



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St. SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

February 12, 2016

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

**NOTICE OF FINAL LAND USE DECISION Quasi-Judicial Zone Change / Conditional Use
Case No. ZC-CU15-03
for property located at 152-172 Pembroke St SE & 4752
Liberty Road S**

YOU ARE HEREBY NOTIFIED that the City Council of the City of Salem adopted Order No.2016-01 ZC-CU at their January 11, 2016 session, adopting findings and reversing the Hearings Officer decision. A copy of the Order is attached.

Any person with standing may appeal the City Council's decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, **not later than 21 days** after February 12, 2016. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR 97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-6173.

Lisa Anderson-Ogilvie,
Planning Administrator, AICP

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

IN THE MATTER OF REVERSING) ORDER NO. 2016-01 ZC-CU
THE DECISION OF THE HEARINGS) ZONE CHANGE / CONDITIONAL USE
OFFICER AND APPROVING ZONE) PERMIT CASE NO. ZC-CU 15-03
CHANGE / CONDITIONAL USE)
PERMIT CASE NO. ZC-CU15-03)

This matter coming regularly for hearing before the City Council, at its January 11, 2016, meeting, and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order reversing the decision of the Hearings Officer in Zone Change/Conditional Use Permit Case No. ZC-CU15-03, attached hereto as Exhibit 1, and approving the application.

PROCEDURAL FINDINGS:

- (a) A public hearing was held before the Hearings Officer on October 28, 2015 for review of a consolidated application for a proposed 93-unit multiple family development. On November 25, 2015, the Hearings Officer issued a decision denying the Zone Change and Conditional Use Permit application.
- (b) On December 2, 2015, an appeal of the Hearings Officer's decision was filed by the applicant.
- (c) Pursuant to SRC 300.620(g)(3) and Table 300-2, the review authority for appeal of this consolidated application is the City Council.
- (d) On January 11, 2016, the City Council conducted a hearing to receive evidence and testimony regarding the application, the public hearing was closed on January 11, 2016. The City Council conducted deliberations on January 25, 2016 and voted to reverse the decision of the Hearings Officer and approve the consolidated application subject to conditions of approval.

SUBSTANTIVE FINDINGS:

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

- (a) The Facts and Findings contained in the January 11, 2016 Staff Report to City Council, attached hereto as Exhibit 2,
- (b) The Facts and Findings contained in the October 28, 2015 Staff Report to the Hearings Officer, attached hereto as Exhibit 3, findings in support of conditions 1, 3 and 4 are included in the staff report,
- (c) The Hearings Officer Decision commented that Case No. CPC-NPC-ZC 97-23 was not included in the record for this case. A copy of the decision was included in the October 28, 2015 Staff Report as Attachment B. The full case file, including the staff report, testimony and findings by the Planning Commission, is included in the record for this case and was made available to all parties for review.
- (d) The City Council adopted two conditions of approval applicable to the Zone Change application. Conditions 1 and 2 are intended to modify and replace conditions 1(a)(4) and 1(e) imposed by CPC-NPC-ZC 97-23. A zone change shall be granted if there is a demonstration that the proposed zone is equally or better suited for the property than the existing zone. City Council finds that the adoption of Conditions 1 and 2 are equally or better suited for the subject that the conditions for the previous zone change. Findings in support of

Condition 1 are included Exhibit X. Condition 2 modifies the pedestrian access requirement for the subject property, the condition maintains pedestrian connectivity between Pembroke Street SE and the adjacent park (Wendy Kroger Park), but limits direct pedestrian access onto Music Street SE. Pedestrian connectivity is already provided by an existing pathway from Wendy Kroger Park to Dancers Court SE, and then to Music Street SE. The pedestrian connection required by Condition 2 provides a connection that equally serves surrounding land uses.

- (e) A conditional use permit shall be granted if the reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions. The City Council found that additional conditions of approval would minimize the impact of the multi-family use on the surrounding property owners, including:
 - a. Condition 5 includes a limitation on building height in the area adjacent to the existing single family residential neighborhood. The condition of approval is intended to limit visual impact and maximize privacy between the multi-family use and the adjacent neighborhood.
 - b. Condition 6 includes a requirement for an 8 foot tall fence, which is 2 feet taller than the Salem Revised Code requires. The condition of approval is intended to require a greater screening to limit visual impact and maximize privacy between the multi-family use and the adjacent neighborhood.
 - c. Condition 7 includes a requirement for planting trees with a minimum height of 12 feet at the time of development. The condition of approval is intended to require taller more mature vegetation to provide a greater buffer at the time of development to limit visual impact and maximize privacy between the multi-family use and the adjacent neighborhood.
 - d. Condition 8 limits the access onto Pembroke Street SE to use by emergency vehicles only. The condition of approval is intended to direct traffic for the multi-family use to the primary entrance on Liberty Road and not through a local street, limiting the traffic impact of the multi-family use on the existing uses on Pembroke Street SE.
- (f) The Hearings Officer made specific findings regarding SRC 265.005(e)(2) to the effect that the applicant had to meet a higher burden of proof, and relied on that in finding that the applicant did not meet the zone change criteria. The criterion states:

“The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.”

This finding is rejected. The criterion simply means that to the extent the Review Authority finds that the proposal negatively impacts the “area,” the applicant must demonstrate that those impacts are taken into account when demonstrating compliance with the applicable criteria. It does not mean the applicant must demonstrate compliance with some higher standard of proof, only that those impacts will affect the evaluation of whether the application complies with the criteria.

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

Section 1. The Hearings Officer’s decision denying the application for Zone Change / Conditional

Use Permit Case No. ZC-CU15-03 is hereby reversed and approved subject to the following conditions of approval:

Conditions of Zone Change Approval:

Condition 1: The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use.

Condition 2: A public pedestrian pathway, meeting city standards, shall be constructed to provide a connection between Pembroke Street SE and Wendy Kroger Park. The pedestrian pathway shall not connect to Music St. SE and a fence or wall shall restrict access between the subject property and Music St. SE as described in Condition 6.

Conditions of Conditional Use Permit Approval:

Condition 3: The multi-family use shall contain no more than 93-dwelling units.

Condition 4: An access easement shall be granted where the existing loading area encroaches onto Lot 2. Building and parking lot setbacks for development on Lot 2 shall be measured from the access easement.

Condition 5: Within 80 feet of the abutting RS-zoned land to the north, buildings shall not exceed two stories in height, nor exceed 35 feet in height.

Condition 6: An 8-foot-tall, decorative, sight-obscuring fence or wall shall be provide adjacent to the abutting RS zone to the north. 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 condition.

Condition 7: Where the development site abuts a RS zone to the north, trees within the required setback shall be not less than 12 feet in height at the time of planting.

Condition 8: The multi-family use may have one driveway, providing access for emergency vehicles only, onto Pembroke Street SE.

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.

ADOPTED by the City Council this 8th day of February, 2016.

ATTEST:




City Recorder

Checked by: Aaron Panko

FOR CITY COUNCIL MEETING OF: January 11, 2016

AGENDA ITEM NO.: _____

TO: MAYOR AND CITY COUNCIL

THROUGH: STEVE POWERS, CITY MANAGER 

FROM: GLENN W. GROSS, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: APPEAL OF HEARINGS OFFICER'S DECISION DENYING
QUASI-JUDICIAL ZONE CHANGE/CONDITIONAL USE CASE
NO. ZC-CU 15-03 FOR PROPERTY LOCATED AT 152-172
PEMBROOK STREET SE AND 4752 LIBERTY ROAD S

ISSUE:

Shall the City Council affirm, amend, or reverse the decision of the Hearings Officer denying Quasi-Judicial Zone Change/Conditional Use Case No. ZC-CU 15-03 for property located at 152-172 Pembroke Street SE and 4752 Liberty Road S?

RECOMMENDATION:

Reverse the Hearings Officer's denial of Quasi-Judicial Zone Change/Conditional Use Case No. ZC-CU 15-03 for property located at 152-172 Pembroke Street SE and 4752 Liberty Road S.

SUMMARY AND BACKGROUND:

On November 25, 2015, the Hearings Officer issued a decision denying a consolidated application for development of a 93-unit multiple family development on approximately 4.23 acres of land located at 152-172 Pembroke Street SE and 4752 Liberty Road S (**Attachment 1**).

The application included the following requests:

- 1) A proposed Zone Change to remove a condition from a previous zone change decision (CPC/NPC/ZC 97-23) which states:

The land uses on the easterly 1.7 acres shall be limited to the uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone.

- 2) A Conditional Use Permit to allow a multi-family use to be developed in the CR (Retail Commercial) zone.

The application was reviewed for conformance with the applicable criteria and

standards of the Salem Revised Code (SRC). Staff recommended that the Hearings Officer approve the consolidated application with proposed conditions, however, the Hearings Officer found that the applicant did not establish that removing the use restriction for the property to allow the proposed multi-family use was equally or better suited for this property than the existing zone with use restrictions.

On December 2, 2015, an appeal of the decision was filed by the applicant's representative objecting to the Hearings Officer's denial. Pursuant to SRC 300.520(g)(3) and Table 300-2, the review authority for appeal of this consolidated application is the City Council.

At the time the application was filed the property was held in ownership by Columbia State Bank. Marion County records indicate that the property was purchased by Pembroke LLC on October 30, 2015. The registered agent for Pembroke LLC is Robert Muth.

FACTS AND FINDINGS:

Procedural Findings

1. On September 2, 2015, Mark Grenz, P.E., of Multi-Tech Engineering Inc., on behalf of the applicant, Montagne Development Inc, filed an application for a Zone Change and Conditional Use Permit in order to allow for a multi-family use to be developed on the subject property located at 152-172 Pembroke Street SE and 4752 Liberty Road S. A conceptual plan for the development is included as **Attachment 2**.

The application was deemed complete for processing on October 1, 2015.

2. A public hearing was held before the Hearings Officer on October 28, 2015, the complete staff report is included as **Attachment 3**. Following the public hearing the Hearings Officer left the record open for additional written testimony. On November 25, 2015, a decision was received from the Hearings Officer denying the application (**Attachment 4**).
3. On December 2, 2015, an appeal of the Hearings Officer's decision was filed by the applicant (**Attachment 5**).
4. Pursuant to SRC 300.520(g)(3) and Table 300-2, the review authority for appeal of this consolidated application is the City Council. The public hearing on this matter is set for January 11, 2016, at 6:30 p.m.
5. The state-mandated 120-day local decision deadline for the application was originally January 29, 2016, however, a 30-day time extension was granted by the applicant to allow additional time to process the appeal. The new deadline is February 28, 2016.

Substantive Findings

1. The property subject to the proposed development is approximately 4.23 acres in size. The property, which is relatively flat, occupies a portion of the former Stayton Cannery Site. The property is adjacent to Wendy Kroger Park, a residential area to the north, a mini-storage use to the south, and retail and personal service uses to the east.

The applicant proposes development of the subject property with a multi-family use containing up to 93-dwelling units, with associated parking and recreational space. (Please note that the applicant's written statement lists 90 multi-family units while their conceptual site plan shows 93 units. Staff recommended a condition of approval limiting the use to a maximum of 93 units).

Direct access to the site is provided through an accessway onto Liberty Road S, secondary access to the property may be provided through Pembroke Street SE. Music Street SE abuts the property to the north, however, no vehicle access will be provided to the proposed development from this local street.

2. The current CR (Retail Commercial) zoning of the property was established in 1997 through approval of Comprehensive Plan Change/Neighborhood Plan Change/Zone Change Case No. CPC/NPC/ZC 97-23. Under this decision, the Comprehensive Plan and Neighborhood Plan designations for the subject property were changed from "Industrial" to "Commercial" and the zoning was changed from IP (Industrial Park) to CR (Retail Commercial). For the eastern most 1.7 acres of the subject property, the land uses are restricted to the uses listed in both the CN (Neighborhood Commercial) and CR (Retail Commercial) zones. Multi-Family uses are allowed in the CR (Retail Commercial) zone with a Conditional Use Permit, but because multi-family is not a permitted use in the CN zone, multi-family uses are not permitted on the eastern most 1.7 acres of the subject property.

In order to allow the proposed 93-unit multiple family development a zone change has been requested to remove the condition of approval from CPC/NPC/ZC97-23 which limits the permitted uses for the eastern most 1.7 acres of the property.

3. The approval criteria that must be satisfied in connection with the proposal are included under the following sections of the SRC:

Application	Approval Criteria Sections
Zone Change	SRC 265.005(e)(1)
Conditional Use Permit	SRC 240.005(d)

Findings establishing the proposed development's conformance with the applicable approval criteria are included in the Staff Report dated October 28, 2015

(Attachment 3). Findings from the Hearings Officer establishing that the proposal does not conform to the approval criteria for a zone change are found in the Decision dated November 25, 2015 **(Attachment 4).**

4. The subject property is located within the Faye Wright Neighborhood Association. The neighborhood association reviewed the proposal and provided comments indicating opposition to the proposed development **(Attachment 6).**

- 1) Building height. The 3 story building height is incompatible with the neighborhood. Nearly all of the homes to the north and east are single story. The privacy of residents of nearby homes, especially those adjacent to the complex on Music Street and Dancers Court, would be significantly compromised.

Staff Response: The maximum building height in the CR zone is 50 feet. Under the current zoning designation a commercial building could be built to the maximum height with a setback of 15 feet to the property to the north. Multi-family buildings adjacent to residential zones are required to be setback one foot for every one foot of building height. The proposed multi-family development will comply with maximum height requirements and will require a greater setback than potential commercial uses.

- 2) Inadequate parking. The plan for 147 parking spaces seems inadequate for the number of rental units and there appears to be no provision for guest parking. The rather unique location – only two very short streets for parking outside of the complex – does not provide an adequate option for offsite parking. Street parking is not available on Liberty. Resident or visitor parking in nearby business lots would not be tolerated.

Staff Response: The minimum off-street parking requirement for a multi-family use is 1.5 spaces per dwelling unit. For the 93 units proposed, the minimum requirement is 140 spaces; the applicant is proposing 147 spaces. The requirement for 1.5 parking spaces per unit applies to all multi-family development with 4 or more units (except for downtown). There is no evidence that providing parking to meet the minimum standards in the zoning code will have a negative impact in this instance and nothing has been submitted in the record to indicate that the applicant should be made to provide more parking than is required for any other multi-family development in the city. As noted, the applicant has indicated they will provide more than the minimum required.

- 3) Setbacks. The setback of complex buildings from property boundaries appears to be quite small and incapable of supporting a sizeable row of trees to separate the complex from surrounding areas. This is a significant issue for the properties to the northeast. It is also an issue for the residents of the

apartment complex who may not wish to view the storage facility to the south or nearby parking lots.

Staff Response: Multi-family developments are required to be setback from adjacent single family zoned areas at a rate of 1 foot per 1 foot of height. The applicant is indicating their setback will be 30 feet from the northern property line abutting the single family homes. The 30 feet will include a 10 foot easement along the property line for access to the adjacent city park. Additionally there are requirements for trees to be planted in the landscaped setbacks.

The conceptual plan submitted by the applicant has not been reviewed for conformance with all standards of the zoning code. At the time of Site Plan Review and Design Review the applicant will be required to demonstrate how the proposal will be consistent with setback and landscaping requirements.

- 4) Path along the northeast property line. The proposed path along the northeast property line introduces yet another privacy threat to residential properties in Music Street and Dancers Court. Increased foot traffic may pose security as well as privacy issues.

Staff Response: The pedestrian pathway which connects Pembroke Street NE and Music Street NE to the public park was included as a condition of approval by the Planning Commission for CPC/NPC/ZC 97-23. The condition is a development standard and must be provided on the subject property at the time it is developed. The alternative to providing a pedestrian path would be a full street connection from the single family neighborhood through the commercial or multi-family development. A pedestrian path is a less intrusive way to ensure that future residents of the proposed development and residents in adjacent neighborhoods can easily access the nearby city park and other nearby services. Without the path there will be no easy way for pedestrians, bicyclists and children to access the city park from Liberty Road S or for residents to the east of the city park to access Liberty Road S and the services and school located there. As easily seen on aerial photos of the subject property an unofficial path exists across the vacant lot, proof that this connection is used by residents and that the provision of a paved path is needed.

Additionally, the proposed multi-family use will require a minimum six foot tall, site obscuring fence, along the northern property line to provide a barrier between the multi-family use and in this case, the pedestrian pathway.

Public testimony was also received from surrounding property owners (**Attachment 6**). Testimony provided expressed concern, primarily regarding the following issues:

- 1) Unlike the other uses currently allowed (retail sales, banks, gyms, dance studios and education facilities), a large apartment complex will generate significant levels of noise 24 hours a day, seven days a week.

Staff Response: Multi-family uses are generally compatible with single family uses and are typically found as a transitional uses between single family neighborhoods and more intensive commercial uses or arterial streets. In this case, multi-family development in the CR zone requires greater setbacks and more landscaping than commercial development and the requirement for fencing is different. The increased screening and landscaping standards help to mitigate the potential impact of the multi-family use.

- 2) Having a three story apartment building thirty feet from the property line will not provide enough privacy. People in the second or third floor apartment units will be able to see into back yards. There is a potential loss in solar access due to building height near the property line.

Staff Response: The setback and landscaping requirements for multi-family development are greater than for commercial development. The screening requirement includes a minimum of 1 tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width and a minimum 6 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. The applicant provided information about solar access to the site included in the testimony found in **Attachment 6**.

- 3) Faye Wright has an abundance of apartments and very few of those apartment complexes are filled.

Staff Response: The current market for apartments is not part of the approval criteria for a zone change or conditional use permit. However, the 2015-2035 Salem Housing Needs Analysis does identify a deficiency of land needed for multi-family housing over the next 20 years. Roughly 2,900 new dwelling units and 207 acres of multi-family zoned land are required to meet the multi-family housing needs of the city. Salem will need to address the deficit of multifamily land to comply with Statewide Planning Goal 10. One of the strategies identified in the Housing Needs Analysis is to encourage more mixed-use development or allowing multi-family development in commercial zones.

- 4) The proposed 93 unit apartment complex will increase traffic on Pembroke, currently a quiet side street, and increase traffic on Liberty Road South. This use will increase on-street parking demand along Pembroke Street SE and Music Street SE.

Staff Response: The subject property has access to the signal at the intersection of Skyline Road and Liberty Road. Liberty Road S is designated as a major arterial and is designed to handle a large capacity of traffic. The multi-family use is anticipated to generate far fewer trips than potential commercial uses on the property could generate. The proposed 93 unit apartment complex would not generate enough new trips to trigger a full traffic impact analysis. On-street parking is currently allowed on Music Street SE and Pembroke Street SE. As previously stated, the multi-family use will be provided more than the minimum number of parking spaces required.

- 5) There is a concern about the amount of water run-off the proposed apartment complex would create with all the hard surfaces.

Staff Response: At the time of Site Plan Review and Building Permit Review the Public Works Department will evaluate the applicant's plans for conformance with stormwater requirements. The City's stormwater requirements include prohibition of allowing run-off onto neighboring properties and a requirement to implement the City's new green stormwater requirements.

5. An appeal of the Hearings Officer's decision was filed by the applicant on December 2, 2015 and is included as **Attachment 5**. The appeal, in summary, explains that the Hearings Officer denied ZC-CU15-03 based on the opinion that the proposed multi-family development is not an appropriate or compatible use for this location. Additional testimony is provided in the applicant's appeal letter demonstrating how the proposal is consistent with the zone change approval criteria.

Staff Response: The purpose statement for the CN zone in SRC Chapter 520 reads in part, "The CN zone is generally intended to provide areas of small-scale retail, office, and service uses that are compatible with the scale and character of surrounding residential areas, and that serve nearby residents." The Hearings Officer placed great importance on this purpose statement in evaluating this case, stating:

"...the Hearings Officer must find that the applicant has demonstrated compliance with the criteria consistent with the level of impact to compatibility issues related to the scale and character of surrounding residential areas and with respect to impacts associated with or related to the CN zone purpose that development in the zone provides services to nearby residents."¹

The subject property is zoned CR (Retail Commercial) with a use restriction that limits uses on the eastern most 1.7 acres to uses found in both the CR and CN zones. The development standards of the CN zone do not apply to this property.

¹ Hearings Officer Decision dated November 25, 2015, page 12

Further, the approval criteria for proposals to zone land CN include a requirement that CN zones be separated from all other commercial zones by not less than one-half mile. The subject property, being adjacent to a commercial zone would not qualify to be zoned CN. Staff believes that the Hearings Officer erred in his finding because the purpose statement for the CN zone is not applicable to this property.

It is not clear in the 1997 decision that limiting multi-family residential uses was intentional. The only reason given for the decision to limit the uses to ones that are allowed in both the CN and the CR zone was to limit the scale of commercial uses that would be allowed, thereby limiting their impact on the abutting single family residences. There was discussion about allowing residential uses (single family or multi-family) on the property instead of commercial zoning. Faye Wright Neighborhood Association submitted testimony in 1997 that they would prefer residential zoning over commercial; specifically that townhouses would be a good fit.²

The applicant's representative at the time submitted a letter stating that the applicant thought the uses should be limited to be compatible with the adjacent single family residences and proposed eliminating certain intense uses such as drive through and auto related uses.³ He stated that approving the CR zone for this portion of the site but eliminating certain uses would be compatible with their proposed development and still allow multi-family residential as a conditional use. In response to the applicant's proposal staff stated that approving the CR zone but not allowing certain uses would be "cumbersome to craft and administer." They also state that the CN zone "approximates a suitable list" of uses but that the CN is not applicable itself due to locational requirements.⁴ Staff then recommended the condition that the Planning Commission eventually adopted which limits the uses to only those allowed in both the CN and CR zones. There was no discussion in the staff report about limiting residential uses or the impact of this condition on residential uses. (Please note the 1997 Planning Commission decision, and the documents referenced herein, are included in the case file for ZC-CU15-03 and are available upon request).

A proposed zone is equally or better suited for the property than an existing zone if the uses allowed by the proposed zone are logical with the surrounding land uses. The Hearings Officer made the following finding:

"After considering all the evidence, the Hearings Officer is not persuaded that it is logical to ignore the benefits gained by small-scale commercial retail, office and service uses compatible with the scale and character of adjacent single family residential development...by allowing a large-scale multi-family apartment that intensifies compatibility issues related to current off-street parking issues, intensifies the loss of solar and privacy for the small scale

² Testimony from Faye Wright Neighborhood Association, dated November 20, 1997

³ Letter from Jeffrey R. Tross to the Planning Division, dated December 3, 1997

⁴ Planning Commission staff report dated December 16, 1997, page 3

residential development pattern in existence while providing no commercial services."⁵

The denial is based on the context of this being a CN zone, which it is not. The Hearings Officer did not evaluate how the proposed multi-family use is compatible with the surrounding area beyond the adjacent residential uses to the north. The goals and policies of the Salem Area Comprehensive Plan encourage multi-family residential development located in areas that provide walking, auto or transit connections to employment centers, shopping areas, transit service, parks, and public buildings.

The subject property is ideally situated for multi-family development with access to Liberty Road, a major arterial which provides transit service and pedestrian access to Sunnyslope shopping center and other nearby commercial services and employment. The property is located adjacent to Wendy Kroger Park, a neighborhood park. The property is also located near Liberty Elementary School (0.2 mile), Judson Middle School (0.9 mile) and Sylvan Learning Center (0.2 mile).


For these reasons staff finds that the proposed multi-family use is equally or better suited for the subject property than the existing zone. Staff recommends that the City Council REVERSE the decision of the Hearings Officer and adopt the findings and recommendation of the Staff Report dated October 28, 2015, including the following conditions of approval:

Condition 1: The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use.

Condition 2: The multi-family use shall contain no more than 93-dwelling units.

Condition 3: An access easement shall be granted where the existing loading area encroaches onto Lot 2. Building and parking lot setbacks for development on Lot 2 shall be measured from the access easement.

6. In conclusion, staff finds that the proposal, as conditioned, satisfies the applicable approval criteria as set forth in this staff report, and recommends that the City Council reverse the Hearings Officer's November 25, 2015 decision.



Lisa Anderson-Ogilvie, AICP
Planning Administrator

⁵ Hearings Officer Decision dated November 25, 2015, page 18

Attachments:

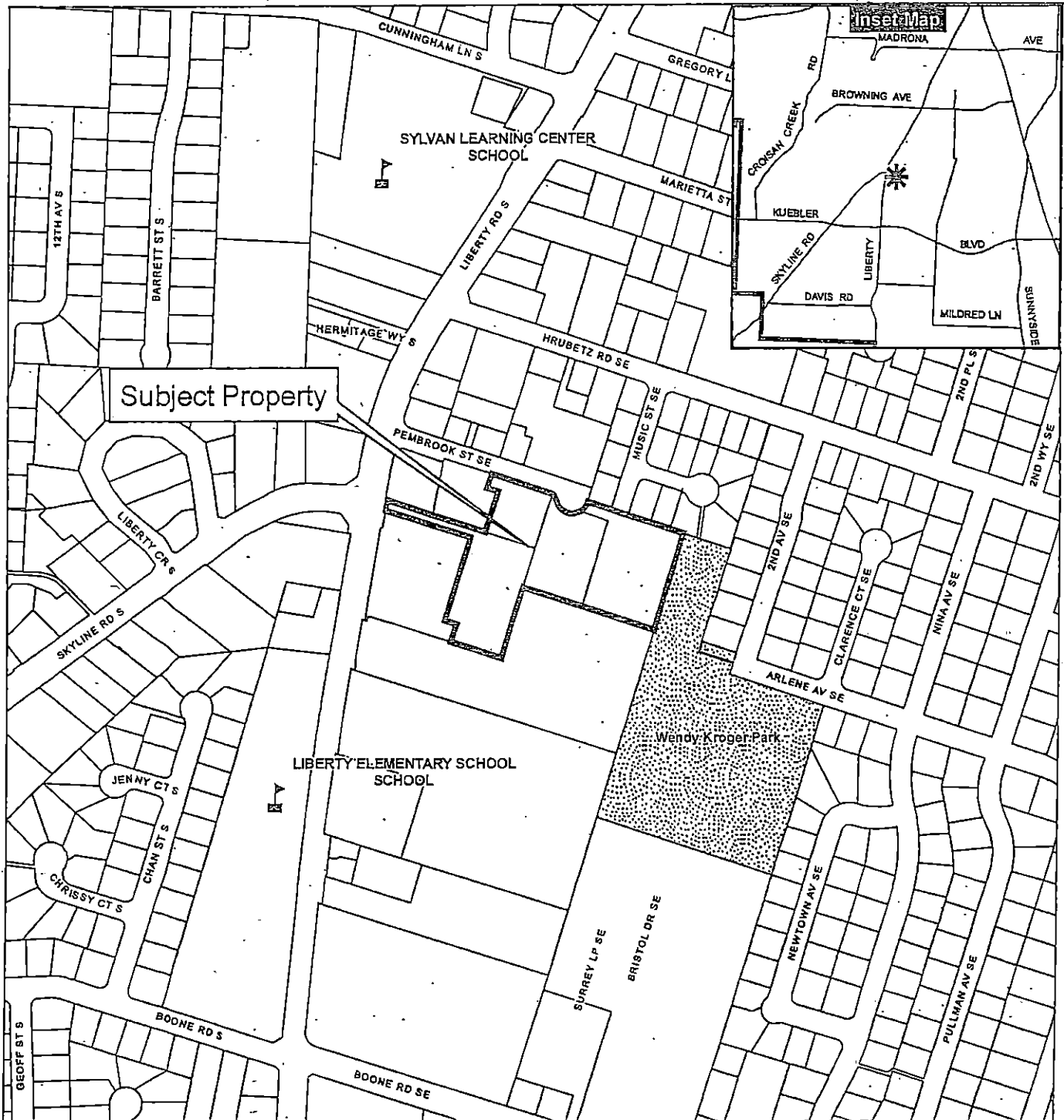
1. Vicinity Map
2. Conceptual Site Plan
3. Staff Report, dated October 28, 2015
4. Hearings Officer's Decision, dated November 25, 2015
5. Applicant's Appeal Letter, dated December 2, 2015
6. ZC/CU15-03 Testimony

Ward 7
January 11, 2016

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Vicinity Map

152-172 Pembroke Street SE and 4752 Liberty Road S

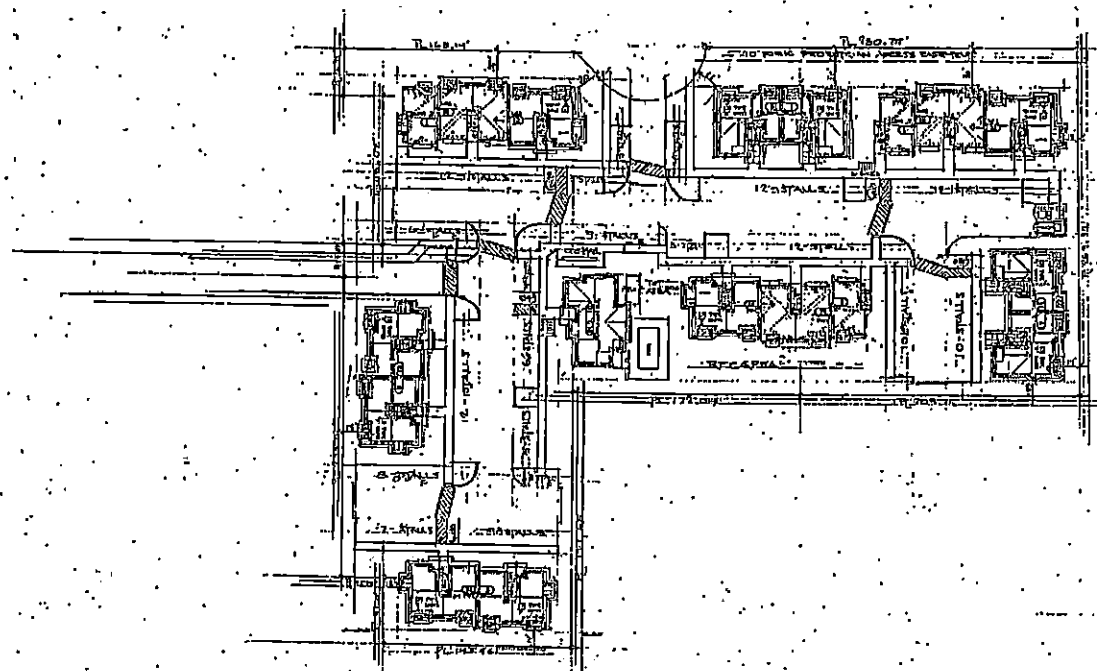


Legend

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

CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

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SITE PLAN

93 TOTAL APT UNITS

48	TYPE (A) 2 BED/2 BATH	(352 sq ft)
21	TYPE (B) 2 BED/2 BATH	(1,029 sq ft)
13	TYPE (C) 1 BED/1 BATH	(718 sq ft)
11	TYPE (D) 3 BED/2 BATH	(1,304 sq ft)

147 TOTAL PARKING STALLS

109	STANDARD STALLS
33	COMPACT
5	HANDICAPPED STALLS
12	Bicycle stalls

SITE

1	REC BLD/MGR OFFICE
1	POOL
1	REC/PLAY AREA
1	TOT AREA
1	US MAIL BOX AREA
1	TRASH COMPACTOR/RECYCLE ENCLOSURE

PROPOSED:
93 UNIT APARTMENT COMPLEX
Pembroke Street,
Salem, OR

FOR MEETING OF: OCTOBER 28, 2015
CASE NO.: ZC-CU15-03

TO: HEARINGS OFFICER

FROM: LISA ANDERSON-OGILVIE, AICP
PLANNING ADMINISTRATOR

SUBJECT: ZONE CHANGE / CONDITIONAL USE CASE NO. 15-03; 4752 LIBERTY
ROAD S AND 152-172 PEMBROOK STREET SE
AMANDA NOS. 15-116403-ZO AND 15-116405-ZO

REQUEST

Summary: A proposed Zone Change to remove a use limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the subject property.

Request: A proposed Zone Change to remove a condition from a previous zone change decision (CPC/NPC/ZC 97-23) which limits uses on the subject property to those that are permitted in both the CN (Neighborhood Commercial) zone and the CR (Retail Commercial) zone, and a Conditional Use Permit to allow development of a 90 unit apartment complex, for property approximately 4.23 acres in size, zoned CR (Retail Commercial), and located at 152-172 Pembroke Street SE and 4752 Liberty Road S - 97302 (Marion County Assessor's Map and Tax Lot numbers: 083W09DB/ 04000, 04200, 04300 and 04400).

OWNER: Columbia State Bank

APPLICANT: Dave Montagne, Montagne Development, Inc.

FILER: Mark Grenz, Multi-Tech Engineering Services, Inc.

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer GRANT the request for a zone change to remove a use limitation condition from a previous zone change decision and a conditional use permit to allow a proposed multi-family development for property located at 152-172 Pembroke Street SE and 4752 Liberty Road S subject to the following conditions of approval:

Condition 1: The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use.

Condition 2: The multi-family use shall contain no more than 93-dwelling units.

Condition 3: An access easement shall be granted where the existing loading area encroaches onto Lot 2. Building and parking lot setbacks for development on Lot 2 shall be measured from the access easement.

BACKGROUND

The subject property is a remainder of the former Stayton Cannery site. A vicinity map of the property is included as Attachment A. The property had an "Industrial" comprehensive plan designation and IP (Industrial Park) zoning. In 1997, the Planning Commission approved a Comprehensive Plan Change, Neighborhood Plan Change and Zone Change (CPC/NPC/ZC 97-23) for the subject property. The Comprehensive Plan designation was changed from "Industrial" to "Commercial", the Faye Wright (Liberty Boone) Neighborhood Plan changed from "Industrial" to "Commercial Retail" and the zoning changed from IP (Industrial Park) to CR (Retail Commercial).

The Planning Commission attached several conditions of approval to CPC/NPC/ZC 97-23, including a use limitation condition which states:

"The land uses on the easterly 1.7 acres shall be limited to the uses listed in the (CN) Neighborhood Commercial zone that are also permitted in the CR (Retail Commercial) zone."

A copy of the Planning Commission decision is included as Attachment B.

Multi-family uses are allowed in the CR zone with a conditional use permit, but are not allowed in the CN zone. This use limitation prevents the easterly 1.7 acres of the property from being developed with a multi-family use.

In 2006, the Liberty Crossing Subdivision (SUB06-28) was approved dividing the property into 6 lots. The subject property includes lots 2, 4, 5 and 6 of the Liberty Crossing Subdivision.

On August 2, 2015, a consolidated zone change and conditional use permit application was submitted requesting to eliminate the use limitation from CPC/NPC/ZC 97-23 and a conditional use permit for a proposed multi-family development on the subject property. The applications were deemed complete for processing on October 1, 2015.

The public hearing before the City of Salem Hearings Officer is scheduled for October 28, 2015, at 5:30 p.m. in the Salem City Council Chambers, Civic Center Room 240, located at 555 Liberty Street SE. Notice of public hearing was sent by mail to surrounding property owners pursuant to Salem Revised Code (SRC) requirements on October 8, 2015. Public hearing notice was also posted on the property by the applicant pursuant to SRC requirements.

PROPOSAL

The applicant is requesting a zone change and conditional use permit to allow a multi-family residential development with up to 93 dwelling units on the subject property. The applicant's request and written findings describe a 90-unit apartment complex; the conceptual site plan for the development shows 93 units (Attachment C). The

recommended decision, as conditioned, would allow up to 93 units on the subject property.

If the Zone Change and Conditional Use permit is granted, a Site Plan Review and Design Review application will be required. The final design may result in changes to the conceptual site plan, which will be reviewed at the time of Site Plan Review and Design Review.

