY 14, 1976  
OREGON  
MARK D. GREEN

EXPIRES: 06-30-2023

JOB # 6789

SDR5

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PH: (503) 363 - 9227 FAX (503) 364-1260  
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GRADING PLAN

EAST PARK APARTMENTS PH.2

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EXPIRES: 06-30-2023  
JOB # 6789

SDR6



# EAST PARK APARTMENTS – PHASE 2

STATE STREET AND GREENCREST STREET  
SALEM, OREGON 97301

## DRAWINGS FOR:

MULTI-TECH ENGINEERING  
JEREMY GRENZ  
503 . 363 . 9227

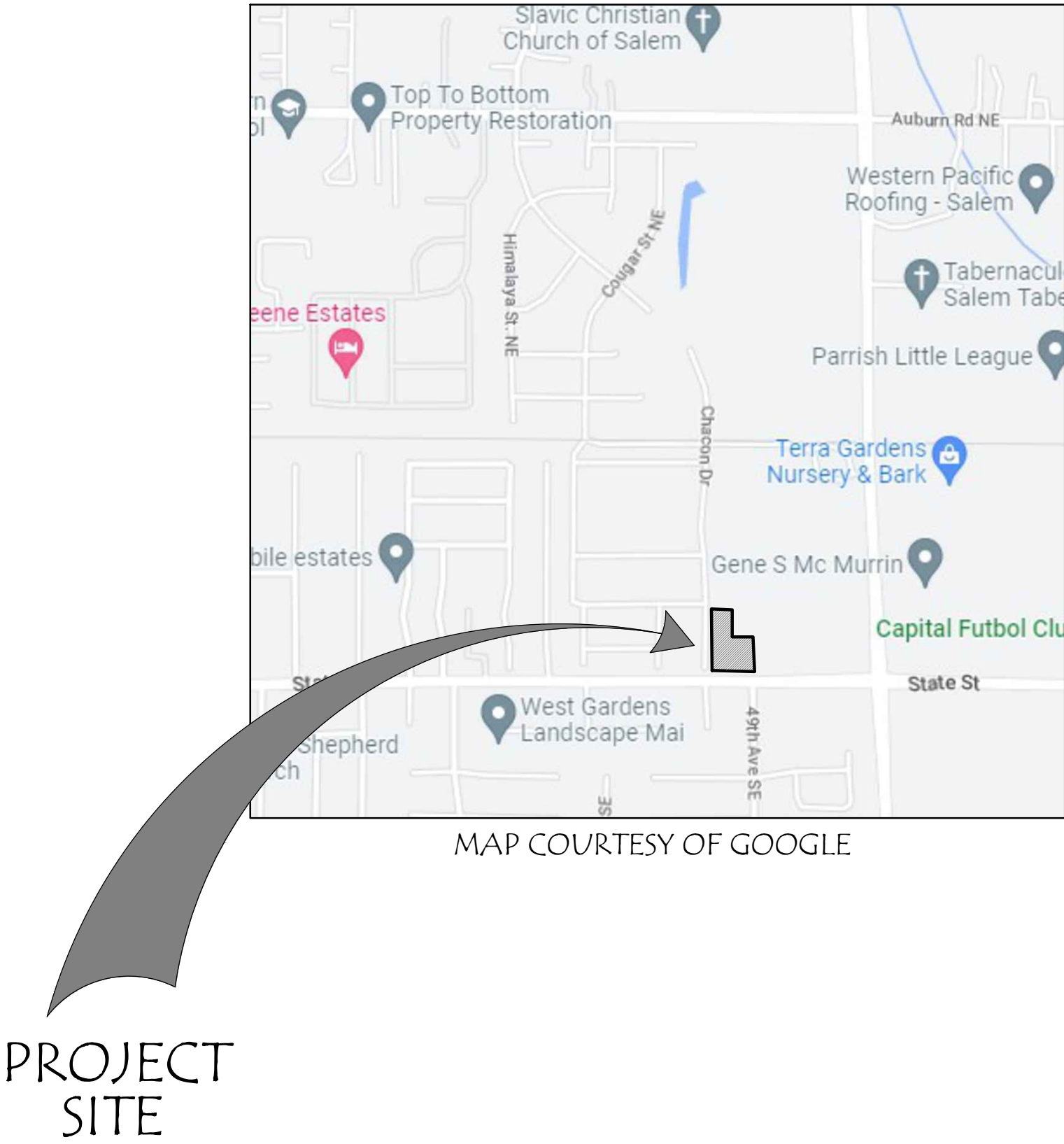
## LANDSCAPE ARCHITECT:

LAURUS DESIGNS, LLC  
LAURA ANTONSON, RLA, ASLA  
1012 PINE STREET  
SILVERTON, OREGON 97381  
503 . 784 . 6494  
LAURA@LAURUSDESIGNS.COM

## SHEET INDEX:

- LO.0 COVER SHEET
- L1.1 PRELIMINARY PLANTING PLAN

## VICINITY MAP:



CALL BEFORE YOU DIG:  
1.800.332.2344  
[www.callbeforeyoudig.org](http://www.callbeforeyoudig.org)

Laurus  
Designs, LLC

1012 Pine Street  
Silverton, Oregon  
503.784.6494

East Park  
Apartments  
Phase 2

State Street and  
Greencrest Street  
Salem, OR 97301

REGISTERED  
643  
PRELIMINARY  
LAURA A. ANTONSON  
OREGON  
11/16/2007  
LANDSCAPE ARCHITECT

COVER SHEET

February 24th, 2023

REVISIONS			
#	DATE	NOTES	INITIALS

LO.0

SHEET 1 OF 2

PROJECT #: 1509R





East Park  
Apartments  
Phase 2

REGISTERED  
643  
PRELIMINARY  
LAURA A. ANTONSON  
OREGON  
11/16/2007  
LANDSCAPE ARCHITECT

0' 10' 20' 40'

