

FACTS & FINDINGS

CLASS 3 DESIGN REVIEW, CLASS 3 SITE PLAN REVIEW, AND CLASS 2 ADJUSTMENT CASE NO. DR-SPR-ADJ19-07

October 14, 2019

PROCEDURAL FINDINGS

On May 23, 2019, a design review application was submitted to develop the subject property with a three-unit multi-family residential use. Additional applications for a site plan review and adjustments were received on July 1, 2019. The applications were deemed complete for processing on July 11, 2019. On August 7, 2019, the Planning Commission issued a decision approving the Design Review, Site Plan Review, and Adjustment applications.

(On August 21, 2019, the Planning Commission decision was appealed. A public hearing before the City Council was scheduled for September 23, 2019.

On September 23, 2019, City Council held a public hearing, received public testimony conducted deliberations and voted to affirm the Planning Commission's decision to approve the applications subject to conditions of approval.

The 120-day State mandated deadline for final decision is November 9, 2019.

SUBSTANTIVE FINDINGS

1. Salem Area Comprehensive Plan (SACP)

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Multiple Family." The subject property is within the Urban Growth Boundary and is within the Urban Service Area.

2. Zoning

The subject property is zoned RM-II (Multi-Family Residential). The proposed use includes development of a three-unit residential complex. Multi-family uses are allowed as a permitted use in the RM-II zone.

Zoning designations for surrounding properties is as follows:

North: Across Public Alley, RM-II (Multi-Family Residential) – Single Family Dwellings;

South: Across Nebraska Street NE, RM-II (Multi-Family Residential) – Single Family Dwellings;

East: RM-II (Multi-Family Residential) – Duplex

West: RM-II (Multi-Family Residential) – Single Family Dwelling

3. Neighborhood Association Comments

The subject property is located within the Grant Neighborhood Association (Grant). Written testimony was received from the Grant Neighborhood Association indicating support for the proposal.

4. Issues on Appeal

One appeal was received by the Planning Division, prior to the end of the appeal period. The appeal, from Amanda Scott, Alex Scott, Kathe Lucht, Greg Gibson, Georgiana Ulberg, Rodney Ulberg, Marissa Cagle, Kevin Lapsley and Myra Cagle. Two of the appellants testified at the public hearing items are addressed below.

Adequate Notice.

The appellants assert that adequate public notice was not provided.

Finding: On July 17, 2019 public notice was sent to surrounding property owners, tenants and the Grant Neighborhood Association prior to the Planning Commission hearing. No comments were submitted prior to the Public Hearing on August 6, 2019.

Notice to the appellants of the appeal hearing before City Council on September 23, 2019 was sent on September 3, 2019. The subject property was posted pursuant to Salem Revised Code 300.1040. Adequate notice was provided consistent with the Salem Revised Code.

General Parking and Site Access.

The appellants assert that currently 13 vehicles use the existing alley and five parking spaces will add to the congested and tight alley. In addition, the additional traffic will be inconvenient and potentially cause accidents.

Finding: There is no limit to the number of vehicles that can utilize an alley under the Salem Revised Code. An alley is defined as “a secondary means of motor vehicle access to abutting property” (SRC 111.001). Because alleys are narrow, the speed of the vehicles is very low. There is no evidence to suggest any notable potential for accidents. This particular alley system has three access points to the public streets, Market Street NE, Nebraska Street NE and 12th Street NE.

Site access shall minimize vehicle and pedestrian conflicts.

The appellants assert that the additional five spaces on the alley will add to the danger of school children walking to/from schools. The appellants suggest moving the parking to the front of the single-family dwelling.

Finding: Alleys are intended to be for vehicular traffic, not pedestrian traffic, which is why there are no sidewalks within alleys. Pedestrians may use the alleys but there is no known evidence to suggest an inherent risk in this common activity.

The appellants' suggestion of moving the parking to the front of the property would cause the removal of three mature trees, the need for a new driveway approach to Nebraska Avenue and loss of on-street parking. There is not enough room in the front of the property to accommodate the 5 proposed parking spaces and the parking area would likely not meet require setbacks. Additionally, a small parking lot in the front of

the property would not be consistent with the development patterns in the area.

Salem Revised Code Chapter 702 has goals and objectives for parking related to multi-family design. These goals and objectives provide the basis for the standards the City must apply for new multi-family developments. Minimize views of parking areas from public rights-of-way is an objective for all parking areas. The proposed development locates the parking in the rear with access from the existing alley, which minimizes the view from Nebraska Avenue. Relocating the parking to the front would not meet this objective nor the standards.

In addition, parking areas are required to be 20-feet from the front property line. The subject property currently has a single-family dwelling approximately 19 feet from the front property line. There are four mature trees located within 20 feet of the front property line. The location of a driveway along the eastern property line would require the removal of three mature trees. If the trees were removed, there is a small portion of the property (15-feet by 22-feet) which would meet the required setbacks to the front and side property lines. The relocation of the parking to the front of the subject property would reduce the parking proposed from five spaces to two spaces and a new driveway would eliminate an additional parking space within the right of way along Nebraska Avenue.

The rear parking area is consistent with how the subject property was used in the past, and generally consistent with the development patterns in the Grant neighborhood. The use of alleys is a common attribute in the area; as the appellant has noted, the alley in reference provides primary access to approximately seven properties.

Amount of Off-Street Parking.