APPLICANT'S STATEMENT

The applicant's statement addressing the applicable approval criteria for a zone change and conditional use permit is included as Attachment D and Attachment E.

FACTS AND FINDINGS

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 and the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned CR (Retail Commercial). Multi-family residential uses are allowed in the CR zone with a conditional use permit.

SRC Chapter 240 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.

A conditional use permit is required to allow multi-family development on the subject property.

The zoning of surrounding properties includes:

North: Pembroke Street SE and Music Street SE, RS (Single Family Residential) – Single Family Dwellings
East: RS (Single Family Residential) – Wendy Kroger Park
South: IP (Industrial Park) – Self-Service Storage
West: CR (Retail Commercial) – Dental Office and Walgreens

3. Site Analysis

The subject property is approximately 4.23 acres in size and is currently vacant.

The subject property has frontage along Liberty Road S, which is designated as a Major Arterial in the Salem Transportation System Plan (TSP) and Pembroke

Street SE, which is designated as a local street. Music Street SE abuts the property to the north; however, no vehicle access will be provided to the proposed development from this local street.

Wendy Kroger Park (former Cannery Park) abuts the property to the east.

Natural Resources

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 (Oregon White Oak greater than 24 inches in diameter at breast height) (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.

No protected trees have been identified on the site plan for removal.

SRC 809 - Wetlands: The Salem-Keizer Local Wetland Inventory (LWI) does not show any wetland or hydric soil areas mapped on the property.

SRC 810 - Landslide Hazards: A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. There are no mapped landslide hazards on the subject property. The applicant's proposal does not appear to disturb any portion of a mapped landslide hazard area with regulated activities; therefore, a geological assessment is not required.

4. Neighborhood and Citizen Comments

The subject property is located within the Faye Wright Neighborhood Association (Faye Wright). Notice was provided to Faye Wright and surrounding property owners within 250 feet of the subject property. Comments were received from Faye Wright indicating the following.

- 1) Building height. The 3 story building height is incompatible with the neighborhood. Nearly all of the homes to the north and east are single story. The privacy of residents of nearby homes, especially those adjacent to the complex on Music Street and Dancers Court, would be significantly compromised.

Staff Response: The maximum building height in the CR zone is 50 feet. Under the current zoning designation a commercial building could be built to the maximum height with a setback of 15 feet to the property to the north. Multi-family buildings adjacent to residential zones are required to be setback one foot for every one foot of building height. The proposed multi-family

development will comply with maximum height requirements and will require a greater setback than potential commercial uses.

- 2) Inadequate parking. The plan for 147 parking spaces seems inadequate for the number of rental units and there appears to be no provision for guest parking. The rather unique location – only two very short streets for parking outside of the complex – does not provide an adequate option for offsite parking. Street parking is not available on Liberty. Resident or visitor parking in nearby business lots would not be tolerated.

Staff Response: The minimum off-street parking requirement for a multi-family use is 1.5 spaces per dwelling unit. For the 93 units the applicant is proposing 140 spaces are required; the applicant is proposing 147 spaces. The requirement for 1.5 parking spaces per unit applies to all multi-family development with 4 or more units (except for downtown). There is no evidence that providing parking to meet the minimum standards in the zoning code will have a negative impact in this instance and nothing in the record to indicate that the applicant should be made to provide more parking than is required for all other multi-family developments. As noted, the applicant has indicated they will provide more than the minimum required.

- 3) Setbacks. The setback of complex buildings from property boundaries appears to be quite small and incapable of supporting a sizeable row of trees to separate the complex from surrounding areas. This is a significant issue for the properties to the northeast. It is also an issue for the residents of the apartment complex who may not wish to view the storage facility or nearby parking lots.

Staff Response: Multi-family developments are required to be setback from adjacent single family zoned areas at a rate of 1 foot per 1 foot of height. The applicant is indicating their setback will be 30 feet from the northern property line abutting the single family homes. The 30 feet will include a 10 foot easement along the property line for access to the adjacent city park. Additionally there are requirements for trees to be planted in the landscaped setbacks.

The conceptual plan submitted by the applicant has not been reviewed for conformance with all standards of the zoning code. At the time of Site Plan Review and Design Review the applicant will be required to demonstrate how the proposal will be consistent with setback and landscaping requirements.

- 4) Path along the northeast property line. The proposed path along the northeast property line introduces yet another privacy threat to residential properties in Music Street and Dancers Court. Increased foot traffic may pose security as well as privacy issues.

Staff Response: The pedestrian pathway which connects Pembroke Street NE and Music Street NE to the public park was included as a condition of approval by the Planning Commission for CPC/NPC/ZC 97-23. The condition is a development standard and must be provided with any development on the subject property. The alternative to providing a pedestrian path would be a full street connection from the single family neighborhood through the commercial or multi-family development. A pedestrian path is a less intrusive way to ensure that all residents in the development and in adjacent neighborhoods can easily access the nearby city park. Without the path there will be no easy way for pedestrians, bicyclists and children to access the city park from Liberty Road S or for residents to the east of the city park to access Liberty Road S and the services and school located there. As easily seen on the aerial photos of the subject property an unofficial path exists across the vacant lot, proof that this connection is used by residents and that the provision of a paved path is needed.

Additionally, the proposed multi-family use will require a minimum six foot tall, site obscuring fence, along the northern property line to provide a barrier between the multi-family use and in this case, the pedestrian pathway.

Three comments were received from surrounding property owners objecting to the proposed development. The following is a summary of the concerns raised:

- 1) Unlike the other uses currently allowed (retail sales, banks, gyms, dance studios and education facilities), a large apartment complex will generate significant levels of noise 24 hours a day, seven days a week.

Staff Response: Multi-family uses are generally compatible with single family uses and are typically found as a buffer between single family neighborhoods and more intensive commercial uses or arterial streets. In this case, multi-family development in the CR zone requires greater setbacks and more landscaping than commercial development and the fencing requirements are different. The increase screening and landscaping standards help to mitigate the potential continuous 24 hour, seven day a week impact of the multi-family use.

- 2) Having a three story apartment building thirty feet from the property line will not provide enough privacy. People in the second or third floor apartment units will be able to see into back yards.

Staff Response: The setback and landscaping requirements for multi-family development are greater than for commercial development. The screening requirement includes a minimum of 1' tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width and a minimum 6 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.

- 3) Faye Wright has an abundance of apartments and very few of those apartment complexes are filled.

Staff Response: The current market for apartments is not part of the land use approval process. However, the 2015-2035 Salem Housing Needs Analysis does identify a deficiency of land needed for multi-family housing over the next 20 years. Roughly 2,900 new dwelling units and 207 acres of multi-family zoned land are required to meet the multi-family housing needs of the city. Salem will need to address the deficit of multifamily land to comply with Statewide Planning Goal 10. One of the strategies identified in the Housing Needs Analysis is to encourage more mixed-use development or allowing multi-family development in commercial zones.

- 4) The proposed 93 unit apartment complex will increase traffic on Pembroke, currently a quiet side street, and increase traffic on Liberty Road South.

Staff Response: The subject property has access to the signal at the intersection of Skyline Road and Liberty Road. Liberty Road S is designated as a major arterial and is designed to handle a large capacity of traffic. The multi-family use is anticipated to generate far fewer trips than potential commercial uses on the property could generate. The proposed 93 unit apartment complex would not generate enough new trips to trigger a full traffic impact analysis.

- 5) There is a concern about the amount of water run-off the proposed apartment complex would create with all the hard surfaces.

Staff Response: At the time of Site Plan Review and Building Permit Review the Public Works Department will evaluate the applicant's plans for conformance with stormwater requirements. The City's stormwater requirements include prohibition of allowing run-off onto neighboring properties and a requirement to implement the City's new green stormwater requirements.

5. City Department and Public Agency Comments

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

The Fire Department has reviewed the proposal and indicated, "Fire Department access, fire flow, and fire hydrants shall be provided in accordance with the Salem Fire Prevention Code (SRC 58). The proposed access to Building 5 on the site plan does not appear to meet the required fire apparatus turnaround design requirements."

Portland General Electric reviewed the proposal and commented, "Development cost per current tariff and service requirements. 10 foot Public Utility Easement required on all front street lots."

Salem-Keizer Public Schools reviewed the proposal and provided comments included as Attachment F.

6. Zone Change Criteria – SRC Chapter 265

SRC 265.020(b) provides that conditions imposed (from a Zone Change) shall be construed and enforced, in all respects, as provisions of the zoning code relating to the use and development of land. Modification of use conditions shall be by zone change, as provided in SRC Chapter 265.

The property is subject to conditions of approval from a previous land use decision involving a zone change (CPC/NPC/ZC 97-23). The applicant is requesting that condition 1(e) be removed from CPC/NPC/ZC 97-23, which limited the land uses on the easterly 1.7 acres of the subject property to the uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone.

SRC Chapter 265.005 provides the criteria for approval for Quasi-Judicial Zone Changes. In order to approve a quasi-judicial Zone Map amendment request, the review authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria and factors are satisfied. The extent of the consideration given to the various factors set forth below will depend on the degree of impact of the proposed change, and the greater the impact of a proposal on the area, the greater is the burden on the applicant to demonstrate that, in weighing all the factors, the zone change is appropriate.

The applicable criteria and factors are stated below in **bold** print. Following each criterion is a response and/or finding relative to the amendment requested. The applicant provided justification for all applicable criteria (Attachment D).

(A) The zone change is justified based on one or more of the following:

- (i) A mistake in the application of a land use designation to the property.***

Finding: The applicant does not assert that a mistake has been made in the application of the comprehensive plan designation or zone of the subject property.

- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the zone would be compatible with the vicinity's development pattern.***

Applicant Response: The economic, demographic, and social nature of this area has been in the process of changing over the years. The County and City zone maps show that changes have occurred in bring in more commercial and residential uses in this area. By allowing the removal of the condition of approval and allowing multi-family dwellings on the site, the applicant will be compatible with the surrounding uses. The proposed zone change fits the development pattern of the vicinity.

The character of the neighborhood in the vicinity of the subject property has changed over the years. This is evidenced by the current land uses.

This area is a changing area with properties changing to multi-family and commercial. The CN zone is an underutilized zone in the City of Salem. The removal of the conditions would allow the entire property to be developed under the CR zone regulations. Therefore, allowing a 90-unit apartment complex to be built on the site with Conditional Use approval. The 2015 Salem Housing Needs Analysis and Economic Opportunity Analysis Draft Report found that Salem has deficit of land in the Multi-Family Residential designation. Salem needs land for 2,897 dwelling units. Removal of the condition, will allow the developer to develop the site with multi-family uses, while providing a higher density of needed housing type in the City of Salem.

Finding: Since the subject property was rezoned in 1997 there have been a few changes in the land use pattern in the vicinity.

- 1) 128 Friendship Avenue SE – CPC/ZC99-10; this case changed the Comprehensive Plan from Multi-Family Residential to Commercial, and changed the zoning from RM2 (Multi-Family Residential) to CO (Commercial Office).
- 2) 4192 Liberty Road S – CPC/ZC07-08; this case changed the Comprehensive Plan from Multi-Family Residential to Commercial, and changed the zoning from RM2 (Multi-Family Residential) to CO (Commercial Office).
- 3) 4122 Liberty Road S – CPC/ZC 09-06; this case changed the Comprehensive Plan designation from Multi-Family Residential to Commercial, and changed the zoning from RM2 (Multi-Family Residential) to CR (Retail Commercial).

In 2000, the Liberty Road improvement property resulted in Liberty Road S being improved to full major arterial street standards for the section between Skyline Road S and Browning Avenue S. The general trend has been to allow higher intensity uses along the Liberty Road corridor.

While these cases point to changes in the general vicinity, the land uses in the immediate neighborhood along the north side of Pembroke Street SE, Music Street SE, Dancers Court SE and the abutting park land to the east have remained largely unchanged. For this reason, staff finds that the proposal to eliminate Condition 1(e) from CPC/NPC/ZC 97-23 is not justified based on section this section.

- (iii) ***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 for the property 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.***

Applicant Response: Through the Site Plan/Design Review process, the development will also meet Design Standards that are consistent with and enhance the character neighborhood.

The current zoning of the property is CR. Condition 1(e) of CPC/NPC/ZC 97-23 states, "The land uses on the easterly 1.7 acres shall be limited to the uses listed in the Neighborhood Commercial (CN) zone that are also permitted in the CR zone."

The applicant's request to remove Condition 1(e), allows the site to be developed with apartments. The CN zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Conditional Use approval for the development of apartments on the entire site. A memo prepared by the applicant's traffic engineer indicates that, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states that, "if the entire site is conditioned to permit apartments, the apartments will generate much less traffic than a combination of permitted commercial uses."

Therefore, removing the condition and allowing uses within the CR zone on the entire site will be equally or better than requiring the eastern 1.7 acres of the site to be developed within the requirements of the CN zone.

Finding: Findings from the 1997 Planning Commission decision indicated that the use limitation condition was placed on the Zone Change in order to limit the type of commercial activities that could be allowed on the eastern 1.7 acres of the site in order to assure compatibility between future uses and the adjacent single family residential neighborhood along Music Street and the city park land.

The intent of the condition, as stated in the findings, was to limit the type of commercial uses allowed on the property; however, staff believes that the intent was not to restrict the property from future residential use.

As evidenced by the City's zoning map, multi-family residential uses are generally compatible with single family residential uses. Multi-family uses are usually found adjacent to single family neighborhoods and can provide a buffer between single family dwellings and major streets or more intensive land use designations.

Multi-Family uses are found in a wide range of commercial zoning designations;

they are allowed as a permitted use in the CO (Commercial Office) zone and the CB (Central Business District) and allowed with a conditional use permit in the CR (Retail Commercial), CG (General Commercial) and IC (Industrial Commercial) zoning designation.

The statement from the applicant's traffic engineer demonstrates that in terms of traffic impact, a multi-family use on the property would generate fewer trips than other uses that would be permitted on the property under the current use restriction. This provides further evidence that a multi-family use on the property would be equally or better suited than the existing use restriction.

As stated in section ii above, elimination of condition 1(e) is not appropriate because it could result in more intensive commercial uses on the property; however, modification of the condition 1(e) to include multi-family uses as a conditional use on the property can be justified under this section. Therefore, the following condition of approval is proposed:

Condition 1: The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use.

For the above stated reasons, staff believes that the proposal to allow multi-family use on the property, as conditioned, is better suited for the property than the existing use limitation.

(B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.

Finding: The proposal is not a City-initiated zone change. Therefore, this criterion does not apply.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

Applicant Response: The Comprehensive Plan Design is Commercial. The removal of the condition does not change the zone or comprehensive plan designation. It will just allow the eastern 1.7 acres of the site to be developed with uses within the CR zone. Therefore, the proposal continues to be in compliance with the provision of the Salem Area Comprehensive Plan.

The proposal complies with the "Residential" and "Commercial" Goals of the SACP by creating an area that promotes commercial and residential services which strengthens the economic base by providing employment, goods and services, and a needed housing type. Therefore, this criteria (sic) has been met.

Finding: The subject property is designated Commercial. The predominant use found in the commercial designated areas is commercial. Multi-family residential may be included in the commercial designation where appropriate. Salem Urban Area Goals and Policies are contained in section IV of the Salem Area Comprehensive Plan (SACP). The applicable goals and policies are addressed below.

General Development

Development Compatibility.

Land use regulations which govern the siting of any development shall encourage development to reduce its impact on adjacent properties by screening, landscaping, setback, height, and mass regulations.

Finding: Multi-family design standards in the zoning code require multi-family developments to provide greater screening, landscaping and setback requirements than a commercial development in order to provide greater compatibility with adjacent properties. In this case, a site obscuring fence and landscape buffer will be required to separate the proposed multi-family use from the abutting single family neighborhood to the north.

Residential Development

Establishing Residential Uses.

The location and density of residential uses shall be determined after considering the proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal services. Relative proximity shall be determined by distance, access, and ability to provide services to the site.

Multi-Family Housing.

Multiple family developments should be located in areas that provide walking, auto or transit connections to:

- 1) Employment Center
- 2) Shopping Areas
- 3) Transit Service
- 4) Parks
- 5) Public Buildings

Finding: The subject property has frontage and a direct route to Liberty Road S, which is designated as a major arterial in the Salem Transportation System Plan. Liberty Road S provides a pedestrian, bike and vehicle connection from the subject property to nearby services, including grocery stores and shopping areas. Salem-Keizer Transit (Cherriots) provides a transit route that passes by the subject property (Route 8).

The subject property abuts Wendy Kroger Park to the east. Wendy Kroger Park is designated as a Neighborhood Park. As a condition from CPC/NPC/ZC 97-23, a

pedestrian route will be provided from Pembroke Street SE and Music Street SE to Wendy Kroger Park; residents in the existing neighborhood and the proposed multi-family use will have access to this public pedestrian pathway.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

Applicant Response: The applicant's complete statement is included as Attachment D.

Finding: Staff concurs with the applicant's findings. The City's adopted Comprehensive Plan implements the Statewide Planning Goals and applicable administrative rules, and is acknowledged to be in compliance with the Statewide Planning Goals. Therefore, the proposal satisfies this criterion.

(E) If the zone change requires a comprehensive plan change from an industrial use designation to a non-industrial use designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

Applicant Response: The proposed zone change is not to change the zone. The zone change request is for the removal of Condition 1 (e) of CPC/NPC/ZC 97-23, which would allow the entire subject property to be developed with multi-family units with a conditional use permit. Therefore, this criterion (sic) has been met.

Finding: The CR zone is one of the zones that implement the Commercial designation, and a concurrent comprehensive plan amendment is not required for the proposed zone change. Therefore, this criterion does not apply.

(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

Applicant Response: The request to remove Condition 1(e), allows the site to be developed with apartments. The CN zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Conditional Use approval for the development of apartments on the entire site. A memo prepared by the applicant's traffic engineer indicates that, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states that, "If the entire site is

conditioned to permit apartments, the apartments will generate much less traffic than a combination of permitted commercial uses."

Therefore, removing the condition and allowing uses within the CR zone on the entire site will be equally or better than requiring the eastern 1.7 acres of the site to be developed within the requirements of the CN zone. Therefore, this criteria (sic) has been met.

Finding: The applicant has submitted an analysis of the site from a Traffic Engineer that states "...if the site is conditionally allowed to develop apartments on the entire site, the trip generation will be much less than the typical commercial uses trip generation that the current zoning allows." Staff concurs with the applicant's engineer's findings that the trips generated by the proposed development are less than the commercial uses allowed in the current zone would generate. Therefore, the modified zone change condition, to allow multi-family development as a conditional use, will not significantly affect a transportation facility. This criterion has been met.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

Applicant Response: The subject property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed in the CR zone. Therefore, this criteria (sic) has been met.

Finding: The water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the future tenants of the proposed apartment complex. Site-specific infrastructure requirements will be addressed in the future Site Plan Review process in SRC Chapter 220.

(2) The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.

Finding: The applicant has provided a written justification for the zone change request and indicates that the purpose of the request is not to change the zone designation of the property, but to eliminate a use limiting condition in order for the property to be developed with a multi-family use.

Many of the neighbors and neighborhood association comments seem to consider the impact of the apartments compared to the current vacant site. However, it is unreasonable to assume the site will remain vacant. In light of the current commercial zoning, staff considered the findings in the 1997 Planning Commission decision and the neighborhood compatibility of the proposed multi-family use compared to the other land uses allowed on the subject property.

Considering the potential uses currently allowed on the property, staff anticipates that the general effect of the proposed zone change will be minimal. Further, any potential

adverse impacts from the multi-family use can be reviewed and conditioned through the Conditional Use Permit process.

Based on these considerations, staff finds that the level of information provided in applicant's statement addressing the factors listed under SRC Chapter 265.005(e) corresponds to the anticipated impact of the zone change request.

7. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(2) provides that:

No use for which a conditional use permit has been granted shall be expanded, relocated, or changed to another conditional use, and no building or structure devoted to such use shall be structurally altered or enlarged, unless a new conditional use permit, or a modification of an existing conditional use permit has been granted.

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.

Staff Finding: SRC Chapter 522, Table 522-1 provides that multiple family uses are allowed in the CR (Retail Commercial) zone with a conditional use permit.

Criterion 2:

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

Applicant's Statement: The proposed apartments will have little to no impact on the neighborhood. The park to the east and the storage units to the south will provide positive amenities for the apartment residents.

The proposed apartments will have less an impact on the area than a commercial use that is allowed within the CR zone. The applicant's Traffic Engineer has provided an analysis of the site. The analysis indicates that the proposed apartments will have less of an impact on the neighborhood than the allowed uses within the CR zone. The analysis states, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states, "...if the site is conditionally allowed to develop apartments on the entire site, the trip generation will be much less than the typical commercial uses trip generation that the current zoning allows." Therefore, the development of apartments on the site will not impact the

neighborhood.

The proposal will be required to go through Site Plan/Design Review to ensure that all setbacks and design standards are met. Any conditions placed on the site will require Code compliance, which will help ensure minimal to no impacts on the neighborhood.

Staff Finding: The subject property is adjacent to single family residential uses to the north. As noted by the applicant, design review is required for multi-family development within the City of Salem. The design review process encourages open spaces in multi-family developments, requires common and private open space for active and passive uses, ensures that accessible pathways are available to residents of the development and provides visual relief from structural bulk.

The multi-family design standards require that a site obscuring fence and landscape buffer separate the proposed multi-family use from the abutting single family neighborhood to the north. The landscaping and screening shall include the following:

- (i) A minimum of 1 tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width; and
- (ii) A minimum 6-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, brick, or other durable materials. Chain link fencing with slats shall not be allowed to satisfy this standard.

Required landscaping and fencing will provide a buffer and separation between the multi-family use and abutting single family uses.

If the property were zoned RM2 (Multiple Family Residential) the density would allow between 50-119 dwelling units based on the size of the parcel; the applicant is proposing up to 93 dwelling units on their tentative site plan. Multi-family uses are generally considered to be compatible with single family uses, as they are both residential uses. The design review standards, including setbacks, landscaping and open space, are intended to address the difference in compatibility that arises from increased residential density. If the scale of the multi-family development is limited to no more than 93 dwelling units, staff finds that the proposed development will have minimal impact on the immediate neighborhood. Therefore, the following condition of approval is proposed:

Condition 2: The multi-family use shall contain no more than 93-dwelling units.

Any future increase of the development beyond 93 dwelling units will require approval of a separate conditional use permit.

The subject property is located adjacent to an existing Walgreens store. Approximately 20 feet of the loading area on the east side of the Walgreens building encroaches onto Lot 2. The applicant's conceptual plan shows proposed Building 6 and a parking lot within the existing loading area. In order to ensure that adequate maneuvering space is maintained for the existing business, staff recommends the following condition of approval:

Condition 3: An access easement shall be granted where the existing loading area encroaches onto Lot 2. Building and parking lot setbacks for development on Lot 2 shall be measured from the access easement.

The proposed development will be reviewed for conformance with zoning development standards and the multi-family design review requirements. As conditioned, staff finds that the proposed development will have a minimal impact on the immediate neighborhood.

Criterion 3:

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

Applicant's Statement: The apartments will be compatible with the residential uses to the north, the storage units to the south, and the park to the east. The storage units and the park are in a convenient location for the residents of the site. Developments of residential uses are most compatible in areas that provide service amenities like commercial uses, and parks for the residents.

The apartments will be required to go through Site Plan/Design Review, which requires open space and landscaping at a higher percent than what a commercial use would be required to provide. Amenities like landscaped open space will help with the visual appeal of this area and reduce impacts on the neighborhood. The design standards are in place to help ensure compatibility with adjacent uses.

The proposed apartment development will provide a pedestrian path along the northeast property line for resident access to the park. This pedestrian path will also provide access to the park for residents located to the north, thereby, increasing their livability as well.

Staff Finding: Multi-family residential uses are generally compatible with single family uses. Setback, landscaping and building height limitations in the zoning code and the additional multi-family design review development standards help to ensure that the size and scale of multi-family development is compatible with surrounding property.

A condition of approval from CPC/NPC/ZC 97-23 requires that, "A pedestrian

path, meeting city standards, shall be constructed to provide connections to Music Street SE, Pembroke Street SE and Cannery (Wendy Kroger) Park."

The conceptual plan shows a 10 foot wide public pedestrian easement placed along the north end of the subject property. The pedestrian walkway will be open to use for the public, providing a bike and pedestrian link from the surrounding neighborhood to a public park.

The proposed development will be reviewed for conformance with zoning development standards and the multi-family design review requirements. As conditioned, staff finds that the proposed development will have a minimal impact on the livability and appropriate development of surrounding property.

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer GRANT the request for a zone change to remove a use limitation condition from a previous zone change decision and a conditional use permit to allow a proposed multi-family development for property located at 152-172 Pembroke Street SE and 4752 Liberty Road S subject to the following conditions of approval:

Condition 1: The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial Zone) that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use.

Condition 2: The multi-family use shall contain no more than 93-dwelling units.

Condition 3: An access easement shall be granted where the existing loading area encroaches onto Lot 2. Building and parking lot setbacks for development on Lot 2 shall be measured from the access easement.

Prepared by Aaron Panko, Planner III

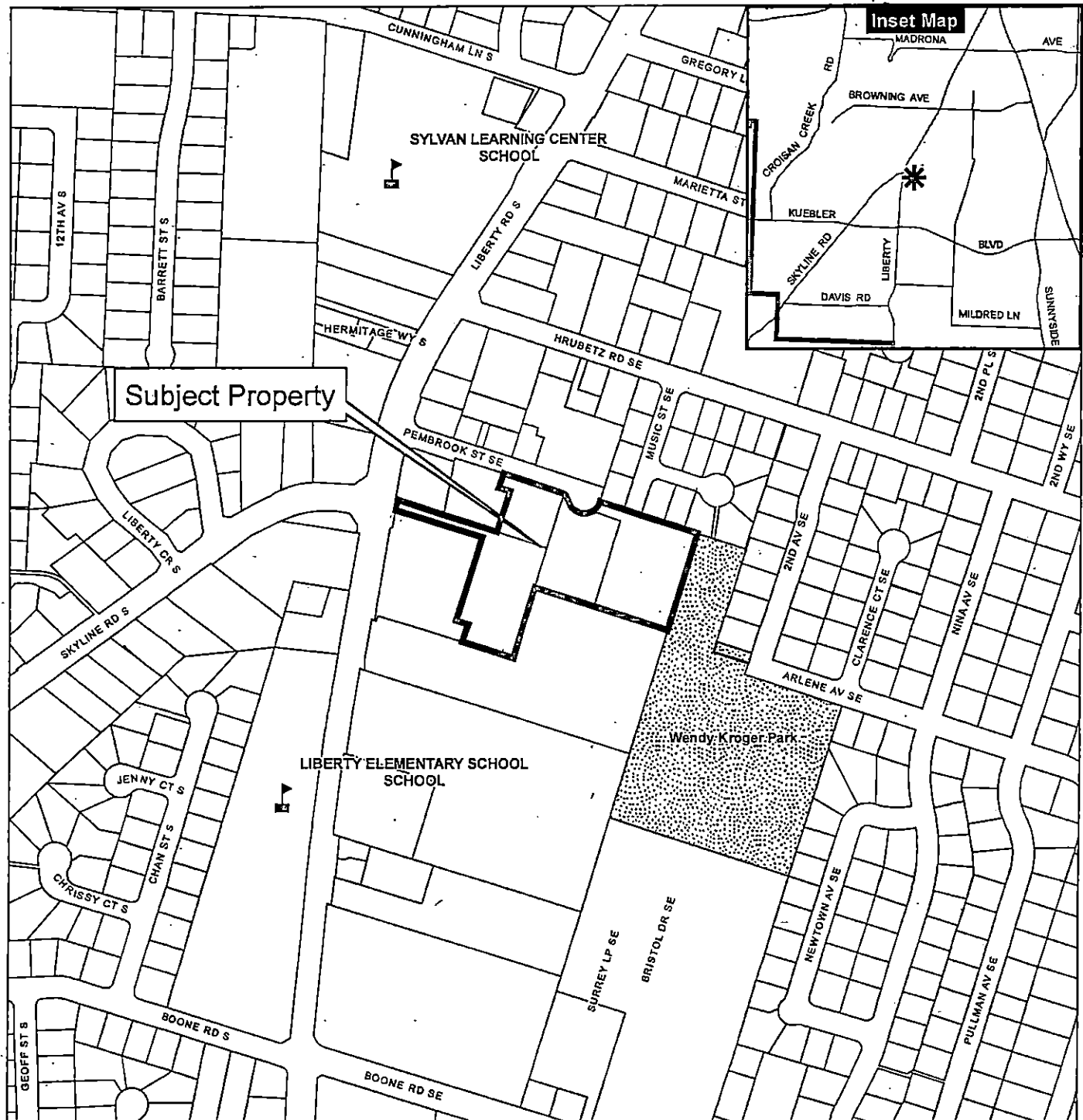
AP

Application Deemed Complete Date: October 1, 2015
State Mandated Decision Date: January 29, 2016

- Attachments: A. Vicinity Map
B. CPC/NPC/ZC 97-23 Planning Commission Decision
C. Conceptual Site Plan
D. Applicant's Statement for Zone Change
E. Applicant's Statement for Conditional Use
F. Salem-Keizer Public Schools Memo

Vicinity Map

152-172 Pembroke Street SE and 4752 Liberty Road S



Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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RESOLUTION NO.: PC 97-23

COMPREHENSIVE PLAN CHANGE/NEIGHBORHOOD PLAN
CHANGE/ZONE CHANGE 97-23

WHEREAS, a petition for a Comprehensive Plan change from

"Industrial" to "Commercial",

concurrent change in the Faye Wright (Liberty Boone) Neighborhood Plan from

"Industrial" to "Commercial Retail"

and zone change from

IP (Industrial Park) to CR (Commercial Retail)

for property located in the

4700 Block of Liberty Road SE

was filed by

Jeff Tross, Planning Consultant

with the Planning Commission of the City of Salem, and

WHEREAS, after due notice, public hearings on the proposed changes were held before the Planning Commission on November 18 and December 16, 1997, at which time witnesses were heard and evidence received; and

WHEREAS, the Planning Commission having carefully considered the entire record of this proceeding including the testimony presented at the hearings, after due deliberation and being fully advised; NOW THEREFORE

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:

Section 1. FINDINGS:

The Planning Commission hereby adopts as its findings of fact Exhibit A on this matter dated December 16, 1997, herewith attached and by this reference incorporated herein.

Section 2. ORDER:

Based upon the foregoing findings and conclusions, it is hereby ordered:

- A. GRANTS the Salem Area Comprehensive Plan Change from "Industrial" to "Commercial" and the Faye Wright (Liberty Boone) Neighborhood Plan change from "Industrial" to "Commercial Retail" for the subject property abutting Liberty Road SE.
- B. GRANTS the Zone Change from IP (Industrial Park) to CR (Commercial Retail) with use limitations on the easterly 1.7 acre portion of the subject property abutting Liberty Road SE in the 4700 Block, subject to SRC Chapters 132, 133, 152 and the following additional conditions:

PLANNING COMMISSION

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

City of Salem
AT YOUR SERVICE

1. Satisfactory evidence that all public facilities are installed to the specification of the Public Works Department, including:
 - a. Construct the minimum measures identified in Traffic Engineering staff's review of the TIA described below. The applicant shall work with Traffic Engineering staff on the resolution of any outstanding issues concerning the TIA review, as outlined in their September 30, 1997, letter addressing these issues:
 - (1) Two accesses to Pembroke Street SE shall be allowed to serve the proposed commercial retail development. One shall be a required major access located a minimum of 150 feet from the Liberty Road S intersection. One minor access shall be allowed at the end of Pembroke Street SE.
 - (2) The major access to Pembroke Street (see 1 above) shall be along the western property line extending from Pembroke Street southerly to the proposed grocery store driveway at the relocated Skyline Road traffic signal on Liberty Road. The access shall contain continuous curbing along the westerly side. One 22 foot wide irrevocable access easement (curb cut) shall be provided on the westerly side to the neighboring parcel (currently zoned CR) located along the northwestern boundaries of the subject parcel. The proposed access driveway located at Liberty Road and the relocated intersection with Skyline Road shall have a minimum throat length of 150 feet with no intersecting internal driveways. To encourage the majority of drivers to use this access, as opposed to the Pembroke Street access, all advertising signing shall be located at this driveway.
 - (3) One minor access to Liberty Road S, located south of Skyline Road S shall be allowed. The type of access shall be determined by the location of this access with respect to the Skyline Road S intersection. If the access is less than 320 feet from Skyline Road S, measured centerline to centerline, the access shall be limited to right turns in and right turns out. This access limitation shall be accomplished through the construction of a raised median on Liberty Road S or the construction of a channelized island "pork chop" located in the driveway throat. The channelized island shall be constructed to Public Works specifications (i.e. 12-foot-wide lanes, 15-foot inner curb radii, and 30-foot outer curb radii). If a raised median is used, written permission from neighboring affected property owners shall be obtained. No ingress/egress limitations will be placed on an access located 320 feet or farther from Skyline Road S, since it does not have the potential of creating vehicle conflicts with an existing neighboring access.
 - (4) A pedestrian path(s), meeting city standards, shall be constructed to provide connections to Music Street SE, Pembroke Street SE, and Cannery Park.
 - (5) The above conditions are in addition to the conditions that will be forthcoming from the City of Salem Development Services Section during the building plan review process. Also, the costs associated with meeting the above conditions are in addition to the Transportation Systems Development Charge (TSDC fees) levied on this development. These improvements are not eligible for RTSDC credits.
 - b. Dedicate an additional 12 feet of right-of-way along Liberty Road SE to measure 42 feet between the centerline of the right-of-way and the easterly right-of-way line.

- c. Music Street shall be terminated at the south end with access provided to the subject property as may be required for emergency services. In the instance that no emergency access is required, continuation of the abutting bufferyard requirements shall be implemented.
- d. A six-foot-high sight-obscuring fence with a 20-foot-wide landscaped strip shall be installed along the common property line with the park. Provisions shall be made for the pedestrian/bike accessway to the park.
- e. The land uses on the easterly 1.7 acres shall be limited to the uses listed in the Neighborhood Commercial (CN) zone (SRC 151.020, .030, .035, and 0.40) that are also permitted in the CR zone (SRC 151).
- f. The applicant shall submit a legal description for the easterly portion of the subject property containing about 1.7 acres to be designated "CR with limited uses" as noted in "e" above.

ADOPTED by the Planning Commission this 6th day of January 1998.