SCALE

## REVISIONS

#	DATE	NOTES	INITIALS

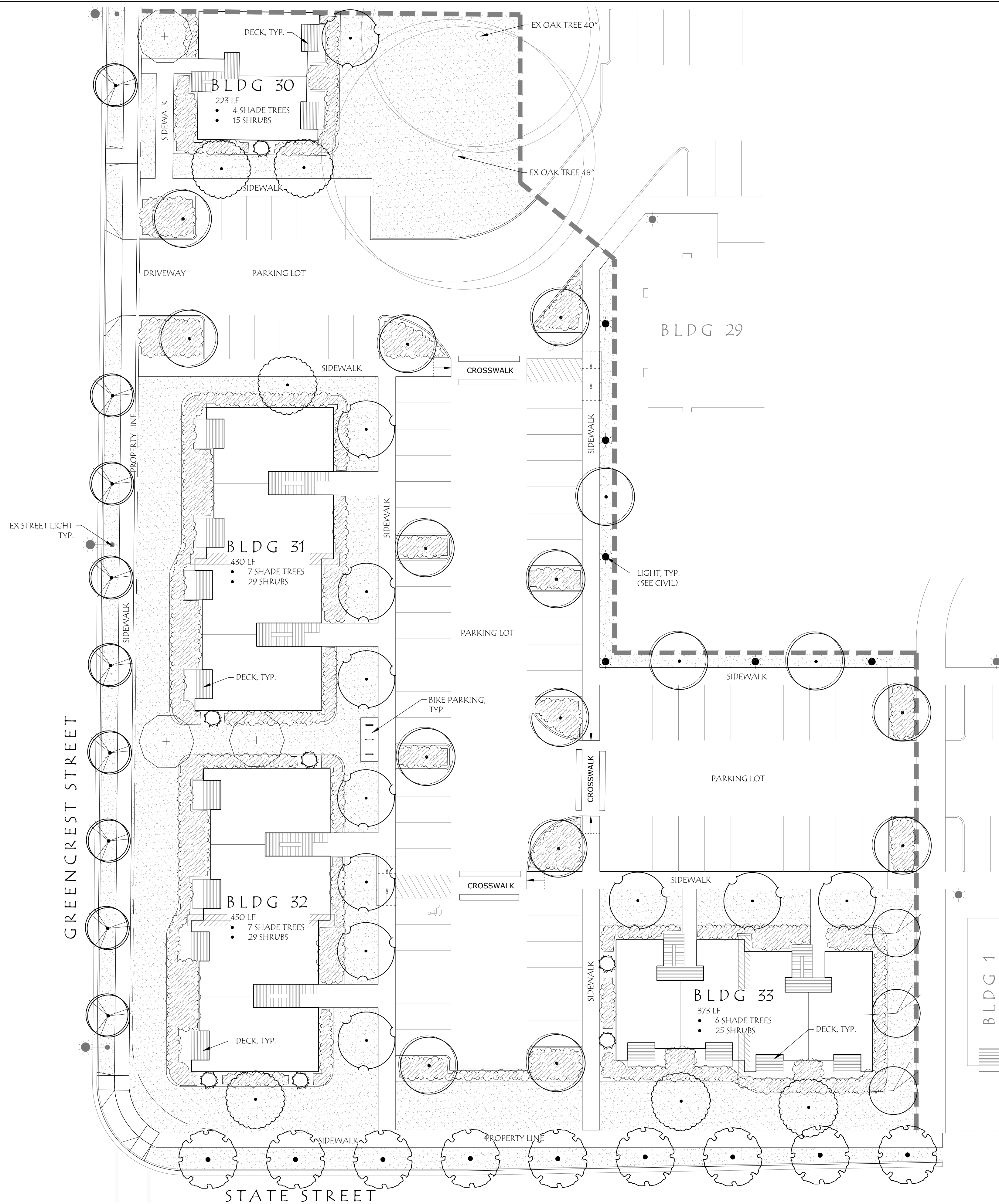
SHEET 2 OF 2

PROJECT #: 1509R

EXISTING TREES TO REMAIN

LIMITS OF LANDSCAPING

LAWN AREAS	QTY	BOTANICAL / COMMON NAME	SIZE
	22,145 sf	ProTime PT301 Water Smarter Fescue or Approved Equal	Seed





**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE	}	CU-SPR-ADJ-DR23-04
PERMIT TO ALLOW A NEW MULTI-FAMILY		
RESIDENTIAL USE, CLASS 3 SITE PLAN	}	FINDINGS OF FACT, CONCLUSIONS, AND DECISION
REVIEW AND CLASS 1 DESIGN REVIEW		
FOR DEVELOPMENT OF THE SECOND	}	
PHASE OF THE EAST PARK APARTMENTS,		
INCLUDING AN ADDITIONAL FOUR	}	
BUILDINGS CONTAINING A TOTAL OF 42		
DWELLING UNITS, WITH A CLASS 2	}	
ADJUSTMENT FOR A PORTION OF		
PROPERTY APPROXIMATELY 1.74 ACRES	}	
IN SIZE, ZONED CR (RETAIL COMMERCIAL),		
AND LOCATED AT THE 4900 BLOCK OF	}	
STATE STREET - 97301 (MARION COUNTY		
ASSESSOR MAP AND TAX LOT NUMBERS:	}	
072W29C / 00100 AND 00101)		

**DATE AND PLACE OF HEARING:**

On March 22, 2023, at 5:30 p.m., a properly noticed hearing was held before the City of Salem Hearings Officer at Salem City Council Chambers, Room 240, Civic Center, 555 Liberty Street SE, Salem, Oregon.

**APPEARANCES:**

Staff: Aaron Panko, Planner III

Neighborhood Association: Susan Kaltwasser, on behalf of East Lancaster  
Neighborhood Association (ELNA), by written  
statement

Proponents: Kiril Ivanov, Applicant

Opponents: None.

///

///

///

CU-SPR-ADJ-DR23-04

April 24, 2023

Page 1

## **SUMMARY OF THE APPLICATION AND HEARING**

### **BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on March 22, 2023, regarding a submission for the development of the second phase of the East Park Apartments, including an additional four buildings containing 42 dwelling units.

During the hearing, Aaron Panko requested that the Staff Report be entered into the Record, and the Hearings Officer granted the request.

The Hearings Officer ordered the record to be left open for additional comments; two comments were received during the open record period. A Supplemental Staff Report was received from the City, and an agreement entitled, "Covenant Not to Sell Properties Separately" was received from the Applicant, on March 29<sup>th</sup>, 2023. No rebuttals were received during the rebuttal or final argument periods.

The Staff Report and Staff presentation stated, observed, noted, and alleged the following:

### **FINDINGS OF FACT AND CONCLUSIONS**

#### **1. Salem Area Comprehensive Plan (SACP) designation**

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Commercial." The subject property is within the Urban Growth Boundary; however, the property is outside the Urban Service Area.

An Urban Growth Area Preliminary Declaration has been previously approved for the subject property (UGA09-07 and UGA 09-07MOD1) to determine the public facilities required to serve the East Park Estates Planned Unit Development/Subdivision, including the subject property located at the 4900 Block of State Street.

#### **2. Zoning and Surrounding Land Uses**

The subject property is zoned CR (Retail Commercial). The zoning of surrounding properties is as follows:

North: RM-II (Multi-Family Residential) zone

South: State Street

East: Cordon Road NE, Urban Growth Boundary

West: Across Greencrest Street NE, RM-II (Multi-Family Residential) zone



### **3. Site Analysis**

The subject property is a portion of proposed Lot 350 and Lot 351 from Phase 3 of the East Park Estates Planned Unit Development/Subdivision (CPC-ZC-PUD-SUB-ADJ19-08MOD2) and is approximately 1.74 acres in size, with approximately 270 feet of frontage on State Street to the south and approximately 395 feet of frontage along Greencrest Street NE to the west.

The proposed development will utilize a driveway to Greencrest Street NE that was previously approved for Phase 1 of the East Park Apartments. Interior drive aisles, off-street parking, and pedestrian pathways will be provided connecting Phase 1 to the proposed development, allowing for the sharing of site amenities between both phases of development.

### **4. Neighborhood and Citizen Comments**

The subject property is located within the boundaries of the East Lancaster Neighborhood Association (ELNA). Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On December 1, 2022, the applicant contacted ELNA meeting the requirements of SRC 300.310(c). Notice was provided to the ELNA and to surrounding addresses, property owners, and tenants within 250 feet of the subject property. At the time of the staff report, no public comments had been received.

### **5. City Department and Public Agency Comments**

The Public Works Department reviewed the proposal and provided a memo.

The Salem Building and Safety Division reviewed the proposal and indicated no concerns.

The Salem Fire Department reviewed the proposal and indicated no concerns.

Salem-Keizer Public Schools reviewed the proposal and provided a response.

### **6. Analysis of Conditional Use Criteria**

SRC Chapter 240.005(a)(1) provides that no building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

Criterion 1:

The proposed use is allowed as a conditional use in the zone.