The appellants state that multi-family uses with three units require two spaces per unit and an adjustment should not be approved. The applicant has requested an adjustment to provide five spaces in the rear of the property, instead of the 6 that are required.

Finding: The Planning Commission addressed the decision criteria for the Class 2 Adjustment on page 20 of their decision. The proposal is to reduce the required parking by one parking space and reduce the setback abutting the parking area to five feet. The reduction would be consistent with larger multi-family development parking standards (1.5 spaces per unit), and still providing a landscaping buffer to the east and west property lines. The proposal is similar to the existing neighborhood with parking in the rear and the use of on-street parking when needed.

Safe and efficient movements of vehicle, bicycles and pedestrians.

The appellants assert that the standards related to safe and efficient movement of vehicles, bicycles and pedestrians is not met. The parking using the alley provides for an opportunity for accidents.

Finding: The Assistant Traffic Engineer has reviewed the proposal and the appellants' testimony and determined that the surrounding street networks and existing sidewalks along the streets provide for "safe and efficient movement of

vehicles, bicycles and pedestrians.” Nebraska Av NE is a local street that allows two-way travel, on-street parking and has sidewalks. The alley in question has 3 access points and has served homes in this area since it was platted in 1904. Vehicular use of the alley is appropriate.

The property is located one block east of Capitol St NE, a major arterial, and half a block south of Market St NE, a major arterial. Both streets provide vehicular access to major points of interest in the city and have sidewalks. No evidence has been submitted to demonstrate any known safety issues related to vehicles, bicycles or pedestrians in the immediate area.

Recycling design and location of facilities.

The appellants assert that the applicant has not shown compliance with for the standards for solid waste areas.

Finding: The applicant has provided findings and evidence that the recycling would meet the design guidelines of SRC 702.040(a)(1). The proposal includes a new waste area less than one cubic yard, therefore SRC 800.055 is not applicable.

Crime Prevention.

The appellants assert that the subject property will illuminate the parking area, walkways, garbage area and inset spaces, which will cause the surrounding properties an unnecessary nuisance.

Finding: The Planning Commission found that the proposal met SRC 702.025, Crime Prevention Through Environmental Design, and is addressed in the August 7, 2019 decision. Lighting for any off-street parking area is prohibited by code from reflecting onto adjacent residentially zoned property or property used for household living (SRC 806.035(l)). Staff will review a lighting plan at the time of building permit to ensure compliance with these standards.

Construction Activity on Alley

The appellants have provided testimony regarding their concerns during construction on the subject property, including paving of the alley. Specifically, they are concerned that existing residences will not have access to their properties during construction.

Finding: A condition of approval requires the applicant to pave a portion of the alley. All construction projects, public or private, have a potential to inconvenience abutting and adjacent residents and it is reasonable to expect alley closures during the required paving. This type of closure is like any other maintenance or repair activities that occur from time to time in alleys, including water and sewer repairs, electrical work and other utility work. The City will require the construction to minimize the disruption and inconvenience while the required improvements are completed.

Noise disturbances are prohibited by SRC Chapter 93, and construction activities are specifically limited to the hours of 7 a.m. to 10 p.m. by SRC 93.020(d). The level of allowable noise during construction activities is also limited by state law. SRC 93 also prohibits idling engines on motor vehicles in a manner that is plainly audible within any dwelling unit for more than 10 minutes between the hours of 10 p.m. and 7 a.m.

5. Public Comments

All property owners within 250 feet of the subject property were mailed notice of the proposal. Notice of public hearing was also posted on the subject property. No written comments were received from surrounding property owners. Four surrounding property owners provided testimony at the hearing, which is summarized below:

Stormwater, Flooding and Erosion

Finding: The general area is not located within a floodplain. The developer is required to design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and Public Works Street Design Standards, which requires post-development peak runoff rates for large projects not exceed the predevelopment peak runoff rate for different types of storm events. Stormwater quality facilities will be required that will reduce the risk of impacts to the adjacent properties.

Alley Safety

Testimony was received about the concern of the additional traffic on the existing alley. The testimony included information about the lack of width of the alley, existing utilities, site distance and possible damage to other properties.

Finding: The existing alley is recorded at 18-feet in width and the applicant will be required to pave the alley 17-feet in width behind the proposed vehicle use area. The Assistant City Traffic Engineer has reviewed the proposal and submitted comments indicating that the access for the three units will be safe, including site distance. As a condition of approval, the applicant will pave the existing alley from 12th Street and will be required to work with any utility agencies for the relocation of poles, guy wires, etc.

Construction

Testimony was received about concerns during construction on the subject property, including paving of the alley.

Finding: Noise disturbances are prohibited by SRC Chapter 93, and construction activities are specifically limited to the hours of 7 a.m. to 10 p.m. by SRC 93.020(d). The level of allowable noise during construction activities is also limited by state law. SRC 93 also prohibits idling engines on motor vehicles in a manner that is plainly audible within any dwelling unit for more than 10 minutes between the hours of 10 p.m. and 7 a.m.

Crime

Finding: Theft or other illegal activity is a police matter and should be addressed by the Salem Police Department, which has law enforcement jurisdiction over the subject property and vicinity. Approval criteria for the proposal do not address anticipated

changes in crime levels, and no evidence has been provided to support the speculation that any crime perpetrated by future residents would exceed what would otherwise occur from any other legal development of property within the City.