President, Planning Commission

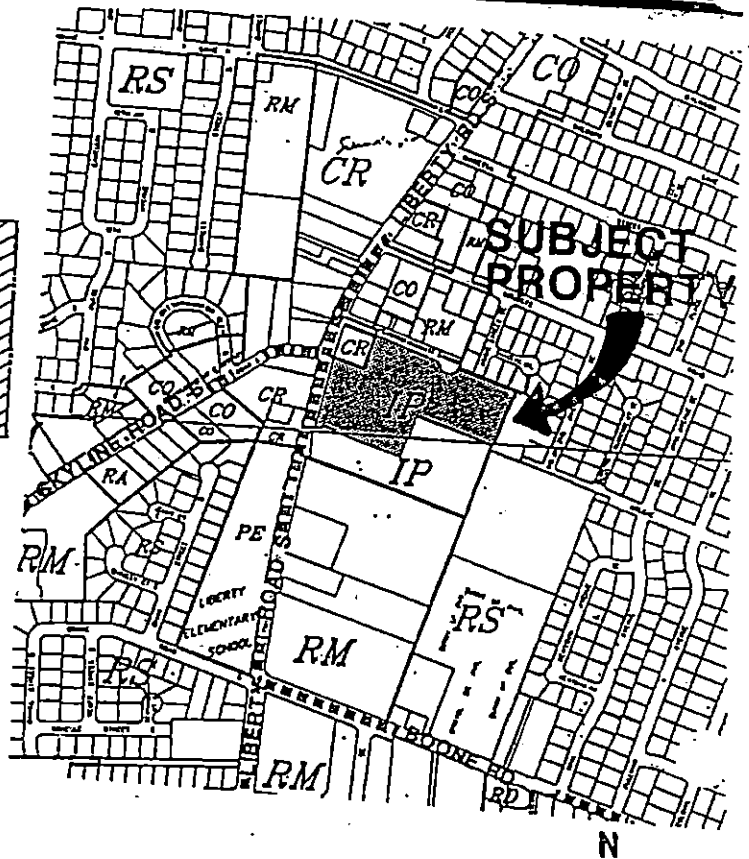
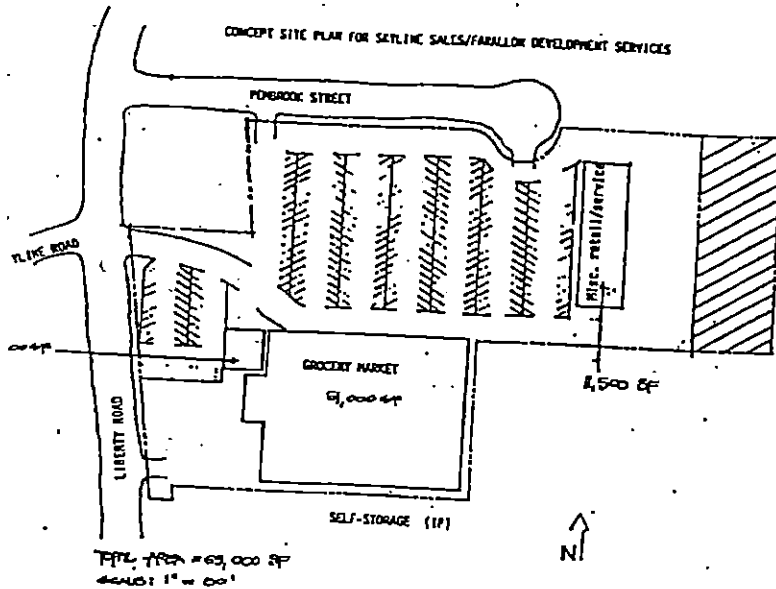
APPEAL PERIOD ENDS: January 22, 1998

Copies of the staff report containing the Facts and Findings adopted by the Planning Commission are available upon request at Room 305, Civic Center, during City business hours, 8:00 a.m. to 5:00 p.m.

pcres97.23

NOTICE

PUBLIC HEARING AFFECTING THIS AREA



ZONE MAP: 183

TIME OF HEARING: 7:00 P.M.
HEARD BY: PLANNING COMMISSION
DATE OF HEARING: NOVEMBER 18, 1997

LOCATION OF HEARING: City Council Chambers
Civic Center/Room 240
555 Liberty Street SE
Salem, OR 97301

CASE NO.

COMPREHENSIVE PLAN CHANGE/NEIGHBORHOOD PLAN CHANGE/
ZONE CHANGE 97-23

ADDRESS:
PROPERTY OWNERS:
FILER:

4700 Block of Liberty Road S
James Donofrio
Jeff Tross

PROPOSAL

COMPREHENSIVE PLAN
CHANGE:
NEIGHBORHOOD PLAN
CHANGE:
ZONE CHANGE:

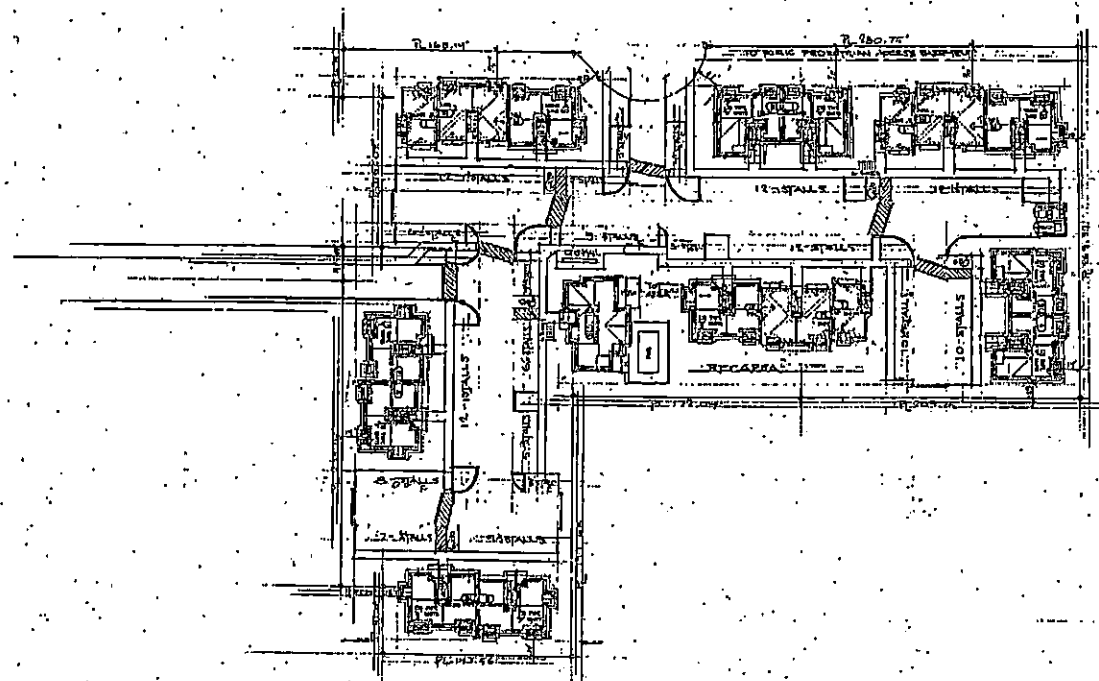
To change the Comprehensive Plan designation from "Industrial" to "Commercial."
To change the Faye Wright (Liberty Boone) Neighborhood Plan designation from "Industrial" to "Commercial Retail."
To change the zone from IP (Industrial Park) to CR (Commercial Retail).

NOTICE MAILING DATE:

November 6, 1997

CONTINUED ON THE REVERSE SIDE

ATTACHMENT A



SITE PLAN

93 TOTAL APT UNITS

45	TYPE (A) 2 BED/2 BATH	(931 sq ft)
21	TYPE (B) 3 BED/2 BATH	(1,072 sq ft)
12	TYPE (C) 1 BED/1 BATH	(728 sq ft)
15	TYPE (D) 3 BED/2 BATH	(1,104 sq ft)

147 TOTAL PARKING STALLS

109	STANDARD STALLS
33	COMPACT
5	HANDICAPPED STALLS
12	Bicycle stalls

SITE

1	REC/ADMGR OFFICE
1	POOL
1	REC/PLAY AREA
1	TOT AREA
1	US MAIL BOX AREA
1	TRASH COMPACTOR/RECYCLE ENCLOSURE

PROPOSED:
93 UNIT APARTMENT COMPLEX
Penbrook Street,
Salem, OR

Pembrook Apartments **Zone Change**

SITE HISTORY:

In 1997, Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 97-23 was approved. CPC/NPC/ZC changed the Comp. Plan designation from "industrial" to "commercial", changed the Neighborhood Plan from "Industrial" to "Commercial Retail", and rezoned the property from IP (Industrial Park) to CR (Commercial Retail). CPC/NPC/ZC 97-23 was approved with Conditions of Approval 1(a) through (f).

The subject property and the proposal are subject to the Conditions of Approval for CPC/NPC/ZC 97-23.

Condition 1(e) of CPC/NPC/ZC 97-23 states, "The land uses on the easterly 1.7 acres shall be limited to the uses listed in the Neighborhood Commercial (CN) zone that are also permitted in the CR zone."

PROPOSAL:

The subject property is 4.22 acres in size, zoned CR (Commercial Retail), and located at 152-172 Pembrook Street and 4752 Liberty Road.

The CN zone does not allow multi-family dwellings; therefore, the applicant is requesting that Condition 1(e) be removed from the CPC/NPC/ZC 97-23 approval.

The applicant is applying for a Zone Change to remove Condition 1(e) of CPC/NPC/ZC 97-23, which would allow the entire subject property to be developed with multi-family units with a Conditional Use permit.

VICINITY INFORMATION:

North: Across Pembrook Street, RS (Single Family Residential) zoned; existing single family dwellings and existing multi-family apartments
 South: IP (Industrial Park) zoned; self storage use
 East: RS (Single Family Residential); Wendy Kroger Park
 West: CR (Commercial Retail); Commercial uses

ZONE CHANGE CRITERIA SRC 265.005(e)(1)(A)(ii)-(iii) and (C)-(G):

(1) A quasi-judicial zone change shall be granted if all of the following criteria are met:

(A) The zone change is justified based on the existence of one or more of the following:

- (i) A mistake in the application of a land use designation to the property;*
- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or*
- (iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property 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.

Applicant Response to (A)(ii) and (iii): The economic, demographic, and social nature of this area has been in the process of changing over the years. The County and City zone maps show that changes have occurred in bringing in more commercial and residential uses in this area. By allowing the removal of the condition of approval and allowing multi-family dwellings on the site, the applicant will be compatible with the surrounding uses. The proposed zone change fits the development pattern of the vicinity.

The character of the neighborhood in the vicinity of the subject property has changed over the years. This is evidenced by the current land uses.

This area is a changing area with properties changing to multi-family and commercial. The CN zone is an underutilized zone in the City of Salem. The removal of the conditions would allow the entire property to be developed under the CR zone regulations. Therefore, allowing a 90-unit apartment complex to be built on the site with Conditional Use approval. The 2015 Salem Housing Needs Analysis and Economic Opportunity Analysis Draft Report found that Salem has a deficit of land in the Multi-Family Residential designation. Salem needs land for 2,897 dwellings units. Removal of the condition, will allow the developer to develop the site with multi-family uses, while providing a higher density of a needed housing type in the City of Salem.

Through the Site Plan/Design Review process, the development will also meet Design Standards that are consistent with and enhance the character neighborhood.

The current zoning of the property is CR. Condition 1(e) of CPC/NPC/ZC 97-23 states, "The land uses on the easterly 1.7 acres shall be limited to the uses listed in the Neighborhood Commercial (CN) zone that are also permitted in the CR zone."

The applicant's request to remove Condition 1(e), allows the site to be developed with apartments. The CN zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Condition Use approval for the development of apartments on the entire site. A memo prepared by the applicant's traffic engineer indicates that, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states that, "If the entire site is conditioned to permit apartments, the apartments will generate much less traffic than a combination of permitted commercial uses."

Therefore, removing the Condition and allowing uses within the CR zone on the entire site will be equally or better than requiring the eastern 1.7 acres of the site to be developed within the requirements of the CN zone.

Therefore, this criteria has been met.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

Applicant Response to (C): The Comprehensive Plan Designation is Commercial. The removal of the condition does not change the zone or comp. plan designation. It will just allow the eastern 1.7 acres of the site to be developed with uses within the CR zone. Therefore, the

proposal continues to be in compliance with the provisions of the Salem Area Comprehensive Plan.

The proposal complies with the "Residential" and "Commercial" Goals of the SACP by creating an area that promotes commercial and residential services which strengthens the economic base by providing employment, goods and services, and a needed housing type.

Therefore, this criteria has been met.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

The following Statewide Planning Goals apply to this proposal:

Goal 1 – Citizen Involvement:

The City's adopted Comprehensive Plan General Development Goal and Policies, and its adopted zone code, implement the Statewide Citizen Involvement Goal. This application will be reviewed according to the public review process established by the City of Salem. The City's Plan is acknowledged to be in compliance with this Goal. Notice of the proposal will be provided to property owners and public agencies, published in the newspaper, and posted on the property. The published notice will identify the applicable criteria. A public hearing to consider the request will be held by the Hearings Officer. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the decision. These procedures meet the requirements of this Goal for citizen involvement in the land use planning process. Therefore, the proposal complies with this Goal.

Goal 2 – Land Use Planning:

The City's adopted Comprehensive Plan implements the Statewide Land Use Planning Goal. The Salem Area Comprehensive Plan (SACP) is acknowledged to be in compliance with the Statewide Planning Goals. This proposal is made under the goals, policies and procedures of the SACP and its implementing ordinance. A description of the proposal in relation to the intent of the Plan, its applicable goals and policies, the zone change considerations is part of this review. Facts and evidence have been provided that support and justify the proposed zone change. For these reasons, the proposal conforms to the land use planning process established by this Goal. Therefore, the proposal complies with this Goal.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:

The City's adopted General Development, Scenic and Historic Areas, Natural Resources and Hazards Goals and Policies address the Statewide Goal. According the City's August 3, 2015, pre-application letter, there are no mapped wetlands on the subject property. In the event that a resource is identified, the City's applicable riparian, tree protection and wetland development standards will applied at the time of development and will ensure compliance with Goal 5.

The City's pre-application letter indicated that there are no landslide risks on the subject property. A geological assessment is not required for this application.

There are no significant historic buildings on the subject property. The applicant has taken the opportunity to consider existing conditions that enable him to explore potential redevelopment. The City has standards in place to address access, internal circulation, topography, drainage, public facilities, overall site design and layout. Therefore, the proposal complies with this Goal.

Goal 6 – Air, Water and Land Resources Quality

The City's adopted Comprehensive Plan Growth Management, Scenic and Historic Areas, Natural Resources and Hazards, Commercial, Industrial and Transportation Goals and Policies along with adopted facilities plans implement this Goal.

Development is required to meet applicable State and Federal requirements for air and water quality. The proposal to redevelop is reviewed by the City and any applicable outside agencies for impacts on environment and compliance to applicable standards and regulations. Development is required to meet applicable water, sewer, and storm drainage system master plan requirements. Upon redevelopment, the City is responsible for assuring that wastewater discharges are treated to meet the applicable standards for environmental quality.

The City has identified the process through which water, sewer and storm drainage will be supplied to the site via their August 3, 2015, pre-application conference letter to the applicant. The City is responsible for assuring that wastewater discharges are treated to meet the applicable standards for environmental quality prior to release. Storm water runoff will be collected and removed by the City storm drainage system, in a manner determined by the City to be appropriate.

The proposed site is outside the noise contours of the air traffic, and that the facility will nevertheless utilize building materials that mitigate such noise, if any.

The site is vacant. There are no identified significant natural resources on the site. Development of vacant urban land is expected. The proposed change will have no significant impact on the quality of the land. Considering the location of the site within the city, the availability of public facilities to provide water, sewage disposal and storm drainage services, and the surrounding transportation system, the proposal will have no significant impacts to the quality of the air, water or land. The City's adopted facility plans implement Goal 6. Therefore, the proposal complies with this Goal.

Goal 7- Areas Subject to Natural Hazards

The City's adopted Comprehensive Plan Physical Development Goal and Policies implements the Statewide Natural Hazards Goal by identifying areas subject to natural hazards such as flooding. SRC Chapter 601 and 810 implement the Comprehensive Plan Goal and Policies. The City's August 3, 2015, pre-application letter indicated that there are no landslide risks on the site. A Geological Assessment is not required for regulated activities. However, excavation, fills, construction of any building or structure for which permits are required is required to first obtain a permit or approval.

Natural drainage and run off due to redevelopment are addressed by the public construction storm drainage plans and roof drains for building permits for individual structures as part of the site development process. Any new construction is subject to engineered building foundations. Therefore, the proposal complies with this Goal.

Goal 8 – Recreational Needs

The City's adopted Comprehensive Plan Open Space, Parks and Recreation Goal and Policies implements the Statewide Recreation Needs Goal by encouraging conservation and identification of existing and needed park resources and funding mechanisms. Salem identifies programs, activities and policies relating to parks and recreational activities in the community. The City's needs for leisure areas and open space areas have been identified in its adopted plans. At the time of development, the proposal will provide improved public pedestrian connections via hard-surfaced sidewalks to Wendy Kroger Park to the east of the site. The proposed multi-family development will also provide open space for recreational use. Therefore, the proposal complies with this Goal.

Goal 10 – Housing

The City's adopted Comprehensive Plan Growth Management, Residential, Transportation Goals and Policies and applicable adopted facilities plans implement the Statewide Housing Goal.

The removal of the condition would allow the eastern 1.7 acres of the site to be developed with multi-family units with Conditional Use approval. Furthermore, the entire western portion of the site is zoned CR. The entire 4.22 acres will be developed as a multi-family development. Therefore, adding to the housing needs of the City of Salem. The Comprehensive Plan does project a need for residential units. The 2015 Salem Housing Needs Analysis and Economic Opportunity Analysis Draft Report found that Salem has a deficit of land in the Multi-Family Residential designation. Salem needs land for 2,897 dwellings units. Removal of the condition, will allow the developer to develop the site with multi-family uses, while providing a higher density of a needed housing type in the City of Salem. The rezone helps maximize the density while helping to meet housing needs within the Salem Urban Growth Boundary. Therefore, the proposal complies with this Goal.

Goal 11 - Public Facilities and Services

The City's adopted Comprehensive Plan Growth Management, Commercial, Industrial, and Transportation Goal and Policies and adopted Stormwater and Water Master Plans implement the Statewide Public Facilities and Services Goal by requiring development to be served by public services. The proposal is for revitalized urban development in an area where future extensions of those services can be provided in the most feasible, efficient and economical manner. The City's capital improvement program and its minimum code standards for public facilities provide a means for improving and updating public facilities systems (water and sewer). All necessary and appropriate public services and facilities essential for development will be provided to this property at levels that are adequate to serve the proposed use.

The City maintains an infrastructure of public services that includes sewer, water, and storm drainage facilities. The City will specify any needed changes to the existing service levels at the time building permits are requested.

Sidewalks are or will be provided throughout the site to connect to the public sidewalk system. The location along a major transportation corridor facilitates access to a transit route, bicycle

and pedestrian access, provides significant opportunity to reduce vehicle miles traveled. The vehicle, transit, bicycle, and pedestrian circulation systems will be designed to connect major population and employment centers in the Salem urban area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.

The Salem-Keizer School District provides public education facilities. The education district's master plan provides for growth in the district and has options to meet the demand. The education district reviews the population factors to determine planning, funding and locating new schools or providing additional facilities on the sites of existing schools.

Other private service providers supply garbage, telephone, television, postal and internet services as needed by the development. The required public services and facilities to serve new development will be determined by the City at the time development permits are requested. By providing adequate public facilities and services for the proposed use, the requirements of this Goal are met. Therefore, the proposal complies with this Goal.

Goal 12 – Transportation

The City's adopted Comprehensive Plan Transportation Goal and Policies and the adopted Salem Transportation System Plan (STSP) implements the Statewide Transportation Goal by encouraging a safe, convenient and economic transportation system. The site is located at the intersection of Pembroke Street and Liberty Road. The major streets are in place due to previous development.

The subject property is located along a major transportation corridor. However, new street improvements will facilitate access into the site from Pembroke Street. New and improved access into any development on the subject property is required to address safety, convenience, visibility, grade, and other access issues.

The proposed map amendment will not significantly affect Pembroke or Liberty Road. A memo prepared by the applicants Traffic Engineer indicates that the development of multi-family units on the site will generate the same traffic volumes of uses allowed in the CN zone.

A TIA is not required.

Therefore, the proposal complies with this Goal.

Goal 13 - Energy Conservation

The City's adopted Comprehensive Plan General Development, Urban Growth, Growth Management, Commercial, Industrial and Transportation Goal and Policies implements the Statewide Energy Conservation Goal by encouraging conservation practices, alternative sources of energy and efficient use of energy. The site is located within the City limits and within proximity to City facilities which can be extended to serve any new development.

Development of the vacant site continues to provide for the orderly and economic extension of public facilities and services and thus is economically provided. The existing transportation network surrounding the subject property is in place. The transportation system provides efficient and convenient linkages for both motorized and non-motorized forms of transportation.

Up-to-date building construction codes provide for energy-saving devices and conservation for any new structures. The Comprehensive plan identifies the need for public education, incentive and enforcement programs that encourage lower and alternative energy consumption costs.

The subject property is located very close to major arterial and major streets that provide direct access to Kuebler Boulevard. New construction provides the opportunity to provide improved construction and building techniques which improves and conserves energy uses of the new building. Therefore, the proposal complies with this Goal.

Goal 14 – Urbanization

The City's adopted Comprehensive Plan Urban Growth Management Goal and Policies implements the Statewide Urbanization Goal and primarily addresses residential development within the City and UGB. The subject property is within the City and the UGB and is located in an urbanizing area of the city. Since infrastructure is needed to serve development, the development of the site will call for the extension of new sewer and water mains and construction of upgraded facilities. These can only happen by increasing the opportunity for development to pay for these infrastructure improvements which are appropriate for an urbanizing area. Therefore, the proposal complies with this Goal.

(E) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

Applicant Response: The proposed Zone Change is not to change the zone. The Zone Change request is for the removal of Condition 1(e) of CPC/NPC/ZC 97-23, which would allow the entire subject property to be developed with multi-family units with a Conditional Use permit.

Therefore, this criteria has been met.

(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be Adequately addressed through the measures associated with, or conditions imposed on, the zone change.

Applicant Response: The current zoning of the property is CR. Condition 1(e) of CPC/NPC/ZC 97-23 states, "The land uses on the easterly 1.7 acres shall be limited to the uses listed in the Neighborhood Commercial (CN) zone that are also permitted in the CR zone."

The applicant's request to remove Condition 1(e), allows the site to be developed with apartments. The CN zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Condition Use approval for the development of apartments on the entire site. A memo (See Attached Memo dated August 11, 2015) prepared by the applicant's traffic engineer indicates that, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states that, "If the entire site is conditioned to permit

apartments, the apartments will generate much less traffic than a combination of permitted commercial uses."

Therefore, removing the Condition and allowing uses within the CR zone on the entire site will be equally or better than requiring the eastern 1.7 acres of the site to be developed within the requirements of the CN zone.

Therefore, this criteria has been met.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

Applicant Response: The Subject Property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed in the CR zone.

Therefore, this criteria has been met.

Pembrook Apartments **Conditional Use**

SITE HISTORY:

In 1997, Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 97-23 was approved. CPC/NPC/ZC changed the Comp. Plan designation from "industrial" to "commercial", changed the Neighborhood Plan from "Industrial" to "Commercial Retail", and rezoned the property from IP (Industrial Park) to CR (Commercial Retail). CPC/NPC/ZC 97-23 was approved with Conditions of Approval 1(a) through (f).

PROPOSAL:

Under SRC 522.005(a)-Table 522-1, multiple family dwellings are allowed within the CR zone with a Conditional Use permit.

The subject property is 4.22 acres in size and zoned CR (Commercial Retail). The applicant is applying for a Conditional Use for the construction of a 90 unit apartment complex.

CONDITIONAL USE CRITERIA:

SRC 522.005(a) - An application for Conditional Use permit shall be granted if all of the following criteria are met:

- (1) The proposed use is allowed as a conditional use in the zone;*
- (2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and*
- (3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.*

APPLICANT'S REASONS ADDRESSING CHAPTER 522.005(a):

- (1) Under SRC 522.005(a)-Table 522-1, multiple family dwellings are allowed within the CR zone with a Conditional Use permit.
- (2) The proposed apartments will have little to no impact on the neighborhood. The park to the east and the storage units to the south will provide positive amenities for the apartment residents.

The proposed apartments will have less an impact on the area then a commercial use that is allowed within the CR zone. The applicant's Traffic Engineer has provided an analysis of the site. The analysis indicates that the proposed apartments will have less of an impact on the neighborhood then the allowed uses within the CR zone. The analysis states, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states, "... if the site is conditionally allowed to develop apartments on the entire site, the trip generation will be much less than the typical commercial uses trip generation that the current zoning allows." Therefore, the

development of apartments on the site will not impact the neighborhood. See attached memo dated August 11, 2015.

The proposal will be required to go through Site Plan/Design Review to ensure that all setbacks and design standards are met. Any conditions placed on the site will require Code compliance, which will help ensure minimal to no impacts on the neighborhood.

(3) The subject property is surrounded by the following uses:

North: RM2 and RS zoned property; existing single family dwellings and existing multi-family dwellings

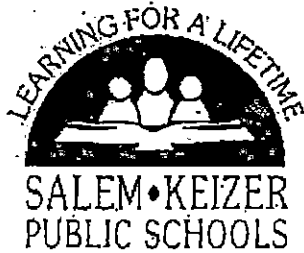
East: RS zoned property; existing Wendy Kroger Park

South: IP zoned property; existing storage facility

The apartments will be compatible with the residential uses to the north, the storage units to the south, and the park to the east. The storage units and the park are in a convenient location for the residents of the site. Developments of residential uses are most compatibility in areas that provide services amenities like commercial uses, and parks for the residents.

The apartments will be required to go through Site Plan/Design Review, which requires open space and landscaping at a higher percent than what a commercial use would be required to provide. Amenities like landscaped open space will help to with the visual appeal of this area and reduce impacts on the neighborhood. The design standards are in place to help ensure compatibly with adjacent uses.

The proposed apartment development will provide a pedestrian path along the northeast property line for resident access to the park. This pedestrian path will also provide access to the park for residents located to the north. Therefore, increasing their livability as well.



DAVID FRIDENMAKER, Manager
Facility Rental, Planning, Property Services
3630 State Street, Bldg. C • Salem, Oregon 97301-5316
503-399-3335 • FAX: 503-375-7847

Christy Perry, Superintendent

October 9, 2015

Aaron Panko, Case Manager
Planning Division, City of Salem
555 Liberty Street SE, Room 305
Salem OR 97301

FAX No. 503-588-6005

RE: Land Use Activity
Salem Case No. ZC-CU15-03, 152-172 Pembroke St. SE

SUMMARY OF COMMENTS

School Assignment: The subject property is served by Liberty Elementary School, Crossler Middle School and Sprague High School

School Capacity: Sufficient school capacity currently exists to serve the proposed development.

School Transportation Services: Students residing at the subject property location will be within the walk zone to the assigned schools and will not be eligible for school transportation services.

Below is data and the District's comments regarding the proposed land use activity identified above. If you have questions, please call at (503) 399-3335.

ELEMENTARY SCHOOL INFORMATION (GRADES K TO 5)

1. School Name: Liberty Elementary School
2. Estimated change in student enrollment due to proposed development: 18
3. Current school capacity: 524
4. Estimate of school enrollment including new development: 390
5. Ratio of estimated school enrollment to total capacity including new development: 74%.
6. Walk Zone Review: Within walk zone of Elementary School.
7. Estimate of additional students due to previous 2014 land use applications: 0
8. Estimate of additional students due to previous 2015 land use applications: 0
9. Estimated cumulative impact of 2014-15 land use actions on school capacity: 74% of capacity.

MIDDLE SCHOOL INFORMATION (GRADES 6 TO 8)

1. School Name: Crossler Middle School
2. Estimated change in student enrollment due to proposed development: 7
3. Current school capacity: 946
4. Estimate of school enrollment including new development: 740
5. Ratio of estimated school enrollment to total capacity including new development: 78%
6. Walk Zone Review: Within walk zone of Middle School
7. Estimate of additional students due to previous 2014 land use applications: 9
8. Estimate of additional students due to previous 2015 land use applications: 0

9. Estimated cumulative impact of 2014-15 land use actions on school capacity: 79% of capacity.

HIGH SCHOOL INFORMATION (GRADES 9 TO 12)

1. School Name: Sprague High School
2. Estimated change in student enrollment due to proposed development: 8
3. Current school capacity: 2,111
4. Estimate of school enrollment including new development: 1,714
5. Ratio of estimated school enrollment to total capacity including new development: 81%
6. Walk Zone Review: Within walk zone of High School
7. Estimate of additional students due to previous 2014 land use applications: 13
8. Estimate of additional students due to previous 2015 land use applications: 21
9. Estimated cumulative impact of 2014-15 land use actions on school capacity: 83% of capacity.

ESTIMATE SUMMARY (GRADES K TO 12):

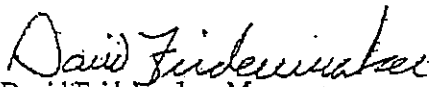
1. Total estimated change in student enrollment: 33
2. Total estimated student enrollment over capacity: 0
3. Estimated short-term cost to District for new facilities, beyond current facility capacity, due to change in student enrollment: \$ 0
4. Total estimated additional income to District for new facilities due to change in student enrollment: \$ 0

Developer should provide paved walk route(s) to allow pedestrian access and bicycle access to school(s) from all residences within the new development and should provide all improvements required by the City of Salem where new transportation routes are established or existing transportation routes change, such as school flashers, crosswalks, and signage. As per ORS 195.115, when the walk zone review indicates "eligible for transportation due to hazard" the District requests that the City initiate a planning process with the District to identify the barriers and hazards to children walking or bicycling to and from school, determine if the hazards can be eliminated by physical or policy changes and include the hazard elimination in the City's planning and budgeting process.

ASSUMPTIONS:

1. When land use request is granted, 90 new residence(s) will be built.
2. Estimates are computed using the Student Rate per Dwelling Method described in the District's Facility Study for years 2001-2020.
3. If current capacity exists at the schools currently serving the parcel then an estimate of zero cost, or no significant impact, is made.
4. If current capacity does not exist at the schools currently serving the parcel then an estimate of cost for one-time capital improvements is made.
5. Income from the proposed land use for capital improvement is assumed to be zero since capital improvement funds come from voter approved bond measures that can be an unpredictable and irregular source of income.
6. Income from a State School Facilities grant may be available depending on state funding. The grant amount ranges from 0% to 8% of the construction cost. Since the funding is unpredictable, it has not been included as income. The current 2011-13 biennium facilities grant funding for the District was \$5,450,719.
7. General Fund Budget Amount for the 2013-14 school year is \$9,241 per student (ADMw). The State School Fund Revenue for 2013-14 is estimated to be \$8,021 per student (ADMw). ADMw is "Average daily membership" as defined in ORS 327.006 (3).

Sincerely,



David Fridenmaker, Manager
Planning and Property Services

- c: Mike Wolfe, Chief Operations Officer
Jim Jenniey, Manager - Custodial and Property Services
William White, Manager - Risk Management
Michael Shields, Manager - Transportation

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

DECISION OF THE HEARINGS OFFICER

QUASI-JUDICIAL ZONE CHANGE / CONDITIONAL USE CASE NO. ZC-CU15-03

APPLICATION NO. : 15-116403-ZO & 15-116405-ZO

NOTICE OF DECISION DATE: November 25, 2015

SUMMARY: A proposed Zone Change to remove a use limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the subject property.

REQUEST: A proposed Zone Change to remove a condition from a previous zone change decision (CPC/NPC/ZC 97-23) which limits uses on the subject property to those that are permitted in both the CN (Neighborhood Commercial) zone and the CR (Retail Commercial) zone, and a Conditional Use Permit to allow development of a 90 unit apartment complex, for property approximately 4.23 acres in size, zoned CR (Retail Commercial), and located at 152-172 Pembroke Street SE and 4752 Liberty Road S - 97302 (Marion County Assessors Map and Tax Lot numbers: 083W09DB/ 04000, 04200, 04300 and 04400).

APPLICANT: Montagne Development INC**LOCATION:** 152-172 Pembroke Street SE and 4752 Liberty Road S / 97302**CRITERIA:** Salem Revised Code Chapters 265 and 240

DECISION: The Hearings Officer **DENIED** Quasi-Judicial Zone Change / Conditional Use Case No. ZC-CU15-03.

The rights granted by the attached decision must be exercised, or an extension granted, by December 11, 2017, or this approval shall be null and void. A copy of the decision is attached.

Application Deemed Complete: October 1, 2015
 Public Hearing Date: October 28 2015
 Notice of Decision Mailing Date: November 25, 2015
 Decision Effective Date: December 11, 2015
 State Mandate Date: January 29, 2016

Case Manager: Aaron Panko, APanko@cityofsalem.net, 503.540.2356 *AP*

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m. December 10, 2015**. 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 Chapters 265 & 240.

