

Amy Johnson

From: STEVEN ANDERSON <andersonriskanalysis@comcast.net>
Sent: Monday, October 28, 2019 8:45 AM
To: CityRecorder
Subject: Fwd: Information for Council on Appeal CPC-ZC-ZC19-10 Riverbent Phase II
Attachments: Appeal Testimony Riverbend Phase II WSNA Appellant.pdf

Per auto response this has been forwarded to your office for action to include in materials to council for tonight's meeting.

Thank you.

Steve Anderson, WSNA Land Use Chair

----- Original Message -----

From: STEVEN ANDERSON <andersonriskanalysis@comcast.net>
To: citycouncil@cityofsalem.net
Cc: EM Easterly <emeasterly@comcast.net>, Ken Bierly <bierlyskl@gmail.com>, gergesdan@gmail.com, clarkjms@gmail.com
Date: October 28, 2019 at 8:37 AM
Subject: Information for Council on Appeal CPC-ZC-ZC19-10 Riverbent Phase II

Please distribute the attached PDF to council for the appeal hearing tonight: CPC-ZC-ZC19-10 Riverbend Phase II

Please confirm receipt of this document to: andersonriskanalysis@comcast.net

Any questions, please let me know.

Thank you.

Steve Anderson, WSNA Land Use Chair

October 28, 2019

TO: Mayor and City Council
FR: Appellant, West Salem Neighborhood Association, Steven A. Anderson
RE: Appeal of Case No. CPC-ZC-ZC19-10 Riverbend Phase II

On 20 September 2019 the West Salem Neighborhood Association (WSNA) filed an appeal requesting that the City Council review the findings in this case. The WSNA request that Council return this Planning Commission decision to staff with a request to provide conditions of approval addressing the three points appealed by the WSNA (Attachment D, Staff Report 28 October 2019).

Points one and three will be covered in testimony from members of the WSNA Land Use Committee. I shall provide testimony addressing point two pertaining to failure of staff to address requirements of Goal 12, OAR 660-12-0060, State and City Transportation Planning Rules (TRP), the Oregon Highway Plan (OHP Section 1F.5), and the ODOT guidance document on how to implement said rules and regulations. Staff did not do their due diligence here and made false testimony to the Planning Commission in this matter that prejudiced their decision. Therefore, the appeal.

Staff asserted, based upon their testimony to the Planning Commission, that they made their finding of “no significant effect” based upon the conclusions presented in the applicant’s Transportation Impact Analysis (TIA). We assert that staff made this finding in error, did not do their due diligence, and did not follow all applicable rules and regulations and policies required in this matter.

Staff in their 28 October 2109 report to City Council (page 5 of 7) recognizes that “the entire length of Wallace Road NW within the City limits is under the jurisdiction of ODOT; therefore, the operating standards and policies of ODOT apply”. In spite of this recognition, Staff offers no justification as to why they did not follow these applicable rules and regulations and policies. Additionally, no rationale as to why they were exempt from following the applicable rules and regulations and policies. In fact, they testified that they did not follow these applicable rules and regulations and policies when commenting on the flow chart presented in the WSNA testimony. They simply asserted that they were relying on the conclusions in the applicant’s TIA in making their statement of “no significant effect” in response to Planning Commission questions.

We will offer testimony as to these failures to follow applicable rules and regulations and policies. Will show why this application must be returned to staff to correct these errors. We are asking that staff come forth with conditions that mitigate the increased traffic volume impacts of the Riverbend Phase II project in order to “do no harm” to the Wallace Road transportation system as required. Simple logic would suggest that adding an additional 1,609 trips from Riverbend Phase II to Wallace Road along with the already trip-capped limit of 1,083 trips from Riverbend Phase I (2,692 totals trips) at the same location will produce significant traffic impacts on Wallace Road. **WALLACE ROAD RIGHT NOW IS NOT MEETING MOBILITY STANDARDS.**

Furthermore, we will show that the application of ODOT rules and regulations and policies, as required here, do not invoke the case law provisions of Nolan and Dolan as asserted by staff (28 October 2019 Staff Report to City Council page 6 of 7).

We believe that City Council should return this application to staff to include conditions as asked for by the WSNA, especially mitigation for increased traffic volume impacts along Wallace Road as required. By doing so we, the entire Salem Community, will achieve the addition of an important project for our community; a project that will have the least impacts on our community per applicable rules and regulations and policies that, to-date, have not been complied with.

Thank you.

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From: Linda Bierly <bierlyskl@gmail.com>
Sent: Sunday, October 27, 2019 6:26 AM
To: citycouncil
Cc: Anderson, Steve; dan gerges; James Clark; E. Easterly; Geoffrey James
Subject: testimony for City Council public hearing on CPC-ZC-ZC19-10
Attachments: testimony for Public Hearing on CPC-ZC-ZC19-10.pdf; west-salem-neighborhood-association-minutes-2019-09-16-draft.pdf

Hello,

My testimony for the City Council public hearing on CPC-ZC-ZC19-10 and the supporting document West Salem Neighborhood draft minutes for September 16, 2019 are attached. The draft minutes were approved as written at the WSNA meeting of October 21, 2019.

Thank you,

Linda Bierly

2308 Ptarmigan St. NW

Salem, OR 97304

Ward 8

Mayor Bennett and Councilors,

Thank you for the opportunity to offer testimony in the public hearing for the West Salem Neighborhood Association (WSNA) appeal of the Planning Commission's decision to approve Comprehensive Plan Change / Zone Change / Zone Change No. CPC-ZC-ZC19-10.

The West Salem Neighborhood Association asked that 3 conditions be placed on the approval of CPC-ZC-ZC19-10. The second condition of the three is a request that the use of the SDCs (Systems Development Charges) generated by this development be used to mitigate the traffic impacts of the development. This is documented in the WSNA September 16, 2019 minutes, attached to this e-mail.

The Planning Commission declined to apply this condition to the project and responded as follows:

"All new development in the City pays a required Transportation System Development Charge (TSDC) that was adopted by City Council. The TSDC fee is collected to partially fund growth-related transportation projects that are identified on the eligible projects list. These projects are distributed throughout the City, and it would be unlikely to reallocate all of the TSDC funds collected from West Salem developments to improvements in West Salem. Allocation of TSDC's is a City Council decision and is not appropriate consideration to this land use case. Therefore, the Planning Commission declined to impose the requested condition for designation of SDCs toward Wallace Road NW and West Salem projects."¹

This phrase "*Allocation of TSDC's is a City Council decision and is not appropriate consideration to this land use case*" is why I² am here to ask you to consider updating the CIP budget list to add the installation of a signal light at the Brush College Road NW / Wallace Road NW intersection. This project is on the 309 Project list and shown as funded in the SDC Methodology Report on page 25.

If this proposed development does become a center, the additional traffic and activity it will generate justifies the need for additional traffic control in the area. A signal light will provide a safer intersection and meter the traffic flow along Wallace Road. While it will not lower traffic volume, it will mitigate the long wait times at Wallace Road intersections by keeping a slower, steadier traffic flow.

This is not a direct allocation of locally generated TSDCs but it does direct TSDC funds to an area of need in West Salem that is not far from the proposed project and addresses a need generated at least in part by this project.

I understand that placing this signal will require permission from the Oregon Department of Transportation (ODOT) but I ask that City Council direct staff to begin this process.

Linda Bierly 2308 Ptarmigan St. NW Salem, OR 97304 Ward 8

¹ CPC-ZC-ZC19-10/City Council Staff Report

² *The following comments are my own, speaking as a volunteer member of the WSNA Land Use Committee. The WSNA has neither heard nor affirmed the following proposal.*²

Draft Meeting Minutes – WSNA – 2019-09-16

(To be voted on for approval at 2019-10-21 meeting)

Jim Allhiser called the meeting to order at 7PM. 34 members signed the roster, but more bodies were present. Mike Evans moves to approve minutes – second by Kevin Chambers. Vote unanimous approval.

Presentation: Brandi Dalton Multi-Tech Engineering (bdalton@mtengineering.net – 503-363-9227)

Dan Dobson – Developer - Titan Hill Properties NW Corner of Orchard Heights and Doaks Ferry

109 homes Preliminary idea of lots shown on map – not yet submitted to the city.

Question about Traffic Impact Analysis and request that mitigations be done first to see if they are adequate to offset the proposal's impact.

Question about who is building the homes - Wind River. Banner Homes. 2 homebuilders partnered with.

Question about Min sq ft per lot? Min sq ft per lot is on the map (tiny)

Question about Min sq ft per home? Builder will decide. Not done yet.