**Finding:** The combined application was submitted on December 12, 2022. At the time this application was submitted, multi-family residential uses were allowed in the CR (Retail Commercial) zone with a Conditional Use Permit. As a result of Ord 22-22, on December 28th, SRC Chapter 522, Table 522-1 was amended, and stand-alone multi-family uses are no longer allowed in the CR zone. Multi-family uses are now only permitted when they are in a mixed-use building. However, because the use and development standards that were in effect at the time the application was first submitted are applicable for this application, the proposal satisfies this criterion.

Criterion 2:

The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

**Finding:** The applicant previously applied for a Conditional Use Permit for development of the Phase 1 East Park Apartments in 2021 (CU-SPR-ADJ-DAP-DR21-05). The application was denied by the Hearings Officer and appealed to the City Council, which issued a final order in April 2022 denying the application. The applicant appealed the City's decision to the Land Use Board of Appeals (LUBA). On August 30, 2022, LUBA issued a final order for East Park, LLC v. City of Salem, (LUBA No. 2022-050) reversing the denial and requiring the City to approve the development application, finding in part that, pursuant to ORS 197.307(4) the discretionary approval criteria for a Conditional Use Permit cannot be applied to applications for housing.

As a result of the LUBA decision, the City Council adopted Ord 22-22 on November 28, 2022, which removed multi-family residential uses as an allowed use in the CR zone, except for multi-family uses when they are in a mixed-use building.

This approval criterion is inapplicable pursuant to ORS 197.307(4), which requires only clear and objective standards to apply to applications for housing in zones where housing is allowed.

Criterion 3:

The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

**Finding:** This approval criterion is inapplicable pursuant to ORS 197.307(4), which requires only clear and objective standards to apply to applications for housing in zones where housing is allowed.

## 7. Analysis of Class 3 Site Plan Review Approval Criteria

SRC 220.005(f)(3) establishes the following approval criteria for a Class 3 Site Plan Review:

### Criterion 1:

The application meets all applicable standards of the UDC.

**Finding:** The applicant is requesting approval to develop a multi-family residential use that will be a second phase of the East Park Apartments. Phase 1 was originally approved under CU-SPR-ADJ-DAP-DR21-05. Proposed Phase 2 includes an additional four buildings containing 42 dwelling units. The proposed site plan complies with all applicable development standards of the Unified Development Code (UDC).

Use and Development Standards – CR (Retail Commercial) Zone:

*SRC 522.005(a) – Uses:*

**Finding:** Permitted, special and conditional uses for the CR zone are found in SRC Chapter 522, Table 522-1. Multiple family residential uses require a conditional use permit in the CR zone per Table 522-1. Findings for the Conditional Use are included in Section 6 of this report.

*SRC 522.010(a) – Lot Standards:*

There are no minimum lot area or dimension requirements in the CR zone. All uses are required to have a minimum of 16 feet of street frontage.

**Finding:** The subject property is a portion of proposed Lot 350 and Lot 351 from Phase 3 of the East Park Estates Planned Unit Development/Subdivision (CPC-ZC-PUD-SUB-ADJ19-08MOD2). The subject property currently straddles two different properties. The intended end result of this development is supposed to result in the subject property becoming part of a single property and will be its own lot on this property. As currently proposed, the subject property does not meet the standards set forth in SRC 522.010(a), but would meet them once replatted as proposed in Phase 3 of this Planned Unit Development/Subdivision. The timing of the application makes this criteria challenging to condition to ensure that all the criteria for a Conditional Use Approval. The fact that the subject property has not been replatted to conform to the proposed development of Phase 3 of the East Park Estates Planned Unit Development/Subdivision prior to this application, will result in a condition that rectifies this timing misstep.

Staff originally proposed a condition that the property be replatted prior to the property being eligible to receive building or civil work permits. This condition would rectify the timing misstep.



The applicant suggested that the Hearings Officer consider an alternative condition where the Applicant would adopt a covenant to ensure that construction on the subject lot occurred in a harmonious way with the abutting property that is currently proposed to be part of Phase 3 of the East Park Estates Planned Unit Development/Subdivision (see application CPC-ZC-PUD-SUB-ADJ19-08MOD2).

Staff recommended an alternate condition 1 to the one proposed in the Staff Report, which would require that the proposed Lot 350 and 351 be created via a replat, or that the Applicant demonstrate that all the zoning requirements are met or that adjustment permits are received prior to receiving any building or work permits.

The Hearings Officer does not find that either the Applicant's or the Staff's proposals in their current forms would sufficiently address the issue at hand. The proposed covenant does not resolve the concern that the subject lot would be developed to comply with the zoning code without first being created subject to the proposed plat of the East Park Estates Planned Unit Development/Subdivision. Staff's proposal is insufficient because the future applications necessary to resolve outstanding conflicts with the subject property and the zoning code expressed in the Staff Report that was submitted in the Open Record Period would not resolve conflicts that could arise due to the subject property existing on two separate parcels of land.

Phase 3 has not yet been recorded; prior to issuance of any civil site work or building permits for the proposed development, the final plat creating this lot as proposed lot 351 must be recorded, or the property must comply with applicable development standards or have received approvals for Adjustments and the Applicant must adopt a covenant on the subject property that contains language that will ensure harmonious development on the subject property until a replat occurs.

**Condition 1:** The final plat for this phase of the East Park Estates Planned Unit Development/Subdivision must be recorded prior to issuance of any civil site work or building permits. In the alternative, civil site work and/or building permits may be issued prior to the recording of the final plat if the applicant can demonstrate that the proposed development is in compliance with all the applicable development standards of the zoning code or has received approvals for any necessary Adjustments, and that the Applicant has adopted a covenant on the subject property that (1) will prevent the separate sale of the subject property until the demonstration that the proposed development is in compliance with all the applicable development standards of the zoning code or has received approvals for any necessary Adjustments, and (2) will give reciprocal access easements on the subject property that will exist until the replat occurs.

*SRC 522.010(b) – Setbacks:*

**North:** Adjacent to the north is property zoned RM-II (Multi-Family Residential) that was previously approved for a 36-unit multi-family residential use as part of the East Park Planned Unit Development. Multi-family buildings, structures, and vehicle use areas require a minimum 10-foot setback adjacent to an interior property line.

**Finding:** The property line separating the subject property from the previously approved 36-unit multi-family residential use may not be platted, as Lots 350 and 351 may be combined. The site plan indicates that Building 30 has a setback of approximately 10 feet to the north, in compliance with the setback standard of the CR zone.

**South:** Adjacent to the south is right-of-way for State Street. Per Table 522-3, there is a minimum five-foot building setback required adjacent to a street; vehicle use areas shall be set back a minimum 6-10 feet per SRC Chapter 806.

**Finding:** The site plan indicates that Buildings 32 and 33 are set back 20 feet, and the nearest vehicle use area is set back approximately 20 feet from State Street in compliance with the setback standard of the CR zone.

**East:** Adjacent to the east is property zoned CR (Retail Commercial) that was previously approved for a 291-unit multi-family residential use as part of the East Park Apartments. Multi-family buildings, structures, and vehicle use areas require a minimum 10-foot setback adjacent to an interior property line.

**Finding:** The property line separating the subject property from the previously approved 291-unit multi-family residential use may not be platted, as Lots 350 and 351 may be combined. The site plan indicates that Building 33 has a setback of approximately 15 feet, and the vehicle use area has a setback of approximately 10 feet, in compliance with the setback standard of the CR zone.

**West:** Adjacent to the west is right-of-way for Greencrest Street NE. Per Table 522-3, there is a minimum five-foot building setback required adjacent to a street; vehicle use areas shall be set back a minimum 6-10 feet per SRC Chapter 806.