The appeal must be filed in duplicate with the City of Salem Planning Division. 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 City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

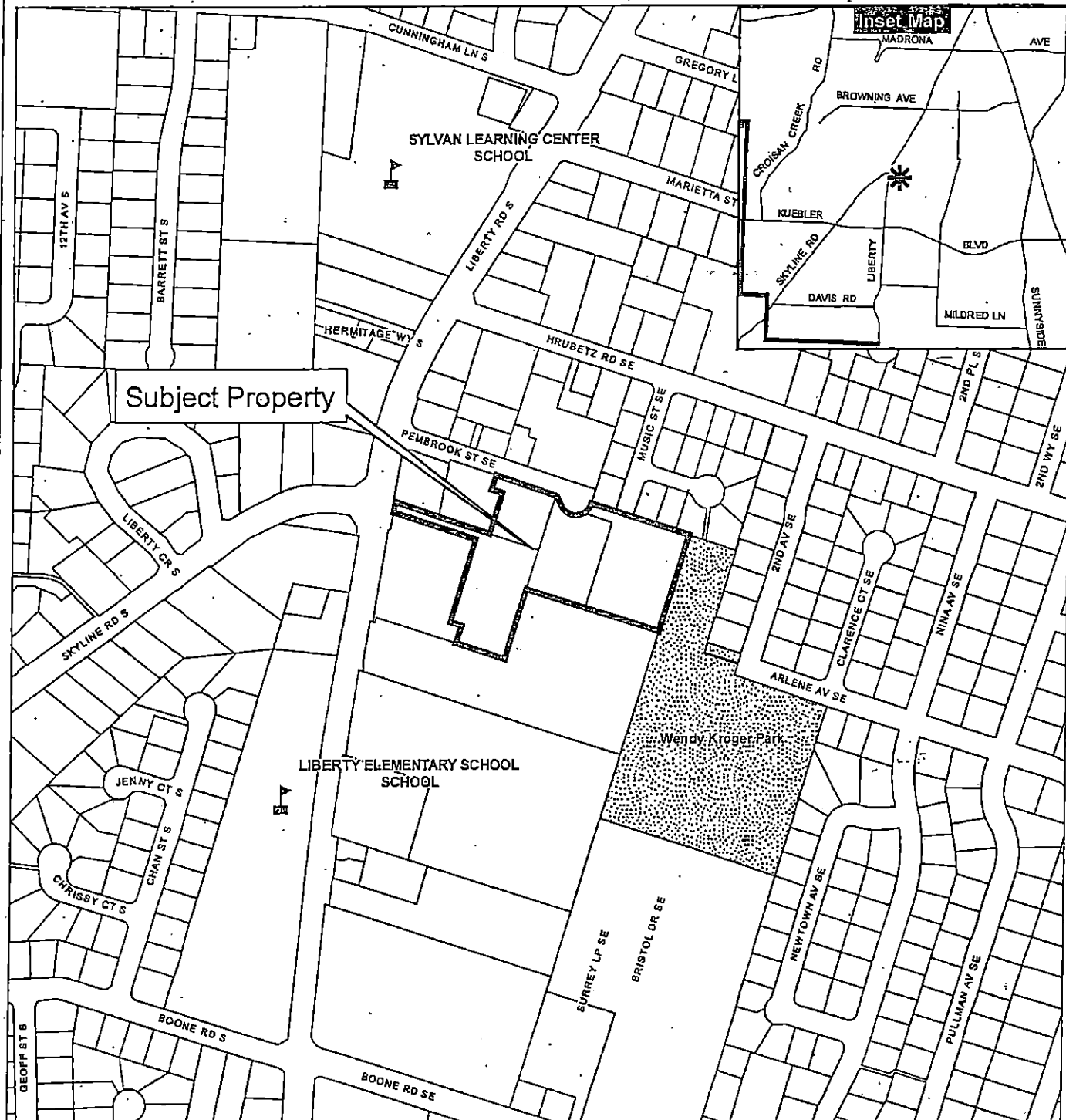
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

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Vicinity Map

152-172 Pembroke Street SE and 4752 Liberty Road S



Legend

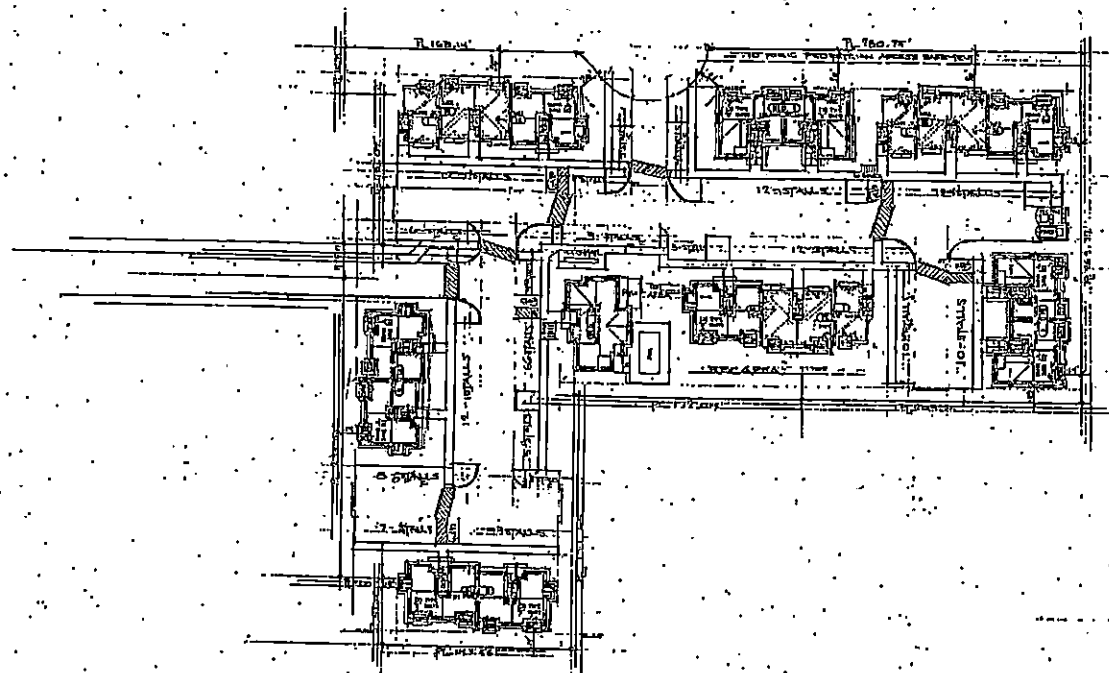
- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

0 100 200 400 Feet



CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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SITE PLAN

93 TOTAL APT UNITS

- 46 TYPE (A) 3 BED/2 BATH (992 sq ft)
- 21 TYPE (B) 3 BED/2 BATH (1,019 sq ft)
- 11 TYPE (C) 1 BED/1 BATH (728 sq ft)
- 15 TYPE (D) 3 BED/2 BATH (1,104 sq ft)

147 TOTAL PARKING STALLS

- 109 STANDARD STALLS
- 35 COMPACT
- 5 HANDICAPPED STALLS
- 12 Bicycle stalls

SITE

- 1 REC BLD/MGR OFFICE
- 1 POOL
- 1 REC/PLAY AREA
- 1 TOT AREA
- 1 US MAIL BOX AREA
- 1 TRASH COMPACTOR/RECYCLE ENCLOSURE

PROPOSED:
93 UNIT APARTMENT COMPLEX
Penbrook Street,
Salem, OR

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

THIS IS A PROPOSED ZONE CHANGE TO REMOVE A)	ZC-CU 15-03
USE LIMITATION CONDITION FROM A PREVIOUS)	
ZONE CHANGE DECISION TO ALLOW A)	
MULTI-FAMILY USE AND A CONDITIONAL USE)	
PERMIT TO ALLOW A MULTI-FAMILY USE ON THE)	
SUBJECT PROPERTY, LOCATED AT 152-172)	FINDINGS OF FACT
PEMBROOK STREET SE AND 4752 LIBERTY ROAD)	CONCLUSIONS AND
SOUTH, SALEM, OREGON)	DECISION

DATE AND PLACE OF HEARING:

October 28, 2015, Salem City Council Chambers, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Aaron Panko, City Planner III
<u>Neighborhood Association:</u>	Faye Wright Neighborhood Association Sue Hecox, Chair
<u>Applicant/Proponents:</u>	Natalie Janney and Mark Grenz for the Applicant; Multi-Tech Engineering, Montagne Development, Inc.
<u>Opponents:</u>	Doug DeHart; Phil Anderson; Jay Duffus; Fred Todd; Patricia Todd; Jeff Johnson; Dennis Miller; Faye Wright

SUMMARY OF THE APPLICATION AND HEARING

Summary: The Applicant proposes a Zone Change to remove a condition from a previous zone change decision (CPC/NPC/ZC 97-23) which limits uses on the subject property to those that are permitted in both the CN (Neighborhood Commercial) zone and the CR (Retail Commercial) zone, and contingent upon the requested zone change, a Conditional Use Permit to allow development of a 90-unit apartment complex, for property approximately 4.23 acres in size, zoned CR (Retail Commercial), and located at 152-172 Pembroke Street SE and 4752 Liberty Road S - 97302 (Marion County Assessor's Map and Tax Lot numbers: 083W09DB/ 04000, 04200, 04300 and 04400).

The Hearings Officer notes that the public hearing before the City of Salem Hearings Officer was scheduled for October 28, 2015, at 5:30 p.m. in the Salem City Council Chambers, Civic Center Room 240, located at 555 Liberty Street SE. Notice of public hearing was sent by mail to surrounding property owners pursuant to Salem Revised Code (SRC) requirements on October 8, 2015. Public hearing notice was also posted on the property by the applicant pursuant to SRC requirements.

The Hearings Officer notes that this hearing started at approximately 6:15pm and ended at 8:10pm. The Hearings Officer notes that many interested individuals testified and many others observed the proceedings. The Hearings Officer notes the courtesies shown to and by those testifying, including the neighborhood association, the applicant's representatives and City staff. The Hearings Officer notes the professionalism demonstrated by City Staff members Sally Studnar and Aaron Panko. A request to hold the record open was received and granted. Additional information was timely provided by the applicant and interested participants and considered by the Hearings Officer. The Hearings Officer also notes the timely filing of the Applicant's final written argument. Attached to that argument was a November 11, 2015 dated memo. That memorandum contains new evidence which is prohibited by ORS 197.763(6)(e). Accordingly, the new evidence is rejected and not considered by the Hearings Officer.

Aaron Panko offered, and the Hearings Officer received, the staff report and its attachments into the record. A list of evidence and testimony considered in this proceeding, if not otherwise noted, is set out at the end of this Decision.

STAFF RECOMMENDATION

Based upon the proposed Facts and Findings contained in this staff report, City planning staff recommend the Hearings Officer GRANT the request for a zone change to remove a use limitation condition from a previous zone change decision and a conditional use permit to allow a proposed multi-family development for property located at 152-172 Pembroke Street SE and 4752 Liberty Road S subject to the following conditions of approval:

- | | |
|----------------------------|---|
| <u>Condition 1:</u> | The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use. |
| <u>Condition 2:</u> | The multi-family use shall contain no more than 93-dwelling units. |

Condition 3: **An access easement shall be granted where the existing loading area encroaches onto Lot 2. Building and parking lot setbacks for development on Lot 2 shall be measured from the access easement.**

BACKGROUND

The Staff Report provides the following background:

The subject property is a remainder of the former Stayton Cannery site. The property had an "Industrial" comprehensive plan designation and IP (Industrial Park) zoning. In 1997, the Planning Commission approved a Comprehensive Plan Change, Neighborhood Plan Change and Zone Change (CPC/NPC/ZC 97-23) for the subject property. The Comprehensive Plan designation was changed from "Industrial" to "Commercial," the Faye Wright (Liberty Boone) Neighborhood Plan changed from "Industrial" to "Commercial Retail" and the zoning changed from IP (Industrial Park) to CR (Retail Commercial). The Planning Commission attached several conditions of approval to CPC/NPC/ZC 97-23, including a use limitation condition which states:

"The land uses on the easterly 1.7 acres shall be limited to the uses listed in the (CN) Neighborhood Commercial zone that are also permitted in the CR (Retail Commercial) zone."

Multi-family uses are allowed in the CR zone with a conditional use permit, but are not allowed in the CN zone. This use limitation prevents the easterly 1.7 acres of the property from being developed with a multi-family use. In 2006, the Liberty Crossing Subdivision (SUB06-28) was approved dividing the property into six lots. The subject property includes lots 2, 4, 5 and 6 of the Liberty Crossing Subdivision. On August 2, 2015, a consolidated zone change and conditional use permit application was submitted requesting to eliminate the use limitation from CPC/NPC/ZC 97-23 and a conditional use permit for a proposed multi-family development on the subject property. The applications were deemed complete for processing on October 1, 2015.

PROPOSAL

As noted above, the applicant is requesting a zone change and conditional use permit to allow a multi-family residential development with up to 93 dwelling units on the subject property. City staff noted that the applicant's request and written findings describe a 90-unit apartment complex while the conceptual site plan for the development shows 93 units. If the Zone Change and Conditional Use permit is granted, a Site Plan Review and Design Review

application will be required. The final design may result in changes to the conceptual site plan, which will be reviewed at the time of Site Plan Review and Design Review.

APPLICANT'S STATEMENT

The applicant's statement addressing the applicable approval criteria for a zone change and conditional use permit were included as Attachments to the Staff Report, reviewed and considered by the Hearings Officer.

FACTS AND FINDINGS

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 and the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned CR (Retail Commercial). Multi-family residential uses are allowed in the CR zone with a conditional use permit.

SRC Chapter 240 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.

A conditional use permit is required to allow multi-family development on the subject property.

The zoning of surrounding properties includes:

North: Pembroke Street SE and Music Street SE, RS (Single Family Residential) – Single Family Dwellings
East: RS (Single Family Residential) – Wendy Kroger Park
South: IP (Industrial Park) – Self-Service Storage
West: CR (Retail Commercial) – Dental Office and Walgreens

3. Site Analysis

The subject property is approximately 4.23 acres in size and is currently vacant.

The subject property has frontage along Liberty Road S, which is designated as a Major Arterial in the Salem Transportation System Plan (TSP) and Pembroke Street SE, which is designated as a local street. Music Street SE abuts the property to the north; however, no vehicle access will be provided to the proposed development from this local street.

Wendy Kroger Park (former Cannery Park) abuts the property to the east.

Natural Resources

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 (Oregon White Oak greater than 24 inches in diameter at breast height) (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.

No protected trees have been identified on the site plan for removal.

SRC 809 - Wetlands: The Salem-Keizer Local Wetland Inventory (LWI) does not show any wetland or hydric soil areas mapped on the property.

SRC 810 - Landslide Hazards: A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. There are no mapped landslide hazards on the subject property. The applicant's proposal does not appear to disturb any portion of a mapped landslide hazard area with regulated activities; therefore, a geological assessment is not required.

4. Neighborhood and Citizen Comments provided before the hearing. The Hearings Officer considered the statements and staff responses below in making the necessary findings and conclusions of law.

The subject property is located within the Faye Wright Neighborhood Association (Faye Wright). Notice was provided to Faye Wright and surrounding property owners within 250 feet of the subject property. Comments were received from Faye Wright and addressed by City planning staff:

- 1) Building height. The 3 story building height is incompatible with the neighborhood. Nearly all of the homes to the north and east are single stories. The privacy of residents of nearby homes, especially those adjacent to the complex on Music Street and Dancers Court, would be significantly compromised.

Staff Response: The maximum building height in the CR zone is 50 feet. Under the current zoning designation a commercial building could be built to the maximum height with a setback of 15 feet to the property to the north. Multi-family buildings adjacent to residential zones are required to be setback one foot for every one foot of building height. The proposed multi-family development will comply with maximum height requirements and will require a greater setback than potential commercial uses.

- 2) Inadequate parking. The plan for 147 parking spaces seems inadequate for the number of rental units and there appears to be no provision for guest parking. The rather unique location – only two very short streets for parking outside of the complex – does not provide an adequate option for offsite parking. Street parking is not available on Liberty. Resident or visitor parking in nearby business lots would not be tolerated.

Staff Response: The minimum off-street parking requirement for a multi-family use is 1.5 spaces per dwelling unit. For the 93 units the applicant is proposing 140 spaces are required; the applicant is proposing 147 spaces. The requirement for 1.5 parking spaces per unit applies to all multi-family development with four or more units (except for downtown). There is no evidence that providing parking to meet the minimum standards in the zoning code will have a negative impact in this instance and nothing in the record to indicate that the applicant should be made to provide more parking than is required for all other multi-family developments. As noted, the applicant has indicated they will provide more than the minimum required.

- 3) Setbacks. The setback of complex buildings from property boundaries appears to be quite small and incapable of supporting a sizeable row of trees to separate the complex from surrounding areas. This is a significant issue for the properties to the northeast. It is also an issue for the residents of the apartment complex who may not wish to view the storage facility or nearby parking lots.

Staff Response: Multi-family developments are required to be setback from adjacent single family zoned areas at a rate of 1 foot per 1 foot of height. The

applicant is indicating their setback will be 30 feet from the northern property line abutting the single family homes. The 30 feet will include a 10-foot easement along the property line for access to the adjacent City park. Additionally there are requirements for trees to be planted in the landscaped setbacks.

The conceptual plan submitted by the applicant has not been reviewed for conformance with all standards of the zoning code. At the time of Site Plan Review and Design Review the applicant will be required to demonstrate how the proposal will be consistent with setback and landscaping requirements.

- 4) Path along the northeast property line. The proposed path along the northeast property line introduces yet another privacy threat to residential properties in Music Street and Dancers Court. Increased foot traffic may pose security as well as privacy issues.

Staff Response: The pedestrian pathway which connects Pembroke Street NE and Music Street NE to the public park was included as a condition of approval by the Planning Commission for CPC/NPC/ZC 97-23. The condition is a development standard and must be provided with any development on the subject property. The alternative to providing a pedestrian path would be a full street connection from the single family neighborhood through the commercial or multi-family development. A pedestrian path is a less intrusive way to ensure that all residents in the development and in adjacent neighborhoods can easily access the nearby City park. Without the path there will be no easy way for pedestrians, bicyclists and children to access the City park from Liberty Road S or for residents to the east of the City park to access Liberty Road S and the services and school located there. As easily seen on the aerial photos of the subject property an unofficial path exists across the vacant lot, proof that this connection is used by residents and that the provision of a paved path is needed.

Additionally, the proposed multi-family use will require a minimum six foot tall, site-obscuring fence, along the northern property line to provide a barrier between the multi-family use and in this case, the pedestrian pathway.

Three comments were received from surrounding property owners objecting to the proposed development. The following is a summary of and staff response to the concerns raised:

- 1) Unlike the other uses currently allowed (retail sales, banks, gyms, dance studios and education facilities), a large apartment complex will generate significant levels of noise 24 hours a day, seven days a week.

Staff Response: Multi-family uses are generally compatible with single family uses and are typically found as a buffer between single family neighborhoods and more intensive commercial uses or arterial streets. In this case, multi-family development in the CR zone requires greater setbacks and more landscaping than commercial development and the fencing requirements are different. The increase screening and landscaping standards help to mitigate the potential continuous 24 hour, seven day a week impact of the multi-family use.

- 2) Having a three-story apartment building thirty feet from the property line will not provide enough privacy. People in the second or third floor apartment units will be able to see into back yards.

Staff Response: The setback and landscaping requirements for multi-family development are greater than for commercial development. The screening requirement includes a minimum of one tree, not less than 1-1/2 inches in caliper, for every 30 lineal feet of abutting property width and a minimum 6-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.

- 3) Faye Wright has an abundance of apartments and very few of those apartment complexes are filled.

Staff Response: The current market for apartments is not part of the land use approval process. However, the 2015-2035 Salem Housing Needs Analysis does identify a deficiency of land needed for multi-family housing over the next 20 years. Roughly 2,900 new dwelling units and 207 acres of multi-family zoned land are required to meet the multi-family housing needs of the City. Salem will need to address the deficit of multifamily land to comply with Statewide Planning Goal 10. One of the strategies identified in the Housing Needs Analysis is to encourage more mixed-use development or allowing multi-family development in commercial zones.

- 4) The proposed 93 unit apartment complex will increase traffic on Pembroke, currently a quiet side street, and increase traffic on Liberty Road South.

Staff Response: The subject property has access to the signal at the intersection of Skyline Road and Liberty Road. Liberty Road S is designated as a major arterial and is designed to handle a large capacity of traffic. The multi-family use is anticipated to generate far fewer trips than potential commercial uses on the property could generate. The proposed 93 unit apartment complex would not generate enough new trips to trigger a full traffic impact analysis.

- 5) There is a concern about the amount of water run-off the proposed apartment complex would create with all the hard surfaces.

Staff Response: At the time of Site Plan Review and Building Permit Review the Public Works Department will evaluate the applicant's plans for conformance with stormwater requirements. The City's stormwater requirements include prohibition of allowing run-off onto neighboring properties and a requirement to implement the City's new green stormwater requirements.

5. City Department and Public Agency Comments.

The Staff Report notes:

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

The Fire Department has reviewed the proposal and indicated, "Fire Department access, fire flow, and fire hydrants shall be provided in accordance with the Salem Fire Prevention Code (SRC 58). The proposed access to Building 5 on the site plan does not appear to meet the required fire apparatus turnaround design requirements."

Portland General Electric reviewed the proposal and commented, "Development cost per current tariff and service requirements. Ten foot Public Utility Easement required on all front street lots."

Salem-Keizer Public Schools reviewed the proposal and provided comments included as an attachment to the staff report.

6. Zone Change Criteria – SRC Chapter 265

SRC 265.020(b) provides that conditions imposed (from a Zone Change) shall be construed and enforced, in all respects, as provisions of the zoning code relating to the use and development of land. Modification of use conditions shall be by zone change, as provided in SRC Chapter 265.

The property is subject to conditions of approval from a previous land use decision involving a zone change (CPC/NPC/ZC 97-23). The applicant is requesting that condition 1(e) be modified from CPC/NPC/ZC 97-23, which limited the land uses on the easterly 1.7 acres of the subject property to the uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. No participant raised any issue requiring the Hearings Officer to construe whether altering the use limitation condition was a "modification" for purposes of SRC 265.020(b). The Hearings Officer finds the proposal to alter or change the use limitation condition imposed in 1997 decision is a "modification" for purposes of SRC 265.020(b) and appropriate for review under applicable zone change criteria.

SRC Chapter 265.005 provides the criteria for approval for Quasi-Judicial Zone Changes. In order to approve a quasi-judicial Zone Map amendment request, the Hearings Officer is required to find, based on evidence presented that demonstrates that all the following criteria and factors are satisfied. The extent of the consideration given to the various factors set forth below will depend on the degree of impact of the proposed change, and the greater the impact of a proposal on the area, the greater is the burden on the applicant to demonstrate that, in weighing all the factors, the zone change is appropriate.

The applicable criteria and factors are stated below in bold print. Following each criterion is a response and/or finding relative to the amendment requested. The applicant-provided justification for all applicable criteria in its application provided as an attachment to the staff report, as well as other evidence, testimony and argument presented at the hearing, during the open record period and in its final written argument. Opponents presented written evidence, arguments and testimony. The Hearings Officer has reviewed all the written presentations, the testimony and proposed findings by City staff. The Hearings Officer's findings and conclusions follow. The Hearings Officer notes that the burden of persuasion on the applicant is tied to the level of impacts the proposed zone change will have on the area. Accordingly, the Hearings Officer has placed consideration of that criterion first.

SRC 265.005(e)(2). The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.

Staff notes: The applicant has provided a written justification for the zone change request and indicates that the purpose of the request is not to change the zone designation of the property, but to eliminate a use limiting condition in order for the property to be developed with a multi-family use.

Many of the neighbors and neighborhood association comments seem to consider the impact of the apartments compared to the current vacant site. However, it is unreasonable to assume the site will remain vacant. In light of the current commercial zoning, staff considered the findings in the 1997 Planning Commission decision and the neighborhood compatibility of the proposed multi-family use compared to the other land uses allowed on the subject property.

Considering the potential uses currently allowed on the property, staff anticipates that the general effect of the proposed zone change will be minimal. Further, any potential adverse impacts from the multi-family use can be reviewed and conditioned through the Conditional Use Permit process.

Based on these considerations, staff finds that the level of information provided in applicant's statement addressing the factors listed under SRC Chapter 265.005(e) corresponds to the anticipated impact of the zone change request.

The Hearings Officer concurs with staff to the extent that the applicant provided information sufficient to consider the relevant factors and criteria. The Hearings Officer notes substantial evidence submitted by opponents was directed at the subject site developing as anticipated by the zone – with commercial uses or smaller scale residential uses. The Hearings Officer understands planning staff to posit that the Planning Commission's intent on placing the condition restricting developing to those permitted in both the CN and CR zones was not designed to restrict residential development. The Hearings Officer also finds informative and has considered the plain language of SRC 520.001. That purpose statement for the CN Zone provides:

The purpose of the Neighborhood Commercial (CN) zone is to implement the Commercial designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The CN zone is generally intended to provide areas of small-scale retail, office, and service uses that are compatible with the scale and character of surrounding residential areas, and that serve nearby residents.

Several opponents to the zone change argued that small-scale commercial uses would serve

the neighbors and drive additional commercial development in the adjacent areas commercially zoned. Consistent with planning staff's opinion concerning the planning commission intent on placing the condition on the zone change approval, the CN zone does not prohibit residential development. However, as Table 520-1 demonstrates, the zone does place limitations and qualifications. Multi-family development is allowed in the zone at a reduced intensification of one dwelling unit per for each business use on a lot. That limitation appears consistent with the express purpose for the zone to "provide areas of small-scale retail, office and service uses that are compatible with the scale and character of surrounding residential areas" while also serving nearby residents. Compelling evidence demonstrated that removing the condition to allow large scale multi-family residential having no retail, office or service uses will have a great impact on the area in terms of compatibility, privacy, parking and the like, but also that the proposed zone change and proposed development will impact the neighbors expectations (and the express purpose) for commercial services to serve them.

With those considerations in mind, the Hearings Officer must find that the applicant has demonstrated compliance with the criteria below consistent with the level of impact to compatibility issues related to the scale and character of surrounding residential areas and with respect to impacts associated with or related to the CN zone purpose that development in the zone provides services to nearby residents.

SRC 265.005(e)(1)(A). The zone change is justified based on one or more of the following:

(i) A mistake in the application of a land use designation to the property.

The applicant does not assert that a mistake has been made in the application of the comprehensive plan designation or zone of the subject property and the Hearings Officer concurs. Accordingly, this criterion is not satisfied.

(ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the zone would be compatible with the vicinity's development pattern.

The applicant asserts that this criterion is satisfied for the following reasons:

The economic, demographic, and social nature of this area has been in the process of changing over the years. The County and City zone maps show that changes have occurred in bring in more commercial and residential uses in this area. By allowing the removal of the condition of approval and allowing multi-family dwellings on the

site, the applicant argues that the proposed multi-family use will be compatible with the surrounding uses and the proposed zone change fits the development pattern of the vicinity. The character of the neighborhood in the vicinity of the subject property has changed over the years. This is evidenced by the current land uses.

This area is a changing area with properties changing to multi-family and commercial. The CN zone is an underutilized zone in the City of Salem. The removal of the conditions would allow the entire property to be developed under the CR zone regulations. Therefore, allowing a 90-unit apartment complex to be built on the site with Conditional Use approval. The 2015 Salem Housing Needs Analysis and Economic Opportunity Analysis Draft Report found that Salem has a deficit of land in the Multi-Family Residential designation. Salem needs land for 2,897 dwelling units. Removal of the condition will allow the developer to develop the site with multi-family uses, while providing a higher density of needed housing type in the City of Salem.

Staff notes that since the subject property was rezoned in 1997 there have been a few changes in the land use pattern in the vicinity. Staff highlighted the following changes:

- 1) 128 Friendship Avenue SE – CPC/ZC99-10; this case changed the Comprehensive Plan from Multi-Family Residential to Commercial, and changed the zoning from RM2 (Multi-Family Residential) to CO (Commercial Office).
- 2) 4192 Liberty Road S – CPC/ZC07-08; this case changed the Comprehensive Plan from Multi-Family Residential to Commercial, and changed the zoning from RM2 (Multi-Family Residential) to CO (Commercial Office).
- 3) 4122 Liberty Road S – CPC/ZC 09-06; this case changed the Comprehensive Plan designation from Multi-Family Residential to Commercial, and changed the zoning from RM2 (Multi-Family Residential) to CR (Retail Commercial).

In 2000, the Liberty Road improvement property resulted in Liberty Road S being improved to full major arterial street standards for the section between Skyline Road S and Browning Avenue S. The general trend has been to allow higher intensity uses along the Liberty Road corridor.

While these cases point to changes in the general vicinity, the land uses in the immediate neighborhood along the north side of Pembroke Street SE, Music Street SE, Dancers Court SE and the abutting park land to the east have remained largely

unchanged. For this reason, staff recommends finding that the proposal to eliminate Condition 1(e) from CPC/NPC/ZC 97-23 is not justified based on this section.

The Hearings Officer notes additional testimony and evidence identified recent commercial development in the immediate vicinity. The Hearings Officer notes that City staff identified allowing multi-family development in commercial zones as a strategy identified in the Housing Needs Analysis to meet residential deficits. The Hearings Officer notes the presentation of substantial evidence in support of, and contrary to, finding satisfaction of this criterion. In particular, opponent testimony noted deficiencies for commercial development. On balance, the Hearings Officer is not persuaded that the relevant development pattern can be characterized as simply commercial-to-residential. The Hearings Officer notes the vicinity's development pattern was set by zoning approvals, including the 1997 zone change, and development consistent with the zone has occurred as evidenced by recent commercial development. The Hearings Officer notes the opponent's testimony demonstrating concerns about the compatibility of the proposed multi-family development based on privacy concerns arising when a 3 story apartment structure is constructed adjacent to the single family residences. Participants also noted the loss of solar access and views. The applicant provided a solar study demonstrating solar access at particular times, but also demonstrating some loss of solar access.

Much testimony centered on the perceived lack of parking for the development asserting it was inadequate and would cause off-site parking conflicts with current business operations and resident parking. City staff noted that the parking requirement of 1.5 spaces per unit was not only achieved, but exceeded by the applicant's proposal. While opponents may be correct in their argument that the minimum parking requirement is, in practice, inadequate, the Hearings Officer notes the appropriate manner to address a perceived or actual code deficiency is by a text amendment. The Hearings Officer is not authorized to ignore or amend the code. Accordingly, the Hearings Officer finds the proposed parking adequate.

The Hearings Officer notes the applicant's assertion that the CN zone allows for retail sales, bank, gyms, dance studios, and educational facilities, which the applicant asserts are more intensive uses than the proposed apartment use. The Hearings Officer notes that several of those uses are restricted in size by SRC 520.015(c)(2) &(3), consistent with the purpose statement anticipating small-scale developments.

Although this presents a difficult question to resolve, the Hearings Officer ultimately finds the applicant has not met its heightened burden of persuasion in demonstrating

that a change or changes in the economic, demographic, or physical character of the vicinity has occurred 'such that' the proposed zone change would be compatible with the vicinity's development pattern.

- (iii) 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 for the property 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 applicant asserts the following:

That through the Site Plan/Design Review process, the development will also meet Design Standards that are consistent with – and enhance – the character neighborhood.

The current zoning of the property is CR. Condition 1(e) of CPC/NPC/ZC 97-23 states, "The land uses on the easterly 1.7 acres shall be limited to the uses listed in the Neighborhood Commercial (CN) zone that are also permitted in the CR zone."

The applicant's request to remove Condition 1(e), would allow the site to be developed with apartments and that the CN zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Conditional Use approval for the development of apartments on the entire site. A memo prepared by the applicant's traffic engineer indicates that, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states that, "if the entire site is conditioned to permit apartments, the apartments will generate much less traffic than a combination of permitted commercial uses."

Therefore, removing the condition and allowing uses within the CR zone on the entire site will be equally or better than requiring the eastern 1.7 acres of the site to be developed within the requirements of the CN zone.

Staff notes and proposes as findings the following:

Staff noted that findings from the 1997 Planning Commission decision indicated that the use limitation condition was placed on the Zone Change in order to limit the type of commercial activities that could be allowed on the eastern 1.7 acres of the site in

order to assure compatibility between future uses and the adjacent single family residential neighborhood along Music Street and the City park land. Accordingly, staff asserts that the intent of the condition was not to restrict the property from future residential use. The Hearings Officer notes that no party provided the 1997 staff report with proposed findings.

As evidenced by the City's zoning map, multi-family residential uses are generally compatible with single family residential uses. Multi-family uses are usually found adjacent to single family neighborhoods and can provide a buffer between single family dwellings and major streets or more intensive land use designations.

Multi-Family uses are found in a wide range of commercial zoning designations; they are allowed as a permitted use in the CO (Commercial Office) zone and the CB (Central Business District) and allowed with a conditional use permit in the CR (Retail Commercial), CG (General Commercial) and IC (Industrial Commercial) zoning designations.

The statement from the applicant's traffic engineer demonstrates that in terms of traffic impact, a multi-family use on the property would generate fewer trips than other uses that would be permitted on the property under the current use restriction. This provides further evidence that a multi-family use on the property would be equally or better suited than the existing use restriction.

As stated in section ii above, elimination of condition 1(e) is not appropriate because it could result in more intensive commercial uses on the property; however, modification of the condition 1(e) to include multi-family uses as a conditional use on the property can be justified under this section. Therefore, Staff proposes the following condition of approval:

Condition 1: **The land uses on the easterly 1.7 acres shall be limited to uses listed in the CN (Neighborhood Commercial) zone that are also permitted in the CR (Retail Commercial) zone. In addition, multi-family residential uses shall be allowed as a conditional use.**

The Hearings Officer is reminded of the purpose statement for the CN zone provides:

The purpose of the Neighborhood Commercial (CN) zone is to implement the Commercial designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards.

The CN zone is generally intended to provide areas of small-scale retail, office, and service uses that are compatible with the scale and character of surrounding residential areas, and that serve nearby residents.

City staff posited that multi-family uses are compatible with single family uses and are often used as a buffer between commercial and residential uses. Here, the purpose statement demonstrates that the zone provides not just buffering from more intensive uses, but a direction for small-scale commercial uses to "serve nearby residents." The applicant did not provide substantial evidence that the proposed multi-family residential development would serve nearby residents.

This criterion asks the Hearings Officer to find that the proposed zone is "equally or better suited for the property than the existing zone." The code provision then defines when the proposed zone can be found to be equally or better suited for the property than an existing zone. That definition requires the Hearings Officer to find that: a) the physical characteristics of the property are appropriate for the proposed zone and b) the uses allowed by the proposed zone are logical with the surrounding land uses.

The Hearings Officer finds that the physical characteristics of the subject property are appropriate for the proposed zone. While much evidence and testimony focused on the proposed use (3 story apartments) of the proposed zone, no substantial evidence was presented that persuades the Hearings Officer that the *physical characteristics* of the subject site are not appropriate for residential development. Although the site has some challenges, those challenges do not render the site inappropriate for residential use. As recognized, multi-family residential use, although limited and qualified, is allowed in the CN zone. Additionally, even some opponents argued that a less intense single or two-floor multi-family structure would be appropriate for the site.

The Hearings Officer must also find that the proposed zone (allowing for multi-family use) is "*logical* with the surrounding land uses." The term "logical" is commonly understood to mean: rational, reasonable, necessary or to be expected when following principles of logic. While compatibility may be part of the determination of what is logical, it must mean more. To determine if the proposed zone, which alters the prior condition to allow a multi-family residential use that is prohibited by the CN zone, the Hearings Officer must find that the multi-family use is logical with surrounding land uses. The Hearings Officer notes that the CN zone allows one multi-family dwelling unit for each business use on a lot. See, table 520-1. Accordingly, the zone anticipates coupling a small-scale business with a small-

scale residential use on the same lot. The proposed apartment development is neither small-scale nor does it provide a commercial service to the neighborhood. The Hearings Officer notes that the surrounding uses are:

North: Pembroke Street SE and Music Street SE, RS (Single Family Residential) – Single Family Dwellings
East: RS (Single Family Residential) – Wendy Kroger Park
South: IP (Industrial Park) – Self-Service Storage
West: CR (Retail Commercial) – Dental Office and Walgreens

The Hearings Officer finds the proposed multi-family use logical with the park, industrial park and retail commercial land uses surrounding the subject site. No substantial evidence demonstrated or persuaded the Hearings Officer that it is illogical to allow a multi-family use near or adjacent to the land uses on the east, south or west surrounding areas. With the exception of the parking issue, the primary focus of the testimony from the applicant and the opponents was directed to the single family residential use on the north of the easterly 1.7 acres of the subject site. This is the same area (1.7 easterly portion of the 4.23 acre site) for which condition 1(e) of the 1997 zone change approval directed special attention. After considering all the evidence, the Hearings Officer is not persuaded that it is logical to ignore the benefits gained by small-scale commercial retail, office and service uses compatible with the scale and character of adjacent single family residential development (which a significant number of residents asserted would serve their commercial needs) by allowing a large-scale multi-family apartment that intensifies compatibility issues related to current off-street parking issues, intensifies the loss of solar and privacy for the small scale residential development pattern in existence while providing no commercial services.

In short, the Hearings Officer finds that the applicant has not made the necessary demonstration that the proposed zone change is equally or better suited for the property than the existing zone.

In sum, the Hearings Officer finds zone change is NOT justified based on consideration of SRC 265.005(e)(1)(A)(i)(ii)(iii) and consideration of the remaining criteria is unnecessary. However, in the event the parties may find some benefit, the Hearings Officer notes his consideration of the balance of the criteria.

- (B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.**

Staff recommends finding that the proposal is not a City-initiated zone change; therefore, this criterion does not apply.

The Hearings Officer finds that this criterion does not apply because the proposal is not a City-initiated zone change.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

The applicant asserts:

The applicant argues that the Comprehensive Plan Design is Commercial and the removal of the condition does not change the zone or comprehensive plan designation. It will just allow the eastern 1.7 acres of the site to be developed with uses within the CR zone. Therefore, the proposal continues to be in compliance with the provision of the Salem Area Comprehensive Plan. The proposal complies with the "Residential" and "Commercial" Goals of the SACP by creating an area that promotes commercial and residential services which strengthen the economic base by providing employment, goods and services, and a needed housing type. Therefore, this criterion is met.

Staff recommends finding that the subject property is designated Commercial, and that the predominant use found in the commercial designated areas is commercial. Multi-family residential may be included in the commercial designation where appropriate. Salem Urban Area Goals and Policies are contained in section IV of the Salem Area Comprehensive Plan (SACP). The applicable goals and policies are addressed below.

The Hearings Officer concurs with staff's proposed findings, but (as noted above) does not find the proposed multi-family development appropriate. Consequently, the Hearings Officer finds this criterion unmet.