Reports:

Salem Police – Officer Brian Davis

Fewer car break-ins and theft reported. Homeless are moving out of parks. They have been evicted out of the quarry property, and there soon will be an effort to enforce eviction from adjacent property. Be aware of kids and school zones now that school is back in session. Beware of warming vehicles in a manner where they can be stolen. Review the information provided about the proposed sit lie ordinance. There are fliers on table. Read more here:

<https://www.cityofsalem.net/Pages/salem-responds-to-growing-concerns-of-activities-in-public-right-of-way-including-sidewalks-and-parking-strips.aspx>

City Councilor Cara Kaser – Absent

City Councilor Jim Lewis – Over 75,000 hours total volunteered to the city. Fun awards ceremony this evening.

The City's 2 fund raising proposals are the Employee tax – asked to refer to voters and that it be used for public safety only. Possibly on May or Nov 2020 ballot. Tax on anyone who works in the City of Salem. Specifics yet to be determined. Second, the city operating fee – collected by means of a fee on your city utility bill. Approx. \$8/month for single family residence. First reading of the ordinance soon. Send in written comment. You can also comment at the council meeting.

Questions – What is the bill we can comment on?

Agenda Item 7.1C 12-19 Ordinance Bill

Sit/Lie Ordinance. If in fact it is true that homeless now have a place to go, then maybe it is time for an ordinance like this. Another forum will be soon to hear from the homeless populations.

Question - Where would they go? City Parks during the day are open to everyone. Union Gospel Mission. HOPE. And more.

Land use issues – ex parte I can't participate in discussions or be privy to information that any other councilor or citizen was not privy to, such as conversations, emails, otherwise.

It was fun to present an award to an 18-year-old from South Salem, now attends U of O. She volunteered time to generate funds for a shower trailer for the homeless that is now available.

Land Use – Steve Anderson (speaking for Sarah DuVal)

Need for people to be on the land use committee. Please, if you are interested, contact Jim or Sarah.

Extensive discussion around 2 issues, related yet separate.

1 – discussion to appeal Planning Commission’s decision regarding Phase 2 of the Riverbend project on the grounds that traffic impacts, studies, mitigations, etc. including comments from WSNA were not considered and were not even consistent with Phase 1 of the project.

2 – discussion to raise issue to the City Council to discuss what the traffic infrastructure plans are for West Salem now that no third bridge is being considered. Since the Salem River Crossing studies are “thrown out” allegedly the traffic counts and studies done to support that effort have no basis or standing for consideration in any current land use issue. That is, since we threw out the data that shows Glen Creek and Orchard Heights at Wallace Road are “failed” in terms of capacity; we don’t have any data to cite that they are failed, so, they aren’t. As such, no mitigations or considerations necessitated by ODOT or other planning goals apply, because there’s no data to show that the intersections have failed. But, anyone who commutes in the morning can tell you the traffic didn’t disappear just because we threw away the studies from SKATS/MWVCOG.

Furthermore, extensive discussion about how in general all members present at the meeting felt that the city services they receive are not commensurate with the taxes they pay. That is, their level of service for police patrols, emergency public works equipment, and other basic city services are at a lower per-capita level than the rest of the city.

Additionally, extensive discussion that traffic mitigations such as trip caps are not effective because not to anyone’s knowledge has anyone ever “enforced” a trip cap. That is, who measures the trips after a development is done. How does one enforce a trip cap? How many times has a trip cap been enforced by either restricting traffic or imposing fines? Who gets fined? Who gets fined 10 years from now?

Lastly, extensive discussion that the land use planning process does not take into account the cumulative effects of development over time, and that no link exists between the cumulative effects and road infrastructure improvement processes. Discussion that 309 lists (infrastructure improvement projects) are not prioritized based on where the funding (systems development charges) actually came from.

Motion by Kevin Chambers to appeal the riverbend decision based upon the information in the traffic analysis versus Statewide planning goals, and **motion** to discuss at city council the 3 bullet points raised by our land use committee and the letter from WSNA’s past regarding infrastructure improvements.

Second by Craig Evans

Vote: 30 Aye, 0 Nay, 0 abstain

Motion passes

Transit - Absent

WSBA – Tim Klarr (past president)

What happens if the earthquake comes? Business community participation? Thoughts around accumulating a “registry” of heavy equipment or other assets our business community has that they might be willing to use / share during an emergency. Helping identify areas of assembly for emergency assistance (water, food, etc). WSBA elections coming up in November. WSBA meetings every 4th Thursday for lunch, but 2 months it is the third (spring break and November (thanksgiving)). 1st Wednesdays board meetings at Salem Electric 3pm.

Traffic – Nick Fortey

Blackberries at Eagle (something) were cleared/corrected. Repair of sidewalk and railing on Cascade/Rosemont will happen. Comment - Ask for 7th and McNary school crossing or crosswalk notifications, potentially a 4 way stop or other solution to speeding versus children walking to school.

Parks – Micki Varney - Absent**Edgewater – Steve Anderson**

Thanks for supporting the farmer's market. This month's "walking cruise" is supporting the Mad Hatter Dash. September 28th – Mad Hatter Dash 5K fun run – wear exciting hat or costume. Supports Salem Dream Center. @Madhatterdash

Watershed – E.M. Easterly

No longer funded by State Water Resources Department. Project to assess the Willamette River upcoming, specifics being still defined.

Old Business –**New Business –**

Nominations – Kevin Chambers – for Chair, by Jim Allhiser

Phone to call Kevin in case you want to discuss anything is 503-586-8188.

GOALS Discussion:

Renew all current goals as goals for 2019-2020. Remove Salem River Crossing and simplify to either "3rd bridge" or "additional river crossing." Add goal to suggest that emergency "public works" equipment be staged at a location in West Salem. Discussion that there may be a funding mechanism or other mechanism to obtain equipment via a State legislative program, where Polk County would have to agree to maintain the equipment, but the original purchase cost or lease cost is picked up by the State.

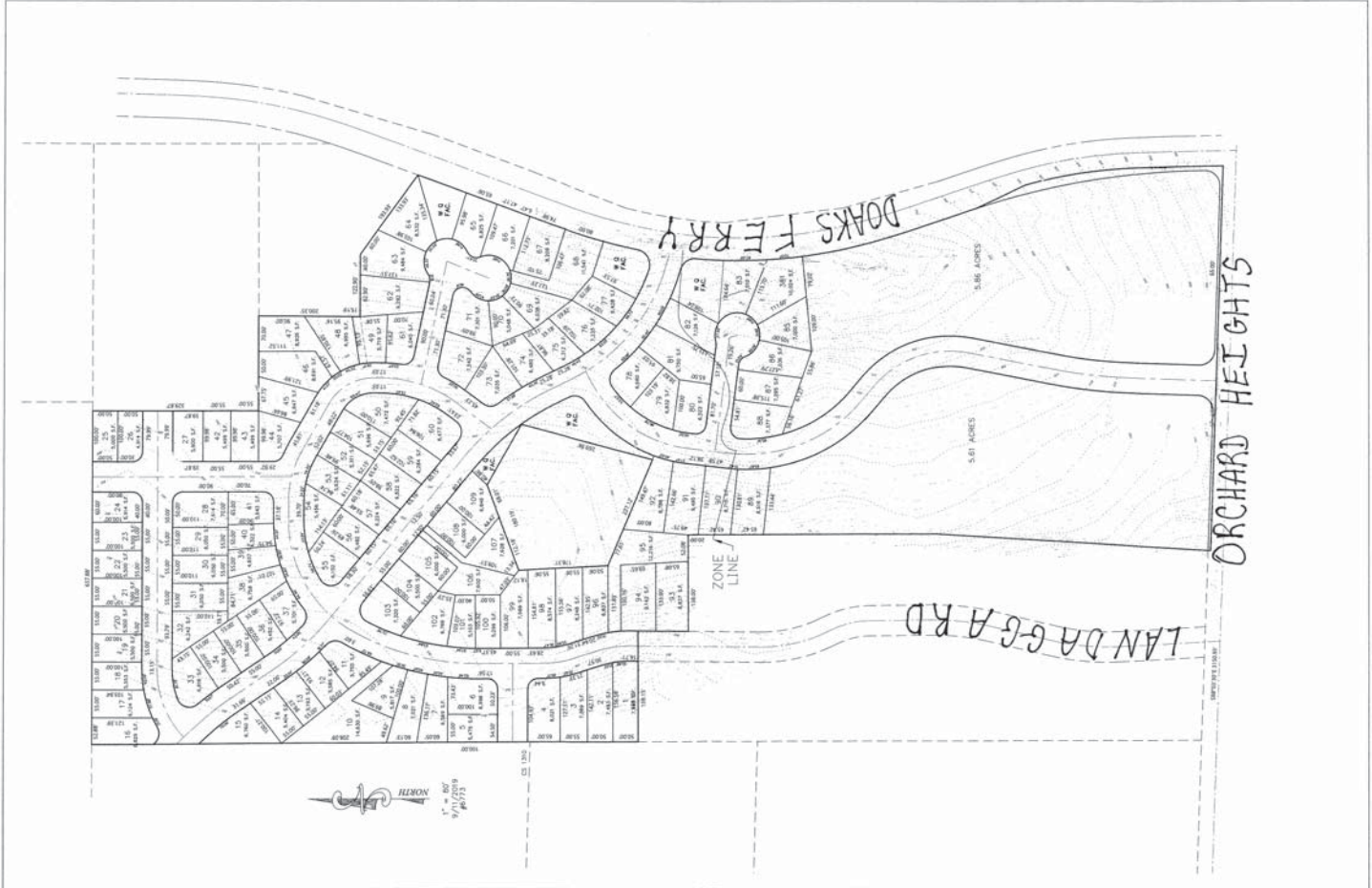
Meeting ended at 8:45PM

Attachments: Land Use Proposal, northwest corner of Doaks Ferry and Orchard Heights, Goals for 2019-2020