Off-Street Parking

Finding: SRC 102.040(j) prohibits on-street parking for more than five days and is enforced by the City's Parking Services Division. Case law precedent prohibits an applicant for a development proposal from being required to mitigate a pre-existing condition in the vicinity.

6. City Department Comments

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

The Fire Department commented that access is required to be provided within 150 feet of all portions of the structures, and a Fire Department turnaround is required if the access road exceeds 150 feet in length. Water supply is determined based on the type of construction and fire area. Water supply is required to be provided within 600 feet of single family dwellings or structures with fire sprinklers, and 400 feet of structures with no fire sprinklers as measured along an approved route. The Fire Department will review access and water supply at time of building permit plan review.

The Public Works Department has reviewed the proposal and provided a memo included as Attachment D.

7. Public Agency & Private Service Provider Comments

Salem Keizer School District has reviewed the proposal and provided a memo included in the record.

FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR CLASS 3 DESIGN REVIEW

8. CLASS 3 DESIGN REVIEW APPROVAL CRITERIA

SRC Chapter 225.005(e)(2) provides that:

A Class 3 Design Review shall be approved if all of the applicable design review guidelines are met.

SRC 702.010 provides that multiple family developments shall comply with all of the applicable design review guidelines set forth in SRC Chapter 702.

Open Space Design Review Guidelines and Standards

702.015(b)(2) – Common Open Space

(A) Common open space shall be provided in all newly constructed multiple family

developments with five or more dwelling units as follows:

- (i) A minimum of 30 percent of the gross site area shall be designated and permanently reserved as common open space.
- (ii) Not more than 50 percent of the common open space shall be located in the required perimeter setbacks of the development.
- (iii) Not more than 15 percent of the common open space shall be located on land with slopes greater than 25 percent.
- (iv) Indoor or covered recreation space may count toward the common open space requirement, provided such indoor or covered space does not exceed 30 percent of the common open space.
- (v) At least one of the common open space areas provided within the development shall meet the size and dimensional standards set forth in Table 702-1

Finding: The proposal is for the redevelopment of an existing multiple family development and is less than five dwelling units, therefore this standard does not apply.

702.015(c)(2) – Children’s Play Areas and Adult Recreation Areas

(A) Outdoor children's play and/or adult recreation areas shall be provided, as set forth in Table 702-2, in all newly constructed multiple family developments with 20 or more dwelling units. Outdoor children's play and/or adult recreation areas count toward meeting the common open space requirement.

Finding: The applicant is proposing three units as part of the re-development of the site, therefore this standard does not apply.

702.015(d)(1) – Private Open Space.

(A) Individual private open space shall be provided for each dwelling unit in all newly constructed multiple family developments.

(B) Private open space shall be easily accessible from the dwelling unit.

(C) If private open space is located adjacent to common open space, a buffer between the two open space areas shall be provided.

Finding: This standard applies to new multi-family developments. The applicant is proposing an addition to the existing dwelling and the addition of a duplex. The proposal includes more than 96 square feet for each dwelling unit with a new six foot wood fence providing privacy. The proposal meets the standard.

Landscaping Design Review Guidelines and Standards

702.020(b)(1) – General Landscaping

- (A) A variety of tree types shall be distributed throughout the site to maximize tree canopy.

Finding: The applicant's preliminary landscape plan indicates that a variety of tree types will be distributed throughout the development site.

- (B) Landscaping shall be used to shield the site from winter winds and summer sun.

Finding: Trees and shrubs will be distributed throughout the development site to provide shade during the summer and to shield from winter winds.

- (C) Existing trees shall be preserved to the maximum extent possible.

Finding: The existing conditions plan indicates that there are 13 existing trees located on the property. Eleven of the trees is designated for preservation.

- (D) Where a development site abuts property zoned Residential Agriculture (RA) or Single Family Residential (RS), an appropriate combination of landscaping and screening shall be provided that is sufficient to buffer between the multiple family development and the abutting RA or RS zoned property.

Finding: The subject property is not adjacent to a RA (Residential Agriculture) or RS (Single Family Residential) zones, therefore the criterion is not applicable.

702.020(c)(1) – Street Frontage

- (A) The residential character of the site shall be enhanced with trees planted within the public right-of-way.

Finding: The preliminary landscaping plan shows street trees exist within the public right-of-way approximately every 40 feet.

702.020(d)(1) – Building Exteriors

- (A) Landscaping shall be planted to define and accentuate the primary entry way of each dwelling unit, or combination of dwelling units.

Finding: Landscaping is provided at the primary of the dwelling units. The Planning Commission finds the guideline is met.

- (B) Vertical and horizontal landscape elements shall be provided along all exterior walls to soften the visual impact of buildings and create residential character.

Finding: The preliminary landscape plan indicates that trees and shrub beds will be provided around the exterior walls of the proposed buildings.

702.020(e)(1) – Privacy

- (A) Landscaping, or a combination of landscaping and fencing, shall be used to buffer the multiple family development from abutting properties.

Finding: Landscaped setback areas and a 6-foot tall sight obscuring fence is proposed around each of the unit's private open space.

- (B) Landscaping shall be used to enhance the privacy of dwelling units. Methods may include fencing in combination with plant units.

Finding: The preliminary landscape plan indicates that trees and shrub beds will be provided around the exterior walls of the proposed building and privacy fencing will be placed at the property lines abutting the existing buildings.

702.020(f)(1) – Parking Areas

- (A) Canopy trees shall be distributed throughout the interior, and planted along the perimeter, of parking areas.