**Finding:** The site plan indicates that Buildings 30, 31, and 32 are set back 20 feet and the nearest vehicle use area is set back approximately 20 feet from Greencrest Street NE, in compliance with the setback standard of the CR zone.

The proposal complies with all applicable setback requirements of the CR zone.

*SRC 522.010(c) – Lot Coverage, Height:*

There is no maximum lot coverage standard in the CR zone; the maximum height allowance for all buildings and structures is 50 feet.

**Finding:** The proposed buildings are approximately 39-40 feet in height when measured to the peak, in compliance with the maximum height standard.

*SRC 522.010(d) – Landscaping:*

- (1) Setbacks. Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) Vehicle Use Areas. Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.
- (3) Development Site. A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC Chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

**Finding:** The total area of the subject property is approximately 1.74 acres (75,708 square feet), requiring a minimum of 11,356 square feet of landscape area ( $75,708 \times 0.15 = 11,356.2$ ). The site plan indicates that approximately 26,115 square feet (34.5%) of the development site will be landscaped, exceeding the minimum requirement.

*SRC 522.015(a) – Design Review:*

Multiple family development shall be subject to design review according to the multiple family design review standards set forth in SRC Chapter 702.

**Finding:** The applicant has applied for Class 1 Design Review, demonstrating that the proposed multi-family development is consistent with the multiple family design review standards set forth in SRC Chapter 702.

**General Development Standards SRC 800**

*SRC 800.055(a) – Applicability.*

Solid waste service area design standards shall apply to all new solid waste, recycling, and compostable services areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

**Finding:** There are no solid waste service areas proposed for Phase 2. Solid waste service areas will be available within Phase 1 of the East Park Apartments for residents of the proposed Phase 2 to use. The development standards of SRC 800.055 are not applicable.

*SRC 800.065 – Pedestrian Access.*

All developments, other than single family, two family, three family, four family, and multiple family uses, shall include an on-site pedestrian circulation system developed in conformance with the standards in this section.

**Finding:** The pedestrian access standards of SRC 800.065 are not applicable to this proposed multi-family residential use.

**Streets and Right-of-Way Improvements, Connectivity SRC 803**

*SRC 803.030(a) and SRC 803.035(a) – Street Spacing.*

Streets shall have a maximum spacing of 600 feet from right-of-way line to right-of-way line along one axis, and not less than 120 feet and not more than 400 feet from the right-of-way line to right-of-way line along the other axis.

**Finding:** Street connectivity for the subject property was addressed with the tentative subdivision approval (CPC-ZC-PUD-SUB-ADJ19-08MOD2), due to access limits on Cordon Road NE and State Street. Internal streets through the subject property connecting to Cordon Road NE and State Street were not required.

**Off-Street Parking, Loading, and Driveways SRC 806**

*SRC 806.005 - Off-Street Parking; When Required.*

Off-street parking shall be provided and maintained for each proposed new use or activity.

*SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.*

Required off-street parking shall be located on the same development site as the use or activity it serves.

*SRC 806.015 - Amount of Off-Street Parking.*

- a) Minimum Required Off-Street Parking. For multi-family residential uses, a minimum of one space is required per dwelling unit.
- b) Compact Parking. Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- c) Carpool and Vanpool Parking. New developments with 60 or more required off-street parking spaces, and falling within the public services and industrial use classifications, and the business and professional services use category, shall designate a minimum of five percent of their total off-street parking spaces for carpool or vanpool parking.
- d) Maximum Off-Street Parking. The maximum number of off-street parking spaces shall not exceed 1.75 times the minimum number of spaces required.

**Finding:** The proposed multi-family use contains a total of 42 dwelling units. A minimum of 42 off-street parking spaces are required for the proposed use ( $42 / 1 = 42$ ). The maximum off-street parking allowance is 1.75 times the minimum requirement, or 74 spaces ( $42 \times 1.75 = 73.5$ ). The site plan indicates that 77 spaces are proposed, with 14 of the spaces proposed to be compact. While the proposed Phase 2 exceeds the maximum off-street parking allowance itself, the combined parking requirement for Phase 1 and Phase 2, which includes a total of 333 dwelling units, is 561, spaces which is less than the maximum off-street parking allowance of 583 spaces ( $333 \times 1.75 = 582.8$ ) for both phases. Carpool/vanpool parking spaces are



not required for multi-family uses. The proposal complies with the parking requirements of this section.

*SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.*

- a) General Applicability. The off-street parking and vehicle use area development standards set forth in this section apply to the development of new off-street parking and vehicle use areas.
- b) Location. Off-street parking and vehicle use areas shall not be located within required setbacks.
- c) Perimeter Setbacks and Landscaping. Perimeter setbacks shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures.

**Adjacent to Buildings and Structures:** The off-street parking or vehicle use area must be set back from the exterior wall of the building or structure by a minimum 5-foot-wide landscape strip or by a minimum 5-foot-wide paved pedestrian walkway.

**Finding:** The site plan indicates that a minimum of five feet of separation will be provided between the proposed vehicle use areas and all proposed buildings, in compliance with this section.

- d) Interior Landscaping. Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. There is no interior landscaping requirement for parking areas less than 5,000 square feet in size.

**Finding:** Pursuant to SRC 702.020(b)(8), multiple family developments with 13 or more units are exempt from the landscaping requirements in SRC 806. Interior landscaping for the vehicle use area pursuant to Chapter 806 is not applicable to this development.

- e) Off-Street Parking Area Dimensions. Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6.

**Finding:** The proposed parking spaces, driveway and drive aisle for the off-street parking area meet the minimum dimensional requirements of SRC Chapter 806.

- f) Off-street parking area access and maneuvering. In order to ensure safe and convenient vehicular access and maneuvering, off-street parking areas shall:
  - (1) Be designed so that vehicles enter and exit the street in a forward motion with no backing or maneuvering within the street; and
  - (2) Where a drive aisle terminates at a dead-end, include a turnaround area as shown in Figure 806-9. The turnaround shall conform to the minimum dimensions set forth in Table 806-7.

**Finding:** The proposed off-street parking area includes one drive aisle that terminates in a dead-end. A turnaround area is provided at the termination which complies with the minimum dimensions required by Table 806-7.

g) Additional Off-Street Parking Development Standards 806.035(g)-(n).

**Finding:** The proposed off-street parking area is being developed consistent with the additional development standards for maneuvering, grade, surfacing, and drainage. Bumper guards and wheel barriers are not required for the proposed vehicle use area. The parking area striping, marking, signage and lighting shall comply with the standards of SRC Chapter 806. Off-street parking area lighting and screening standards per SRC 806.035(m-n) are not required for the proposed off-street parking area, because the subject property does not abut residentially zoned property.

### **Bicycle Parking**

*SRC 806.045 - General Applicability.*

Bicycle parking shall be provided for each proposed new use or activity.

*SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.*

Bicycle parking shall be located on the same development site as the use or activity it serves.

*SRC 806.055 - Amount of Bicycle Parking.*

Per SRC Chapter 806, Table 806-9, for multi-family residential uses, a minimum of one bicycle parking space is required per dwelling unit.