Respectfully submitted – Chris Wilhelm – WSNA Secretary

WSNA Goals 2019-2020 (Proposed)

- **CERT Training**
Promote members of WSNA to take CERT training and promote its benefits to all in Salem.
- **West Salem representation on SKSD Board**
Seek opportunities to engage with SKSD and raise the participation levels at the district from West Salem residents.
- **Continue outreach and collaboration with West Salem Business Association**
Seek opportunities to engage with WSBA and raise the participation levels in WSBA from West Salem residents.
- **Participate with the City on providing services and solutions to the homeless**
Encourage members of WSNA to engage and do the work of supporting the homeless population, together with the City of Salem, through efforts identified by the homelessness solutions task force and in other mutually beneficial ways.
- **Participate in “Our Salem” efforts with the city to update the overall Comprehensive Plan**
Encourage members of WSNA to engage with the City’s “Our Salem” planning efforts to update the comprehensive plan for the city. Specifically focus on roads and vehicular transportation as part of “Safe, Reliable, Efficient Infrastructure.”
- **West Salem Neighborhood Plan**
Encourage members of WSNA to engage with the city, after the “Our Salem” effort completion, to update the West Salem neighborhood plan; highlighting elements of West Salem that are not addressed specifically in the overall revision of the comprehensive plan.
- **Work to identify ways to reduce traffic congestion on Wallace Road**
Encourage members of WSNA to engage with the city in implementation efforts of recommendations from the congestion task force, where appropriate and possible.
- **Construction of Marine Drive**
Encourage members of WSNA to engage with the city in the implementation efforts of Marine Drive construction, where appropriate and possible.
- **Continue Discussion and Involvement in “3rd Bridge” or “additional river crossing”**
Encourage members of WSNA to continue to engage with the city in discussion of an additional river crossing.
- **Emergency Public Works Equipment Staged in West Salem**
Work with the City of Salem through Public Works and potentially state legislative programs to procure, obtain, or otherwise identify heavy equipment and other public works equipment necessary for emergency services in a Cascadia earthquake-style event.



Amy Johnson

From: James Clark <clarkjms@gmail.com>
Sent: Sunday, October 27, 2019 12:50 PM
To: Linda Bierly
Cc: citycouncil; Anderson, Steve; dan gerges; E. Easterly; Geoffrey James
Subject: Re: testimony for City Council public hearing on CPC-ZC-ZC19-10
Attachments: Clark_James_RiverbendLLCScott Martin.docx

Good afternoon,

Thank you for your patience and guidance. I am new to this process and appreciate feedback.

Attached you will find my written testimony.

Also, I would like to provide the chamber will handouts just prior to my verbal testimony.

How may handouts do you estimate that I need to print and is it out to pass out my written testimony?

Thank you, James Clark

On Sun, Oct 27, 2019 at 6:26 AM Linda Bierly <bierlyskl@gmail.com> wrote:

Hello,

My testimony for the City Council public hearing on CPC-ZC-ZC19-10 and the supporting document West Salem Neighborhood draft minutes for September 16, 2019 are attached. The draft minutes were approved as written at the WSNA meeting of October 21, 2019.

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Salem, OR 97304

Ward 8

James L. Clark
Volunteer member of WSNA
Land use committee
2095 Opaque Ave NW
Salem OR 97304
360-953-7484
Clarkjms@gmail.com

October 27, 2019

City of Salem council hearing on land use

Case number: CPC-ZC-ZC19-10
Applicant: 3030 Riverbend, LLC (Scott Martin)

Dear council members and chamber,

Our land use, resource management, and urban design is integral to our communal health and wellness. I appreciate each citizen who considers their individual responsibility to support our social contract to uphold our covenants and support healthy living for all people, at least within our scope of reach, within our precious community. We choose to live here for the natural beauty, bountiful valley, proximity to locals of outdoor recreation, and abbreviated commute to work or business. All this makes our careful consideration of resource stewardship and land use critical.

Now laying before us is a land use application known as Riverbend phase2. This project will significantly impact our way of life in West Salem. We, as planners and resource stewards are accountable to our personal conscious and mandated by our social contract to carefully consider all facets of this proposal. As professionals and social humans, we are inclined to build bonds of trust and assume the best intentions. As stewards, we must too adopt a protective stance that illustrates our willingness to build this relationship while protecting our community interest for the good of all citizens within our bounds.

This dynamic translates into a stepwise approach to business and in our case land use. The applicant, Riverbend LLC (Scott Martin) via his proxy, Geoffrey James, did in fact say;

You can look forward to a similar effort and site plan for phase 2, to save trees and develop significantly lower density than allowed by zoning...We are also planning to restore the barn on the phase 2 property to be a community center.

During this WSNA meeting and discussion on August 19, 2019, Mr. James cultivated the human connection with the meeting participants and enjoyed their good will. The conversation was centered on creating a living space within Riverbend phase 2 that connects the proposed 84

units with the natural surrounds and beauty of our environment. A community center within a restored barn with trails connecting the new develop to existing neighborhoods, and shared parks and open spaces where people are encouraged to recreate and play outside was the energy in the conversation.

We, the WSNA, as community members and families who live here will be impacted by Riverbend phase 2. As indicated in the land use proposal, the development impact will be significant.

In this regard and in keeping with our August meeting, we ask the City of Salem and Riverbend LLC to stand together with us in contract as well as word to support our relationship as resource stewards. It is unfortunate that we have many examples of leaders, business, and bad players who take advantage of others for personal gain and short-sighted interest.

Therefore, before you are our earnest pleas that you include a condition for project approval (similar to a deed restriction where a property cannot be subdivided) that requires the developer to stay true to their word. This condition would recapitulate in detail the conversation from August 19 and restated as required the proposal for open space and trails with community connections.

Our community health is dependent on each decision we make now and our achievements or losses will be enumerated by our children. I hope we can say that we have healthier communities and more places to play safely outside near our homes because of the decisions we made today.

Standing in support of healthy us, sincerely,

James L. Clark, PharmD. MBA.

Amy Johnson

From: James Clark <clarkjms@gmail.com>
Sent: Sunday, October 27, 2019 5:23 PM
To: E Easterly
Cc: Linda Bierly; citycouncil; Anderson, Steve; dan gerges; Geoffrey James
Subject: Re: testimony for City Council public hearing on CPC-ZC-ZC19-10

Hi E.M.,
Thank you for the feedback and kind words.
Will I see you tomorrow evening?
Also, please confirm the time that we should arrive at chambers? Was it 5:45?

Thank you, James Clark

On Sun, Oct 27, 2019 at 4:36 PM E Easterly <emeasterly@comcast.net> wrote:
James,

Your testimony is well written and wisely presented.

By submitted this document as an email to the Salem City Council, a printed as well as an electronic copy will be on the desk of each Council Member Monday evening.

If you have additional material you wish to submit in conjunction with your oral testimony please bring 15 copies. There is a City employee who will distribute that material to the Council either before or after your oral presentation. The distribution includes 9 to mayor and council members, 1 to the City Clerk, the official record keeper, 1 each for the City Attorney and the City Manager and 1 for the applicants representative. That total is 13. I recommend you have a couple extra which adds up to 15 copies.

E.M.

On October 27, 2019 at 12:49 PM James Clark <clarkjms@gmail.com> wrote:

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Therefore, before you are our earnest pleas that you include a condition for project approval (similar to a deed restriction where a property cannot be subdivided) that requires the developer to stay true to their word. This condition would recapitulate in detail the conversation from August 19 and restated as required the proposal for open space and trails with community connections.