Finding: The applicant's written statement indicates that one plant unit will be provided for every 20 square feet of landscaping and at least 40 percent of the plant units will be trees. The site plan indicates one canopy tree for every 50-feet of perimeter. The preliminary landscape plan indicates that 36% of the site will be landscaped.

Crime Prevention Through Environmental Design

702.025(a)(1) – Safety Features for Residents

- (A) Multiple family developments shall be designed in a manner that considers crime prevention and resident safety.

Finding: The applicant indicates that the new building has windows provided in habitable rooms and windows that face the parking lots and open space areas. The existing buildings has windows provided in habitable rooms and windows facing the parking are and open space areas. Adequate lighting is proposed to illuminate parking areas and walkways.

- (B) Landscaping and fencing shall be provided in a manner that does not obscure visual surveillance of common open space, parking areas, or dwelling unit entryways.

Finding: The preliminary landscape plan and the applicant's statement indicate that no fences or plant materials will be located in areas which obstruct visibility. All landscaping adjacent to open space areas will be low profile and the use of wrought iron fences and gates allow visibility.

Parking, Site Access, and Circulation

702.030(b)(1) – General Parking and Site Access

- (A) Parking areas shall be designed to minimize the expanse of continuous parking.

Finding: Due to the width of the subject property, landscaping cannot be provided within the parking area, which is 1,375 square feet in size. The Planning Commission finds that the guideline is met.

- (B) Pedestrian pathways shall be provided that connect to and between buildings, common open space, parking areas, and surrounding uses.

Finding: The proposed site plan includes pedestrian pathways which connect the parking areas, and open space areas to the multi-family dwelling units.

- (C) Parking shall be located to maximize the convenience of residents.

Finding: A parking area is provided near the rear of development site, in a convenient distance from the proposed multi-family dwelling units.

- (D) Parking areas and circulation systems shall be designed in a manner that considers site topography, natural contours, and any abutting properties zoned Residential Agriculture (RA) or Single Family Residential (RS).

Finding: A proposed parking area is adjacent to a residential zone to the east and west. The applicant is proposing an adjustment to the minimum setback of 10-feet on the east and west property lines to 5-feet. The natural topography is flat and will be set closer to the neighboring property lines than what Code allows. The adjustment criteria is addressed below and with the recommended conditions of approval below, the guideline is met.

702.030(c)(1) – Site Access

- (A) Accessibility to and from the site shall be provided for both automobiles and pedestrians.

Finding: The development site is served by an existing alley at the rear of the property. A pedestrian connection is proposed to the public sidewalk system on Nebraska Avenue.

- (B) Site access shall be provided in a manner that minimizes vehicle and pedestrian conflicts.

Finding: The parking area is in the rear of the development site with access to the alley. Pedestrian access through the site is not adjacent to parking areas or streets and eventually connects to the public sidewalk system at Nebraska Avenue.

- (C) Where possible, driveway access shall be provided onto collector or local streets rather than arterial streets.

Finding: The proposed access is not being provided to an arterial street, but will be adjacent to an existing alley.

- (D) Where possible, driveway access shall be consolidated with either existing or future driveways serving adjacent developments.

Finding: The subject property currently abuts an existing alley, which is proposed for access to the new vehicle use area. As conditioned below, the applicant will be required to pave the alley 17-feet from the abutting property line, which provide adequate space for maneuvering.

- (E) Parking areas shall be located to minimize their visibility from the public right-of-way and abutting properties.

Finding: The proposed parking area is in the rear of the property. The preliminary landscaping plan indicates that the parking areas will be screened from view by the existing buildings, shrubs and trees; therefore, minimizing their visibility from the public right-of-way.

Building Mass & Façade Design

702.035(b)(1) – General Siting and Building Mass

- (A) Buildings shall be sited with sensitivity to topography and natural landform.

Finding: The development site is relatively flat and does not contain and areas of mapped landslide hazards.

- (B) The development shall be designed to reinforce human scale.

Finding: The proposed single story buildings comply with height and setback requirements of the underlying zone.

- (C) Buildings with long monotonous exterior walls shall be avoided.

Finding: Building offsets are provided in the design for each building. No dimension exceeds more than 150 feet in length.

702.035(c)(1) – Compatibility

- (A) Contrast and compatibility shall be provided throughout the site through building design, size, and location.

Finding: Horizontal and vertical building offsets are provided in the design for each building. No dimension exceeds more than 150 feet in length. The proposed building setbacks and building height comply with the standards and guidelines for multi-family development.

- (B) Appropriate transitions shall be provided between new buildings and structures

on-site and existing buildings and structures on abutting sites.

Finding: The proposed buildings comply with height and setback requirements of the RM-II zone. The building height and setbacks proposed provide a separation and transitional area between existing buildings on abutting sites.

- (C) Architectural elements and façade materials shall be used to provide continuity throughout the site.

Finding: The proposed single story building provides offsets front entry. The roof is similar to the residential neighborhood in the area.

- (D) The majority of dwelling units within the development shall be placed as close as possible to the street right-of-way.

Finding: The proposed site plan shows the existing dwelling is approximately 20-feet from the right-of-way. The setback for buildings abutting a street is 12-feet. Since the buildings are existing, the buildings are placed as close as possible.

- (E) Architecturally defined and covered entryways shall be incorporated into the design of buildings.