**Finding:** The proposed 42-unit multi-family residential use requires a minimum of 42 bicycle parking spaces.

*SRC 806.060 – Bicycle Parking Development Standards.*

- a) Location. Short term bicycle parking shall be located outside a building within a convenient distance of, and shall be clearly visible from, the primary building entrance. In no event shall bicycle parking be located more than 50 feet from the primary building entrance, as measured along a direct pedestrian access route. Long term bicycle parking spaces for residential uses may be provided within a residential dwelling unit.
- b) Access. Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance.
- c) Dimensions. Bicycle parking spaces and access aisles shall meet the minimum dimensions set forth in Table 806-10, which provides the minimum space width is 2 feet (or 1.5 feet for side-by-side spaces), minimum space length is 6 feet, minimum access aisle width is 4 feet, and minimum clearance between rack and wall is 2 feet.
- d) Surfacing. Where bicycle parking is located outside a building, the bicycle parking area shall consist of a hard surface material, such as concrete, asphalt

pavement, pavers, or similar material, meeting the Public Works Design standards.

- e) Bicycle Racks. Where bicycle parking is provided in racks, the racks may be horizontal or vertical racks mounted to the ground, floor, or wall, and shall comply with the following standards:

- (1) Racks must support the bicycle frame in a stable position.

- (A) For horizontal racks, the rack must support the bicycle frame in a stable position in two or more places a minimum of six inches horizontally apart without damage to the wheels, frame, or components.

- (2) Racks must allow the bicycle frame and at least one wheel to be locked to the rack with a high security, U-shaped shackle lock;

- (3) Racks shall be of a material that resists cutting, rusting, and bending or deformation; and

- (4) Racks shall be securely anchored.

**Finding:** Six short-term exterior bicycle parking spaces are provided in bike racks located between proposed Building 31 and 32. The bike racks are designed consistent with the standards for access, dimensions, surfacing, and style as required by Chapter 806. The remaining required bicycle parking spaces are provided within the residential dwelling units.

### **Off-Street Loading Areas**

*SRC 806.065 - General Applicability.*

Off-street loading areas shall be provided and maintained for each proposed new use or activity.

*SRC 806.075 - Amount of Off-Street Loading.*

No off-street loading spaces are required for multi-family residential developments containing less than 50 dwelling units.

**Finding:** No off-street loading spaces are required for the proposed development.

### **Landscaping**

All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

**Finding:** A minimum of 15 percent of the development site, or 11,356 square feet, is required to be landscaped, meeting the requirements of the CR zone and Chapter 807. The number of required plant units for the development site is 568 ( $11,356 / 20 = 567.8$ ), and a minimum of 40 percent, or 227 ( $568 \times 0.4 = 227$ ), of the required plant units shall be trees. The applicant's preliminary landscape plan indicates that 410 of the plant units will be trees, and approximately 1,000 more plant units will be provided as shrubs and ground cover, exceeding the minimum requirement. Final landscape and irrigation plans will be reviewed at the time of building permit for conformance with Chapter 807.

## **Natural Resources**

*SRC 601 – Floodplain Overlay Zone:* Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

*SRC 808 - Preservation of Trees and Vegetation:* The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (an Oregon White Oak greater than 20 inches in diameter at breast height (dbh), or any other tree with a dbh of 30 inches or greater, excluding Tree of Heaven, Empress Tree, Black Cottonwood, and Black Locust) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

**Finding:** There are four significant trees located on the subject property and in the vicinity of development. Each of the significant trees is designated for preservation and will be protected during construction activities; no new development is occurring within the critical root zone of the significant trees.

*SRC 809 - Wetlands:* Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetland laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

**Finding:** The Salem-Keizer Local Wetland Inventory (LWI) shows that there are hydric soils mapped on the property. The applicant should contact the Oregon Department of State Lands to verify if any permits are required for development or construction in the vicinity of the mapped wetland area(s). A wetland notice was sent to the Oregon Department of State Lands pursuant to SRC 809.025.

*SRC 810 - Landslide Hazards:* A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide



Hazards), there are no mapped landslide hazard areas on the subject property. The proposed multi-family residential development is assigned 2 activity points. A total of 2 points indicates a low landslide hazard risk and does not require a geological assessment or geotechnical report.

Criterion 2:

The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

**Finding:** The existing condition of State Street does not meet current standards for its street classification per the Salem TSP. The applicant shall convey for dedication a half-width right-of-way up to 48 feet to Major Arterial street standards, as specified in the PWDS and based on a rational nexus calculation. The applicant shall construct a half street improvement to Major Arterial street standards as specified in the PWDS and consistent with the provisions of SRC Chapter 803.

**Condition 2:** Convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of State Street, including sufficient right-of-way to accommodate public infrastructure at the property corners.

**Condition 3:** Construct a half-street improvement along the frontage of State Street to major arterial street standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

Greencrest Street NE is specified as a collector street in the Salem TSP and is planned to run along the western lot line of the subject property. The applicant shall construct a half-street improvement along the frontage of Greencrest Street NE to collector street standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

**Condition 4:** Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Greencrest Street NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

**Condition 5:** Construct a half-street improvement along the frontage of Greencrest Street NE to Collector standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

The applicant submitted a traffic impact analysis for the proposed multi-family development that includes all six phases of the East Park development site. The recommended mitigation measures as specified in the TIA were incorporated into the conditions of development for CPC-ZC-PUD-SUB-ADJ19-08MOD2. The apartment site was shown as “Phase 3” on the plans for CPC-ZC-PUD-SUB-ADJ19-08MOD2.

Because the connection of Greencrest Street NE to State Street is required as a condition of this proposed multi-family development phase, the mitigation measure from the TIA applicable to the proposed development is as follows:

**Condition 6:** As specified in the applicant's Traffic Impact Analysis, construct eastbound-to-northbound and westbound-to-southbound left-turn lanes at the intersection of State Street and Greencrest Street NE.

Criterion 3:

Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

**Finding:** The applicant proposes to utilize driveway approaches onto Greencrest Street NE and Stella Street NE that were approved under CU-SPR-ADJ-DAP-DR21-05. No changes to the previously approved driveway approach are necessary.

Criterion 4:

The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

**Finding:** The Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development.

As a condition of CPC-ZC-PUD-SUB-ADJ19-08MOD2, the applicant constructed a 24-inch water main along Cordon Road NE to serve the proposed development, as specified in the Water System Master Plan. The Water System Master Plan specifies a 12-inch loop to be connected to the Cordon Road NE main along Auburn Road NE, Greencrest Street NE, and State Street. These improvements were constructed under City Permit Number 20-118530-PC but have not been accepted by the City for connections to date. Upon acceptance, these improvements are adequate to serve the proposed development.

The applicant's engineer submitted a statement demonstrating compliance with Stormwater PWDS Appendix 004-E(4) and SRC Chapter 71, based on stormwater infrastructure constructed through the East Park Development. The preliminary stormwater design demonstrates the use of green stormwater infrastructure to the maximum extent feasible.

**Condition 7:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

The applicant shall design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

## **8. Analysis of Class 2 Adjustment Criteria**

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

### Criterion 1:

The purpose underlying the specific development standard proposed for adjustment is:

- (i) Clearly inapplicable to the proposed development; or
- (ii) Equally or better met by the proposed development.

**Finding:** The applicant is requesting two Class 2 Adjustments to:

- 1) Allow buildings to be placed at an approximate 20-foot setback along State Street and Greencrest Street NE, instead of five feet as required by 702.020(e)(4); and
- 2) Eliminate the direct pedestrian access to adjacent sidewalk requirement for ground level units adjacent to State Street and Greencrest Street NE, as required by 702.020(e)(5).

*To eliminate the requirement for a minimum of 40 percent of the buildable width to be occupied by buildings placed at the minimum setback per 702.020(e)(4):*

The minimum building setback requirement in the CR zone is 5 feet adjacent to a street. Pursuant to SRC 702.020(e)(4), a minimum of 40 percent of the buildable width shall be occupied by buildings placed at the minimum setback line. The applicant is requesting a Class 2 Adjustment to place buildings at a 20-foot setback adjacent to State Street, which is designated as a Major Arterial, and Greencrest Street NE, which is designated as a Collector street.