Our community health is dependent on each decision we make now and our achievements or losses will be enumerated by our children. I hope we can say that we have healthier communities and more places to play safely outside near our homes because of the decisions we made today.

Standing in support of healthy us, sincerely,

A handwritten signature in cursive script that reads "James L. Clark". The ink is dark and the signature is fluid, with a large initial 'J' and a stylized 'C'.

James L. Clark, PharmD. MBA.

Amy Johnson

From: E Easterly <emeasterly@comcast.net>
Sent: Sunday, October 27, 2019 4:36 PM
To: James Clark; Linda Bierly
Cc: citycouncil; Anderson, Steve; dan gerges; Geoffrey James
Subject: Re: testimony for City Council public hearing on CPC-ZC-ZC19-10

James,

Your testimony is well written and wisely presented.

By submitted this document as an email to the Salem City Council, a printed as well as an electronic copy will be on the desk of each Council Member Monday evening.

If you have additional material you wish to submit in conjunction with your oral testimony please bring 15 copies. There is a City employee who will distribute that material to the Council either before or after your oral presentation. The distribution includes 9 to mayor and council members, 1 to the City Clerk, the official record keeper, 1 each for the City Attorney and the City Manager and 1 for the applicants representative. That total is 13. I recommend you have a couple extra which adds up to 15 copies.

E.M.

On October 27, 2019 at 12:49 PM James Clark <clarkjms@gmail.com> wrote:

Good afternoon,

Thank you for your patience and guidance. I am new to this process and appreciate feedback.

Attached you will find my written testimony.

Also, I would like to provide the chamber will handouts just prior to my verbal testimony.

How may handouts do you estimate that I need to print and is it out to pass out my written testimony?

Thank you, James Clark

On Sun, Oct 27, 2019 at 6:26 AM Linda Bierly <bierlyskl@gmail.com> wrote:

Hello,

My testimony for the City Council public hearing on CPC-ZC-ZC19-10 and the supporting document West Salem Neighborhood draft minutes for September 16, 2019 are attached. The draft minutes were approved as written at the WSNA meeting of October 21, 2019.

Thank you,

Linda Bierly

2308 Ptarmigan St. NW

Salem, OR 97304

Ward 8

Amy Johnson

From: E Easterly <emeasterly@comcast.net>
Sent: Monday, October 28, 2019 7:30 AM
To: daniel I fricke
Cc: citycouncil; Tony Martin
Subject: OHP 1F.5 mobility assessment criteria

Dear Mr. Fricke,

Thank you for affirming the ODOT 2/13/19 response to the Riverbend Phase 2 project cited in the 7 Oct 19 email copied below. You state, "the project would not have a significant impact on ODOT facilities".

I find your declaration confusing as well as disturbing. A projected 1465 ADT exceeds the 1001 ADT 1F.5 significant mobility impact threshold.

Are you declaring that the City of Salem comprehensive plan modification requested by the Riverbend Phase 2 applicant is exempt from the Oregon Highway Plan Policy 1F.5 significant impact criteria and the applicable mitigation actions that fall under Section -0060(1) of the TPR?

Are you declaring that Oregon State Highway OR221 within the Salem City limits exempt from the Oregon Highway Plan Policy Action 1F.5 mobility degradation threshold requirements and the mitigation requirements contained in OAR660-012-0060(1)(c)(C)?

E.M. Easterly
503-363-6221

From: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>
Sent: Monday, October 07, 2019 10:57 AM
To: Tony Martin <TMartin@cityofsalem.net>; BLAIR Keith P <Keith.P.BLAIR@odot.state.or.us>
Cc: Jennifer Scott <JRScott@cityofsalem.net>
Subject: RE: FW: Riverbend Phase 2 TPR Analysis (12/23/18) - ODOT Region 2 Traffic Comments

Tony -

Keith Blair (Region 2 Senior Traffic Analyst) and I have reviewed this application. ODOTs previous comments and proposal are attached. At the time this project was originally reviewed, we determined that the project would have a significant impact on ODOT facilities as that term is used in OAR 660-012-0060. After consideration, comments remain appropriate and ODOTs position on this proposal. Let me know if you need any additional information.

Dan

Dan Fricke, Senior Transportation Planner ODOT Region 2
455 Airport Road SE, Building B
Salem, OR 97301-5395
Ph: 503-986-2663
E-mail: daniel.l.fricke@odot.state.or.us

Amy Johnson

From: Pamela Cole
Sent: Tuesday, October 22, 2019 8:03 AM
To: Kevin Hottmann; Jennifer Scott; Glenn Davis; Amy Johnson; Ruth Stellmacher
Cc: Lisa Anderson-Ogilvie; Tony Martin; Scott Martin
Subject: FW: CPC-ZC-ZC19-10 Appeal
Attachments: Riverbend council Appeal.pdf

E.M. Easterly submitted this directly to the Councilors for the 10/28 appeal hearing.

Pamela Cole

Planner II

City of Salem | Community Development Department
555 Liberty St SE, Suite 305, Salem OR 97301
pcole@cityofsalem.net | 503-540-2309
[Facebook](#) | [Twitter](#) | [YouTube](#) | [CityofSalem.net](#)

From: E Easterly <emeasterly@comcast.net>
Sent: Tuesday, October 22, 2019 7:58 AM
To: Cara Kaser <CKASER@cityofsalem.net>; Chuck Bennett <CBennett@cityofsalem.net>; Chris Hoy <CHoy@cityofsalem.net>; Tom Andersen <TAndersen@cityofsalem.net>; Jim Lewis <JLewis@cityofsalem.net>; Matthew Ausec <MAUSEC@cityofsalem.net>; Jackie Leung <JLeung@cityofsalem.net>; Brad Nanke <BNanke@cityofsalem.net>; vnordyke@cityofsalem.net
Cc: Pamela Cole <PCole@cityofsalem.net>; Tony Martin <TMartin@cityofsalem.net>; daniel I fricke <daniel.l.fricke@odot.state.or.us>; Geoffrey James <geoffreyjames@comcast.net>
Subject: CPC-ZC-ZC19-10 Appeal

Councilors and Mayor,

Attached please find my written submission for the October 28th Council quasi-judicial hearing.

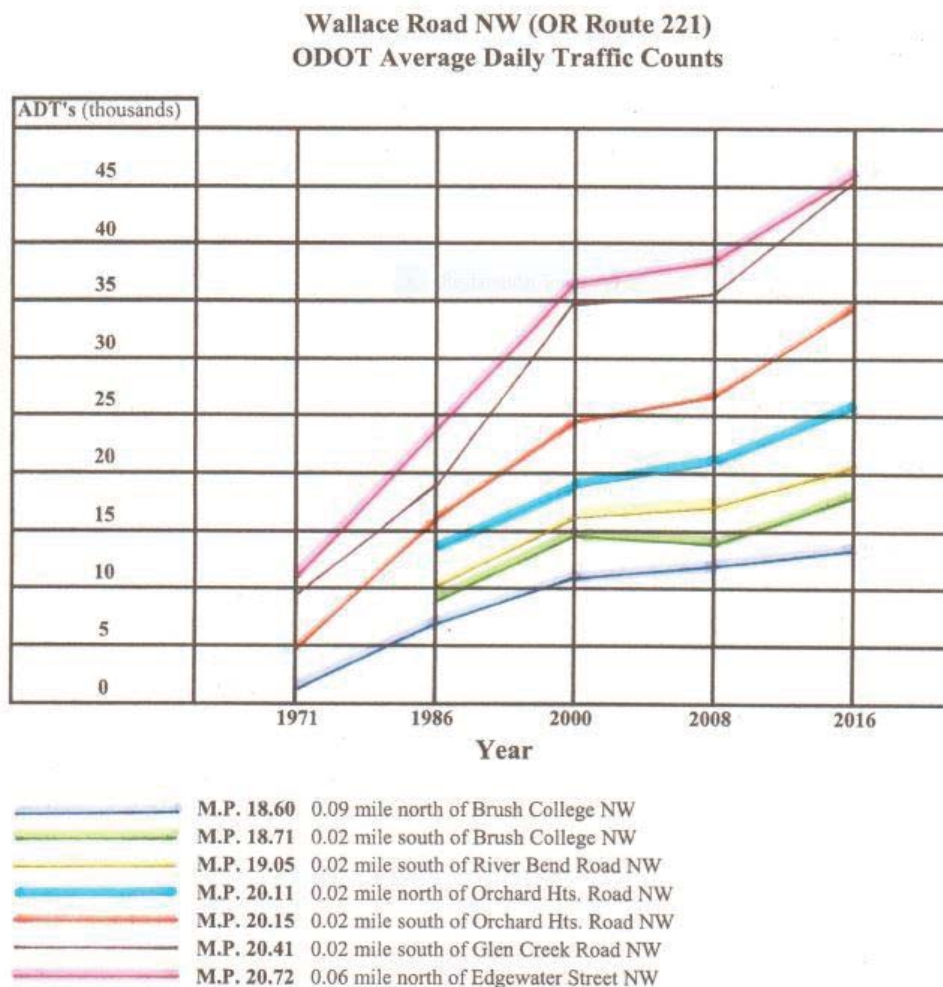
E.M. Easterly

To: Salem City Council
Re: Appeal of CPC-ZC-ZC19-10

From: E.M. Easterly
Date: October 28, 2019

Introduction:

The Transportation Planning Rule (TPR) detailed in OAR 660-12-0060 specifies the processes and analyses to be executed by individuals seeking to upgrade zoning for development purposes. In regards to development in West Salem over the last twenty years those processes have been addressed in isolation. The City of Salem has approved the individual development project zone and comp plan changes within the rubric of the Transportation Planning Rule (TPR) without fully embracing the requirements of the TPR including mitigation to achieve highway mobility targets. The chart below summarizes 2016 Wallace Road traffic volumes.¹



The Riverbend phased comp plan/zone change project exemplifies this approach. As pointed out in section one below staff first ignored potential traffic impacts on Highway 221 outside the immediate project vicinity. That flawed conclusion was partially corrected by Council establishing a trip cap for Phase I.

The Riverbend Phase II comp plan/zone change, which is the subject of this appeal before Council, exemplifies an effort to correct the Phase I flawed conclusion by including trip counts at the Orchard Heights and Glen Creek/Wallace Road intersections. The two Transportation Impact Analysis (TIA) modeling reports state that the Riverbend Project will generate 3309 Average Daily Trips (ADT) into the West Salem transportation system.² The bulk of which will pass through the Wallace/Riverbend intersection. Unfortunately, the conclusion, "no significant effect" offered in the CPC-ZC-ZC19-10 staff report is not supported by the evidence presented.

The Planning Commission decision relied on the "expert" testimony of City staff, a staff which has demonstrated it is willing to raise process issues but apparently unwilling challenge conclusions offered by the applicant's traffic engineers who ignored the Oregon Highway Plan significant impact criteria.

In Phase I staff originally accepted a site-specific conclusion that was later modify by Council. In Phase II staff has again accepted a conclusion that an additional 1,609 Average Daily Trips will not significantly impact Wallace Road.

This appeal challenges that conclusion along with the conflicting traffic distribution assumptions, flawed interpretation of TPR process obligations and the erroneous conclusions adopted by the Planning Commission.

1. The adopted findings contain Goal 12 conclusions that are unsupported by evidence.

In challenging the Riverbend Phase I staff report I argued, "the staff report claim that OAR 660-12-0060 references "site-specific" comprehensive plan change requests is not supported by the actual wording of OAR 660-12-0060."

The rule reads:

"(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in

² The estimated 3309 trips equal a 17% increase over the 2016 trip count at Riverbend Road.

section (2) of this rule, ... "

I continued, "There is no Goal 12 Transportation Planning Rule or OAR wording which limits impacts to site-specific sections of an existing or planned transportation facility. For staff to make such a claim is to fail to comply with Goal 12."

I concluded, "By arbitrarily limiting the scope of this project's TIA the City has failed to address the impact of this land use amendment and its significant 'effect an existing or planned transportation facility.'"

The result of the above statements was a Council decision to apply a new condition, a trip-cap of 1083 ADT, to the approval of Phase I of the Riverbend comp plan and zone change authorization. That trip-cap is cited and preserved as an element of the Phase II comp plan zone change process.

(a) The staff report for the Riverbend Phase II comp plan and zone changes has once again offered conclusions and findings that fail to conform to the wording of OAR 660-12-0060 and the Oregon Highway Plan's clear and definitive description of what "significantly affect an existing or planned transportation facility."³

The Oregon Highway Plan states:

"If the increase in traffic between the existing plan and the proposed amendment is more than 1000 average daily trips, then it is not considered a small increase in traffic and the amendment causes further degradation of the facility and would be subject to existing processes for resolution." OHP 1F.5

The Riverbend Phase II project will, according to the TIA report, generate 1606 unanticipated trips under current zoning - an ADT number greater than 1000. Therefore, the staff declaration that CPC-ZC-ZC19-10 will not have a significant effect on the transportation system is an invalid conclusion.

Furthermore, the staff report claims, "The analysis ... indicates that the intersection of Wallace Road NW and Glen Creek Road NW operates above the mobility standards both before and after the project." CPC-ZC-ZC19-10 pdf pg 9

3 "The rule clearly states that an amendment significantly affects a transportation facility if its traffic impacts are found to: Result in any of the following, as measured at the end of the planning period identified in the adopted TSP:
Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

As part of the evaluation of projected conditions associated with a proposed amendment, that the amount of traffic projected to be generated may be reduced if the amendment includes an "enforceable, ongoing requirement that would demonstrably limit traffic generation." ODOT Development Review Guidelines pdf pg 86

The claim that the intersection of Wallace Road NW and Glen Creek Road NW "operates above current mobility standards" is made without actual analysis.⁴ Also the TIA report fails to include a contemporary, 2018, volume to capacity (v/c) analysis for the Glen Creek-Wallace Road intersection. Absent such contemporary analysis neither the applicant nor the Assistant City Traffic Engineer can claim CPC-ZC-ZC19-10 "will not have a significant effect on the transportation system" or "reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP." CPC-ZC-ZC19-10 pdf pg 20

For the above conclusion to be accurate the TIA report must include a statement of "the minimum acceptable level identified in the TSP⁵. More importantly, determining the actual current v/c at the Glen Creek-Wallace Road intersection is required to ascertain whether the Riverbend Project does or does not further

4 The City does have a 2016 report confirming the Phase II claim that was not included in the Phase II TIA.

TABLE 2.3-2
2012 Existing Conditions Intersection Analysis for AM and PM Peak and Control Type

ID #	Intersection	2012 Existing Conditions			
		Control Type	Mobility Target/Standard (v/c ratio)	AM Peak	PM Peak
1	Wallace Rd./Brush College Rd.	TWSC	0.95	0.27	0.72
2	Wallace Rd./River Bend Rd.	Signal	0.95	0.54	0.51
3	Wallace Rd./Hope Ave.	TWSC	0.95	0.42	0.43
4	Wallace Rd./Orchard Heights	Signal	0.95	0.72	0.76
5	Wallace Rd./Glen Creek Rd.*	Signal	0.95	1.07	0.97
6	Wallace Rd./Taggart Rd.	Signal	0.95	0.92	0.94
7	Wallace Rd./OR 22/Edgewater	Signal	0.95	1.01	0.76

Final Technical Report Addendum Salem River Crossing Project Traffic and Transportation
Technical
Report: Addendum Prepared for Oregon Department of Transportation by
CH2M

October 2016 pg 2-10

5 "Policy 2.5 Capacity Efficient Design and Level of Service (LOS) Standards

2. Peak Travel Periods

c. The City shall allow its existing streets and intersections to function at LOS E (where traffic volumes generally are approaching or at 100 percent of the street's effective capacity) during the morning and evening peak travel hours. However, traffic impacts created by new development, as identified in a traffic impact analysis, must be mitigated to maintain peak hour LOS D or better."

degrade the Wallace and Glen Creek intersection. If it does, mitigation is required and that mitigation must result either no impact or an impact which brings peak hour ratios to 0.98 or less.⁶ Affirming that Hwy 221 does not meet mobility standards does not exempt the Riverbend Project from the no impact requirement.

The language of OAR 660 is clear, comp plan changes cannot:

"(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan."

OAR 660-012-0060(1)(c)(C)

Therefore, the staff report finding quoted below is made without adequate evidence.

"The Assistant City Traffic Engineer reviewed the proposal and concurs with the applicant's TPR analysis findings that the entire proposal, including the proposed change from "Single Family" and Multi-Family" to Mixed-Use" designation, will not have a significant effect on the transportation system."

CPC-ZC-ZC19-10 ,pdf pg 20

I encourage City staff to invite the applicant to acknowledge the Oregon Highway Plan (OHP) "significant effect" threshold and provide current v/c analysis for the Glen Creek-Wallace Road intersection.

(b) The TIA model claims that the Phase II Riverbend Project, upon completion, will generate an additional non-pass-by 67 ADT AM exit trips. (see: Riverbend TIA Phase II Executive Summary pdf pg 14, reproduced below)

	ADT	Weekday		
		AM Peak Hour		
		Total	Enter	Exit
Total Trips (full project)	2226	197	109	88
Internal Trips		14	3	11
Pass-By Trips		30	19	10
Non-Pass-By Trips		153	87	67

The distribution of those 88 exit trips summarized to the left is charted on the graph below.