Finding: The proposed and existing buildings will have covered entry ways as part of the design of the primary entrance for each of the buildings.

702.035(d)(1) – Building Articulation

- (A) The appearance of building bulk shall be minimized by:

(i) Establishing a building offset interval along building facades; and

Finding: The proposed new building provides an offset for the covered entry. None of the buildings are more than two units and articulation is not required.

(ii) Dispersing windows throughout building facades.

Finding: The design standards require windows to be provided in all habitable rooms, other than bathrooms, that face required setbacks, common open areas, and parking areas.

The proposed plans indicate that windows will provided in habitable space which faces common open space and parking areas.

- (B) Articulation shall be provided at the common entry way to all residential buildings.

Finding: Covered entry ways, which are clearly defined and accessible, are provided for at the common entries for each building.

- (C) Building roofs shall reinforce the residential character of the neighborhood.

Finding: The design standards require that the horizontal length of roof shall not exceed 100 feet without providing a change of elevation of at least 4 feet. The proposed design does not include a horizontal roof length does not exceed 100 feet, in compliance with the corresponding design standard.

Recycling

702.040(a)(1) – On-Site Design and Location of Facilities

- (A) Facilities shall be provided to allow recycling opportunities for tenants that are as conveniently located as the trash receptacles, and that are in compliance with any applicable federal, state, or local laws.

Finding: The site plan includes a trash and recycling areas to serve residents which will be screened from the street and dwelling units. The applicant provides written testimony that due to the size of the subject property covering the recycling is not feasible. The proposed site plan does not indicate details of the recycling and solid waste receptacle area, therefore as conditioned below prior to building permit issuance, the applicant shall provide evidence that the proposed solid waste service area will comply with the standards of SRC 800.055.

- (B) The design and materials of recycling areas shall be similar to the design and materials of the buildings within the development.

Finding: The site plan includes a trash and recycling areas to serve residents. The proposed site plan does not indicate details of the recycling and solid waste receptacle area, therefore the following condition is necessary:

Condition 1: The recycling area shall be similar materials and design as the proposed development.

- (C) Recycling areas shall be located to provide adequate access for franchised haulers, and shall have containers sufficient to allow collection of all recyclables collected by the haulers.

Finding: The site plan includes a trash and recycling areas to serve residents. The proposed site plan does not indicate details of the recycling and solid waste receptacle area. As conditioned below the proposed enclosure will meet the solid waste service area requirements of SRC Chapter 800.055, including requirements for vehicle operation and servicing area. Adequate space is provided to allow for the servicing of recyclables.

FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR CLASS 3 SITE PLAN REVIEW

9. CLASS 3 SITE PLAN REVIEW APPROVAL CRITERIA

Site plan review is required for any development that requires a building permit, unless the development is identified as being exempt from site plan review under SRC 220.005(a)(2). Class 3 Site Plan Review is required for development proposals that involve a land use decision or limited land use decision as defined under ORS 197.015. Because the proposed development involves a Class 3 Design Review and Class 2 Adjustment, the proposed site plan review must be processed as a Class 3 Site Plan Review.

Salem Revised Code (SRC) 220.005(f)(3) sets forth the following criteria that must be met before approval can be granted to an application for Class 3 Site Plan Review. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Class 3 Site Plan Review application, or for the issuance of certain conditions to ensure the criteria are met.

(A) The application meets all applicable standards of the UDC.

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

Criterion 1:

The application meets all applicable standards of the UDC.

Finding: The proposal includes a request to develop a three-unit apartment complex for property with the RM-II (Multi-Family Residential). The following is a summary of the use and development standards of the RM-II zone (SRC Chapter 514).

Development Standards – RM-II Zone:

SRC 514.005(a) - Uses:

Except as otherwise provided in Chapter 514, the permitted, special, conditional and prohibited uses in the RM-II zone are set forth in Table 514-1.

Finding: Multifamily uses are allowed as a permitted use in the RM-II zone per Table 514-1.

SRC 514.010(b) – Lot Standards:

Lots within the RM-II zone shall conform to the standards set forth in Table 514-2. The minimum lot area for a multi-family use in the RM-II zone is 4,000 square feet.

Finding: The RM-II portion of the subject property is approximately 8,712 square feet in size, exceeding the minimum lot size requirement.

SRC 514.010(c) – Dwelling Unit Density:

Dwelling unit density within the RM-II zone shall conform to the standards set forth in Table 514-3. Maximum dwelling unit density cannot be varied or adjusted.

Finding: The property is 8,712 square feet in size requiring a minimum of three dwelling units which is the applicant's proposal, in compliance with the density allowance in Table 514-3.

SRC 514.010(d) – Setbacks:

Setbacks within the RM-II zone shall be provided as set forth in Tables 514-4 and 514-5.

North: The property is adjacent to a public alley to the north. Zone-to-zone setbacks are not required abutting an alley.

South: Adjacent to the south is right-of-way for Nebraska Avenue NE. Multi-family buildings require a minimum 12 foot building setback, plus 1 foot for each 1 foot of height over 12 feet, but need not exceed 20 feet in depth. Vehicle use areas require a minimum 12 foot setback adjacent to a street.

Finding: The existing building is approximately 19-feet from the right of way. The addition and duplex are greater than the 20-foot minimum setback.