General Development

Development Compatibility.

Land use regulations which govern the siting of any development shall encourage development to reduce its impact on adjacent properties by screening, landscaping, setback, height, and mass regulations.

Staff recommends finding that multi-family design standards in the zoning code require multi-family developments to provide greater screening, landscaping and setback requirements than a commercial development in order to provide greater compatibility with adjacent properties. In this case, a site-obscuring fence and landscape buffer will be required to separate the proposed multi-family use from the abutting single family neighborhood to the north. The Hearings Officer notes that the Applicant proposed a condition of approval to require 8-foot high fencing and 12-foot tall trees for additional screening.

Compatibility concerns and testimony were provided by citizen participants concerning inadequate screening, lack of privacy, inadequate setback and height concerns.

The Hearings Officer finds that the proposed zone could, with conditions, provide adequate screening and setbacks that reduce the multi-family impacts on the adjacent single family developments.

Residential Development

Establishing Residential Uses.

The location and density of residential uses shall be determined after considering the proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal services. Relative proximity shall be determined by distance, access, and ability to provide services to the site.

The Hearings Officer finds this criterion unmet. The Hearings Officer is not persuaded that removing the development potential for small-scale retail and commercial services anticipated by the CN zone and replacing it with large scale multi-family development ensures, supports or allows an "ability to provide services to the site."

Multi-Family Housing.

Multiple family developments should be located in areas that provide walking, auto or transit connections to:

- 1) Employment Center
- 2) Shopping Areas
- 3) Transit Service
- 4) Parks
- 5) Public Buildings

Staff recommends finding that the subject property has frontage and a direct route to Liberty Road S, which is designated as a major arterial in the Salem Transportation System Plan. Liberty Road S provides a pedestrian, bike and vehicle connection from the subject property to nearby services, including grocery stores and shopping areas. Salem-Keizer Transit (Cherriots) provides a transit route that passes by the subject property (Route 8).

The subject property abuts Wendy Kroger Park to the east. Wendy Kroger Park is designated as a Neighborhood Park. As a condition from CPC/NPC/ZC 97-23, a pedestrian route will be provided from Pembroke Street SE and Music Street SE to Wendy Kroger Park; residents in the existing neighborhood and the proposed multi-family use will have access to this public pedestrian pathway.

The Hearings Officer finds this criterion satisfied.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

Applicant Response: The applicant's complete statement is included as Attachment D.

Staff recommends finding that the City's adopted Comprehensive Plan implements the Statewide Planning Goals and applicable administrative rules, and is acknowledged to be in compliance with the Statewide Planning Goals. Therefore, the proposal satisfies this criterion.

The Hearings Officer finds the Salem Revised Code to implement the Statewide Planning Goals and no substantial evidence challenged the staff's proposed finding.

(E) If the zone change requires a comprehensive plan change from an industrial use designation to a non-industrial use designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

The applicant indicates that the proposed zone change is not to change the zone. The zone change request is for the removal of Condition 1 (e) of CPC/NPC/ZC 97-23, which would

allow the entire subject property to be developed with multi-family units with a conditional use permit.

The Staff recommends finding that the CR zone is one of the zones that implement the Commercial designation, and a concurrent comprehensive plan amendment is not required for the proposed zone change. Therefore, Staff recommends finding that this criterion does not apply.

The Hearings Officer concurs with staff and finds this criterion inapplicable.

(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

The applicant states that the request to remove Condition 1(e), allows the site to be developed with apartments. The CN zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Conditional Use approval for the development of apartments on the entire site. A memo prepared by the applicant's traffic engineer indicates that, "The traffic from apartments on the site is significantly less than could be generated using either the CN or CR zoning." It also states that, "If the entire site is conditioned to permit apartments, the apartments will generate much less traffic than a combination of permitted commercial uses."

The applicant argues that removing the condition and allowing uses within the CR zone on the entire site will be equally or better than requiring the eastern 1.7 acres of the site to be developed within the requirements of the CN zone.

Staff indicates that the applicant has submitted an analysis of the site from a Traffic Engineer that states "...if the site is conditionally allowed to develop apartments on the entire site, the trip generation will be much less than the typical commercial uses trip generation that the current zoning allows." Staff concurs with the applicant's engineer's findings that the trips generated by the proposed development are less than the commercial uses allowed in the current zone would generate. Therefore, Staff recommends finding the modified zone change condition, to allow multi-family development as a conditional use, will not significantly affect a transportation facility. Ultimately, Staff recommends finding that this criterion has been met.

Although much evidence was presented arguing the proposed development would impact

off-site parking, no substantial evidence demonstrated that the zone change would "significantly affect a transportation facility" as that phrase is construed under the state's transportation planning rule.

The Hearings Officer finds this criterion satisfied.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

The applicant argues that the subject property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed in the CR zone.

Staff recommends finding that the water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the future tenants of the proposed apartment complex. Staff notes that site-specific infrastructure requirements will be addressed in the future Site Plan Review process in SRC Chapter 220.

The Hearings Officer finds this criterion satisfied.

7. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(2) provides that:

No use for which a conditional use permit has been granted shall be expanded, relocated, or changed to another conditional use, and no building or structure devoted to such use shall be structurally altered or enlarged, unless a new conditional use permit, or a modification of an existing conditional use permit has been granted.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit and requires a finding that all of the following are met:

Criterion 1:

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

Staff recommends finding that the proposed use is allowed as a conditional use within the zone because SRC Chapter 522. Table 522-1 provides that multiple family uses

are allowed in the CR (Retail Commercial) zone with a conditional use permit.

The Hearings Officer finds that the proposed use is allowed as a conditional use within the zone based on SRC Chapter 522, Table 522-1.

However, the Hearings Officer finds this criterion is unmet because condition 1(e) of Resolution PC 97-23 Order B-allowing the current CR zone, placed use limitations on the easterly 1.7 acres of the site in a manner that prohibits the proposed multifamily use. Given this finding, the applicant cannot demonstrate that it has met all of the criteria. Accordingly, the Hearings Officer does not consider the remaining criteria. The Hearings Officer notes, for whatever benefit it may provide, that it is likely that the impacts on the immediate neighborhood can be minimized through extensive use of conditions of approval while making the proposed development reasonably compatible with development of surrounding property.

Based upon the foregoing, the Hearings Officer makes the following:

DECISION

The Hearings Officer DENIES the request for a zone change to remove a use limitation condition from a previous zone change decision and a conditional use permit to allow a proposed multi-family development for property located at 152-172 Pembroke Street SE and 4752 Liberty Road S and DENIES the Conditional Use Permit to allow development of a 90-unit apartment complex.

DATED: November 25, 2015.



David E. Coulombe, Hearings Officer

The Hearings Officer identifies the following documents received/reviewed in this case:

- Staff Report, dated October 1, 2015
- Attachment A: Vicinity Map & Petition to Stop Zoning Change -
- Attachment B: CPC/NPC/ZC 97-23 Planning Commission Decision -
- Attachment C: Conceptual Site Plan

- Attachment D: Applicant's Statement for Zone Change
- Attachment E: Applicant's Statement for Conditional Use
- Attachment F: Salem-Keizer Public Schools Memo
- Phil Anderson, property owner, letter received October 13, 2015
- Neighbors' objections, including Jay and Jan Duffus; Josh Hibler and Carrie Sedano; Dennis Miller; and Patricia Todd, received October 28, 2015
- Lara Knudsen MD, objection emailed October 29, 2015
- Faye Wright Neighborhood Ass'n comments, received October 28, 2015, and November 3, 2015
- Stacie Wood, Property Manager, objection emailed November 4, 2015
- Natalie Janney PE, Memo received on November 4, 2015
- Dennis Miller, Manager of Mail Depot, received on November 4, 2015
- Applicant's Final Written Argument dated November 12, 2015



LAND USE APPEAL APPLICATION

1. GENERAL DATA REQUIRED [to be completed by the appellant]

ZC-CU 15-03

November 25, 2015

Case # Being Appealed

Decision Date

152-172 Pembroke Street SE

Address of Subject Property

1155 13th Street SE, Salem Oregon 97302

Appellants Mailing Address with zip code

mgrenz@mtengineering.net

503-363-9227

Appellant's E-mail Address

Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

Mark Grenz-Engineer

1155 13th Street SE, 97302

Name

Mailing Address with ZIP Code

mgrenz@mtengineering.net

503-363-9227

E-Mail Address

Day-time Phone / Cell Phone

2. SIGNATURES OF ALL APPELLANTS

Signature:

Date: 12-1-15

Printed Name: Mark Grenz-Engineer

Signature:

Date: 12-1-15

Printed Name: Brandie Dalton- Land-Use Planner

3. REASON FOR APPEAL Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY

Received By: gpcDate: 12/2/2015Receipt No: 13-116413-20
10314264Appeal Deadline: 12/10/2015Case Manager: Ann Parker

Pembrook Apartments

Zone Change/Conditional Use 15-03 Appeal

BACKGROUND:

On November 25, 2015, the decision for ZC-CU15-03 was denied by the Hearings Officer.

APPEAL ISSUES:

In summary, the Hearings Officer Denied ZC-CU15-03 based on the opinion that the proposed multi-family development is not an appropriate or compatible use for this location.

APPLICANT RESPONSE:

The subject property is 4.22 acres in size, zoned CR (Commercial Retail), and located at 152-172 Pembrook Street and 4752 Liberty Road. The entire site is zoned CR, however, Condition 1(e) of CPC/NPC/ZC 97-23 only allows the eastern 1.7 acres of the site to be developed with uses allowed within the CN zone.

The CN zone does not allow multi-family dwellings; therefore, the applicant is requesting that Condition 1(e) be removed from the CPC/NPC/ZC 97-23 approval. Under SRC 522.005(a)-Table 522-1, multiple family dwellings are allowed within the CR zone with a Conditional Use permit. The applicant is applying for a Zone Change to remove Condition 1(e) of CPC/NPC/ZC 97-23, which would allow the entire subject property to be developed with multi-family units with a Conditional Use permit. Therefore, the applicant requesting Zone Change and Conditional Use approval.

The character of the neighborhood in the vicinity of the subject property has changed over the years. This is evident by the current land uses as noted in the staff report.

This area is a changing area with properties changing to multi-family and commercial. The CN zone is an underutilized zone in the City of Salem. The removal of the conditions would allow the entire property to be developed under the CR zone regulations. Therefore, allowing a 90-unit apartment complex to be built on the site with Conditional Use approval. The 2015 Salem Housing Needs Analysis and Economic Opportunity Analysis Draft Report found that Salem has a deficit of land in the Multi-Family Residential designation. Salem needs land for 2,897 dwellings units. Removal of the condition, will allow the developer to develop the site with multi-family uses, while providing a higher density of a needed housing type in the City of Salem.

Through the Site Plan/Design Review process, the development will also meet Design Standards that are consistent with and enhance the character neighborhood.

The proposed apartments will have little to no impact on the neighborhood. The commercial uses to the north, the park to the east and the storage units to the south will provide positive amenities for the apartment residents.

The proposal will be required to go through Site Plan/Design Review to ensure that all setbacks and design standards are met. Any conditions placed on the site will require Code compliance, which will help ensure minimal to no impacts on the neighborhood and compatibility. The design standards are in place to help ensure compatibility with adjacent uses.

The subject property is surrounded by the following uses:

North: RM2 and RS zoned property; existing single family dwellings and existing multi-family dwellings
East: RS zoned property; existing Wendy Kroger Park
South: IP zoned property; existing storage facility

The apartments will be compatible with the residential uses to the north, the storage units to the south, and the park to the east. The storage units and the park are in a convenient location for the residents of the site. Developments of residential uses are most compatible in areas that provide services amenities like commercial uses, and parks for the residents.

The applicant's findings demonstrated how the proposed multi-family apartments are an appropriate and compatible use for the neighborhood.

STAFF REPORT:

On page 16 of the Hearings Officer's decision date November 25, 2015, the Hearings Officer states:

"The Hearings Officer notes that no party provided the 1997 staff report with proposed findings."

APPLICANT RESPONSE:

This statement is incorrect. The 1997 CPC/NPC/ZC decision was an attachment as part of the application's application submittal.

REQUEST FOR COMMENTS

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

CASE NO: ZC-CU15-03

AMANDA APPLICATION NO: 15-116403-ZO, 15-116405-ZO

ADDRESS: 152-172 PEMBROOK ST SE
& 4752 LIBERTY RD S

ZIPCODE: 97302

HEARD BY: HEARINGS OFFICER

CASE MANAGER: AARON PANKO

Summary: A proposed Zone Change to remove a use limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the subject property.

Request: A proposed Zone Change to remove a condition from a previous zone change decision (CPC/NPC/ZC 97-23) which limits uses on the subject property to those that are permitted in both the CN (Neighborhood Commercial) zone and the CR (Retail Commercial) zone, and a Conditional Use Permit to allow development of a 90 unit apartment complex, for property approximately 4.23 acres in size, zoned CR (Retail Commercial), and located at 152-172 Pembroke Street SE and 4752 Liberty Road S - 97302 (Marion County Assessors Map and Tax Lot numbers: 083W09DB/ 04000, 04200, 04300 and 04400).

Attached is a copy of the proposal and any related maps for an upcoming case. A report with a recommendation relating to this property will be prepared by the planning staff from information available to the staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners, residents, and jurisdictional agencies.

COMMENTS NEED TO BE RECEIVED BY 5 P.M., October 15, 2015 to be included in the development of the Staff Report and its recommendations. Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail or hand deliver your comments to the case manager listed below.

Send comments and any questions to: Aaron Panko, Case Manager *AP*
City of Salem Planning Division
555 Liberty St SE, Room 305
Salem, OR 97301
Phone: 503-540-2356
Fax: 503-588-6005
E-Mail: APanko@cityofsalem.net
<http://www.cityofsalem.net/planning>

PLEASE CHECK THE FOLLOWING ITEMS THAT APPLY:

- ☐ 1. We have reviewed the proposal and have no comments.
- ☒ 2. We have reviewed the proposal and have the following comments:
- _____ Development cost per current tariff and service _____
- _____ requirements. 10' PUE required on all front _____
- _____ street lots. _____

☐ 3. Other: _____

Name: MARK YOUNG

Address: 4245 KALE ST NE, SALEM, OR 97305

Agency: P6E

Phone No.: 503.963.4365

Date: 10.01.2015

Aaron Panko - Comment for case No:ZC-CU15-03

From: Tanya <tanyadehart@live.com>
To: "APanko@cityofsalem.net" <APanko@cityofsalem.net>
Date: 10/4/2015 6:41 PM
Subject: Comment for case No:ZC-CU15-03

Good evening Mr. Panko,

I am writing in reference to a letter we received regarding a proposed zone change to the property directly behind our home at 192 Dancers Ct. SE in Salem, OR 97302- case no: ZC-CU15-03.

We strongly disagree with the applicant's assertion that building a 90 unit apartment complex on that property "will have little to no impact on the neighborhood". Unlike the other uses currently allowed (retail sales, banks, gyms, dance studios and education facilities), a large apartment complex will generate significant levels of noise 24 hours a day, seven days a week. Additionally, the current approved zoning noted above adds amenities to the neighborhood and its existing residents. This is in stark contrast to the apartment proposal which will place an increased demand on existing amenities with the addition of a significant number of people living on a small parcel of land.

We considered the zoning behind our house when we decided to purchase this property. We are encouraged by the possibilities that the zoning currently offers. We purchased this property as a retirement home and anticipate little activity in the evenings behind our house as the businesses will very likely be closed. That is in no way comparable to a 90 unit apartment building that will be highly active in the evenings as everyone will be condensed within about 4 acres and additional foot traffic will be present.

Our belief is that neither the conditions (2) or (3) listed in SRC 522.005 (a) are met as a large apartment complex that extends across the easterly 1.7 acres will most definitely have an adverse impact. Removing condition 1(e) from the current zoning will have a significant impact on the livability of surrounding homes in the immediate neighborhood.

Thank you for your time and the opportunity to respond. Please confirm receipt of this e-mail- Tanya DeHart

Sent from Windows Mail

REQUEST FOR COMMENTS

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

CASE NO: ZC-CU15-03

AMANDA APPLICATION NO: 15-116403-ZO, 15-116405-ZO

ADDRESS: 152-172 PEMBROOK ST SE
& 4752 LIBERTY RD S

ZIP CODE: 97302

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CASE MANAGER: AARON PANKO

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City of Salem Planning Division
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Salem, OR 97301
Phone: 503-540-2355
Fax: 503-588-6005
E-Mail: APanko@cityofsalem.net
<http://www.cityofsalem.net/planning>

PLEASE CHECK THE FOLLOWING ITEMS THAT APPLY:

- ☐ 1. We have reviewed the proposal and have no comments.
- ☒ 2. We have reviewed the proposal and have the following comments:

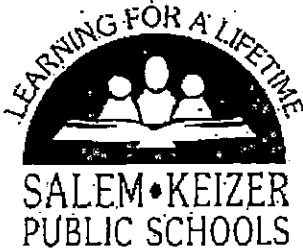
See attached

- ☐ 3. Other:

Name: _____
Address: _____
Agency: _____
Phone: _____
Date: _____

Salem-Keizer Public Schools
Planning and Property Services
3630 State Street, Salem OR 97301
David Fridenmaker, Manager
503-399-3335

10/9/15



DAVID FRIDENMAKER, Manager
Facility Rental, Planning, Property Services
3630 State Street, Bldg. C • Salem, Oregon 97301-5316
503-399-3335 • FAX: 503-375-7847

Christy Perry, Superintendent

October 9, 2015

Aaron Panko, Case Manager
Planning Division, City of Salem
555 Liberty Street SE, Room 305
Salem OR 97301

FAX No. 503-588-6005

RE: Land Use Activity
Salem Case No. ZC-CU15-03, 152-172 Pembroke St. SE

SUMMARY OF COMMENTS

School Assignment: The subject property is served by Liberty Elementary School, Crossler Middle School and Sprague High School

School Capacity: Sufficient school capacity currently exists to serve the proposed development.

School Transportation Services: Students residing at the subject property location will be within the walk zone to the assigned schools and will not be eligible for school transportation services.

Below is data and the District's comments regarding the proposed land use activity identified above. If you have questions, please call at (503) 399-3335.

ELEMENTARY SCHOOL INFORMATION (GRADES K TO 5)

1. School Name: Liberty Elementary School
2. Estimated change in student enrollment due to proposed development: 18
3. Current school capacity: 524
4. Estimate of school enrollment including new development: 390
5. Ratio of estimated school enrollment to total capacity including new development: 74%.
6. Walk Zone Review: Within walk zone of Elementary School.
7. Estimate of additional students due to previous 2014 land use applications: 0
8. Estimate of additional students due to previous 2015 land use applications: 0
9. Estimated cumulative impact of 2014-15 land use actions on school capacity: 74% of capacity.

MIDDLE SCHOOL INFORMATION (GRADES 6 TO 8)

1. School Name: Crossler Middle School
2. Estimated change in student enrollment due to proposed development: 7
3. Current school capacity: 946
4. Estimate of school enrollment including new development: 740
5. Ratio of estimated school enrollment to total capacity including new development: 78%
6. Walk Zone Review: Within walk zone of Middle School.
7. Estimate of additional students due to previous 2014 land use applications: 9
8. Estimate of additional students due to previous 2015 land use applications: 0

9. Estimated cumulative impact of 2014-15 land use actions on school capacity: 79% of capacity.

HIGH SCHOOL INFORMATION (GRADES 9 TO 12)

1. School Name: Sprague High School
2. Estimated change in student enrollment due to proposed development: 8
3. Current school capacity: 2,111
4. Estimate of school enrollment including new development: 1,714
5. Ratio of estimated school enrollment to total capacity including new development: 81%
6. Walk Zone Review: Within walk zone of High School.
7. Estimate of additional students due to previous 2014 land use applications: 13
8. Estimate of additional students due to previous 2015 land use applications: 21
9. Estimated cumulative impact of 2014-15 land use actions on school capacity: 83% of capacity.

ESTIMATE SUMMARY (GRADES K TO 12):

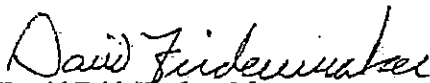
1. Total estimated change in student enrollment: 33
2. Total estimated student enrollment over capacity: 0
3. Estimated short-term cost to District for new facilities, beyond current facility capacity, due to change in student enrollment: \$ 0
4. Total estimated additional income to District for new facilities due to change in student enrollment: \$ 0

Developer should provide paved walk route(s) to allow pedestrian access and bicycle access to school(s) from all residences within the new development and should provide all improvements required by the City of Salem where new transportation routes are established or existing transportation routes change, such as school flashers, crosswalks, and signage. As per ORS 195.115, when the walk zone review indicates "eligible for transportation due to hazard" the District requests that the City initiate a planning process with the District to identify the barriers and hazards to children walking or bicycling to and from school, determine if the hazards can be eliminated by physical or policy changes and include the hazard elimination in the City's planning and budgeting process.

ASSUMPTIONS:

1. When land use request is granted, 90 new residence(s) will be built.
2. Estimates are computed using the Student Rate per Dwelling Method described in the District's Facility Study for years 2001-2020.
3. If current capacity exists at the schools currently serving the parcel then an estimate of zero cost, or no significant impact, is made.
4. If current capacity does not exist at the schools currently serving the parcel then an estimate of cost for one-time capital improvements is made.
5. Income from the proposed land use for capital improvement is assumed to be zero since capital improvement funds come from voter approved bond measures that can be an unpredictable and irregular source of income.
6. Income from a State School Facilities grant may be available depending on state funding. The grant amount ranges from 0% to 8% of the construction cost. Since the funding is unpredictable, it has not been included as income. The current 2011-13 biennium facilities grant funding for the District was \$5,450,719.
7. General Fund Budget Amount for the 2013-14 school year is \$9,241 per student (ADMw). The State School Fund Revenue for 2013-14 is estimated to be \$8,021 per student (ADMw). ADMw is "Average daily membership" as defined in ORS 327.006 (3).

Sincerely,


David Fridenmaker, Manager
Planning and Property Services

c: Mike Wolfe, Chief Operations Officer
Jim Jenney, Manager – Custodial and Property Services
William White, Manager - Risk Management
Michael Shields, Manager - Transportation

RECEIVED

October 8, 2015

OCT 13 2015

COMMUNITY DEVELOPMENT

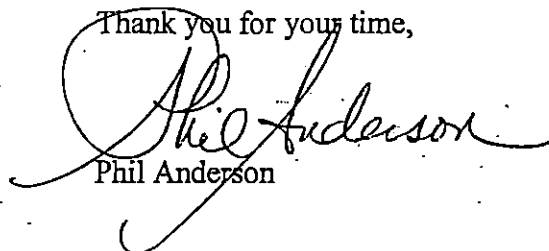
Aaron Panko, Case Manager
City of Salem Planning Division
555 Liberty St. SE, Rm. 305
Salem, Oregon 97301

Dear Mr. Panko,

I am the owner of the 18 unit apartment complex and a single family dwelling on the north side of Pembroke St. SE. Of course neither I nor any of my tenants are pleased with the potential of 93 additional family units in our quiet, isolated neighborhood. It goes without saying that when you throw that many more people into the area, livability degenerates rapidly. More activity produces more traffic, more crime, more noise, etc. and nothing good for the existing neighborhood. Rarely are these large complexes managed well to minimize these issues. Obviously the City of Salem is in a position to review and require certain things to mitigate the damage to the existing neighborhood. This project will happen because of the pressures to City Hall to make more land available to multifamily housing. However, my biggest concern is the traffic on Pembroke Street. The applicant's traffic engineer is overly optimistic that the traffic generated would be much less than current zoning would allow. Although, depending on what type of commercial activity there could be, most of it would be during normal daylight business hours as opposed to 24/7 traffic generated by living units. In one of the last zone change meetings relating to this property several years ago, the City was very concerned about traffic at the Pembroke/Liberty intersection—even to talk of closing Pembroke and curving Pembroke around to meet Skyline. Then the idea was discussed about making Pembroke to Liberty a right turn only. I believe both ideas were scuttled with the requirement of an optional drive through what is now the dentist office behind the Mail Depot. This was even without this huge additional residential traffic. Obviously, this would make the Pembroke/Liberty intersection that much more hazardous. These traffic issues could be easily resolved if all traffic from this proposed project was mandated to Skyline. The opening on the cul-de-sac on Pembroke should be restricted to emergency vehicles only. It appeared the intent of the traffic planners at that time was to promote all traffic from this old cannery property to use the light at Skyline.

In addition, it would also be helpful if there were setback requirements, landscaping and privacy fencing requirements mitigating the impact of multilevel units with our single story units. Progress does happen but it should not be at the expense of or to the detriment of the livability of the existing neighborhood.

Thank you for your time,


Phil Anderson

REQUEST FOR COMMENTS

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

CASE NO: ZC-CU15-03

OCT 13 2015

AMANDA APPLICATION NO: 15-116403-ZO, 15-116405-ZO

ADDRESS: 152-172 PEMBROOK ST SE
& 4752 LIBERTY RD S

ZIP CODE: 97302

COMMUNITY DEVELOPMENT

HEARD BY: HEARINGS OFFICER

CASE MANAGER: AARON PANKO

Summary: A proposed Zone Change to remove a use limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the subject property.

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E-Mail: APanko@cityofsalem.net
http://www.cityofsalem.net/planning

AP

PLEASE CHECK THE FOLLOWING ITEMS THAT APPLY:

- ☐ 1. We have reviewed the proposal and have no comments.
☒ 2. We have reviewed the proposal and have the following comments:

SEE ENCLOSED

☐ 3. Other:

Name: Phil Anderson
Address: 4742 LIBERTY RD. S. #150
Agency: SALEM, OR. 97302
Phone No.: 503 581-8573
Date: 10-8-15

REQUEST FOR COMMENTS

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

CASE NO: ZC-CU15-03

RECEIVED

AMANDA APPLICATION NO: 15-116403-ZO, 15-116405-ZO

ADDRESS: 152-172 PEMBROOK ST SE OCT 14 2015
& 4752 LIBERTY RD S

ZIPCODE: 97302

HEARD BY: HEARINGS OFFICER COMMUNITY DEVELOPMENT CASE MANAGER: AARON PANKO

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☒ 2. We have reviewed the proposal and have the following comments:

SEE ATTACHED FOR COMMENTS

3. Other:

Name: _____
Address: _____
Agency: _____
Phone No.: _____
Date: _____

COMMENTS REGARDING ZONE CHANGE – CONDITIONAL USE – PEMBROOK APARTMENT COMPLEX

Fred and Patricia Todd
4769 Music Street SE
Salem OR 97302

Privacy:

It is not unreasonable to expect to have privacy in your own back yard.

- Our home is adjacent to the north side of the proposed site. Having a three story apartment building thirty feet from our back yard fence will not leave us any privacy. Any person in a second or third floor apartment will be able to look down into our back yard and see everything. That makes us uncomfortable and prevents us from utilizing and enjoying our yard.
- We suggest building single story apartments to preserve our privacy and constructing a ten feet high wall all along the north side of the site. The wall will help buffer the noise generated from both tenants and their vehicles. It would help with the exhaust fumes.

Market:

We feel that the current market does not support more apartments being built in the Faye Wright neighborhood.

- Faye Wright has an abundance of apartments and very few of those apartment complexes are filled. Enclosed are current photos of apartments on Liberty Street that have vacancies and as when school starts in a neighborhood, that is when apartments are usually full and you see very few vacancies. Capacity exceeds demand.
- We checked apartment buildings along Liberty Road South and found many, many signs proclaiming "Now Renting & Leasing Now". Our neighborhood (zip code 97302) according to a report has 42% of housing that are apartment rentals and state wide it is 39%. Southeast Salem is disproportionately higher than the rest of the state. The report can be found at WWW.city-data.com/zip/97302 and it is specific to Salem, Oregon.
- Photos of 10 apartments on Liberty Road SE with vacancies has been included in this letter.
- The average rent for a two bedroom apartment in Faye Wright is about \$600.00 a month. The proposed apartments rent start at about \$1200.00 a month and up, double that of the current rent. The neighborhood may not realistically support the higher rents. Faye Wright is a working class neighborhood with average homes and rentals.

Traffic:

The proposed 93 unit apartment complex will increase traffic on Pembroke, currently a quiet side street, and increase traffic on Liberty Road South.

- It is not uncommon to have two vehicles per household and sometimes more with families. It is conceivable that 180 vehicles will be added to the existing traffic on Pembroke, Skyline and Liberty Road. This will cause longer wait times for drivers entering Liberty Road from Pembroke with the vehicles coming from the apartments.
- More traffic generates more noise. The proposal has a total of 147 parking spaces, 109 standard, and 33 compact and 5 handicap. It is not unreasonable to assume, two vehicles per apartment. There will not be enough parking for visitors and residents.
- The question is, where will the overflow parking go? The overflow parking on Pembroke Street is very limited and currently is being used by the businesses Walgreens and Mail Depot and the dental clinic, as well as the Pembroke apartments and the single homes on Pembroke. The

overflow vehicles most likely will park in Walgreens parking lot and the dental clinic's lot since those lots are closest to the apartments. It will become very congested during weekends and holidays. We strongly suggest constructing a ten feet high wall or taller, all along the north side of the site. The wall will help buffer the noise generated from both tenants and their vehicles. It would help with the exhaust fumes

After reading the traffic report, it appears that the traffic engineer used a manual from the company ITE, specifically the trip generation manual and did not use a physical count of the traffic. This raises the question of how accurate his conclusions are.

- The ITE website states that the company relies on data that is voluntarily submitted from other traffic organizations. Does that mean that ITE and the engineer are using second or third hand information for their data?
- Is the data vetted for accuracy by ITE before entering it in their manuals? We suggest that an actual traffic study be done for a more accurate impact that traffic would have on our neighborhood.

Water and Air Quality:

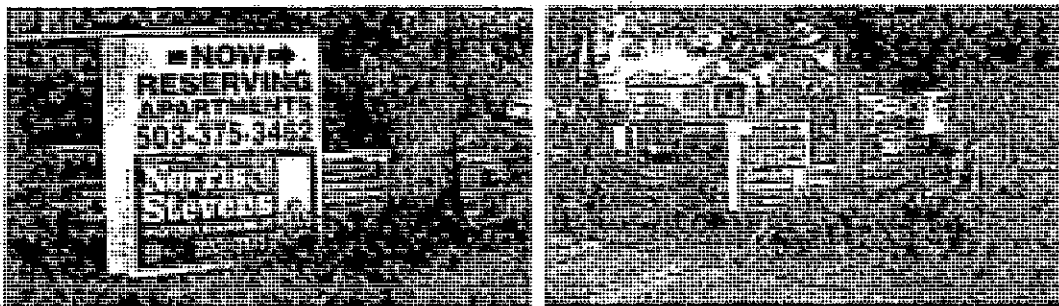
We are concerned about the amount of water run off the proposed apartment complex would create with all the hard surfaces.

- There is a small creek that runs through the Wendy Kroger Park that is on the east side of the site. Our concern is the amount of water during heavy rainfall that would find its way into the creek.
- The excess water runoff may carry the vehicle fluids that leak onto the parking lot and any debris from the hard surfaces into the creek.
- The banks of the creek may erode as the excess runoff enters.
- Air quality becomes an issue when three story buildings are located in close proximity of existing single family homes. They create a barrier that restricts the natural flow of air through the neighborhood.

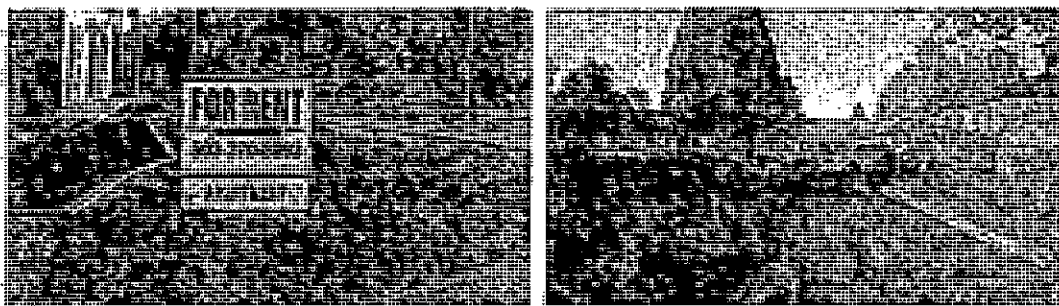
APARTMENT PHOTOGRAPHS ARE ON THE NEXT PAGES

PHOTOS OF APARTMENTS ON LIBERTY STREET SE. THIS IS JUST A SMALL SAMPLING OF APARTMENTS FOR RENT IN ZIP CODE 97302 AND SHOWS APARTMENTS ON LIBERTY STREET ONLY. AFTER SPENDING SOMETIME LOOKING THROUGH OTHER STREETS IN THE ZIP CODE 97302, IT IS APPEARENT SE SALEM HAS MORE THAN THEIR FAIR SHARE OF APARTMENTS.