⁶ "ODOT considers calculated values for v/c ratios that are within 0.03 of the adopted target in the OHP to be considered in compliance with the target. The adopted mobility target still applies for determining significant effect under OAR660-012-0060."

"This policy language applies after a significant effect has been determined through TPR Section 0060 processes and a reasonable level of mitigation has been negotiated with the applicant and/or local government. The intent of this language is to address situations where reasonable and proportional mitigation for the proposal will get close to the adopted target (within 0.03 v/c) ...

ODOT Development Review Guidelines pdf pg 115

Weekday AM Peak Hour

Wallace Rd NW (OR 221) & Riverbend Rd NW												
Movement	SB RT	SB TH	SB LT	WB RT	WB TH	WB LT	NB RT	NB TH	NB LT	EB RT	EB TH	EB LT
2035 Site Generated Traffic	0	20	2	0	4	0	0	-11	57	0	0	16

Riverbend Phase II TIA Appendix C: 30th Highest Hour Volumes, pdf pg 46

The above graph fails to explain why 57 ADT peak hour AM exit trips of the total 88 ADT are north bound when the two Wallace Road exits from the site are situated north of the Riverbend-Wallace Road intersection only allow southbound egress.

(c) The CPC-ZC-ZC19 staff report makes the following declaration from which an unsubstantiated conclusion is offered

"The analysis also indicates that the intersection of Wallace Road NW and Glen Creek Road NW operates above the mobility standards both before and after the project."

CPC-ZC-ZC19-10 pdf pg 23

Where is this analysis documented in the TIA report? Where does the TIA report provide actual 2018 v/c analysis for the Glen Creek intersection? What are the assumptions used to declare only 14 Phase II trips of the 67 ADT that exit the completed project site reach the Glen Creek-Wallace intersection?

"The change in the volume to capacity ratio at the Glen Creek Road NW intersection is only 0.01."

CPC-ZC-ZC19-10 pdf pg 23

Where is the TIA report documentation that cumulative AM or PM peak hour trips generated by the Riverbend Project will only impact the Glen Creek-Wallace intersection by an 0.01 v/c increase?

"The ODOT threshold for significant is 0.03." CPC-ZC-ZC19-10 pdf pg 23

This is a miss reading of the Oregon Highway Plan.⁷ The 0.03 threshold relates

7 "ODOT considers calculated values for v/c ratios that are within 0.03 of the adopted target in the OHP to be considered in compliance with the target. The adopted mobility target still applies for determining significant effect under OAR 660-012-0060."

"This policy language applies after a significant effect has been determined through TPR Section 0060 processes and a reasonable level of mitigation has been negotiated with the applicant and/or local government. The intent of this language is to address situations where reasonable and proportional mitigation for the proposal will get close to the adopted target (within 0.03 v/c), but mitigation to fully meet the target is a significant investment that is unreasonable and not proportional to the likely development impact on state facilities."

ODOT Development Review Guidelines pdf pg 115

to mitigation requirements derived from a finding that the comp plan change creates a significant effect upon Highway 221. The Phase II TIA report falsely concludes that no mitigation is required.⁸ The report ignores the OHP 1000 trip threshold, OAR 660-012-0060 significant criteria and states that the Riverbend Phase II development is not significant, and therefore, the 0.03 v/c within the adopted mobility target was improperly applied.

The Phase II project TIA states:

"Our analysis illustrates that Subsection (C)⁹ is applicable and requires further review."

Riverbend TIA Phase II pdf pg 23

Acknowledgment that OAR 660-012-0060 (1)(c)(C) is applicable is appreciated. However, the conclusion offered is not supported by documentation or a clear understanding of the subsection (1)(c)(C) TPR requirements. The applicant's summary claims that the aggregate background and the completed Riverbend Project will result in a v/c of 1.18 in 2035 Table #8 TIA pdf pg 19 The Table #8 value is confirmed at Appendix H which reports the 2035 HCM Signalized Intersection Capacity Analysis. TIA pdf pg 91 There is, however, no equivalent 2018 Appendix H analysis document or parallel report analyzing the actual trips from the Riverbend Project that will arrive at the Wallace-Glen Creek intersection. Therefore, the "imperceptible", "de minimus impact" conclusion offered below is unsupported by

8 In responding to the Phase II TIA document ODOT Representative, Keith Blair, offered the following conclusion:

"2. No mitigation measures have been proposed. This conclusion appears reasonable for this proposal."

Transportation Planning Rule TPR Analysis Response Review Comments. See Appendix B

Such a conclusion may be reasonable, but it directly contradicts ODOT Development Review Guidelines:

"The burden of determining whether an amendment would "significantly affect" a transportation facility lies with local governments, not with ODOT."

ODOT Development Review Guidelines pdf pg 86

The Blair conclusion offers no evidence why a projected 1606 ADT increase does not warrant a more thorough "significant affect" review or analysis by the local government, City of Salem, to justify and explain its no mitigation decision.

9 660-012-0060

(1)(c)(C) "Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan."

OAR 660-012-0060

actual data or analysis. Appendix A provides HCH 2000 intersection capacity reports for Wallace/Glen Creek traffic counts taken 18 months apart.

"The analysis indicates that any changes in the v/c ratio are so minor that they will be imperceptible and represent a de minimus impact on the transportation system. ODOT standards indicate that v/c ratios within 0.03 of the mobility target do not require mitigation." Riverbend TIA Phase II pdf pg 23

OAR 660-012-0060 (1)(c)(C) does not provide a de minimus impact option. It does assume that mitigation is required when the existing mobility target is exceeded. Whatever mitigation proposal is offered, the results must not exceed the current mobility target¹⁰ by more than 0.03. Since the Glen Creek-Wallace intersection currently exceeds the ADT v/c ratio of 0.98, $[0.95 + 0.03]$ mitigation decisions must ensure that Riverbend Project not contribute further mobility degradation to the Glen Creek-Wallace intersection.¹¹

2. The Transportation Impact Analysis submitted by the applicant fails to comply with the 2017 ODOT TIA report development processes.

According to the May 2017 ODOT Development Review Guidelines:

"Action 1F.5 clarifies that where the volume to capacity ratio or alternative mobility target for a highway segment, an intersection or interchange is currently above the mobility targets in OHP Table 6 or Table 7 ... and transportation improvements are not planned within the planning horizon to bring performance to the established mobility target, the mobility target to apply is "no further degradation." ODOT Development Review Guidelines, pdf pg 113

"VOLUME TO CAPACITY RATIO TARGETS Regional Highways **0.95.**" Table 6, OHP, pdf pg 95

"ODOT considers calculated values for v/c ratios that are within 0.03 of the adopted target in the OHP to be considered in compliance with the target." OHP pg 81, pdf pg 92

Hence, a current or projected end of planning period v/c of 0.98 would be considered in compliance with the OHP target. To determine whether Highway 221 intersections currently meets OHP mobility targets an analysis of the actual real time volume to capacity ratio study is required. The submitted Phase II TIA

10 "ODOT's mobility standard requires the Wallace Road intersections to operate with a v/c ratio of 0.95 or less."

Riverbend TIA Phase II pdf pg 23

11 "... a reasonable level of mitigation has been negotiated with the applicant and/or local government. The intent of this language is to address situations where reasonable and proportional mitigation for the proposal will get close to the adopted target (within 0.03 v/c) ..."

ODOT Development Review Guidelines pdf pg 115

does not include such information. Nor does the TIA offer evidence that supports the conclusion that the traffic generated by the completed Riverbend Phase I and II Project will not further degrade Wallace Road traffic mobility.

3. The TIA report for Phase II of the Riverbend Project adopts and incorporates elements of the Phase I TIA which initially failed to comply with ODOT TIA report development processes.

The Phase II applicant submissions including the new TIA which utilizes the same 2017 KND traffic count for the Riverbend/Wallace Road intersection used in the Phase I application.

The CPC-ZC-ZC19-10 staff report states:

“The following condition of approval of CPC-ZC17-07 is applicable to the subject property of that decision, now assigned an address of 1221 River Bend Road NW...”

“Condition 1 of CPC-ZC17-07:

Traffic impacts from future development on the subject property shall be limited to a maximum of 1,083 average daily trips generated by the proposed use or uses.

CPC-ZC-ZC19-10 staff report pg 7

The inclusion of the above condition in the Phase II request¹² most certainly ties the two phases of the Riverbend Project together. Add the acknowledgment included in the Phase II TIA:

“This methodology results in the need to create a “trip cap” on the property to ensure that trip generation of future site plan review application(s) will not exceed that approved as part of the Comprehensive Plan Amendment/Zone Change.”