East: Adjacent to the east is property zoned RM-II (Multi-Family Residential). Per Table 514-5, a minimum 10 foot building and vehicle use area is required adjacent to a residential zone. Required landscaping shall meet the Type C standard set forth in SRC Chapter 807. Type C landscaping includes a minimum of 1 plant unit per 20 square feet of landscape area and installation of a 6-foot-tall sight obscuring fence or wall.

Finding: Proposed building and addition are setback 10 feet or greater from the eastern property line, meeting or exceeding the minimum setback requirement. The proposed vehicle use area is setback 5-feet from the eastern property, not meeting the standard. The applicant has requested an adjustment which is addressed in Section 8 below.

West: Adjacent to the west is property zoned RM-II (Multi-Family Residential). Per Table 514-5, a minimum 10 foot building and vehicle use area is required adjacent to a residential zone. Required landscaping shall meet the Type C standard set forth in SRC Chapter 807. Type C landscaping includes a minimum of 1 plant unit per 20 square feet of landscape area and installation of a 6-foot-tall sight obscuring fence or wall.

Finding: The existing dwelling is setback approximately four feet from the west property, which is non-conforming. The new development is proposed to be 10-feet from the west property line with landscaping and a walkway. The proposed vehicle use area is setback 5-feet from the western property, not meeting the standard. The applicant has requested an adjustment which is addressed in Section 8 below.

SRC 514.010(e) - Lot Coverage, Height:

The maximum lot coverage allowance for all uses in the RM-II zone is 50 percent. The maximum building height allowance for multi-family uses is 50 feet.

Finding: The site plan indicates that the proposed multi-family buildings have a footprint of approximately 2,800 square feet, for a lot coverage of approximately 33 percent ($2,800 / 8,580 = 32.6$) for the total site, less than the maximum lot coverage requirement of the RM-II zone. The average height for proposed duplex is 12 feet, and for the addition to the dwelling the average height is approximately 12.5 feet in height, less than the 50 foot maximum height allowance.

SRC 514.010(g) - Landscaping:

Landscaping within the RM-II zone shall be provided as set forth in this subsection.

- (1) **Setbacks.** Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) **Vehicle Use Areas.** Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.

Finding: Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC Chapters 806 and 807 at the time of building permit application review.

SRC 514.010(h) – Outdoor Storage:

Within the RM-II zone, outdoor storage shall be screened from streets and adjacent properties by a minimum 6-foot high sight-obscuring fence, wall, or hedge.

Finding: Outdoor storage areas are not provided for the proposed use.

SRC 514.015 – Design Review:

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

Finding: A Class 3 Design Review application has been submitted for the proposed multi-family development, findings are included in Section 6 of this report.

General Development Standards SRC 800

SRC 800.055(a) – Applicability.

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

Finding: The proposed development includes a new solid waste service area with a receptacle size less than 1 cubic yard, therefore the standards of SRC 800.055 are not applicable.

Off-Street Parking, Loading, and Driveways SRC 806

SRC 806.005 - Off-Street Parking; When Required.

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

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

Required off-street parking shall be located on the same development site as the use or activity it serves; or, within residential zones, required off-street parking may be located within 200 feet of the development site containing the use or activity it serves.

Finding: Required off-street parking spaces are provided on the same development site as the use or activity it serves.

SRC 806.015 - Amount of Off-Street Parking.

- a) ***Minimum Required Off-Street Parking.*** The minimum number of off-street parking spaces required for a multi-family use with three units is 2 spaces per dwelling unit.
- b) ***Compact Parking.*** Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- c) ***Carpool and Vanpool Parking.*** New developments with 60 or more required off-street parking spaces, and falling within the Public Services and Industrial use classifications, and the Business and Professional Services use category, shall designate a minimum of 5 percent of their total off-street parking spaces for carpool or vanpool parking.
- d) ***Maximum Off-Street Parking.*** Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2.

Finding: The proposed three dwelling unit multi-family apartment complex requires a minimum of six off-street parking spaces ($3 \times 2 = 6$). The maximum off-street parking allowance for the use is 292 spaces ($6 \times 2.5 = 15$). The applicant has requested a zoning adjustment in order to provide five spaces instead of the required six spaces. The zoning adjustment request is analyzed in Section 8.

All spaces are proposed as standard parking spaces. Carpool/vanpool spaces are not required for the proposed multi-family residential use.

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

Unless otherwise provided under the UDC, off-street parking and vehicle use areas, other than driveways and loading areas, for uses or activities other than Single Family and Two Family shall be developed and maintained as provided in this section.

- a) ***General Applicability.*** The off-street parking and vehicle use area development standards set forth in this section apply to:

1. The development of new off-street parking and vehicle use areas.
2. The expansion of existing off-street parking and vehicle use areas, where additional paved surface is added.
3. The alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and
4. The paving of an un-paved area.

Finding: Off-street parking and vehicle use area development standards apply to the new off-street parking area.

- b) **Location.** Off-street parking and vehicle use areas shall not be located within required setbacks.

Finding: The proposed off-street parking area complies with all applicable setback requirements.

- c) **Perimeter Setbacks and Landscaping.** Perimeter setbacks shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures.

Where an off-street parking or vehicular use area is located adjacent to a building or structure, the off-street parking or vehicle use area shall be setback from the exterior wall of the building or structure by a minimum 5-foot-wide landscape strip or by a minimum 5-foot-wide paved pedestrian walkway.

Finding: The proposed off-street parking area complies with all applicable perimeter and interior setback requirements.

- d) **Interior Landscaping.** Interior landscaping shall be required for off-street parking areas 5,000 square feet or greater in size.