Fox Hollow Apartments 4892 Liberty Road SE, Salem OR 97306



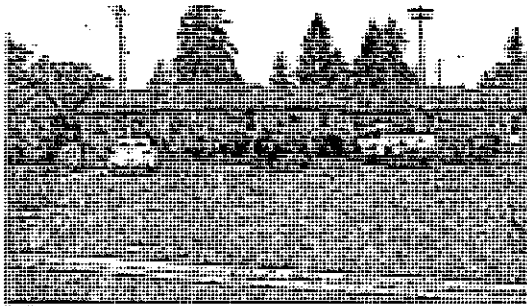
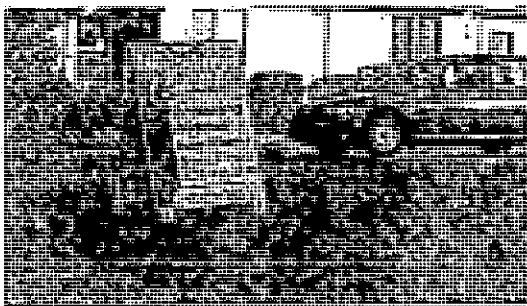
Pembroke Apartments 155 Pembroke SE, Salem OR 97302



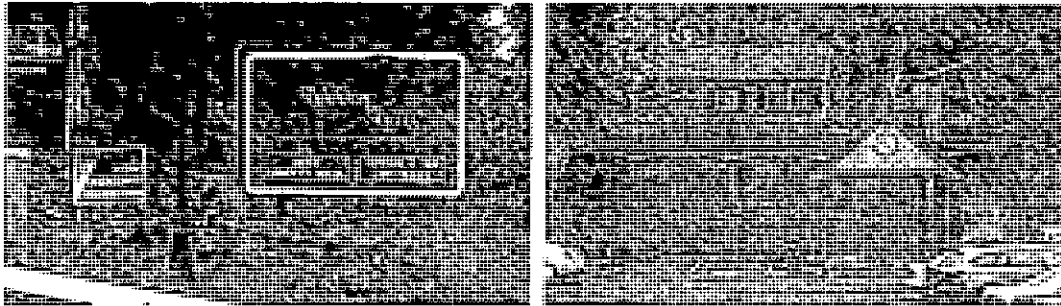
Grand Oak Apartments
4078 Liberty Rd SE, Salem OR 97302



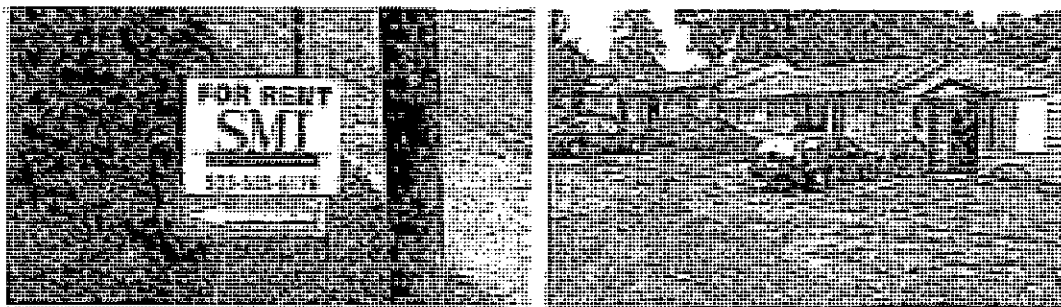
Browning Avenue Apartments
480 Browning Ave SE, Salem OR 97302



Hidden Hills Apartments
3640 Liberty Rd SE, Salem Oregon 97302



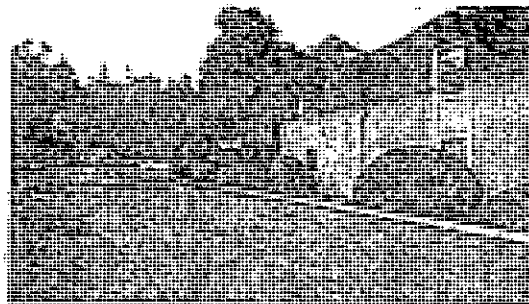
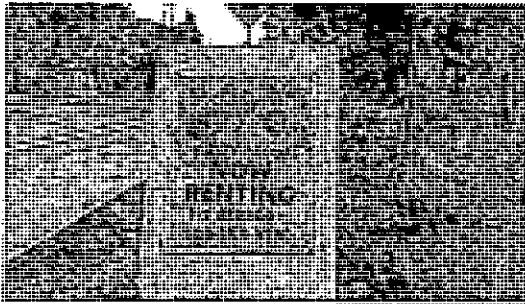
Salem Heights Apartments
125 High Street SE Salem, OR 97302



Silverwood Apartments
3872 Liberty Rd SE, 97302



Valley Brook Apartments
4954 Liberty Rd SE, Salem Oregon 97306



REQUEST FOR COMMENTS

RECEIVED

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

OCT 15 2015

CASE NO: ZC-CU15-03

AMANDA APPLICATION NO: 15-116403-ZO,15-116405-ZO

ADDRESS: 152-172 PEMBROOK STREET
& 4752 LIBERTY RD S

COMMUNITY DEVELOPMENT

ZIPCODE: 97302

HEARD BY: HEARINGS OFFICER

CASE MANAGER: AARON PANKO

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Request: A proposed Zone Change to remove a condition from a previous zone change decision (CPC/NPC/ZC 97-23) which limits uses on the subject property to those that are permitted in both the CN (Neighborhood Commercial) zone and the CR (Retail Commercial) zone, and a Conditional Use Permit to allow development of a 90 unit apartment complex, for property approximately 4.23 acres in size, zoned CR (Retail Commercial), and located at 152-172 Pembroke Street SE and 4752 Liberty Road S - 97302 (Marion County Assessors Map and Tax Lot numbers: 083W09DB/ 04000, 04200, 04300 and 04400).

Attached is a copy of the proposal and any related maps for an upcoming case. A report with a recommendation relating to this property will be prepared by the planning staff from information available to the staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners, residents, and jurisdictional agencies.

COMMENTS NEED TO BE RECEIVED BY 5 P.M., October 15, 2015 to be included in the development of the Staff Report and its recommendations. Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail or hand deliver your comments to the case manager listed below.

Send comments and any questions to: Aaron Panko, Case Manager
City of Salem Planning Division
555 Liberty St SE, Room 305
Salem, OR 97301
Phone: 503-540-2356
Fax: 503-588-6005
E-Mail: APanko@cityofsalem.net
http://www.cityofsalem.net/planning

AP

PLEASE CHECK THE FOLLOWING ITEMS THAT APPLY:

- ☐ 1. We have reviewed the proposal and have no comments.
☒ 2. We have reviewed the proposal and have the following comments:

See attached

☐ 3. Other:

Name: Susan Hecox
Address:
Agency: Faye Wright Neighborhood Association
Phone No.: 503-763-7210
Date: October 15, 2015

CASE NO: ZC-CU 15-03

AMANDA APPLICATION NO: 15-116403-ZO, 15-116405-ZO

Zone Change/Conditional Use – Pembroke Apartment Complex

Faye Wright Neighborhood Association Comments

Representatives of MULIT/TECH Engineering Services, Inc. reviewed the plans for the 93 unit apartment complex at Pembroke St/Liberty Rd at the September 10 meeting of the Faye Wright Neighborhood Association. Residents of nearby properties expressed concerns about how the apartment complex would impact the area, especially the single family homes immediately adjacent to the project.

At the meeting and in subsequent discussions with area residents, there was strong and unanimous opposition to the conditional use and zone changes that would allow the development of the apartment complex. Increased traffic and noise and the resulting decrease in property values were most often cited as concerns.

Concerns about specific aspects of the proposed project as described in the documentation submitted by the applicant included the following:

- Building height
 - The 3 story building height is incompatible with the neighborhood. Nearly all of the homes to the north and east are single story. The privacy of residents of nearby homes, especially those adjacent to the complex on Music Street and Dancers Court, would be significantly compromised.
- Inadequate parking
 - The plan for 147 parking spaces seems inadequate for the number of rental units and there appears to be no provision for guest parking. The rather unique location – only two very short streets for parking outside of the complex – does not provide an adequate option for offsite parking. Street parking is not available on Liberty. Resident or visitor parking in nearby business lots would not be tolerated.

- Complex density
 - The setback of complex buildings from property boundaries appears to be quite small and incapable of supporting a sizeable row of trees to separate the complex from surrounding areas. This is a significant issue for the properties to the northeast. It is also an issue for the residents of the apartment complex who may not wish to view the storage facility or nearby parking lots.
- Path along the northeast property line
 - The proposed path along the northeast property line introduces yet another privacy threat to residential properties in Music Street and Dancers Court. Increased foot traffic may pose security as well as privacy issues.

The following are suggestions for addressing the above concerns should conditional use be granted to allow the construction of the apartment complex:

- Reduce the number of stories from three to two to increase the compatibility of the complex with the surrounding area.
- Increase the number of parking spaces to ensure that both residents and visitors will be able to park on the site.
- Increase the setback of buildings from property lines, especially on the northeast property line, to allow for the planting of trees that will mature to a height that will create a visual buffer. The trees planted for the buffer should be of significant size at planting and medium-to-fast growing.
- Construct a 6-8 foot attractive masonry wall along the full length of the northeast property line.

Comments submitted by Faye Wright Neighborhood Association Board

October 15, 2015

To whom it may concern,

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OCT 28 1993

COMMUNITY DEVELOPMENT

With regards to the application of condition use permit by the applicant Montage Development Inc, I hope you will take into consideration regarding the large impact that it would have not only on my own home but my neighborhood as well.

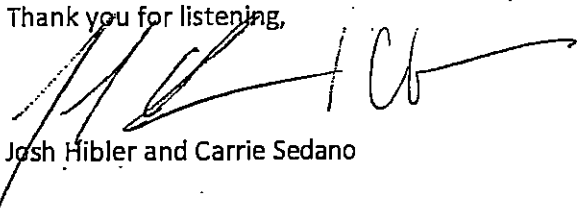
Allowing the permit to be granted will largely impact the livability in my home. Currently it is proposed for a three level multi-living complex to be built behind my home. Currently this is a closed quiet neighborhood where my child and my neighbor's children can safely ride their bikes, play basketball and games in the cul-de-sac. This multi-family complex will negatively affect this neighborhood. This complex will also greatly impact my privacy. I will no longer be able spend time in my own back yard with my family due to the residents that will be able to look over the fence into my back yard. This will also affect the amount of noise around my home with the addition of more people and vehicles. I will no longer be able to have my blinds and windows open due to the lack of privacy.

Allowing a permit to be granted for a complex that does not have adequate parking is unreasonable. This will cause residents to park in outlying business parking spots and in nearby neighborhoods. Currently patrons of nearby establishments already use Hruebtz St and Music St for overflow parking. If residents were to use Music St and Dancers Court for their overflow parking, which they will especially if Music St is opened up for foot traffic this will hinder myself and neighbors the ability to have guests visit at our own homes due to lack of parking. The extra vehicles on the street will hinder the city's waste management trucks from their ability to pick up our garbage and recycling cans. Allowing Music St to be opened up for foot traffic will greatly increase the amount of people that will need to walk in front of our homes, which will greatly affect the safety and security of our homes.

It should be the responsibility of the multi-family complex to provide adequate parking for the residents, not the nearby businesses and neighborhoods. Granting the permit would change my quiet neighborhood into a main thoroughfare. During peak times it is already difficult to turn off of Hruebtz St onto Liberty St. With the addition of potentially 140 more cars to this area it will be impossible to turn off of Hruebtz St and will cause a backup onto Hruebtz and other nearby streets.

If this permit is to be approved we request that there only be allowed no more than two level units backing up to the homes on Music St and Dancers Court, Music St not be opened up to foot traffic, adequate parking be required by the multi-family complex and an enclosed fence that is taller than six feet tall.

Thank you for listening,


Josh Hibler and Carrie Sedano

OCT 28

Salem City Council -- Wednesday, Oct. 28, 2015

COMMUNITY DEVELOPMENT

- Pembroke St. is scheduled for a dramatic, drastic, and irrevocable change.
- It is not scheduled for an improvement, no matter what terminology is used by land use planners.
- My wife and I live on 19th Ct. So., just a mile from there.
 - We drive by Pembroke St. nearly every day, and we do considerable business there.
 - Walgreen's Pharmacy
 - Mail Depot/Pure Decadence Pastries
- Money talks. I hope that doesn't mean it has more influence than the voice of affected citizens.
- Ordinary people, home owners, basically have no advocate, have no one to speak for them, except for city councilors.
- Developers have legal representation as part of the business expenses.
 - Developers often go in to a project after discussions with city staff. Those discussions can sometimes be classified as schmoozing. There is nothing wrong with schmoozing, but it does suggest that there is much more of an intimate relationship between the developer and city officials than there is with the ordinary citizen who typically hears about it and gets involved in a process such as this at the last minute, often too late to have an effect on the decision.
 - Often it's not only too late but without the political and professional acumen or representation that the developers freely make use of.
- Work has already started there. That means the developers believe the decision has already been made, and they will claim economic hardship if anyone opposes their plans.
- Allowing the kind of development proposed for the Pembroke location will have a deleterious effect on the immediate neighborhood and its larger surroundings.
 - Traffic will increase dramatically.
 - No matter how well-intentioned the developers are, the area will never retain its pleasant, low-key character.
 - Surely the development will do no good to the tremendous aquifer there.
 - Question: How many apartment complexes can the neighborhood cram in? Apparently another monstrous project is planned for a half mile down the road on Skyline.
- The proposed development will destroy the concept of a neighborhood of diversity and transform it into a cross between a parking lot and an auto raceway.
 - Nearby Kuebler is proof of that. All you have to do is try to love your fellow citizens at the same time you are trying to merge into the before-school or the after-school traffic when Sprague HS is in session.
 - Or let's hope you have plenty of time and patience on your hands if you're unfortunate enough to be anywhere on Kuebler after work any day of the week.
 - If you're interested in cross traffic in either of those circumstances, you'll be successful if it's an attitude you want, but not if you want to get across the road.
- The simple message of my remarks is this: Please do not give your approval to development that will not be an improvement for the citizens.

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OCT 28 2015

The proposed conditional use change raises concerns. I am here to voice those concerns.

COMMUNITY DEVELOPMENT

The proposed 93 units three story apartment complex will have a negative impact on our neighborhood. The three story apartment buildings create privacy issues with the homes that border the north side of the property. The 30 foot buildings will create a watch tower affect looking down into the back yards of our homes. You would not know who is watching or when they are watching, as you tend your garden, or relax around a fire pit in the evening, or having family and friends over for a BBQ. The sense of privacy is destroyed when there are people 30 feet above your home peering down into your yard. It will eradicate the peace and seclusion that comes with the expected privacy of your home's back yard. The staff report proposes to address the privacy issues, by planting trees with one and a half inch diameters every thirty feet and erecting a 6 foot fence along the north side of the property. These suggested solutions are at best minimal and inadequate. The trees are not of sufficient height or diameter and are spaced too far apart to present an effective privacy screen. Also if the trees are deciduous, they will drop their leaves in the autumn and will not provide the desired needed privacy. The six foot fence does little to obscure the vision of curious residents on the second and third floors. To resolve the issues of lack of privacy, I recommend single story apartments along the north side of the property. This would be compatible with the neighborhood and would have a less negative impact. Also it would eliminate the need for planting fast growing non-deciduous trees spaced closer than 30 feet.

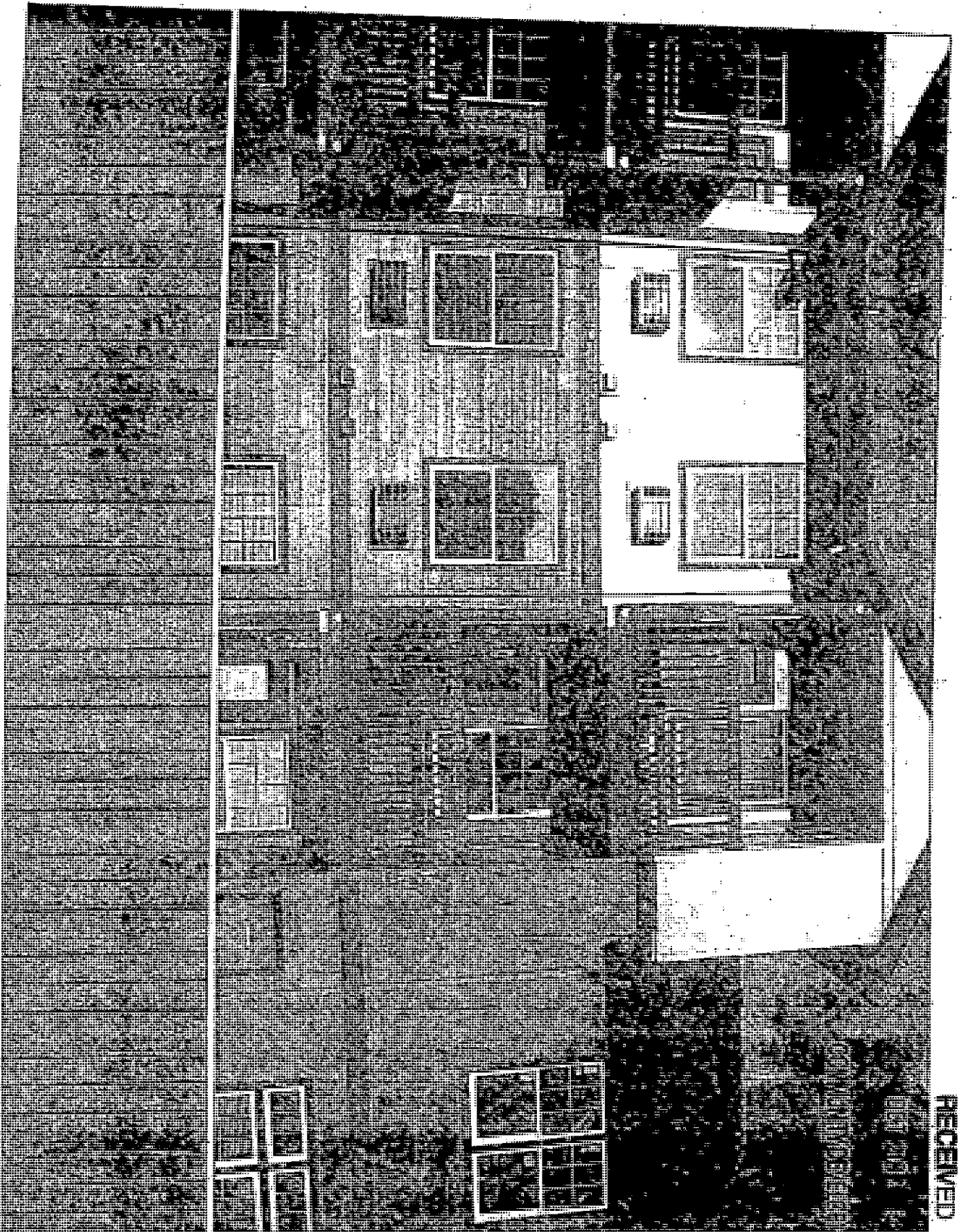
It is my understanding that someone working for the city of Salem suggested that a park access be put at the end of Music Street that is currently blocked off. This should not be allowed because in the recent past, the neighborhood had several

incidents of vandalism. The acts included graffiti, setting off car alarms at 2 and 3 AM, breaking down fences, slashing car tires and breaking into cars. It was my fence that was knocked down by a male teenager climbing over it while trying to elude the police. My neighbor's tires were slashed and it was my pick up that had the attempted break in. This was a result of a hole cut in the chain link fence at the end of Music Street that is on the north side of the property. The hole in the fence provided the vandals an easy entrance and a quick escape route after causing trouble. The hole in the fence was repaired and the vandalism ceased. Having a park access at the end of Music Street will have the potential of creating the opportunity for vandalism to return. Another consideration for not having a park access at the end of Music Street is the possibility of having the apartment tenants using Music Street for their overflow parking. They would park their cars on Music Street and walk through to the complex. The tenants would have to seek an overflow parking area because the apartment complex only provides the minimum 1.5 spaces per unit. The home owners on Music Street have two or more cars. There is no space for overflow parking. When there are cars parked on both sides of the street, there is not enough space for two cars to pass each other. Using Music Street as a overflow parking area, it would increase traffic and noise and people could potentially be coming and going at all times day and night. Also it would not be just the tenants of the apartments but the family and friends as well. This has a negative impact on livability and the neighborhood as a whole.

One possible solution is to build single story apartments on the north side thus reducing the number of cars and the need for overflow parking.

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COMMUNICATIONS



Comments by Dennis Miller, Mail Depot at 4742 Liberty Road S. in reference to Zone Change request Case Number: ZC-CU15-03

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CC 28 2015

COMMUNITY DEVELOPMENT

When looking at the proposed Quasi-Judicial Zone Change request, I contend that the zone change **WOULD NOT** be compatible with the vicinity's development pattern. Around 2000, Liberty Road was widened. At that time, Skyline Road was realigned with the anticipated retail development now known as Liberty Crossing. The fourth leg of the intersection was activated when development occurred. Walgreens became the first occupant of the new development, bringing a pharmacy and variety store to the site. In 2011, the Mail Depot building was remodeled. What once was a store offering shipping services and gifts, has now transformed into a location also servicing the community with a pastry shop, a medical practice, insurance services, an interior design service, a realtor's office, an engineer, an event planning service and two administrative offices. Willamette Dental just recently opened.

Allowing a conditional use permit for multifamily units **IS NOT COMPATIBLE** with the current development pattern for retail and consumer services at Liberty Crossing.

The applicant's Traffic Engineer analyzed the anticipated traffic patterns from the apartments to be less than uses for a CR zone. **My contention is the site is best suited for commercial development because it would generate more traffic, which is best controlled by the signalized intersection at Skyline and Liberty Roads.** As the population increases in South Salem, having commercial space available means residents will be able to find goods, services and jobs within the neighborhood, circumventing the need to travel to other parts of the city and a resulting decrease in traffic. Considering these factors, the proposed zone change would be **LESS** well suited for the property than the existing zone. The best use for the Liberty Crossing property is Commercial Retail. I respectfully ask that the zone change request be denied.

The following criteria cannot be met for the Conditional Use Permit. The worst adverse impact on the immediate neighborhood is the inadequate parking that is planned. Even though, the parking standard is 1.5 spaces for every apartment, the upscale design of these apartments will exceed those requirements.

An adjacent property, Willamette Dental, illustrates how parking standards do not necessarily meet with reality. The square footage of their building dictated that 25 spaces be allocated. They have twelve exam rooms with ten to twelve chairs in their

waiting room. When they have their exam rooms full, with a few patients in the waiting room, 12 to 18 spaces are taken. The 16 to 17 employees take up the same number of spaces. So the required spaces just got exceeded by 8 to 9 spaces. Parking on the south side of Pembroke Street is their overflow parking, which goes to the north side of Pembroke when the City anticipates posting No Parking signs on the south side, if the apartment complex goes in. See the attached photo. Where will the police park 8 to 12 vehicles for meetings at their facility at Pembroke and Liberty?

Another example of City parking requirements not being realistic is the Mail Depot. When we remodeled, the parking requirements dictated 31 parking spaces. If all the owners and employees showed up at one time we would need 30 spaces. Not much space left over for customer parking. Fortunately, many office holders work offsite with clients. However, customers with large vehicles, or hauling trailers utilize Pembroke Street parking, not to mention overflow parking when we are busy. Semi-trucks use the cul-de-sac as a turnaround after making deliveries. During a couple weeks in December the neighbors tolerate parking all up and down Pembroke on both sides as patrons send off their Christmas packages.

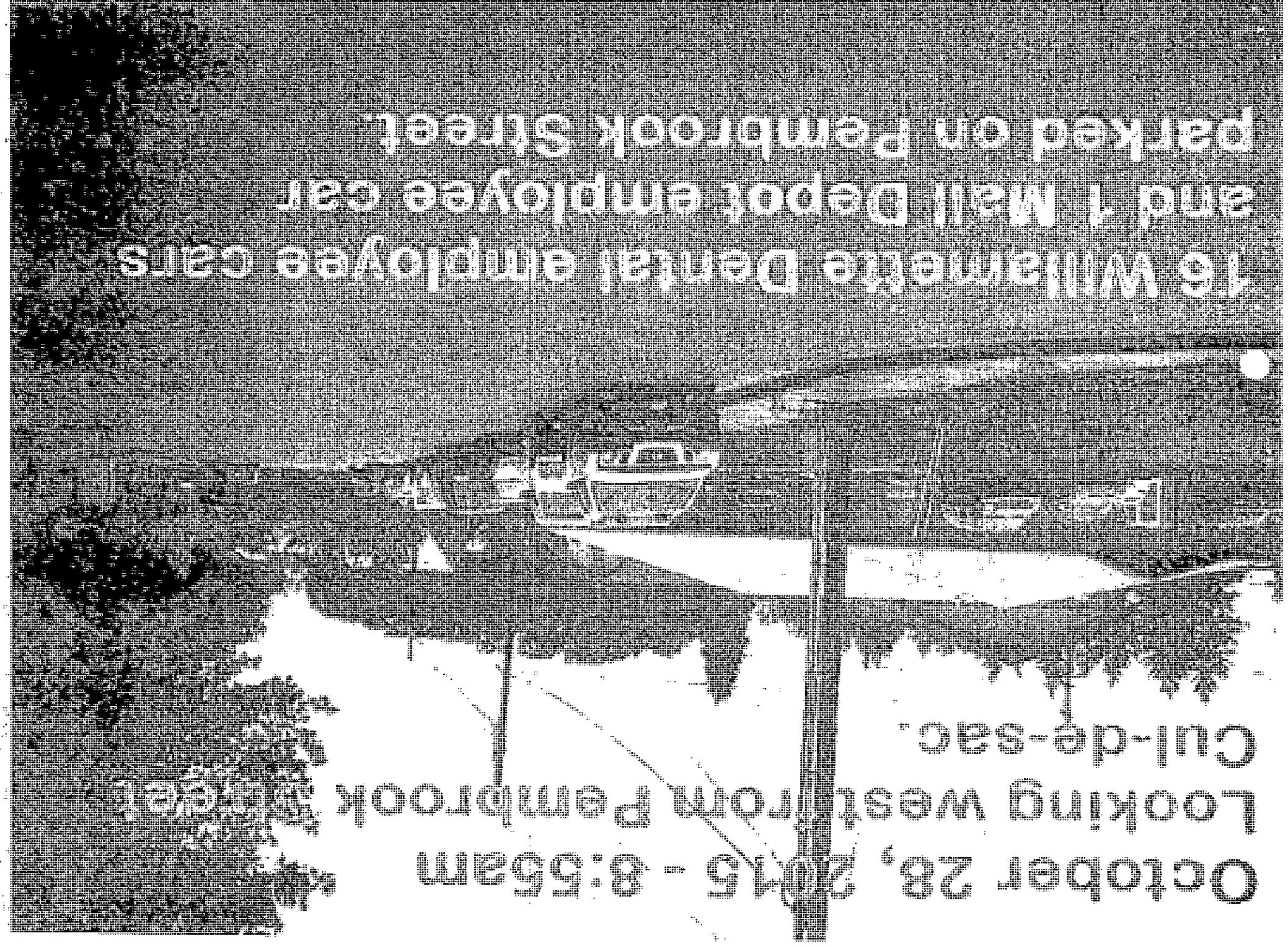
What will reality be, if this apartment complex goes through? Will renters and their guests be parking on Pembroke, Music and Dancer? Will they be encroaching on the existing businesses? All the neighbors I've talking with, and myself, believe the answer is **YES**. The requirement of 1.5 parking spaces per unit is not realistic or logical. For this reason as well, I request that the zone change request be denied.

October 28, 2015 - 8:55am

Looking west from Pembroke Street

Cul-de-sac.

16 Williams Dental employee cars
and 1 Mail Depot employee car
parked on Pembroke Street.



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Wendy Kroeger Park:

COMMUNITY DEVELOPMENT

Because of work constraints, many of the residents in our neighborhood were not able to make this hearing. I therefore, would like to present their signatures on this petition expressing their desire to stop the Zone change from the existing Commercial zone. As you can see by the attached map, these are residents that reside either next to the property or within one or two streets of the field and Wendy Kroger Park. There are concerns regarding the park. Neighbors have worked long and hard with the neighborhood association, neighborhood watch and local Police to make this small neighborhood park safe and are very concerned that all the ground they have made will be lost with the extremely large influx of new residents.

Privacy:

- Aesthetically, a 3 Story Apartment building will dwarf the existing businesses and will not fit into the landscape of the family homes and single story apartments.
- There will only be a 6 foot fence erected as a privacy fence for the 3 Story Apartments, therefore, 2 ½ Stories of Apartment windows will be looking down in the residents homes and backyards. I am presenting an example of this type of situation... As you see, there is no privacy.
- We have a concern regarding the opening up of Music Street, which is currently a dead end. The builder did not have that listed in their plans, this was something suggested by the City. Opening this dead end street up to foot traffic to the park would make no sense, as three houses down from this area there is already a large paved walk through to the park on Dancers Court. I don't believe the person that made that suggestion was aware of this entrance. Why would the City pay to have two entrances three houses down from each other? The Apartments, if built, are to have their own sidewalk and

access to the park. This sidewalk will be built the entire length of the north side of the property.

- The prior City Planners developed our microcosm of Residential and Commercial. This made for a good mix and provided a very healthy neighborhood. As in any Micocosum, when you make a change, it can affect the balance and lead to negative results. We enjoy our neighborhood the way it is now. With the three story Apartment structure, families are most likely to leave the neighborhood, more homes will become rentals and SE will not be the neighborhood people will want to live in. That will be a terrible legacy if the zoning is changed. I consider that we had a contract of sorts with the City and I have done my part in keeping up my house and ground sidewalks, paid my taxes on time and my water, gas and electric bill. I have been a good Citizen and I believe that we neighbors, who have invested over 20 years in our neighborhood, have as much right, if not more, than a Developer who comes in to make a fast buck and doesn't care about the neighborhood at all. We tax payers have rights. The majority of our neighbors had our homes built on Music Street and Dancers court with the understanding the land next to us would remain zoned as Commercial, otherwise our homes would have not been built.
- There was a requests years back for this same lot to be changed from Commercial to Residential and that request was denied. What has changed since then? The planners most likely took into account the lack of any overflow parking to connecting streets, as there is only one small street, Pembroke that is a side street and it is currently at capacity for overflow parking. Our current Commercial businesses don't require the same amount of parking space that a 93 unit apartment would

require. It is understandable that the prior City Planners denied a zone change for that reason alone.

- We have had a Walgreens and the Willamette Dental offices built on the site. And the neighborhood has appreciated these new business, as well as our Mail Depot. These businesses provide much needed jobs for Salem Citizens and keeping with this Commercial Zone and in the future, building more businesses that support jobs only makes good sense.
- If you Google Salem Oregon Zip Code 97302 and Apartments, you will see that in our zip code we are 3% over the State Average of Apartments in our area. According to these Statistics we already have our fair share of apartment buildings, plus more than the average.
- Speaking to a Realtor over the weekend and asking how the neighborhood was for apartments. Her comment was that SE is flooded with apartments, while people are desperately looking for homes to purchase. It appears Salem would be best serviced with building homes versus apartments. Home ownership helps to build and strengthen a neighborhood and City.

On a Personal Note, I have a family member with special dietary needs and I grow as much organic vegetables and fruit that I can in my back yard to freeze. Buying organic in a store is pretty costly. My backyard faces south, which is the best for growing these plants and bushes. Unfortunately, if the Apartments are built they will be facing south and it will block All of the sun and I will be unable to grow anything. Except moss. I have an above ground pool that is heated by the sun. The Three story building will block out the light I need to heat the pool, and how nice to know the Apartments will be getting a pool where I will lose mine. Also I will not have the privilege & enjoyment of looking out of my home and seeing a sunset, sunrise,

clouds or birds in flight. I will lookout at a wall of buildings. All privacy will be lost.

- Personally, I have sacrificed vacation and other leisure activities in order to update our home with things like; last year a 50 year roof, granite countertops, new sinks and new flooring, all in order to get my house the way we want it, as I planned on retiring next year. If these apartments go through, I will most likely have to work 4 – 5 more years to try to buy something comparable to what we have now. Working since 1972, I was really looking forward to a nice relaxing retirement out in my garden.
- Again, I am a long time resident and that property is zoned Commercial and should stay that way.

Patricia Todd
4769 Music Street SE
Salem Oregon, 97302

CITY OF SALEM	
HEARINGS OFFICER	<input checked="" type="checkbox"/>
PLANNING COMMISSION	<input checked="" type="checkbox"/>
OTHER:	
EXHIBIT:	
CASE NO:	ZC-C-115-03
USE PERMIT ALLOWING	
	10.28.15

Neighbors Objection to Pembroke Apartments Conditional the removal of Condition 1(e) of CPC/NPC/ZC 97-23.

Removing this condition provides the developer and in turn the future apartment residents with foot access to Music St. SE. for car parking when no parking is available on apartment property. This will adversely impact the RS zoned properties on Music St. SE, Dancers Ct. SE, and Hrubetz SE as apartment residents and/or their guests of proposed apartment complex look for available off site curb parking when apartment off street parking is full.

Reasoning behind this claim of adverse impact: For 10 years we were resident managers of a 120 unit apartment complex (100 one bedroom and 20 two bedroom) with a comparable rent schedule to the proposed improvement for this property. Our property provided each apartment with one covered space and one uncovered space along with a few guest parking spaces in front. In addition to the on site parking spaces the complex location provided residents with direct access to two adjacent city bus line stops with 24/7 service, and ample curb parking in front of the complex and across the street. However, parking was still a problem because of the number of cars belonging to the semi-professional people renting these apartments and the number of guests they entertained in their apartments and recreational facilities (Current rents are \$1,895 to \$2350 for these apartments).

There is no curb parking available to the proposed pembroke apartment site on liberty SE. There is approximately 60 feet of curb parking on the South side of Hrubetz SE, West of the intersection to Music SE and 90 feet of parking East of the intersection to Music SE separated by four residential driveways. There is no curb parking on the North side of Hrubetz SE. There is approximately 120 feet of curb parking on the East Side of Music SE before the intersection with Dancers Ct. SE and 45 feet South of this intersection. There is approximately 132 feet of parking on the West side of Music SE separated by three driveways. Dancers Ct. SE has approximately 220 feet of curb parking separated by 9 driveways (8 homes and 1 park access).

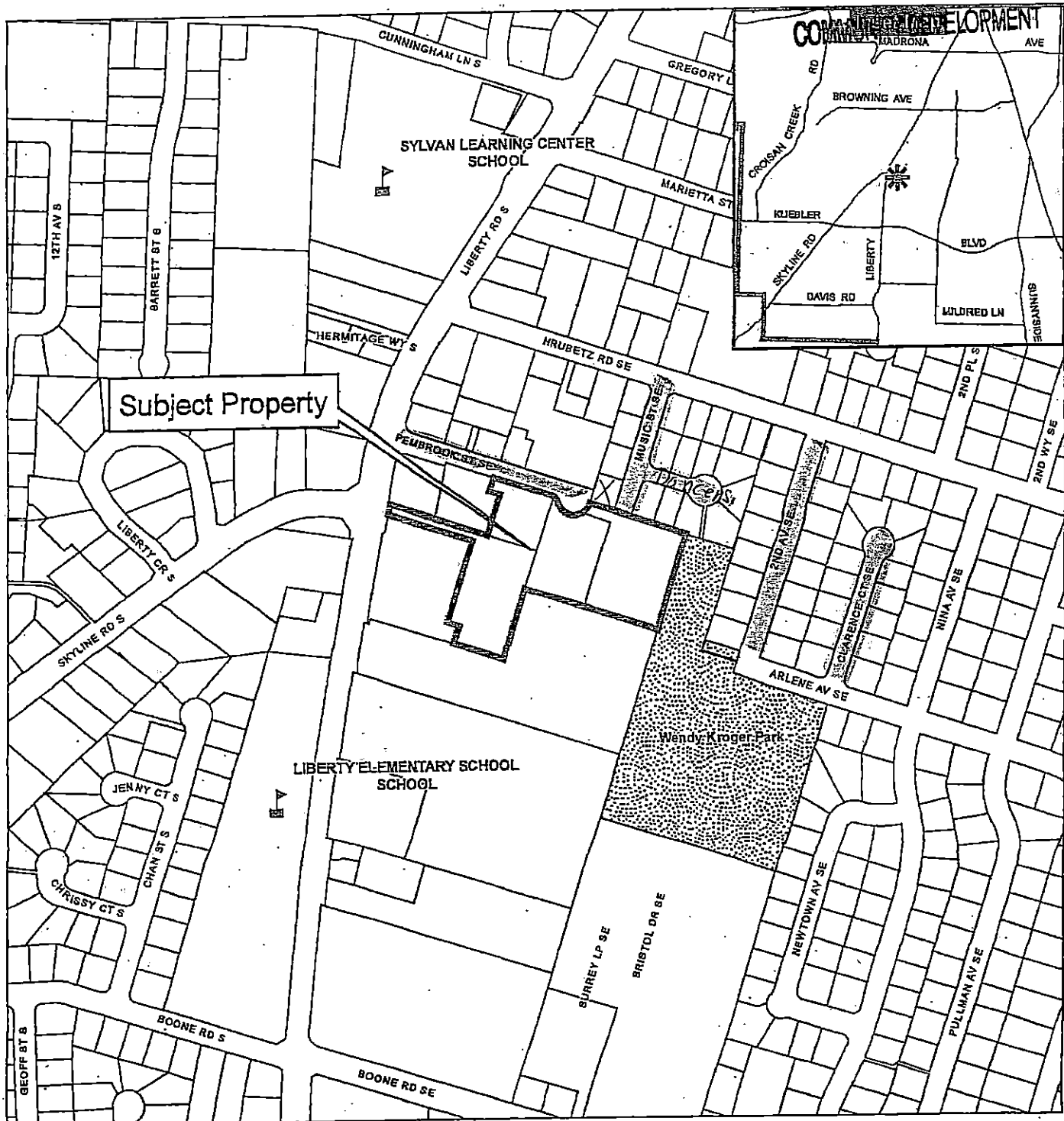
Allowing residents and guests of the proposed apartments to access the limited curb parking detailed above via Music St. trail access will create a parking and traffic problem for the RS zoned property on Music St. SE, Dancers Ct. SE, and Hrubetz SE. This would constitute an adverse impact on this RS zoned property: residents of the RS zoned property would have limited access to curb parking in front or near their homes, curb parking on the South side of Hrubetz SE limits visibility to traffic entering Hrubetz from Music. Parking space searching would increase the hazards to children playing in the cul-de-sac and people accessing the park from the Dancers Ct SE right of way.