The applicant indicated that proposed buildings 30-33 will have a setback of approximately 20 feet adjacent to State Street and Greencrest Street NE. Locating buildings at the minimum 5-foot setback line is not feasible for this development because it would conflict with the required 10-foot public utility easements along the streets. In addition, the minimum setback for multi-family developments in multi-family residential zoning designations where this design standard would typically be found is 20 feet. The proposed setback increase would allow for a multi-family development that is similar in appearance from the street to other complexes in the City. The applicant further indicates the larger setback will provide more room for landscaping.

The proposal otherwise complies with the 40-percent-buildable-width standard applied to the greater setback, and all setback areas will be landscaped. The proposal equally or better meets the intent of this provision and is therefore in compliance with this criterion. The Hearings Officer approves this Adjustment request.

*To eliminate the direct pedestrian access to adjacent sidewalk requirement for ground level units per 702.020(e)(5).*

The applicant is requesting to eliminate the requirement to orient buildings to the street and provide direct pedestrian pathways from the public sidewalk to ground floor units. The applicant explained in their application that the buildings are oriented inwards towards the site, but will be visually appealing, including windows, offsets and architectural features where facing the street, and that adequate pedestrian access will be provided from the surrounding public sidewalks into the development site. The applicant further testified at the hearing that requiring pedestrian access to the sidewalk adjacent to Greencrest St. NE and State St. could have a negative impact on the safety of the bottom-floor units of the buildings that these pathways allow access to.

The purpose of this design standard is to provide a pedestrian friendly development, with buildings oriented outward towards the street with direct pedestrian access from ground floor units to the abutting sidewalk. In this case, State Street is designated as a Major Arterial Street and Greencrest Street NE is designated as a Collector Street. The previously approved 291-unit multi-family residential development abutting to the east included an adjustment request to eliminate the direct pedestrian access requirement between Cordon Road NE, designated as a Parkway street, and State Street. The adjustment was warranted in this case, given the large traffic volumes and lack of street parking on Cordon Road NE and State Street. The applicant also provided common pedestrian connections at two points along State Street. The Hearings Officer approves the adjustment request to eliminate the direct pedestrian access requirement along State Street.

However, Greencrest Street NE will not carry the same traffic volume as Cordon Road NE or State Street. There are no physical limitations identified on the property that would cause difficulty in providing individual pedestrian access points for ground-level units in Buildings 30-32 to the public sidewalk on Greencrest Street NE. In fact, the applicant is already providing ground-floor pedestrian access from proposed Building 30 to Greencrest Street NE. The Hearings Officer further finds that the development requirements set forth in SRC 702(c) address the safety and security concerns expressed by the Applicant.

The Hearings Officer finds that this development standard can be met with the proposed development, and the applicant has not demonstrated that removing the direct pedestrian access requirement equally or better meets the intent of the code; therefore, the Hearings Officer adopts a condition of approval requiring proposed

Buildings 30-32 to comply with the direct pedestrian access requirement along Greencrest Street NE.

**Condition 8:** Proposed Buildings 30-32 must comply with the direct pedestrian access standard of SRC 702.020(e)(5) along Greencrest Street NE.

Criterion 2:

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

**Finding:** The subject property abuts residential zoning and uses, and the proposal is for multi-family residential development. However, the subject property is located within the CR (Retail Commercial) zone; therefore, the criterion is not applicable.

Criterion 3:

If more than one adjustment has been requested, the cumulative effect of all the adjustments results in a project which is still consistent with the overall purpose of the zone.

**Finding:** Two separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The Hearings Officer approves the adjustment request to increase the setback requirement along State Street and Greencrest Street NE, and the adjustment request to eliminate the direct pedestrian access requirement for ground-floor units abutting State Street, but for ground-level units abutting Greencrest Street NE, the Hearings Officer denies the applicant's adjustment request and requires direct pedestrian access to adjacent sidewalk as provided by SRC 702.020(e)(5).

As recommended and conditioned, the cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code. Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

**Condition 9:** The adjusted development standards, as approved in this zoning adjustment, will only apply to the specific development proposal shown in the site plan. Any future development, beyond what is shown in the site plan, must conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

## **9. Analysis of Class 1 Design Review Criteria**

Salem Revised Code (SRC) 225.005(e)(1) provides that a Class 1 Design Review application shall be approved if all of the applicable design review standards are met.

### **Development Standards – Multiple Family Design Review Standards SRC 702**

SRC 702.020 - Design review standards for multiple family development with thirteen or more units.

(a) Open space standards.

- (1) To encourage the preservation of natural open space qualities that may exist on a site and to provide opportunities for active and passive recreation, all newly constructed multiple family developments shall provide a minimum 30 percent of the gross site area as designated and permanently reserved open space. For the purposes of this subsection, the term "newly constructed multiple family developments" shall not include multiple family developments created through only construction or improvements to the interior of an existing building(s). Indoor or covered recreation space may count toward this open space requirement.

**Finding:** The proposed development occurs on a portion of the subject property that is approximately 1.74 acres in size (75,708 square feet). There is a minimum of 11,356 square feet ( $75,708 \times 0.3 = 11,356.2$ ) of common open space, including indoor or covered recreation space. The site plan indicates that 25,446 square feet (approximately 33.6 percent of the site area) of open space is provided for this development site, exceeding the minimum open space requirement.

- (A) To ensure usable open space, at least one common open space area shall be provided within the development that is at least 1,000 square feet in size, plus an additional 250 square feet for every 20 units, or portion thereof, over 20 units and has a minimum dimension of 25 feet for all sides.

**Finding:** The proposed multi-family development contains 42 dwelling units; per Table 702-3 the 42-unit development requires a minimum open space area that is 1,250 square feet in size, with no dimension less than 25 feet. The proposed site plan indicates that there is a large open space area east of Building 30 that is approximately 3,500 square feet in size, exceeding the minimum requirement. In addition, the previously approved site plan for Phase 1 of the apartment complex (CU-SPR-ADJ-DAP-DR21-05) included a large oversized open space area between buildings 17-22 that is approximately 12,367 square feet in size with a minimum dimension of 65 feet, greatly exceeding the minimum standard of 4,500 square feet. Residents in the proposed Phase 2 of the apartment complex will be able to access this common open space area.

- (B) To ensure that the provided open space is usable, a maximum of 15 percent of the common open space shall be located on land with slopes greater than 25 percent.



**Finding:** The existing conditions plan indicates that there are no slopes greater than 25 percent on the subject property. Therefore, the applicant meets this requirement.

- (C) To allow for a mix of different types of open space areas and flexibility in site design, private open space, meeting the size and dimension standards set forth in Table 702-4, may count toward the open space requirement. All private open space must meet the size and dimension standards set forth in Table 702-4.

**Finding:** The applicant has met the minimum open space requirement by providing common open space. Therefore, the applicant does not need to use the reductions offered by this section to meet the common open space requirement.

- (D) To ensure a mix of private and common open space in larger developments, private open space, meeting the size and dimension standards set forth in Table 702-4, shall be provided for a minimum of 20 percent of the dwelling units in all newly constructed multiple family developments with 20 or more dwelling units. Private open space shall be located contiguous to the dwelling unit, with direct access to the private open space provided through a doorway.

**Finding:** The applicant is providing private open space for each unit. Ground-floor units will have patios at least 96 square feet in size, with no dimension less than six feet. The second and third story units will have decks that are a minimum of 60 square feet in size. The private open space areas comply with the minimum size requirements of Table 702-4.