Finding: Off-street parking areas does not exceed 5,000 square feet in size, therefore this standard is not applicable.

A minimum of one deciduous shade tree is proposed for every 12 parking spaces.

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

Finding: The proposed off-street parking spaces are sufficient to meet the minimum dimensions for standard.

- f) **Additional Off-Street Parking Area Development Standards 806.035(f-m).**

Finding: The proposed off-street parking area is developed consistent with the additional standards for grade, surfacing, and drainage. Bumper guards or wheel barriers are not required for the proposed off-street parking area. The striping, and lighting will meet the standards of SRC 806.

The proposed parking area has 5 spaces and is not required to be screened from abutting residentially zoned property.

Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided and maintained for any new use or activity.

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

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

SRC 806.055 - Amount of Bicycle Parking.

A multi-family use is required to have the greater of 4 bicycle spaces or a minimum of 0.1 bicycle spaces per dwelling unit.

Finding: The proposed three-unit apartment complex requires a minimum of four bicycle parking spaces. The proposed site plan indicates that bicycle racks with a total of six bicycle parking spaces will be provided.

SRC 806.060 – Bicycle Parking Development Standards

Unless otherwise provided under the UDC, bicycle parking areas shall be developed and maintained as set forth in this section.

- a) Location. Bicycle parking areas shall be located within a convenient distance of, and shall be clearly visible from, the primary building entrance. In no event shall bicycle parking areas be located more than 50 feet from the primary building entrance.
- b) Access. Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance.
- c) Dimensions. Bicycle parking spaces shall be a minimum of 6 feet by 2 feet, and shall be served by a minimum 4-foot-wide access aisle.
- d) Bicycle Racks. Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall accommodate the bicyclist's own locking device.

Finding: The proposed bicycle parking spaces are within 50 feet of the main entry for the buildings. Dimensions and design of the bicycle parking spaces will be reviewed at the time of Building Permit.

Off-Street Loading Areas

SRC 806.065 - General Applicability.

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

SRC 806.070 – Proximity of Off-Street Loading Areas to Use or Activity Served.

Off-street loading shall be located on the same development site as the use or activity it serves.

SRC 806.075 - Amount of Off-Street Loading.

For multiple family uses containing less than 49 units, two off-street loading spaces are required per Table 806-9.

Finding: The proposal is to develop a three unit multi-family complex, therefore this standard is not applicable.

Landscaping

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

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

Finding: The proposed site plan indicates that 3,084 square feet of landscaping is provided for the development site. A minimum of 154 plant units are required for the proposed development ($3,084 / 20 = 154.2$). Of the required plant units, a minimum of 62 plant units shall be a combination of mature trees, shade tree, evergreen/conifer trees, or ornamental trees.

Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review.

SRC 807.030(d) – Tree Replanting Requirements.

In addition to the landscaping required under this chapter, when existing trees, as defined under SRC Chapter 808, are proposed for removal from within required setbacks or from a development site, replanting shall be required as provided in this subsection.

Subsection(2) provides that when more than 75 percent of the existing trees, as defined under SRC Chapter 808, on a development site are proposed for removal, two new trees shall be planted for each tree removed in excess of 75 percent. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5 inches caliper. For purposes of this section, existing trees within vision clearance areas, or within areas to be cleared for required roads, utilities, sidewalks, trails, or stormwater facilities, shall not be counted in the total percentage of trees removed from the development site.

Finding: The applicant's existing conditions plan indicates that there are 12 trees on the subject property. The applicant is proposing to remove two trees (22" Apple tree and 21" Cedar). The proposal will retain more than 75 percent of the existing trees.

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.

The applicant's existing conditions plan indicates that there are 12 trees on the subject property. The applicant is proposing to remove two trees (22" Apple tree and 21" Cedar). The proposal will retain more than 75 percent of the existing trees.

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

According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas.

SRC 810 - Landslide Hazards: According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are mapped 2-point landslide hazard areas on the subject property. The proposed multi-family residential activity adds two activity points to the proposal, which results in a total of four points, indicating a low landslide risk, therefore a geologic assessment is not required for the proposed development.

Criterion 2:

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

Finding: The subject property abuts Nebraska Avenue NE, which meets the criteria for an alternative street standard pursuant to SRC 803.065(a)(2). The alternative street standard recognizes the existing right-of-way width and pavement width met the standards that were in place at the time of construction. The proposed development will generate less than 20 additional trips and therefore meets the exemptions of SRC 803.040(d) for boundary street improvements. Nebraska Avenue currently has property line sidewalks, travel lanes and existing street trees abutting the property. No additional street improvements are required as a condition of the proposed development.

Criterion 3:

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

Finding: The applicant is proposing to take vehicular access from the alley abutting the property to the north. The alley is currently unimproved. In order to facilitate the safe and efficient movement of vehicles and bicycles, the applicant shall pave the alley abutting the subject property from the west boundary of the subject property to 12th Street NE pursuant to PWDS. The pavement shall abut the south right-of-way line of the alley and shall be a minimum of 17 feet wide. With completion of this condition, the driveway access onto the alley provides for safe turning movements into and out of the property.

Condition 2: The applicant shall pave the alley abutting the subject property from the west boundary of the subject property to 12th Street NE pursuant to PWDS. The pavement shall abut the south right-of-way line of the alley and shall be a minimum of 17 feet wide.