Prepared and submitted by: Jay and Jan Duffus, 196 Dancers Ct. SE, Salem, OR 97302. 503-391-2919.

Vicinity Map

152-172 Pembroke Street SE and 4752 Liberty Road S

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OCT 28 2015



Legend

- Taxlots
- Urban Growth Boundary
- City Limits

- Outside Salem City Limits
- Historic District

- Schools

- Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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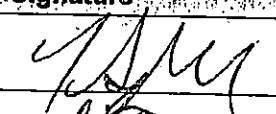

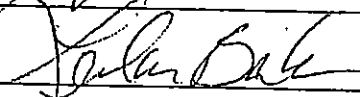
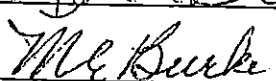
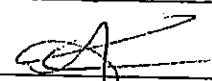

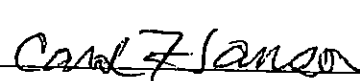
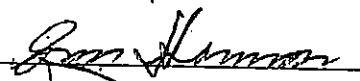
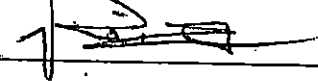
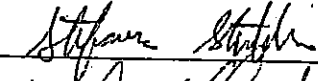
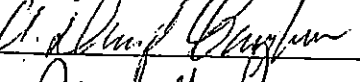

Petition to Stop Zoning Change from Commercial to Residential

Petition summary and background	Amanda Application number 15-116403-ZO, 116405-ZO Case #ZC-CU15-03 is a proposed change to remove a use of limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the property of 152-172 Pembroke Street SE & 4752 Liberty Road SE
Action petitioned for	We, the undersigned, are concerned residents of the Faye Wright neighborhood who are against the proposed zoning change.

Printed Name	Signature	Address	Comment / E-Mail	Date
Ann Miranda	[Signature]	221 Arlene Ave		10/11/15
Joanna L. Pearl	[Signature]	4796 Clarence Ct SE		10-11-15
Theresa Martin	[Signature]	4786 Clarence Ct. SE		10/11/15
Bill Kirkpatrick	[Signature]	4786 Clarence Ct SE		10/11/15
Janet Stinson	[Signature]	4776 Clarence Ct SE		10/11/15
Art Stinson	[Signature]	4776 Clarence Ct SE		10-11-15
Josh Hibler	[Signature]	4768 Music St SE		10/11/15
Megan Hibler	[Signature]	4708 MUSIC ST SE		10/11/15
Crystal Foster	[Signature]	1971 Denner's Ct		10/11/15
Leo Blanco	[Signature]	4280 Pullman Ave SE	costaricausa@hotmail.com	10/12/15
Kerth Ashlock	[Signature]	4831 Dakota Rd SE.		10/11/15
Sherry Patterson	[Signature]	4736 Clarence Ct. SE		10/12/15



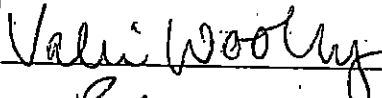

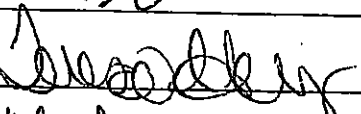

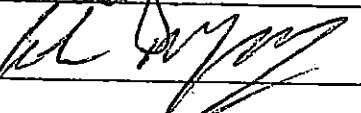
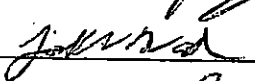
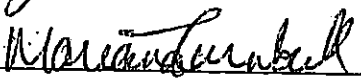

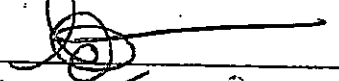

Petition to Stop Zoning Change from Commercial to Residential

Petition summary and background	Amanda Application number 15-116403-ZO, 116405-ZO Case #ZC-CU15-03 is a proposed change to remove a use of limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the property of 152-172 Pembroke Street SE & 4752 Liberty Road SE
Action petitioned for	We, the undersigned, are concerned residents of the Faye Wright neighborhood who are against the proposed zoning change.

Printed Name	Signature	Address	Comment / E mail	Date
Tom Miley		237 Hrubetz Rd S		10-11-15
GARY RODRIGUES		235 HRUBETZ RD SE		10-11-15
Leilan Baker		252 Hrubetz	leilanibaker@gmail.com	10-11-15
MARY BURKE		4795 Clarence Ct SE		10/11/15
Alice Tangborn		4785 Clarence Ct SE		10/11/15
Eve L Dedek		4755 Clarence Ct SE	evel dedek@gmail.com	10/11/15
CAROL HANSON		170 HRUBETZ RD		10/11/15
Sean Hamman		4766 Clarence Ct. SE		10-11-15
PHIL TAYLOR		192 DANCERS CT. SE		10/11/15
Stefanos Stubs		194 Dancers Ct. SE	nitroburn1972@aim.com	10/11/15
A. David Campbell		193 DANCERS CT SE	dalejr88@cing.net	10/11/15
Paul Casey		191 Dancers Ct SE	paul-casey@comcast.net	10/11/15

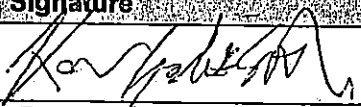
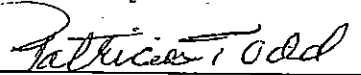
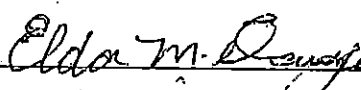
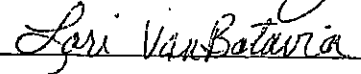
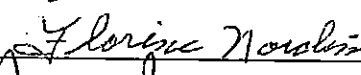
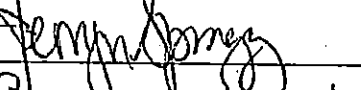
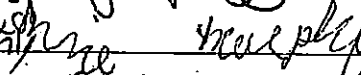
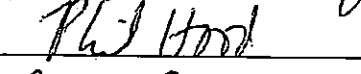


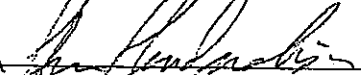
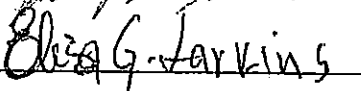
Petition to Stop Zoning Change from Commercial to Residential

Petition summary and background	Amanda Application number 15-116403-ZO, 116405-ZO Case #ZC-CU15-03 is a proposed change to remove a use of limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the property of 152-172 Pembroke Street SE & 4752 Liberty Road SE
Action petitioned for	We, the undersigned, are concerned residents of the Faye Wright neighborhood who are against the proposed zoning change.

Printed Name	Signature	Address	Comment / E Mail	Date
FRED Todd		4769 MUSIC ST SE SKEN	ToddFredie@yahoo.com	10-11-2015
CHARLES BROWN		173 Pembroke St. SE 97302	Howz life been @ ya house	10-11-2015
Valerie Woolley		175 Pembroke St SE 97302	Mr. Wuli@yahoo.com	10-11-2015
Braden Woolley		175 Pembroke St SE 97302		
Terese Wong		155 Pembroke St. SE 97302	teresejones@gmail.com	10/11/15
Lili Askeiza		155 Pembroke St SE 97302	lilangeb12@hotmail.com	10/11/15
John McLaughly		4792 2nd Ave SE 97302		10/11/15
Jeff Ward		4742 2nd Ave SE 97304	Junnt 0731@yahoo.com	10/11/15
Mariana Turnbull		4742 2nd Ave SE	Junnt 0731@yahoo.com	10/11/15
Edna Thomas		4742 2nd Ave SE		10/11/15
Stacy Stevens		4722 2nd Ave SE	Stacystevens2005@gmail.com	10/11/15
Tracy Schindler		4723 2nd Ave SE	jtracyjones@comcast.net	10/11/15

Petition to stop Zoning Change from Commercial to Residential

Petition summary and background	Amanda Application number 15-116403-ZO, 116405-ZO Case #ZC-CU15-03 is a proposed change to remove a use of limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the property of 152-172 Pembroke Street SE & 4752 Liberty Road SE
Action petitioned for	We, the undersigned, are concerned residents of the Faye Wright neighborhood who are against the proposed zoning change.

Printed Name	Signature	Address	Comment / E Mail	Date
Kevin Bodek-Sith		4769 MUSIC ST. SE SALEM OR. 97302	TOO MANY APTS. IN THE NEIGHBORHOOD! bodeksith@	10/9/15
Patricia Todd		4769 MUSIC ST SE SALEM OR 97302	Need Employment opportunities - Businesses	10-9-15
Eldo Barragan		191 Pembroke St SE Salem OR 97302		
Lori VanBataria		195 Pembroke SE Salem OR 97302	lunkieloper@hotmail.com	10/10/15
FLORINE NORDINE		187 Pembroke 97302		10-10-15
Terryn Spragg		167 Pembroke St SE 97302		
Cunnie Murphy		135 Pembroke SE 97302		10-10-15
PHIL HOOD		4763 2 ND AVE SE 97302	BAD IDEA WE DONT WANT MORE APTS.	10-11-2015
Pam Eggleston		4793 2 ND AVE SE 97302	DONT WANT	10-11-2015
Sharon Hood		4763 2nd Ave SE 97302	shapathuo@gmail.com	10-11-2015
Ann Hendricks		4753 2 ND AVE SE 97302	too large	10-11-15
Elsa Larkins		4743 2nd Ave SE 97302	No apt specially by the park.	10-11-15

Petition to Stop Zoning Change from Commercial to Residential

Petition summary and background	Amanda Application number 15-116403-ZO, 116405-ZO Case #ZC-CU15-03 <u>is a proposed change to remove a use of limitation condition from a previous zone change decision to allow a multi-family use and a Conditional Use Permit to allow a multi-family use on the property of 152-172 Pembroke Street SE & 4752 Liberty Road SE</u>
Action petitioned for	We, the undersigned, are concerned residents of the Faye Wright neighborhood who are against the proposed zoning change.
Printed Name	

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[illegible][illegible]

Quasi-Judicial Zone Change/Conditional Use Case No. ZC-CU19-118R

Faye Wright Neighborhood Association Comments

October 28, 2015 Hearing

CITY OF SALEM	
HEARINGS OFFICER: <input checked="" type="checkbox"/>	PLANNING COMMISSION
EXHIBIT: NOISSINWOD ONINNV7D	CASE NO: ZC-CU15-09
DATE: 10/28/15	

The Faye Wright Neighborhood Association is opposed to the granting of the conditional use permit which would allow the development of the proposed apartment complex on the Pembroke property.

Comments on the criteria for approval:

Proposed Use is An Allowed Use

Although multifamily residential use is allowed as a conditional use in the zone, the unique nature/location of the proposed site needs to be considered in determining if multifamily residential use can be accomplished in a way that benefits all parties – the community as well as the developer.

- The site is unusual in that it is surrounded by single family residential properties, a city park, and commercial properties. This makes it especially challenging to design a plan for multifamily residential use in the middle of these other permitted uses that does impact the integrity and utility of the established properties.
- The site is essentially land-locked, i.e., it has limited frontage on city streets – just a short frontage on Pembroke (a cul-de-sac) and driveway access to a major artery at the intersection of Liberty and Skyline. This presents a unique challenge for the flow of vehicular as well as pedestrian traffic in and around the proposed complex.

Likely Adverse Impacts on the Immediate Neighborhood can be Minimized Through the Imposition of Conditions

Adverse impacts on the single family residential properties on Music Street and Dancers Court on the north boundary of the property include:

- Reduced privacy due to the visibility into backyards and windows from the three story buildings.

- Shadows on homes and/or yards at certain times of the day and year because the three story buildings block the sun.
- Increased foot traffic along the proposed footpath connecting Pembroke and Wendy Kroger Park on the north side of the property will reduce privacy and increase the possibility of vandalism. This impact will be further increased if a connection to the path is created from Music Street as proposed.
- Increased parking by apartment residents on nearby residential streets and in nearby business parking lots due to inadequate onsite parking for residents as well as visitors.

The conditions that would be required to minimize the adverse impact on the immediate neighborhood are significant and go well beyond 'minimal' code allowances and requirements:

- Reducing building height from three to two stories.
- Increasing the number of parking spaces for residents from the outdated 'minimum' of 1.5 per unit to a more current value (1.9 vehicles per household per the US Department of Transportation) and creating a 'reasonable' number visitor parking spaces.
- Increasing the setback from property boundaries and increasing the requirements for landscaping to create a visual barrier between the residential properties and the apartment complex.
- Eliminating the Music Street connection to the footpath along the northern property boundary. There is already access to the park via a pathway between two properties at the end of Dancers Court.

These requirements, if implemented, would only minimize, not eliminate, the adverse impacts on nearby residents.

Reasonable Compatibility and Minimal Impact on Livability of Surrounding Property

The homes on Music Street and Dancers Court that border on the north side of the Pembroke property were built in the mid-1990s. The site of the proposed apartment complex has been vacant for a number of years, so area residents have become used to a relatively quiet neighborhood and have experienced only the

minimal local traffic of the residents of the two streets. The distance of the homes on Music Street and Dancers Court from the boundary of proposed apartment complex doesn't allow for a sizeable amount of landscaping to provide a visual barrier between their properties and the apartment buildings. So the livability of these nearby properties will be forever changed.

Required mitigation measures, even those that exceed code requirements, will reduce but not eliminate the impact on the quality of the lives of these nearby residents. Unfortunately, if a resident feels that they cannot tolerate the changes due to the apartment complex and decides to relocate, they may find it difficult to sell. They may also discover that their property value has decreased because of the proximity to the apartments.

Bureau of Transportation Statistics

[Data and Statistics](#) [Subject Areas](#) [Library](#) [News](#) [Policies and Methods](#) [About BTS](#) [Contact Us](#)
[Home](#) » [BTS Publications](#) » [Highlights of the 2001 National Household Travel Survey](#)

Table A-2 Mean Number of Drivers, Vehicles, and Bicycles per Household

[Excel](#) | [CSV](#)

	Mean	SE
Drivers per household	1.75	0.005
Personal vehicles per household	1.90	0.007
Full-size bicycles per household	0.86	0.009

NOTE: SE = standard error.

SOURCE: The 2001 National Household Travel Survey, household file, U.S. Department of Transportation.

Data and Statistics	Subject Areas	Library	News	Policies and Methods
Intermodal Transportation Database	Airlines and Airports	Search the Collections	Events	Confidentiality Policy
By Mode	Congestion	FAQs	What's New	Laws and Regulations
By Region	Connectivity	Ask a Librarian	Upcoming Press Releases	Scientific Integrity
By Subject	Economics and Finance	BTS Publications		Statistical Policy & Research
Dictionary	Energy and Environment	BTS Bookstore	About BTS	Contact Us
Geospatial Information	Freight Data and Statistics	External Links	Advisory Council on Transportation Statistics	
Search Public Datasets	General		Jobs and Internships	
Databases	Geospatial Information		Organizational Chart	
Help with Data	International		BTS Programs	
TranStats	Livability			
Airport	Maritime Program			
Available Seat-Miles	Passenger Travel			
Carrier	Safety			
Causes of Flight Delays	Survey Results			
Freight	Trending and Forecasting			
Fuel cost and consumption				
Load Factor				
Operating Profit/Loss				
Passengers				

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Aaron Panko - Proposed apartment building near Wendy Kroger Park

RECEIVED

From: "Lara Knudsen, MD" <drlara@happydoc.org>
To: <apanko@cityofsalem.net>
Date: 10/29/2015 1:25 PM
Subject: Proposed apartment building near Wendy Kroger Park

OCT 29 2015

COMMUNITY DEVELOPMENT

Hi Aaron,

My name is Lara Knudsen and Iâ€™m a family physician with a small clinic located in the Mail Depot building at the corner of Liberty and Skyline Roads. Iâ€™m sorry I was unable to attend the town hall meeting last night about the proposed apartment building (Iâ€™m out of town for a conference), but I did want to pass on a comment. I donâ€™t have strong feelings one way or the other about an apartment building going up there, but my one request/comment would be to preserve pedestrian access to Wendy Kroger Park from the west (Liberty Rd side). When we chose our clinic site 2 years ago, we learned that pedestrian access is supposedly guaranteed regardless of the development of that open lot. We were glad to hear that, as I like to go for walks in the park at lunch and sometimes even bring patients over there during their visits. I noticed recently that pedestrian access has been blocked by the construction. My request would be to ensure that the ultimate plan includes pedestrian access, and to minimize the time that that access is blocked by construction (understanding a temporary closure may be necessary).

Thanks for your time and for your work in our city. :)

Lara

Lara Knudsen, MD MPH
Happy Doc Family Medicine
4744 Liberty Rd S, Suite 120
Salem, OR 97302
Ph: 971-599-1002
F: 503-967-6107
drlara@happydoc.org

RECEIVED

NOV 03 2015

To: Hearings Officer

From: Faye Wright Neighborhood Association SQA

COMMUNITY DEVELOPMENT

Subject: CASE NO: ZC-CU 15-03;

AMANDA APPLICATION NO: 15-116403-ZO, 15-116405-ZO

Date: November 3, 2015

The Faye Wright Neighborhood Association would like comment on an issue that was not discussed at the October 28, 2015 hearing concerning the conditional use and zone change that would allow the development of the apartment complex on Pembroke.

The Faye Wright Neighborhood Association believes that developing the property for commercial retail use, in compliance with its current zoning and conditional use, would provide a greater benefit to the Salem economy than the proposed apartment complex. Reasons include the following:

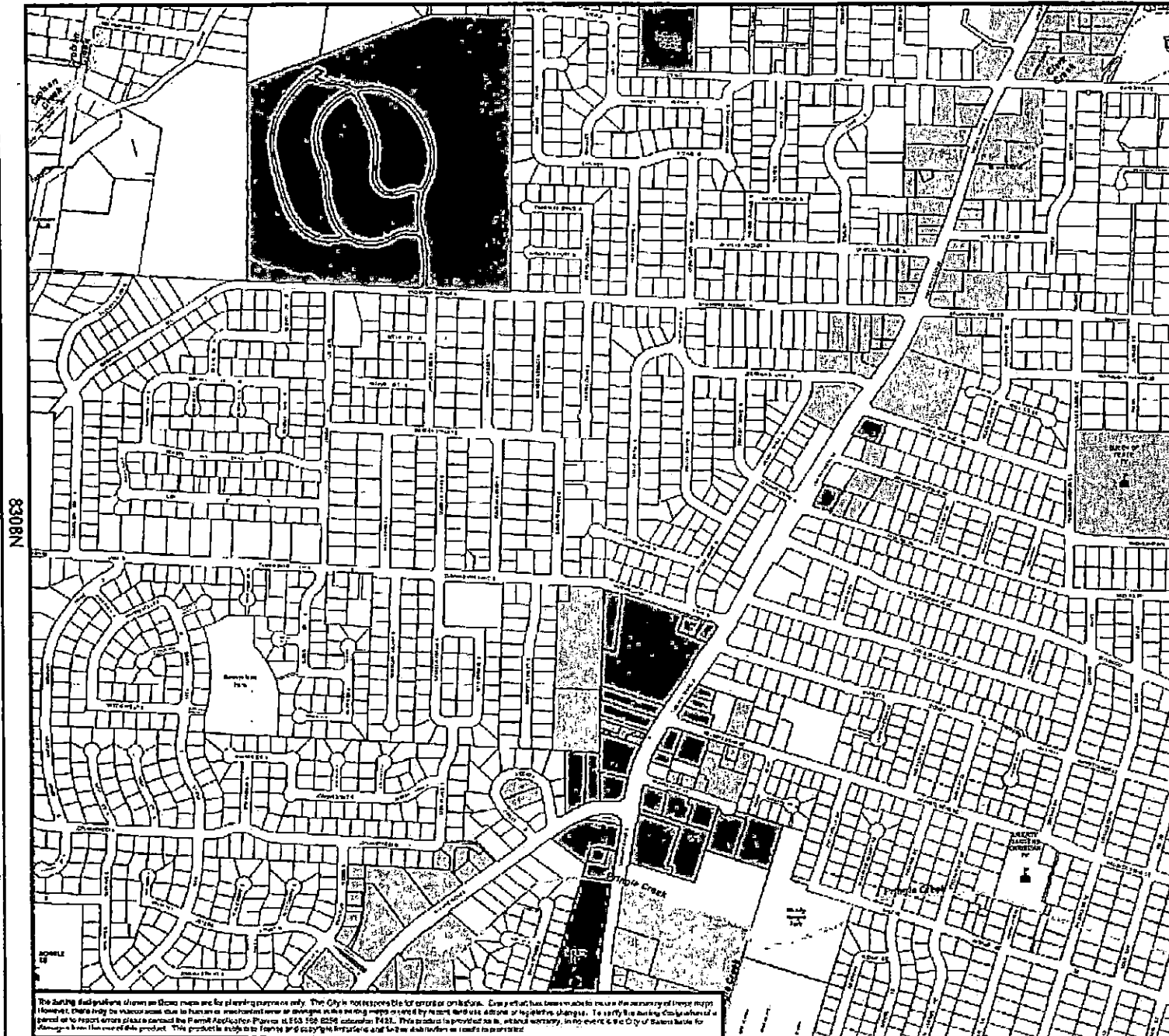
- According to the Salem Economic Opportunity Analysis completed in 2014, Salem has a deficit of 271 acres of land designated for commercial use. Changing the zoning and conditional use of this property to allow the construction of the proposed apartment complex would add to that deficit.
- The intent of the 1997 zone change was for the property (including what is now Walgreens and the dental office) to be used for commercial retail as indicated by the requirements spelled out for access to Pembroke and Liberty in the Planning commission decision.
- While the economic downturn of 2008 has had a significant effect on the development of commercial retail property in Salem, the previously slow recovery is picking up steam and the demand for neighborhood retail and services is increasing. The recent construction and opening of the dental office at 142 Pembroke is evidence of an improving economy and a demand for property on which to build modern facilities.
- The Pembroke property is ideal for commercial retail development:
 - It has direct access to a major arterial.

- It can contain/support a cluster of business activities to provide a variety of goods and services to local residents.
- The size of the property would limit the scale of the development to be consistent with the character of the surrounding and nearby residential neighborhood.
- An examination of the zoning maps for the areas to the north and south of the intersection of Liberty and Skyline (copies attached *) shows a significant shortage of commercial retail property along Liberty Road when compared to another major arterial like Commercial Street. The Pembroke property provides good commercial potential because of its location along a busy arterial that currently contains few commercial retail uses.

In summary, the Faye Wright Neighborhood Association believes that the potential benefit to the Salem economy and increased availability of retail and services to the residents of the Liberty/Skyline area are strong arguments for developing the Pembroke property consistent with the current commercial retail zoning rather than as an apartment complex.

* City of Salem Zoning Maps 8309N, 8309S, and 8316N.

8304S



Zoning

City of Salem, Oregon
Community Development
Planning Division

Zoning Designations

- CB - Central Business District
- CG - General Commercial
- CM - Neighborhood Commercial
- CO - Community Office
- CR - Retail Commercial
- CC - Employment Center
- EFU - Exclusive Farm Use
- EMU - Exclusive Medium Use
- NEMU - Neighborhood Center Mixed-Use
- SWMU - South West Mixed-Use
- BC - Industrial Business Campus
- IC - Industrial Commercial
- IG - General Industrial
- IP - Industrial Park
- II - Interests Industrial
- PA - Public Amusement
- MC - Public Private Cemetery
- PE - Public-Private Education
- PH - Public Health
- PM - Postal Mail
- PS - Public Service
- RA - Residential Amusement
- RD - Single Residential
- RM1 - Multiple Family High-Rise Residential
- RM2 - Multiple Family Residential 1
- RM3 - Multiple Family Residential 2
- RS - Single Family Residential
- Hogswater/Walkway Road Overlay Zone
- Villanville Greenway Overlay
- Compact Development Overlay Zone*
- Historic District*
- Mixed-Use Overlay Zone*
- Overlay Zone*
- Greenway/Roadway
- Flood Area
- Flood Way
- City Limits
- Urban Growth Boundary
- Taxable Water
- School

* For the number/description shown on the map, see "Village Zoning Districts" document on main Zoning webpage at: <http://www.ci.salem.or.us/Planning/CommunityDevelopment/Zoning/Zoning%20Map.htm>



8309N

City of Salem
AT FOUR HAVES
Community Development Dept.

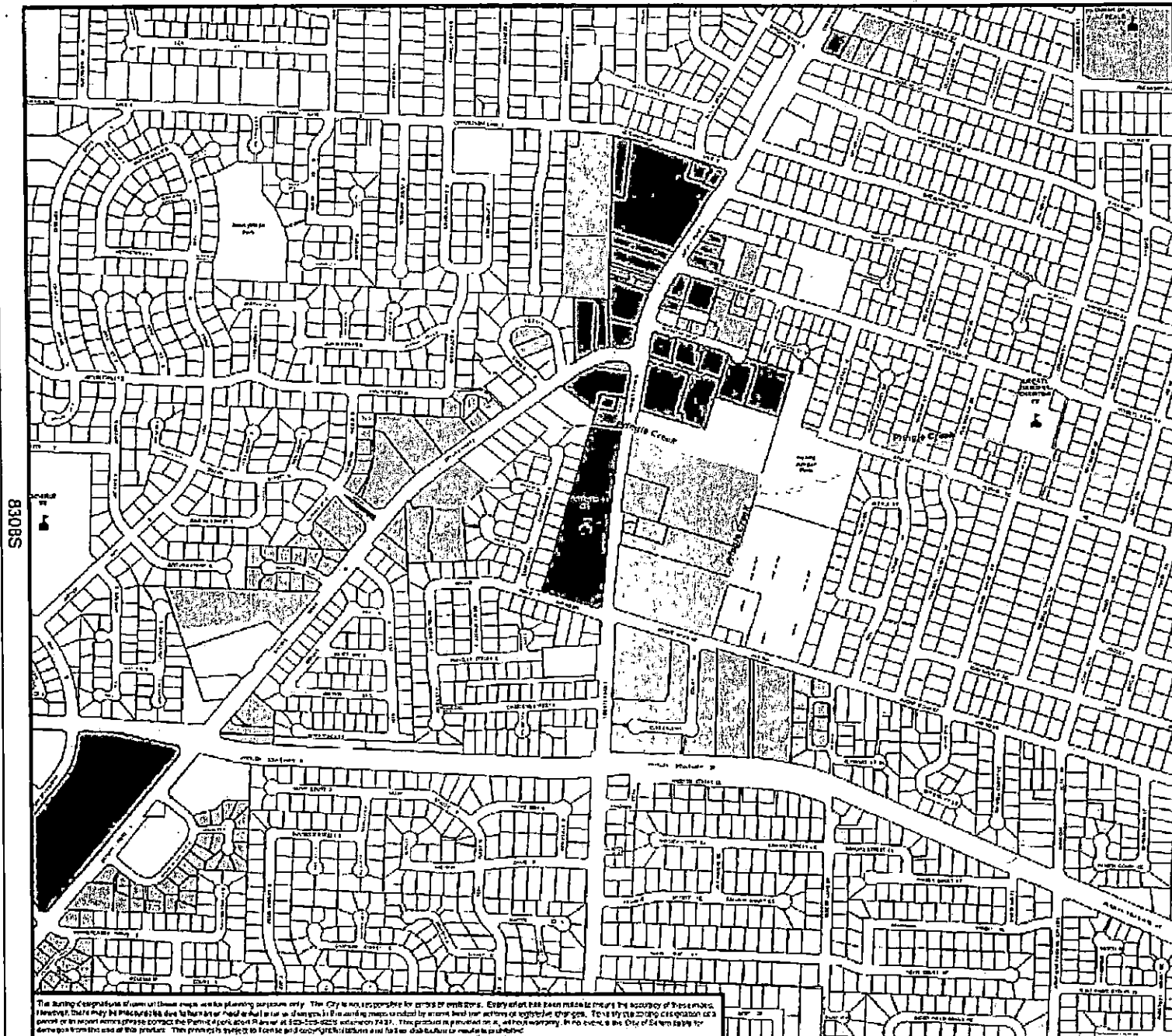
Created on: 10/22/2015

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8309S

The zoning designations shown on this map are for planning purposes only. The City is not responsible for errors or omissions. Any effort has been made to ensure the accuracy of these maps. However, there may be various causes due to human or mechanical error or changes in the zoning map or other factors. To verify the zoning designations of a parcel or to report errors please contact the Planning Division at 503-596-2256 extension 1411. This document is provided as is, without warranty, in its entirety to the City of Salem for its use in the planning process. The product is not to be used for any other purpose and is not to be distributed or sold to the public.

8309N



Zoning

City of Salem, Oregon
Community Development
Planning Division

Zoning Designations

- CB - Central Business District
- CU - Central Commercial
- CH - Neighborhood Commercial
- CO - Commercial Office
- CR - Retail Commercial
- EC - Employment Center
- EFU - Exclusive Farm Use
- EMU - Employment Medium-Density
- MCMU - Neighborhood Center Mixed-Use
- SWMU - South Waterfront Mixed-Use
- IBT - Industrial Business Campus
- IC - Industrial Commercial
- IG - General Industrial
- IP - Industrial Park
- II - Intensive Industrial
- PA - Public Amusement
- PC - Public Private Cemetery
- PE - Public Private Education
- PH - Public Health
- PM - Capital Mall
- PS - Public Service
- RA - Residential Agriculture
- RD - Duplex Residential
- RM - Multiple Family High-Density Residential
- RM1 - Multiple Family Residential 1
- RM2 - Multiple Family Residential 2
- RS - Single Family Residential
- EW - Edgewater/Wallace Road Overlay Zone
- WZ - Willamette Greenway Overlay
- CD - Community Development Overlay Zone*
- HC - Historic District*
- ML - Mixed-Use Overlay Zone*
- OS - Overlay Zone*
- GP - Geoprosity Boundary
- FP - Flood Plain
- FW - Flood Way
- CE - City Limits
- MS - Urban Growth Boundary
- TS - Trails
- W - Water
- S - School

* For the number letter descriptions shown on the map, see "Overlay Zone/District Location" document on main zoning webpage at: www.salem-or.gov/development/planning/zoning



8309S

City of Salem
At Your Service

Community Development Dept.

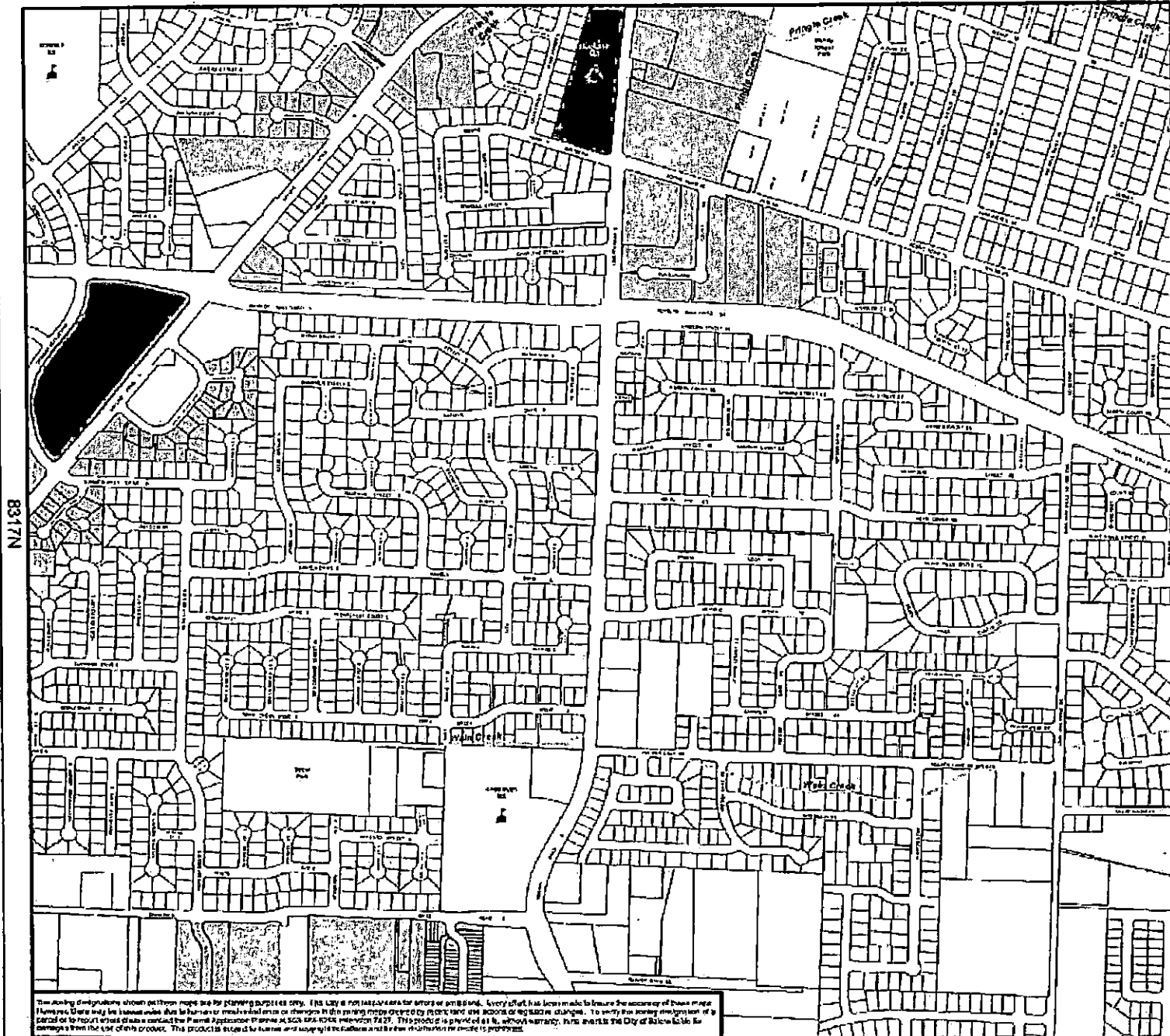
Created on: 10/29/2015

Path: H:\CD\Zoning\Web_Zoning_Map.mxd

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8316N

8309S



8317N

8315N

Zoning

City of Salem, Oregon
Community Development
Planning Division

Zoning Designations

- CB - Central Business District
- CC - General Commercial
- CN - Neighborhood Commercial
- CO - Commercial Office
- CR - Retail Commercial
- EC - Employment Center
- EFU - Exclusive Farm Use
- EMU - Exclusive Medium Use
- NCMU - Neighborhood Center Mixed-Use
- SWMU - South Walcott Mixed-Use
- IC - Industrial Business Campus
- IC - Industrial Commercial
- IG - General Industrial
- IP - Industrial Park
- II - Intensive Industrial
- MA - Major Amusement
- PC - Public Private Cemetery
- PE - Public/Private Education
- PH - Public Health
- PM - Capital Mall
- PS - Public Service
- RA - Residential Agriculture
- RD - Duplex Residential
- RH - Multiple Family (High-Rise Residential)
- RM - Multiple Family Residential 1
- RMP - Multiple Family Residential 2
- RE - Single Family Residential
- Citywide/Neighborhood Overlay Zone
- Williamette Greenway Overlay
- Community Development Overlay Zone*
- Historic District*
- Mixed-Use Overlay Zone*
- Overlay Zone*
- Greenway Boundary
- Pond Park
- Flood Way
- City Limits
- Urban Growth Boundary
- Taxlots
- Water
- School

* For the number/letter descriptions shown on the map, see "Overlay Zones/Districts" located on main zoning webpage at: www.ci.salem.or.us/development/zoning



8316N

CITY OF Salem
AT YOUR SERVICE

Community Development Dept.