Riverbend TIA Phase II pdf pg 15

There is irony in the above declaration. Why would the Phase II TIA suggest the need for a trip cap when the Phase II TIA claims that the project will have a de minimus impact on Wallace Road intersections?

4. The traffic mitigation requirement adopted as an approval requirement for Phase I of the Riverbend Project and incorporated as an element of the Phase II land use changes does not comply with OAR 660-12-0060.

The Phase II TIA findings certainly do not include a trip cap as an approval condition for CPC-ZC-ZC19-10. Neither the TIA nor the applicant's representative offered a proposed ADT trip cap number to the Planning

12 “The subject property for the consolidated application is a total of approximately 9.23 acres.”

CPC-ZC-ZC19-10 staff report pg 4

Commission. Why?

A quick review of the 1,083 ADT trip cap from Phase I raises significant questions.

- a) How will the City ascertain whether the trips from Phase I have exceeded the cap?
- b) Who will enforce the trip cap?
- c) What mechanism exists to respond to trips that exceed 1,083 ADT?

These questions are relevant because OAR 660-012-0060 requires mitigation measures such as trip caps¹³ and those trip caps must be enforceable.¹⁴

These requirements are supported by the Salem Transportation System Plan.¹⁵

As currently written the Phase I 1,083 ADT trip cap includes no enforceable provisions. I ask that an enforceable version of that condition and any other trip cap condition attached to the approval of CPC-ZC-ZC19-10 contain enforceable criteria.

13 “OHP Action 1F.5 also encourages mitigation measures other than increasing capacity that include but are not limited to: Land use techniques such as trip caps or trip budgets to manage trip generation.”

ODOT Development Review Guidelines, pdf pg 115

14 “As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management.”

OAR 660-012-0060(1)(c)

15 “Policy 2.5 Capacity Efficient Design and Level of Service (LOS) Standards

2. Peak Travel Periods

c. The City shall allow its existing streets and intersections to function at LOS E (where traffic volumes generally are approaching or at 100 percent of the street’s effective capacity) during the morning and evening peak travel hours. However, traffic impacts created by new development, as identified in a traffic impact analysis, must be mitigated to maintain peak hour LOS D or better.”

5. The analysis elements contained in both TIAs are incomplete and inconsistent.

The Phase I TIA did not address the Oregon Highway Plan 400 ADT new trips¹⁶ on a 4-lane state highway - the Wallace Road Hwy 221 significant effect criteria. The Phase I analysis shows the project will generate 706 new trips.

The Phase I TIA did not address the Phase I AM or PM peak hour impact upon the Wallace/Glen Creek intersection.

The Phase II TIA did not address the Oregon Highway Plan 1000 ADT new trips on a 4-lane state highway - Wallace Road Hwy 221 significant effect criteria. The Phase II analysis shows the project will generate 1606 new trips.

The Phase II TIA, after declaring the Wallace/Glen Creek intersection is over mobility standards, offers that the Phase II AM or PM peak hour impact upon the Wallace/Glen Creek intersection is de minimus. No evidence is provided in support of this conclusion.

The Phase I and II TIAs provide no coherent distribution information regarding the AM peak hour exiting trips.

The Phase I and II TIAs provides no coherent distribution information regarding

"The threshold for a small increase in traffic between the existing plan and the proposed amendment is defined in terms of the increase in total average daily trip volumes as follows:

- *Any proposed amendment that does not increase the average daily trips by more than 400.*
- *Any proposed amendment that increases the average daily trips by more than 400 but less than 1001 for state facilities where:*
 - *The annual average daily traffic is less than 5,000 for a two-lane highway*
 - *The annual average daily traffic is less than 15,000 for a three-lane highway*
 - *The annual average daily traffic is less than 10,000 for a four-lane highway*

16

ODOT Development Review Guidelines pdf pg 114

Hwy 221, a four-lane highway, exceeds 10,000 ADT at the Riverbend-Wallace Road intersection.

¹⁶ See footnote # 1

the PM peak hour entering trips.

The Phase I and Phase II Riverbend Appendices C [30th Highest Hour Volumes] offer different data points. The Phase I chart does not include estimated AM peak hour traffic generated from the project site. The Phase II includes both Phase I and Phase II site generated AM peak hour project exit numbers.

The Phase I Appendix C chart fails to meet the requirements of the Appendix K: ODOT scoping memorandum. The Phase II chart is deficient because it provides no explanation for the directional distribution of site generated traffic through the Riverbend/Wallace Road intersection.

The following pages review the information offered in the two Greenlight Engineering TIA reports and raises questions regarding the conclusions offered.

The juxtaposition of the peak hour residential elements of the two TIAs generate multiple questions.

ITE Land Use	Units (DU)	Weekday						
		ADT	AM Peak Hour			PM Peak Hour		
			Total	Enter	Exit	Total	Enter	Exit
<i>Apartments (ITE #220)</i>	48							
Generation Rate ¹		Equation	Equation	20%	80%	Equation	65%	35%
Total Trips		414	27	5	22	44	29	15
Internal Trips			4	0	4	3	2	1
External Trips			23	5	18	41	27	14
Pass-By Rate ²			0%			0%		
Pass-By Trips			0	0	0	0	0	0
Non-Pass-By Trips			23	5	18	41	27	14

Riverbend Phase I TIA pg 14

ITE Land Use	Units (DU)	ADT	Weekday					
			AM Peak Hour			PM Peak Hour		
			Total	Enter	Exit	Total	Enter	Exit
<i>Multi-Family Housing Mid Rise (ITE #221)</i>	112							
Directional Distribution				26%	74%		61%	39%
Total Trips		609	38	10	28	49	30	19
Internal Trip Rate				7%	11%		15%	15%
Internal Trips			4	1	3	7	5	3
External Trips			34	9	25	42	26	16
Pass-By Rate			0%			0%		
Pass-By Trips			0	0	0	0	0	0
Non-Pass-By Trips			34	9	25	42	26	16

Riverbend Phase II TIA pg 14

- a) Why do AM peak hour pass-by exit trips (18+25=43) only equal 4.2% of the projected aggregate peak hour (414 + 609 = 1023) ADT? ITE tables suggest the AM exit trips should be 131 not the 43 charted

above. The Mike Spack formula of 0.7 times 160 total units would project 112 ADT AM peak hour exits trips from the Riverbend Project.

- b) Why do PM peak hour pass-by enter trips (53) equal 5.2% of the projected aggregate peak hour 1023 ADT? ITE tables suggest the PM enter trips should be 108 not the 53 charted above. The Mike Spack formula of 0.7 times total units 160 would project 112 ADT PM peak hour enter trips to the Riverbend Project.
- c) Why are PM peak hour total residential trips for Phase I 10.6% and for Phase II 8.0%? Such a variance is not shown in the actual ITE trip generation charts.
- d) Why is there such a contrast in the declared ITE¹⁷ trip generation tables for ITE #220 and ITE #221 - 8.6 trips per dwelling unit versus 5.4 trips per dwelling unit? Such a variance is not shown in the actual ITE trip generation charts.¹⁸
- e) Will the proposed Phase II apartment complex include elevator service?

Comparing the distribution of project generated traffic and the directional allocation of that traffic from Phases I and II of the Riverbend Project raises more questions.

17 Institute of Traffic Engineers

ITE: # 220 Multifamily Housing (Low-Rise)

Number of Residential Units (1-4 stories)

ITE: # 221 Multifamily Housing (Mid-Rise)

Number of Residential Units (5-9 stories)

Walk-up - A four-to six-story building without (as the name implies) an elevator.

Mid-rise - A multi-story building with an elevator, typically, in an urban area.

18

Land Use Code 220 Multifamily Housing (Low-Rise)			Land Use Code 221 Multifamily Housing (Mid-Rise)		
Time	% of 24-Hour Traffic		Time	% of 24-Hour Traffic	
	Entering	Exiting		Entering	Exiting
7-8 AM	2.6	12.9	7-8 AM	2.8	12.1
4-5 PM	10.0	5.1	4-5 PM	10.6	6.2

The juxtaposition of the project traffic generation tables and the Appendix F traffic flow graphics offer little correlation. Specific questions regarding the Phase I and Phase II TIA apparent information conflicts are raised. When aggregating the two phased additional questions arise from the contradictory data.

The below and page 15 highlight the Phase I and Phase II data discrepancies between traffic generation charts and the traffic flow graphics found in Appendices F of the two TIAs.