Criterion 4:

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

Finding: The Public Works Department has reviewed the applicant's preliminary plan for this site. The water and sewer infrastructure is available within surrounding streets/areas and is adequate to serve the proposed development. The nearest available stormwater facilities are located in 12th Street NE to the east and in Capitol Street NE to the west.

The applicant shall be required to design and construct a storm drainage system at the time of development. The applicant's engineer submitted a statement demonstrating compliance with SRC Chapter 71 because the project involves less than 10,000 square feet of new or replaced impervious surface. The applicant shall demonstrate that new areas of impervious surface shall be safely conveyed to an approved point of discharge pursuant to SRC 71.075(a).

Condition 3: Design and construct a storm drainage system at the time of development in SRC Chapter 71 and PWDS.

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

**FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL
CRITERIA FOR CLASS 2 ADJUSTMENT**

10. CLASS 2 ADJUSTMENT APPROVAL CRITERIA

Salem Revised Code (SRC) 250.005(d)(2) sets forth the following criteria that must be met before approval can be granted to an application for a Class 2 Adjustment. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the

Class 2 Adjustment application, or for the issuance of certain conditions to ensure the criteria are met.

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

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

Finding: *Reduce the required vehicle use are setback from the RM-II (Multi-Family Residential) zone to the east and west from 10 feet to 5 feet.*

The subject property is approximately 0.20 acres in size and is rather narrow at approximately 55 feet in width. Full compliance with the minimum setbacks for the vehicle use area creates a difficulty in this case due to the narrowness of the lot. The proposed vehicle use area is oriented with vehicles entering into the site to the south. This will reduce headlights on neighboring properties and with the proposed conditions of approval the impact would be minimal. The Planning Commission finds that to equally or better meet the proposed development standard, a 6-foot-tall sight obscuring fence along the east and west property lines adjacent to the parking area, and providing landscaping in the setback areas will meet or exceeds the landscaping that would be required had the full setback been required.

Condition 4: A minimum of 13 plant units shall be provided between the vehicle use and the eastern property line.

Condition 5: A minimum of 13 plant units shall be provided between the vehicle use and the western property line.

Condition 6: A minimum 6-foot-tall site obscuring fence shall be provided along the eastern and western interior property lines abutting the proposed vehicle use area. The fence 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 request to reduce the setback area, while providing a sight-obscuring fence and a greater density of landscaping provides a buffer between the subject property and abutting residential use which equally or better meets the intent of the setback requirements.

Reduce the required parking spaces from six spaces to five spaces:

The applicant's complete written statement addressing the Adjustment criteria is included as Attachment C. The applicant is requesting to reduce the number of required off-street parking spaces for a multi-family use from six spaces to five spaces, a 17 percent reduction to the minimum off-street parking requirement of SRC Chapter 806. The applicant requested that both adjustments be reviewed as Class 2 Adjustment applications.

The proposal is to construct a duplex and addition to an existing single family dwelling. The applicant indicates that additional bicycle parking spaces will be provided to equally meet the development standard. The applicant is required to provide two spaces per unit since only three units are proposed. Multi-family developments with more than three units are required to provide 1.5 spaces per unit. The proposal would meet the standard for the larger multi-family development and will provide two additional bicycle parking spaces.

Any future development, beyond what is shown in the proposed plans, shall conform to the minimum off-street parking requirements of SRC Chapter 806, unless adjusted through a future land use action.

Condition 7: The reduction in the minimum off-street parking requirement for a three unit multi-family development, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to the minimum off-street parking requirements of SRC Chapter 806, unless adjusted through a future land use action.

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

Finding: A greater density of plant units, including trees and shrubs, will be provided in the proposed setback areas, in order to equally or better comply with the minimum landscaping standard. The reduced setback area will meet the intent of providing a physical and visual buffer between abutting uses, and will not detract from the livability or appearance of the residential area. The additional bicycles parking spaces and reduction in a parking space will be consistent with the surrounding residential area.

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

Finding: Two adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code.

Any future development, beyond what is shown in the proposed plans, shall conform to the minimum setback requirements, unless adjusted through a future land use action.

CONCLUSION

Based on the facts and findings presented herein, the Planning Commission concludes that the proposed Class 3 Design Review, Class 3 Site Plan Review, and Class 2 Adjustment, as recommended to be conditioned, satisfy the applicable criteria contained under SRC 225.005(e)(2), SRC 220.005(f)(3), and SRC 250.005(d)(2), for approval.

- Condition 1:** The recycling area shall be similar materials and design as the proposed development.
- Condition 2:** The applicant shall pave the alley abutting the subject property from the west boundary of the subject property to 12th Street NE pursuant to PWDS. The pavement shall abut the south right-of-way line of the alley and shall be a minimum of 17 feet wide.
- Condition 3:** Design and construct a storm drainage system at the time of development in SRC Chapter 71 and PWDS.
- Condition 4:** A minimum of 13 plant units shall be provided between the vehicle use and the eastern property line.
- Condition 5:** A minimum of 13 plant units shall be provided between the vehicle use and the western property line.
- Condition 6:** A minimum 6-foot-tall site obscuring fence shall be provided along the eastern and western interior property lines abutting the proposed vehicle use area. The fence 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.
- Condition 7:** The reduction in the minimum off-street parking requirement for a three unit multi-family development, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to the minimum off-street parking requirements of SRC Chapter 806, unless adjusted through a future land use action.