Created on: 10/28/2015

Path: H:\CD\GIS\Zoning\Map_Zoning_Map.mxd

8316S

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Aaron Panko - SRC 240.005(d) Appeal

RECEIVED

From: Stacie Wood <swood@willamettedental.com>
To: "apanko@cityofsalem.net" <apanko@cityofsalem.net>
Date: 11/4/2015 9:12 AM
Subject: SRC 240.005(d) Appeal

NOV 04 2015

COMMUNITY DEVELOPMENT

To whom it may concern,

I am writing in regards to the proposed zone change SRC 240.005(d). I am the practice manager of Willamette Dental, located at 142 Pembroke St. adjacent to the proposed apartment complex. and I am very concerned about a number of things that bringing a multi-family complex will change for this area.

- The proposed number of parking spaces for the unit will undoubtedly cause overflow into our parking lot that has already been a source of space frustration for us.
- I was not involved in the planning of our new building and the parking that has been approved by the city for our practice is already inadequate for my staff and patients forcing my staff to park on Pembroke and creating even more frustration for the neighborhood and my office.
- Willamette dental purchased this land recently under the assumption that the adjoining lots were zoned for commercial use. This change would dramatically affect our business and the patient perception of this business will undoubtedly lower with a large complex being located very close to our practice.
- Because the lot is located far off of liberty, I am worried that traffic congestion will make it more difficult for our patients to arrive to their appointments on time and interrupt our office flow and our ability to provide great patient care in a shorter amount of time.

As the Manager of this business, I am extremely concerned about the challenges that will certainly come along with having such a large complex. I also would like to say that having a commercial property would bring much, much more benefit than more multi-family living as this area is already riddled with complexes.

Thank you,

Stacie Wood
Practice Manager


Willamette
Dental Group

Salem- Liberty Office
4755 Liberty Road S
Salem, Oregon 97302
Phone: 1.855.433.6825 ext. 821715
Fax: 503.363.5349
E-mail: swood@willamettedental.com

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MAIL DEPOT

A Division of OMNI-Enterprises of America, Inc.

COMMUNITY DEVELOPMENT

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Salem, Oregon 97302

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November 4, 2015

To: Hearings Officer

Zone Change Request: Zone Change request Case Number: ZC-CU15-03

Comments submitted in opposition to the requested removal of a condition for Neighborhood Commercial and a conditional use permit to allow the development of a 90+ apartment complex at Liberty Crossing.

A picture is said to be worth a thousand words, and a map probably about the same. The accompanying zone map shows southwest Salem with its respective zones. I have labeled where multi-family units & apartments and one retirement facility are located. Not shown are a multitude of duplexes and small unit apartments (3-4 units)

It is apparent that the area has a more than adequate supply of apartments within a short driving distance of the subject property. Also apparent is a lack of commercial space. The largest property zoned CR is occupied by Kaiser Permanente. The majority of the rest is located at the Sunnyslope Shopping Center and the subject property, Liberty Crossing.

The City of Salem adopted the findings of the Economic Opportunities Analysis (EOA) conducted by ECONorthwest. The shortage of commercial property was shown to be around 270 acres. Granting this zone change would increase that shortage even more, going against the desired EOA Outcome which **"Increases the amount of land for commercial development to address the commercial land deficit and to ensure that retail and services are within or near neighborhoods"**.

Liberty Crossing, which currently consists of Walgreens, Mail Depot, Willamette Dental and about 4.22 of vacant land, is ideal for commercial development for the following reasons:

- 1) The axiom for choosing a retail site is location, location, location. Liberty Crossing is located at the junction of South Salem's major arterials of Skyline Road and Liberty Road making it one of the premium retail sites in Salem. When traveling east on Skyline, Liberty Crossing is highly visible. North and southbound traffic on Liberty Road cannot miss the businesses and Liberty Crossing's monument sign.

- 2) Liberty Crossing has two destination businesses already on site that would help further development. Walgreens with its pharmacy and general goods and Mail Depot with its Postal Contract Station.

We have been waiting for the adjacent property to develop, so our customers could access the signalized intersection at Skyline and Liberty. When Willamette Dental started plans to build their site, we relinquished our right to an easement on our east property line onto their property. However, we wanted to make sure that the unrecorded easement from Pembroke to Liberty Crossing would not get forgotten. The City of Salem mandated that easement across the Willamette Dental site. Today our customers can circle around through their site to gain access to the signal. This traffic pattern would be more beneficial to a commercial development than a apartment complex.

There is a fair amount of "cross parking" between Walgreens and Mail Depot. A customer will park in one of our lots and walk cross to the other to conduct business as well. This synergy could extend to other business to the east.

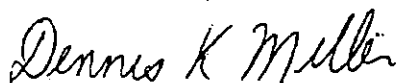
3) Another EOA Report goal: **"Emphasizes the importance of redeveloping existing shopping and service centers, providing new shopping and service centers for underserved residential areas, and ensuring that these centers are accessible by pedestrians and bicyclists, as well as by automobiles"**. With the Skyline Road improvement in its final stage, sidewalks and bike lanes extend from Liberty Crossing to the Maplewood Drive S. On Liberty Road S, usable bike lanes start at Madrona Ave and continue to Davis Road. By looking at the map, one can see all the surrounding neighborhoods can filter onto these arterials and safely walk and bike to Liberty Crossing. The southwest region of Salem is definitely an underserved residential area. When a customer inquires about the construction to the east of us, we indicate that 90 units of apartments are planned. The responses range from "Why?" all the way to "We don't need any more apartments in South Salem" Not one individual has made a positive comment about the apartment complex idea. Many have expressed a need for more shops and services. The idea of a quality restaurant comes up time and time again. Although this is not a scientific poll, it is strong indicator of what the residents in the area want.

4) Future commercial development could occur at different locations in the area by rezoning applications. **However, none currently would have the built-in ease of access and safety of a controlled signalized intersection.**

When Liberty Road was widened, safety was a major concern when designing the access at the Sunnyslope Shopping Center. Medians were installed to prevent cross street travel from Marietta Street and Hrubetz Road and the resulting right turn only exits out of the center were put into effect. Marietta Street became right turn only onto Liberty Road. Attached you will find before and after photographs of the Sunnyslope Shopping Center. Using that same logic and planning, Liberty Crossing is better suited for business development than an apartment complex.

Considering all the above reasons, please consider maintaining the current zoning for Liberty Crossing.

Sincerely,



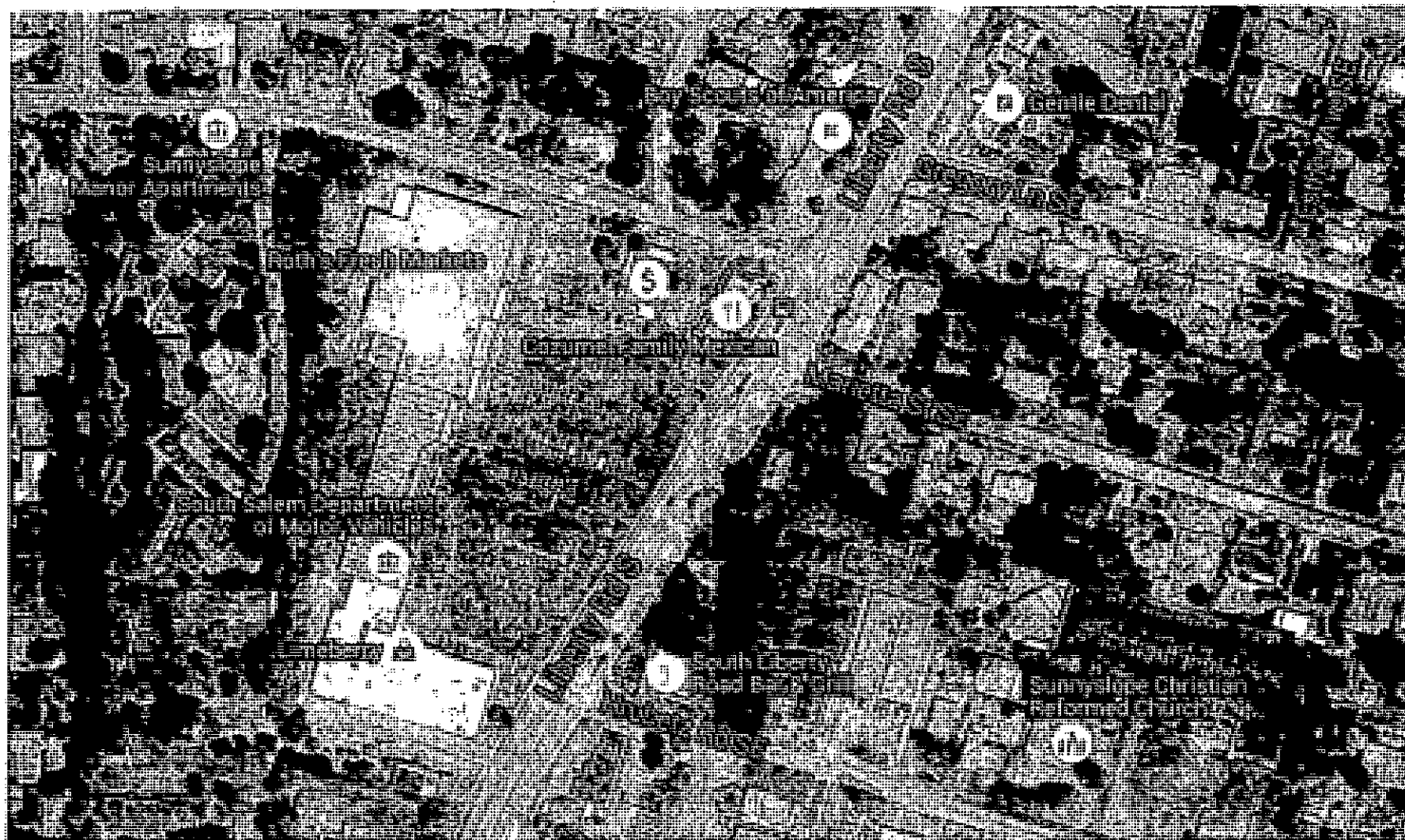
Dennis Miller

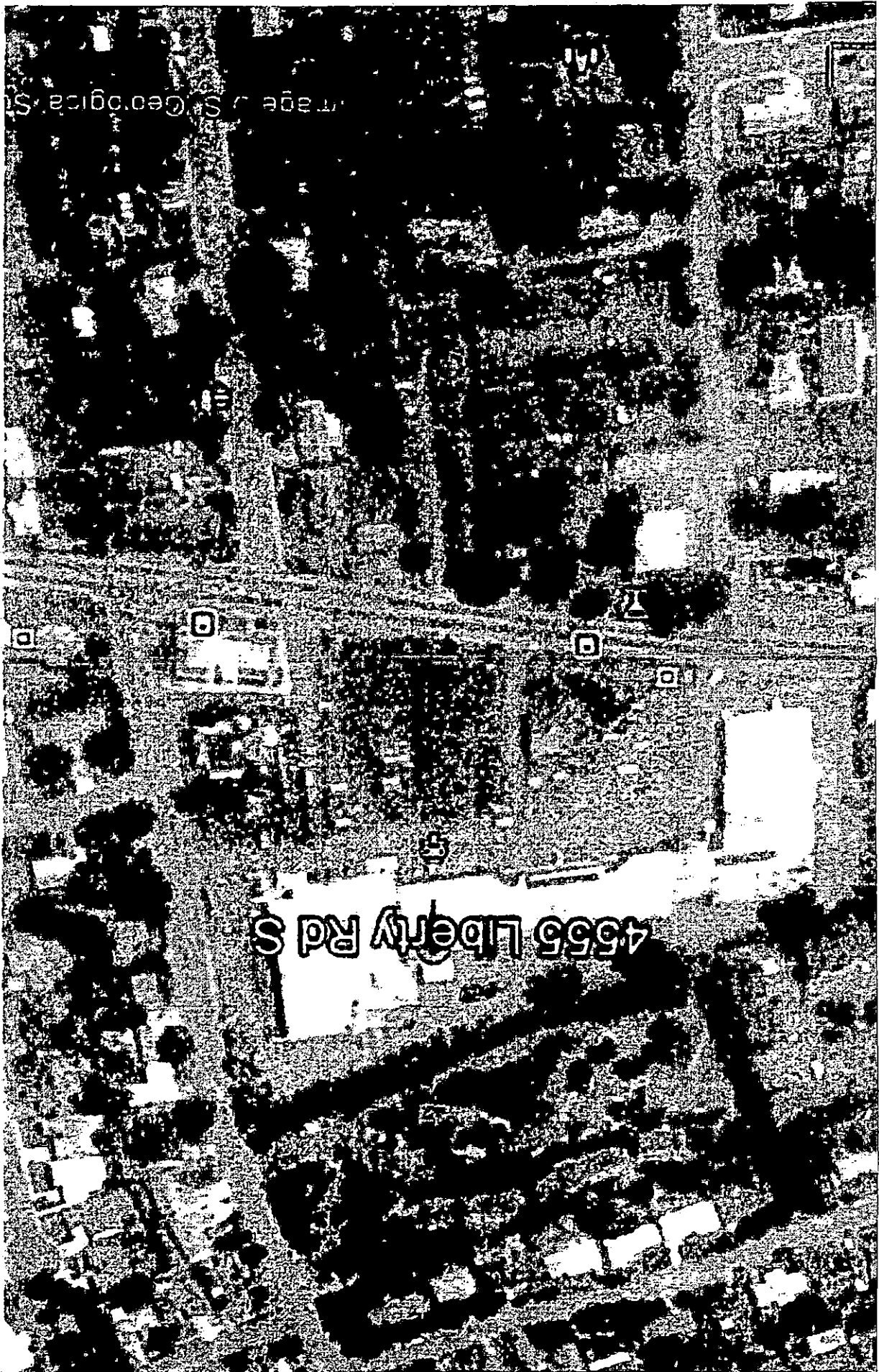


Google earth

feet
meters







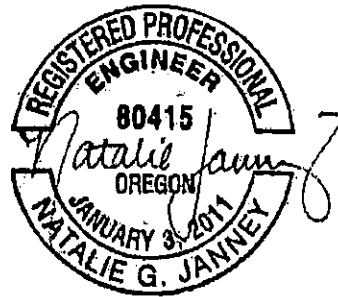
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MEMO



Date: November 4, 2015
To: Aaron Panko and the Hearing's Officer
From: Natalie Janney, P.E., M.S.
RE: *Zone change/conditional use case no. 15-03; 4752 Liberty Road S and 152-172 Pembroke Street SE Amanda Nos. 15-116403-ZO and 15-116405-ZO*



Renew date: 6-30-2017

At the hearing on October 28, 2015, before the City of Salem Hearings Officer, an adjacent property owner located along the northeast property line of the proposed development voiced concern regarding privacy and sun exposure in their back yard. When laying out the site the applicant took privacy and setbacks into consideration. As shown on the site plan, the buildings along the northeast property line provide a setback of 30 feet, along with landscaping. The adequate setbacks also help to eliminate building shadows. The setbacks and landscaping also help to provide screening and privacy for the residents and adjacent properties.

Attachment A:

Attachment A shows a solar/shadow analysis for the buildings located along the northeast property line. This analysis was done using the average position of the sun in this area between the two solstices. This sun position is dictated by jurisdictions that require solar setback analysis (City of Eugene being an example). Illustrations can be seen as Attachment A.

The buildings along the northeast property line are 29.25 feet in height with a roof pitch of 6:12. As shown on the site plan, the required 31 foot setback and height of the buildings meet Code requirements. Both buildings along the northeast property line are three stories in height. The multi-family structure only blocks sun exposure up to 19 feet 8.5 inches within the 30 foot setback. Therefore,

the proposed 3 story apartment building does not block solar access from adjacent properties to the north.

Commercial structures in the CR zone are allowed to be 50-feet in height with a 15-foot setback. A commercial structure built to code on the site would limit solar access onto the properties to the north. A shadow from the commercial building would be cast 12 feet in the northeast properties. Therefore, sun exposure would be effected by a commercial structure (use) on the property.

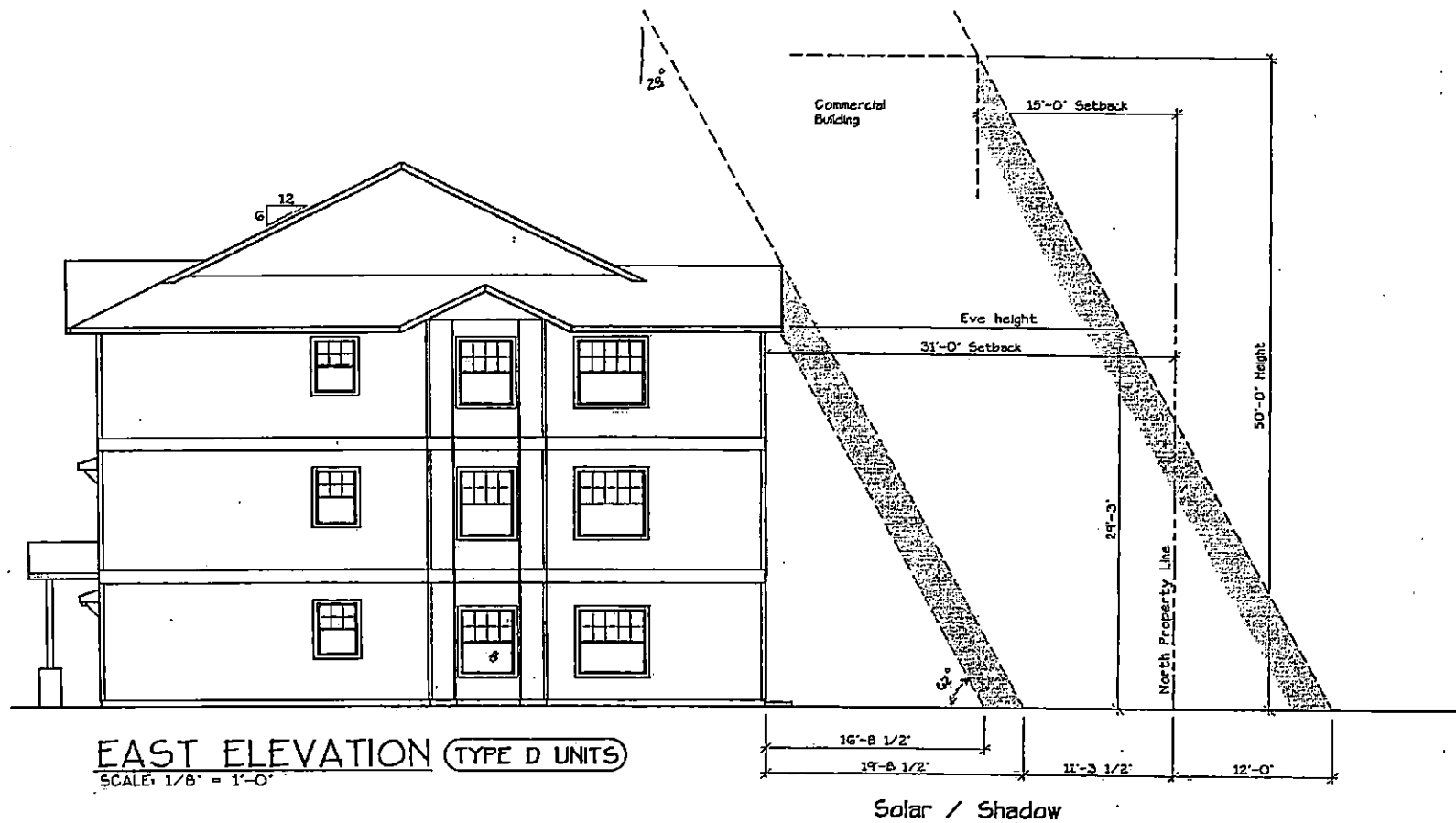
Attachment B1 and B2 illustrate privacy (line of sight):

We then looked at the privacy for the neighbors along the northeast property line. The required setback for the two-story building is 20 feet. Using an average eye height of 4 feet 6 inches and the limiting factor of the 6 foot tall sight-obscuring fence along the property line (assuming the condition requiring the 10 foot pedestrian path were eliminated), there would be approximately 40 square feet of privacy in the backyard, assuming someone was actually trying to look into the neighbor's backyard. This 40 square feet extends just over 13 feet beyond the fence. This can be seen in Attachment B2.

The same analysis was completed for the three-story building. The analysis was done using the previously mentioned 31 foot setback and an average eye height of 4 feet 6 inches. With 12 feet tall trees planted along the northern property line (again assuming the condition requiring the 10 foot pedestrian path were eliminated), there would be approximately 116 square feet of privacy in the neighbor's backyard. The 116 square feet would extend over 22 feet beyond the fence. This can be seen in Attachment B1.

As shown on Attachment B1, the three-story building with a 8-foot high fence and a 12 -foot tall tree provides a greater amount of privacy and solar access for existing single family dwellings to the north, then a two-story building with a 6-foot high fence and 6-foot tall tree does.

The applicant heard the adjacent property owners concerns and has taken them into consideration. Even though the proposed development will not effect solar access or privacy, the applicant is proposing an 8-foot high fence with 12-foot tall trees along the northeast property line for 3-story apartment structures along the northeast property line, as illustrated in Attachment B1.







MEMO



Date: November 12, 2015

To: **Aaron Panko**
Community Development
Planning Division
555 SE Liberty Street, Room 305
Salem, Oregon 97302

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COMMUNITY DEVELOPMENT

Hearings Officer
Community Development
Planning Division
555 SE Liberty Street, Room 305
Salem, Oregon 97302

RE: **Rebuttal for Zone Change/Conditional Use Case No. 15-03/152-172 Pembroke Street SE**

Dear Hearings Officer:

The following rebuttal testimony is being provided in response to all testimony submitted on October 29, 2015 to November 4, 2015 for Zone Change/Conditional Use Case No. 15-03.

The hearing was held October 28, 2015 before the Hearings Office in the City of Salem Council Chambers.

The record was held open for additional written information until 5:00PM on November 4, 2015. The Applicants were allowed to provide their final written rebuttal to the information provided in supplemental written documents until 5:00PM on November 12, 2015.

Below is the Applicant's rebuttal:

- 1) Pedestrian Path-Per CPC/NPC/ZC 97-23, there is a required 10-foot wide pedestrian path to be located along the northeast property line of the subject property. This path was required for access to the park

located to the east of the site. However, the applicant has requested that this path requirement be removed as part of this application.

There is an existing path located to the north (off of Music Street Court) of this site that provides the existing neighborhood with direct access to the park already. So this path is not needed. Furthermore, several adjacent property owners have filed written complaints in their testimony regarding the required path, stating that they feel it is creating an area for criminal activity and is not safe. Nor do properties like the idea of this path running alongside their homes. The applicant agrees that this path is not needed and could create an unsafe area in the neighborhood. Since the existing neighborhood to the north already has a path to the park, the applicant will be providing a locked gate along the east property line of the site for the apartment residents (only) to access the park.

- 2) Housing Needs-Some written testimony was submitted indicating that there is a deficit of commercial land designated for commercial uses. However, there is also a deficit of residential land designed for multi-family units.

The City of Salem has an adopted housing needs analysis, "Salem Housing Needs Analysis 2015-2035" that is dated December 2014. The City has projected a need for residential units in the City's "Housing Needs Analysis" to address State Land Use Goals 10 by establishing population projections. The Housing Needs Analysis reevaluates the housing needs for all residential types. According to the study, Salem is in need of 2,900 multi-family units (207 gross acres) within the next 20 years, in order to help fill the deficit for multi-family housing.

Per ORS 197.307(3), "When a need has been shown for housing within an urban boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need."

As stated in the staff report, "Salem will need to address the deficit in multifamily land to comply with Statewide Planning Goal 10. One of the strategies identified in the Housing needs Analysis is to encourage more mixed-use development or allowing multi-family development in commercial zones." Allowing a Conditional Use for apartments in the CR zone, will meet the goals and policies of Statewide Planning Goal 10, ORS 197.307, and the 2014 Salem Housing Needs Analysis.

The Salem Housing Needs Analysis and Comprehensive Plan Goals and Policies encourage developers to provide all types of housing opportunities. This proposal will provide a needed multi-family housing type within an area of Liberty Road that is surrounding by commercial and single family residential uses.

Multi-family units are permitted in the CR zone with a Conditional Use permit. The applicant's proposal is to develop the site with 90 multi-family units. As stated above, according to the Housing Needs

Analysis, Salem has a deficit of 2,900 dwelling units in multi-family units. This request helps maximize the density while helping to meet housing needs within the City of Salem.

- 3) Zone Change- There was a zone change on the property in 1997 that rezoned the property to CR. The subject area has been developed with commercial uses. However, this area of the site, zoned commercial that was part of the 1997 CPC/NC/ZC approval has remained vacant for years.

As stated in the staff report, "Salem will need to address the deficit in multifamily land to comply with Statewide Planning Goal 10. One of the strategies identified in the Housing needs Analysis is to encourage more mixed-use development or allowing multi-family development in commercial zones."

Multi-family dwellings are allowed in the CR zone with Conditional Use approval. Multi-family units are encouraged to be in areas like these, areas that need this type of housing, have an existing street system with a transit route, with existing commercial services available, and existing parks.

- 4) Character of the Neighborhood- As stated in the staff report, "Multi-family uses are generally compatible with single family uses and are typically found as a buffer between single family neighborhoods and more intensive commercial uses or arterial streets." This development will provide a buffer for the single family dwellings to the north from the commercial uses to the south of this site.

The existing neighborhood consists of single family housing and commercial uses. In order to provide an alternative housing pattern while being consistent with the neighborhood, the proposed development will provide a higher density of needed housing in Salem. In order to maintain the character of the neighborhood, the site will be developed in compliance with required Design Standards and provide buffer yards along property lines.

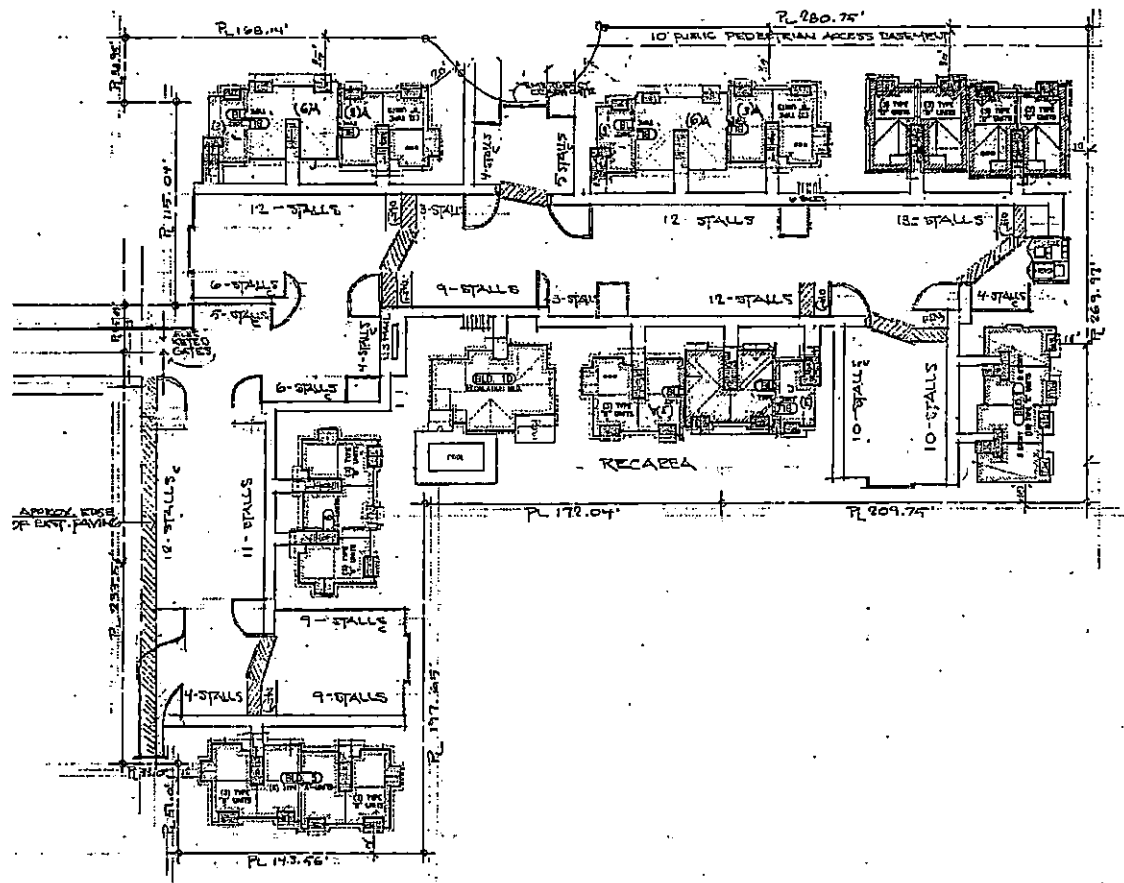
The development will take an undeveloped site and create a development that is visual appealing to the neighborhood. At the time of building permits, Design Standards will be in place to help eliminate any impacts to the neighborhood and create a positive development.

- 5) Parking- An adjustment property owner expressed concerns parking. They have indicated that there is not enough parking for their customers at their Dental Office adjacent this site.

Our applicant is not required to address parking issues on an adjacent commercial site. However, with that being said we will not be affecting the parking of adjacent commercial uses. The proposal is for a 90 unit apartment complex. The City of Salem Code Chapter 806 requires 1.5 parking spaces per every multi-family unit. The applicant is required to provide a minimum of 140 parking spaces on-site. The applicant is providing 163 parking spaces on-site. Therefore, providing 1.75 on-site parking spaces per unit. This means there will be extra parking spaces on-site to accommodate residents.

The site will be fenced along the north property line and the applicant is requesting that the 10-foot pedestrian path be eliminated as a requirement. Therefore, it will not be feasible for residents to park in the neighborhood to the north, because there won't be access to the apartments from the north. So

overflow parking in the neighborhood to the north should not be an issue because without the pedestrian path, it isn't feasible for residents and adequate parking is being provided on-site to accommodate extra parking needs of the residents.



- 6) Traffic-The applicant's Traffic Engineer has reviewed the project and provides a written memo addressing traffic. See attached letter.
- 7) Privacy and Solar Access-See attached memo dated and submitted to staff on November 4, 2015.

In conclusion, the economic, demographic, and social nature of this area has been in the process of changing over the years. The County and City zone maps show that changes have occurred in bringing in more commercial and residential uses in this area. By allowing the modification of the condition of approval and allowing multi-family dwellings on the site with Conditional Use approval, the applicant will be compatible with the surrounding uses. The proposal fits the development pattern of the vicinity.

The character of the neighborhood in the vicinity of the subject property has changed over the years. This is evidenced by the current land uses.

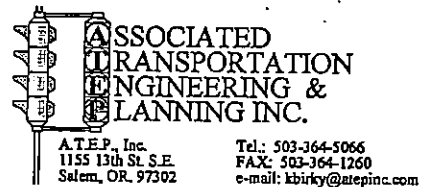
This area is a changing area with properties changing to multi-family and commercial. The CN zone is an underutilized zone in the City of Salem. The modification of the condition allows the entire property to be developed under the CR zone regulations. Therefore, allowing a 90-unit apartment complex to be built on the site with Conditional Use approval. The 2015 Salem Housing Needs Analysis and Economic Opportunity Analysis Draft Report found that Salem has a deficit of land in the Multi-Family Residential designation. Salem needs land for 2,900 dwellings units. The modification of the condition, will allow the developer to develop the site with multi-family uses, while providing a higher density of a needed housing type in the City of Salem.

Through the Site Plan/Design Review process, the development will also meet Design Standards that are consistent with and enhance the character neighborhood.

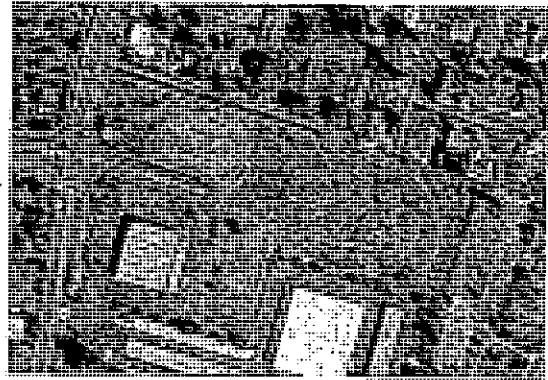
The CN and CR zone allows for retail sales, bank, gyms, dance studios, and education facilities, which are all more intense uses than apartments. The applicant is currently requesting Conditional Use approval for the development of apartments on the entire site. A memo prepared by the applicant's traffic engineer dated November 11, 2015, takes into consideration the max units allowed on the site, 93. However, the applicant is only proposing the development of 90 units. The memo attached shows that the traffic generated from apartments on the site is significantly less than could be generated by uses allowed in the CR or CN zone. General office is the only commercial use that generates close to or less traffic than apartments. However, as stated in the original application submittal by the traffic engineer, "The apartments will generate much less traffic than a combination of permitted commercial uses."

Therefore, modification of the Condition and allowing apartments within the CR zone on the entire site will be a more efficient use of the site.

Date: November 11, 2015
 To: Brandie Dalton, Planner, MultiTech Engineering
 From: Karl Birky, PE, TE, PTOE
 Re: Pembroke Apartment Traffic Considerations



Pembroke Apartments will add 93 apartment units to the City of Salem on a 4.22 Ac site east of the intersection of Skyline Road at Liberty Street. Traffic engineers estimate these apartments will add 620 trips each day to the City's transportation system. Planners often estimate that a site can be developed with "30% coverage" for commercial developments. In other words, the floor space of the stores would be 30% of the site area and the remaining 70% is for parking, landscaping and driveways. The estimated floor space for commercial uses on this site is 54,885 sq. ft. or 55ksf. The following table estimates the traffic generated by commercial development of the site. While these estimates are for the entire site being developed with one use, the probability is high that some combination of uses would locate on the site. Only a General Office would generate fewer trips than the 620 trips from the apartments.



	ITE Trip ADT Gen. Rate	Estimated Units	Estimated Trip Gen.
			Entire Site
200 - SF Home	9.57 Trips/home	15 homes	143 ADT
210 - Apt	6.65 Trips/Apartment	93 Apts	620 ADT
710 - Gen Office	11.02 Trips/ksf*	55 ksf	606 ADT
720 - Med/Dental Office	36.13 Trips/ksf*	55 ksf	1987 ADT
814 - Specialty Retail	44.32 Trips/ksf*	55 ksf	2438 ADT
850 - Supermarket	102.24 Trips/ksf*	55 ksf	5623 ADT
912 - Drive In Bank	148.15 Trips/ksf*	55 ksf	8140 ADT
932 - Restaurant	127.15 Trips/ksf*	55 ksf	6993 ADT

The relocation of the apartment access from Pembroke St to the westbound approach of Skyline Rd at Liberty St will utilize a signalized intersection for drivers to access the street system and away from business accesses north and south of Skyline Rd on the east side of Liberty St. This change, made at the request of the City, will serve the City, the local neighborhood and businesses by avoiding Pembroke St with traffic to and from the apartments.