- (E) To encourage active recreational opportunities for residents, the square footage of an improved open space area may be counted twice toward the total amount of required open space, provided each such area meets the standards set forth in this subsection. Example: a 750-square-foot improved open space area may count as 1,500 square feet toward the open space requirement.
  - (i) Be a minimum 750 square feet in size with a minimum dimension of 25 feet for all sides; and
  - (ii) Include at least one of the following types of features:
    - a. Covered pavilion.
    - b. Ornamental or food garden.
    - c. Developed and equipped children's play area, with a minimum 30-inch-tall fence to separate the children's play area from any parking lot, drive aisle, or street.
    - d. Sports area or court (e.g., tennis, handball, volleyball, basketball, soccer).
    - e. Swimming pool or wading pool.

**Finding:** The applicant has met the minimum open space requirement without using the reduction offered in this section; therefore, this standard is not applicable.

- (F) To encourage proximity to and use of public parks, the total amount of required open space may be reduced by 50 percent for developments that are located within one-quarter mile of a publicly-owned urban, community, or neighborhood park as measured along a route utilizing public or private streets that are existing or will be constructed with the development.

**Finding:** The applicant has met the minimum open space requirement without using the reduction offered in this section; therefore, this standard is not applicable.

(b) Landscaping standards.

- (1) To encourage the preservation of trees and maintain or increase tree canopy, a minimum of one tree shall be planted or preserved for every 2,000 square feet of gross site area.

**Finding:** The proposed development occurs on a portion of the subject property that is approximately 1.74 acres in size (75,708 square feet) requiring a minimum of 38 trees ( $75,708 / 2,000 = 37.9$ ). The preliminary landscape plan indicates that 46 trees will be provided for this portion of the development site, exceeding the minimum requirement.

- (2) Where a development site abuts property that is zoned Residential Agricultural (RA) or Single Family Residential (RS), a combination of landscaping and screening shall be provided to buffer between the multiple family development and the abutting RA or RS zoned property. The landscaping and screening shall include the following:
  - (A) A minimum of one tree, not less than 1.5 inches in caliper, for every 30 linear feet of abutting property width; and
  - (B) A minimum six-foot tall, decorative, sight-obscuring fence or wall. The fence or wall shall be constructed of materials commonly used in the construction of fences and walls, such as wood, stone, rock, brick, or other durable materials. Chain-link fencing with slats shall not be allowed to satisfy this standard.

**Finding:** The subject property does not abut property zoned RA or RS; therefore, this standard is not applicable.

- (3) To define and accentuate primary entryways, a minimum of two plant units shall be provided adjacent to the primary entryway of each dwelling unit, or combination of dwelling units.

**Finding:** The landscaping plan provided indicates that at least two plant units will be installed at each shared entrance.

- (4) To soften the visual impact of buildings and create residential character, new trees shall be planted, or existing trees shall be preserved, at a minimum density of ten plant units per 60 linear feet of exterior building wall. Such trees shall be located not more than 25 feet from the edge of the building footprint.

**Finding:** The landscaping plan provided indicates that at least ten plant units of trees per 60 linear feet of exterior building wall are to be planted within 25 feet on each side of the proposed buildings.

- (5) Shrubs shall be distributed around the perimeter of buildings at a minimum density of one plant unit per 15 linear feet of exterior building wall.

**Finding:** The landscaping plan provided indicates that at least one plant unit of shrubs per 15 linear feet are to be planted on each side of the proposed buildings.

- (6) To ensure the privacy of dwelling units, ground level private open space shall be physically and visually separated from common open space with perimeter landscaping or perimeter fencing.

**Finding:** According to the applicant's written statement and landscape plan, all private open space located contiguous to the dwelling unit will be screened with five-foot tall landscaping, ensuring privacy for private open space areas.

- (7) To provide protection from winter wind and summer sun and to ensure trees are distributed throughout a site and along parking areas, a minimum of one canopy tree shall be planted along every 50 feet of the perimeter of parking areas. Trunks of the trees shall be located within ten feet of the edge of the parking area (see Figure 702-3).

(A) A minimum of one canopy tree shall be planted within each planter bay.

(B) A landscaped planter bay a minimum of nine feet in width shall be provided at a minimum spacing of one for every 12 spaces. (see Figure 702-3).

**Finding:** The parking area contains 77 parking spaces, requiring 6 planter bays at least nine feet in width. The landscaping plan indicates that at least 13 planter bays, nine feet in width and each with a canopy tree, will be provided. There are no rows of parking greater than 12 spaces without a landscape planter bay. A minimum of one canopy tree is provided every 50 feet around the perimeter of the parking areas in compliance with this standard.

- (8) Multiple family developments with 13 or more units are exempt from the landscaping requirements in SRC Chapter 806.

**Finding:** The proposal includes more than thirteen units; therefore, this development is exempt from the landscaping requirements of SRC Chapter 806.

(c) Site safety and security.

- (1) Windows shall be provided in all habitable rooms, other than bathrooms, on each wall that faces common open space, parking areas, and pedestrian paths to encourage visual surveillance of such areas and minimize the appearance of building bulk.
- (2) Lighting shall be provided that illuminates all exterior dwelling unit entrances, parking areas, and pedestrian paths within the development.
- (3) Fences, walls, and plant materials shall not be installed between street-facing dwelling units and public or private streets in locations that obstruct the visibility of dwelling unit entrances from the street. For purposes of this standard, the term "obstructed visibility" means the entry is not in view from the street along one-half or more of the dwelling unit's frontage.
- (4) Landscaping and fencing adjacent to common open space, parking areas, and dwelling unit entryways shall be limited to a maximum height of three feet to encourage visual surveillance of such areas.

**Finding:** Windows are provided in all habitable rooms on each wall that faces common open space, parking areas, and pedestrian pathways. The applicant's written statement and preliminary site plan indicates that exterior lighting (pole lights a maximum of 14 feet tall, and post lights a maximum of 5 feet tall) will be provided along pedestrian paths and adjacent to vehicle use areas; lighting will also be provided on building exteriors. According to the site plan and landscaping plan, there are no fences near the entryways or common open space.

(d) Parking and site design.

- (1) To minimize large expanses of continuous pavement, parking areas greater than 6,700 square feet in area shall be physically and visually separated with landscaped planter bays that are a minimum of nine feet in width. Individual parking areas may be connected by an aisle or driveway (see Figure 702-3).

**Finding:** The applicant indicates that there are no parking areas greater than 6,700 square feet in size. Planter bays a minimum of nine feet in width, each planted with a canopy tree, have been provided throughout the development site to minimize large expanses of continuous pavement, in compliance with this standard.

- (2) To minimize the visual impact of on-site parking and to enhance the pedestrian experience, off-street surface parking areas and vehicle maneuvering areas shall be located behind or beside buildings and structures. Off-street surface parking areas and vehicle maneuvering areas shall not be located between a building or structure and a street.

**Finding:** All proposed off-street parking areas and vehicle maneuvering areas are located beside or behind the proposed apartment buildings. No off-street parking areas are located between buildings and abutting streets.

- (3) Where a development site abuts, and is located uphill from, property zoned Residential Agriculture (RA) or Single Family Residential (RS), and the slope of the development site within 40 feet of the abutting RA or RS zoned property is 15 percent or greater, parking areas shall be set back not less than 20 feet from the property line of the abutting RA or RS zoned property to ensure parking areas are designed to consider site topography and minimize visual impacts on abutting residential properties.

**Finding:** The subject property does not abut RA or RS zoned property; therefore, this standard is not applicable.

- (4) To ensure safe pedestrian access to and throughout a development site, pedestrian pathways shall be provided that connect to and between buildings, common open space, and parking areas, and that connect the development to the public sidewalks.

**Finding:** Sidewalks are shown connecting the development site to existing/proposed public sidewalks along Greencrest Street NE and State Street, between buildings, and connecting to the common open space and other amenities provided at the Phase 1 site in compliance with this standard.

- (e) Façade and building design.

- (1) To preclude long monotonous exterior walls, buildings shall have no dimension greater than 150 feet.

**Finding:** There are no buildings within the proposed development that exceed 150 feet in length, in compliance with this standard.

- (2) Where a development site abuts property zoned Residential Agricultural (RA) or Single Family Residential (RS), buildings shall be set back from the abutting RA or RS zoned property as set forth in Table 702-5 to provide appropriate transitions between new buildings and structures on-site and existing buildings and structures on abutting sites.

- (A) A 5-foot reduction is permitted to each required setback in Table 702-5, provided that the height of the required fence in Sec. 702.015(b)(1)(B) is increased to eight feet tall.

**Finding:** The subject property does not abut property zoned RA or RS; therefore, this standard is not applicable.

- (3) To enhance compatibility between new buildings on site and abutting residential sites, balconies located on building facades that face RA or RS zoned properties, unless separated by a street, shall have fully sight-obscuring railings.

**Finding:** The subject property does not abut property zoned RA or RS; therefore, this standard is not applicable.

- (4) On sites with 75 feet or more of buildable width, a minimum of 40 percent of the buildable width shall be occupied by buildings placed at the setback line to enhance visual interest and activity along the street. Accessory structures shall not apply towards meeting the required percentage.

**Finding:** The applicant has requested an adjustment to eliminate the requirement for buildings to be placed at the minimum 5-10-foot setback line; instead, the applicant is proposing to set the buildings back approximately 20 feet adjacent to State Street and Greencrest Street NE. Findings for the Adjustment can be found in Section 8 of this report.

- (5) To orient buildings to the street, any ground-level unit, cluster of units, or interior lobbies, or portions thereof, located within 25 feet of the property line abutting a street shall have a building entrance facing the street, with direct pedestrian access to the adjacent sidewalk.

**Finding:** The applicant has requested an adjustment to eliminate the requirement for ground floor units within 25 feet of the property line abutting a street to have direct pedestrian access to the adjacent sidewalk. Findings for the Adjustment can be found in Section 8 of this report.

- (6) A porch or architecturally defined entry area shall be provided for each ground level dwelling unit. Shared porches or entry areas shall be provided to not more than four dwelling units. Individual and common entryways shall be articulated with a differentiated roof, awning, stoop, forecourt, arcade or portico.

**Finding:** Covered entry areas are provided at each of the primary entrances for the dwelling units in compliance with this standard.

- (7) Roof-mounted mechanical equipment, other than vents or ventilators, shall be screened from ground level view. Screening shall be as high as the top of the mechanical equipment and shall be integrated with exterior building design.

**Finding:** The applicant indicates that roof-mounted equipment will be screened and integrated into the building design in compliance with this standard.



- (8) To reinforce the residential character of the neighborhood, flat roofs, and the roof ridges of sloping roofs, shall not exceed a horizontal length of 100 feet without providing differences in elevation of at least four feet in height. In lieu of providing differences in elevation, a cross gable or dormer that is a minimum of four feet in length may be provided.

**Finding:** For each of the buildings with a roof line exceeding 100 feet in length without a change in elevation of at least four feet, the building design instead includes cross gables and/or dormers greater than four feet in length, in compliance with this standard.

- (9) To minimize the appearance of building bulk, each floor of each building's vertical face that is 80 feet in length or longer shall incorporate one or more of the design elements below (see examples in Figure 702-5). Design elements shall vary from other wall surfaces by a minimum of four feet and such changes in plane shall have a minimum width of six feet.
- (A) Offsets (recesses and extensions).
  - (B) Covered deck.
  - (C) Covered balcony.
  - (D) Cantilevered balcony, provided at least half of its depth is recessed.
  - (E) Covered entrance.

**Finding:** According to the applicant's written statement and proposed building elevation plans, building offsets, covered decks, recessed balconies, and covered entrances will be incorporated into the design for each building in compliance with this standard.

- (10) To visually break up the building's vertical mass, the first floor of each building, except for single-story buildings, shall be distinguished from its upper floors by at least one of the following (see examples in Figure 702-6):
- (A) Change in materials.
  - (B) Change in color.
  - (C) Molding or other horizontally-distinguishing transition piece.

**Finding:** According to the applicant's written statement and building elevation plans, the third floor of each building will have contrasting building materials and colors, and horizontally distinguishing transition pieces will be used to distinguish between the first floor and upper floors in compliance with this standard.

## DECISION

For the proposed development of a 42-unit multi-family residential apartment complex for a portion of property approximately 1.74 acres in size and located at the 4900 Block of State Street, subject to the following conditions of approval, the

Hearings Officer **APPROVES** the request for a conditional use, site plan review, design review, and the adjustment request to increase the setback requirement along State Street and Greencrest Street NE; the Hearings Officer also **APPROVES** the adjustment request to eliminate the direct pedestrian access requirement for ground floor units abutting State Street. The Hearings Officer **DENIES** the adjustment request to eliminate the direct pedestrian access requirement for ground level units abutting Greencrest Street NE.

**SITE PLAN REVIEW:**

- Condition 1:** The final plat for this phase of the East Park Estates Planned Unit Development/Subdivision must be recorded prior to issuance of any civil site work or building permits. In the alternative, civil site work and/or building permits may be issued prior to the recording of the final plat if the applicant can demonstrate that the proposed development is in compliance with all the applicable development standards of the zoning code or has received approvals for any necessary Adjustments, and that the applicant has adopted a covenant on the subject property that (1) will prevent the separate sale of the subject property until demonstration that the proposed development is in compliance with all the applicable development standards of the zoning code or has received approvals for any necessary Adjustments, and (2) will give reciprocal access easements on the subject site that will exist until the replat occurs.
- Condition 2:** Convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of State Street, including sufficient right-of-way to accommodate public infrastructure at the property corners.
- Condition 3:** Construct a half-street improvement along the frontage of State Street to Major Arterial street standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 4:** Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Greencrest Street NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.
- Condition 5:** Construct a half-street improvement along the frontage of Greencrest Street NE to Collector standards, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

**Condition 6:** As specified in the applicant's Traffic Impact Analysis, construct eastbound-to-northbound and westbound-to-southbound left-turn lanes at the intersection of State Street and Greencrest Street NE.

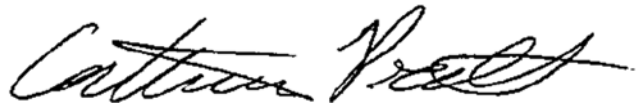
**Condition 7:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

**CLASS 2 ADJUSTMENT:**

**Condition 8:** Proposed Buildings 30-32 must comply with the direct pedestrian access standard of SRC 702.020(e)(5) along Greencrest Street NE.

**Condition 9:** The adjusted development standards, as approved in this zoning adjustment, will only apply to the specific development proposal shown in the site plan. Any future development, beyond what is shown in the site plan, must conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

DATED: April 24, 2023

A handwritten signature in black ink, appearing to read "Catherine Pratt", written over a horizontal line.

Catherine M. Pratt, Hearings Officer