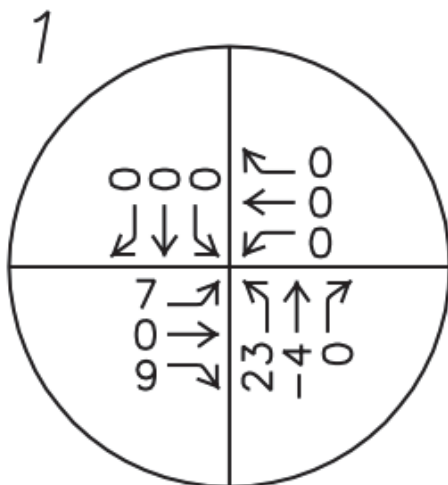
Why does the Phase I traffic flow schematic and the non-pass-by weekday peak hour values differ?

ITE Land Use	Units (DU)	Weekday						
		ADT	AM Peak Hour			PM Peak Hour		
			Total	Enter	Exit	Total	Enter	Exit
Total Trips (full project)		1083	100	51	49	167	65	102
Internal Trips			11	5	6	10	5	5
Pass-By Trips			12	7	5	11	7	4
Non-Pass-By Trips			77	40	37	146	53	93

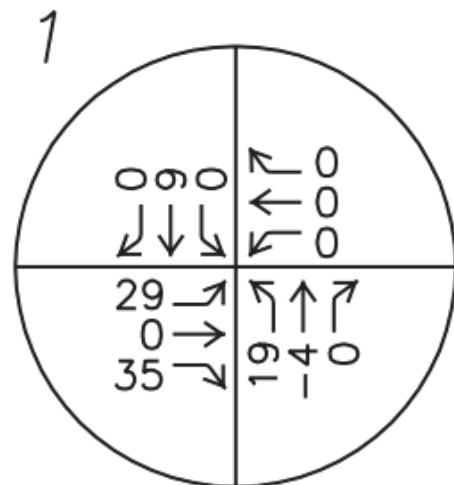
Riverbend Phase I TIA pg 14

Riverbend & Wallace Road Intersection Traffic Flow Project Build out

AM Peak Hour Phase I



PM Peak Hour Phase I



Riverbend Phase I Appendix F Table 4 pdf pg 58

A majority of the traffic generated by the project must travel into the Riverbend/Wallace Road intersection.

- The AM chart identifies 77 trips; the flow graphic shows 39 trips.
- The PM chart identifies 146 trips; the flow graphic shows 92 trips.
- The AM chart claims 37 exit trips in the AM; the flow graphic identifies 16 exit trips.
- The PM chart claims 53 enter trips in the PM; the flow graphic show 48 enter trips with bulk of those entering the from the west, i.e. eastbound Riverbend Road.

Why does the Phase II traffic flow schematic and the non-pass-by weekday peak hour values differ?

ITE Land Use	Units (DU)	Weekday						
		ADT	AM Peak Hour			PM Peak Hour		
			Total	Enter	Exit	Total	Enter	Exit
Total Trips (full project)		2226	197	109	88	179	92	87
Internal Trips			14	3	11	27	14	13
Pass-By Trips			30	19	10	38	18	20
Non-Pass-By Trips			153	87	67	115	61	54

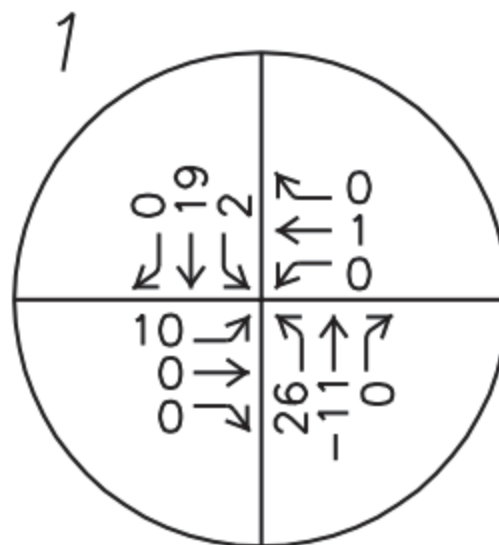
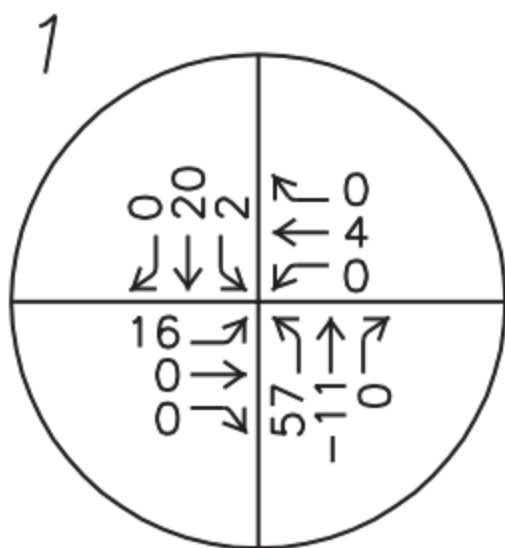
Riverbend Phase II TIA pg 14

Riverbend & Wallace Road Intersection Traffic Flow

Project Build Out

AM Peak Hour Phase II

PM Peak Hour Phase II



Riverbend Phase II Appendix F Table 4 pdf pg 64

A majority of the traffic generated by the project must travel into the Riverbend/Wallace Road intersection.

- a) The AM chart identifies 153 trips; the flow graphic shows 99 trips.
- b) The PM chart identifies 115 trips; the flow graphic shows 58 trips.
- c) The AM chart identifies 67 exit trips; the flow graphic identifies 38 exit trips.
- d) The PM chart identifies 61 enter trips; the flow graphic shows 47 trips.

The aggregate AM non-pass-by peak hour exit trips from both phases of the Riverbend Project total 104 ADT. The Appendix F flow graphics account for 61 ADT. Why do the two TIA traffic flow charts not account for all the AM peak hour trips.

The aggregate PM non-pass-by peak hour exit trips from both phases of the Riverbend Project are 114 ADT. The flow graphics account for 85(?) ADT. Why do the two TIA traffic flow charts not account for all the PM peak hour trips.

Another unexplained discrepancy surfaces when comparing the project generated traffic with the Appendix C distribution chart.

TIA Executive Summary pdf pg 14

	ADT	Weekday		
		AM Peak Hour		
		Total	Enter	Exit
Total Trips (full project)	2226	197	109	88
Internal Trips		14	3	11
Pass-By Trips		30	19	10
Non-Pass-By Trips		153	87	67

The

distribution of the 67 Non-Pass-By trips cited above is charted in the graph below. Note that the addition of $20 + 2 + 4 + -11 + 57 + 16 = 88$ not 67.

Weekday AM Peak Hour

Wallace Rd NW (OR 221) & Riverbend Rd NW												
Movement	SB RT	SB TH	SB LT	WB RT	WB TH	WB LT	NB RT	NB TH	NB LT	EB RT	EB TH	EB LT
2035 Site Generated Traffic	0	20	2	0	4	0	0	-11	57	0	0	16

Riverbend Phase II TIA Appendix C: 30th Highest Hour Volumes, pdf pg 46

The directional allocation is not obvious. The -11 is equivalent to the internal trips. However, the distribution of north-south traffic on Wallace Road from the site remains opaque.

The KDN 2017 Riverbend/Wallace Road intersection AM trip count¹⁹ distributes traffic 35 west, 33 east, 641 north, and 973 southbound. The percentage equivalent is 2% west, 2% east, 38% north, and 58% southbound.

An equivalent distribution of the declared Non-Pass-By 67 ADT generated by the Phase II completed Riverbend Project is 25 northbound and 38 southbound AM peak hour Wallace Road exits. Not the 57 northbound and 20 southbound claimed on the Appendix C chart segment above.

The PM peak hour site generated entrance traffic allocation is equally convoluted.

There is no AM or PM peak hour site generated trip distribution in Appendix C of the Phase I TIA report.

Conclusion:

Attempting to bury the impacts of development on a West Salem transportation facility by presenting a jumble of truncated and contradictory numbers is not an equitable solution. The community supports Mr. Martin's Riverbend Project. Stopping the project is not aim of this appeal. We seek a proportional traffic mitigation strategy from this project that will address the current and future Wallace Road congestion.

Absent actual findings which accurately address OAR 660-12-0060(1)(c)(C) and findings that identify mitigation measures which conform to the Salem Transportation System Plan Policy 2.5 (2)(c) these zone changes and this comprehensive plan change must be denied because CPC-ZC-ZC19-10 fails to adequately address Oregon Land Use Goal 12 and the Salem Transportation System Plan requirements.

Accordingly, I request that CPC-ZC-ZC19-10 be returned to staff to accurately analysis the Phase II TIA conclusions and prepare findings that confirm to the requirements of OAR 660-12-0060.

¹⁹ Riverbend TIA Phase II pdf pg 29

Appendix A

HCM Signalized Intersection Capacity Analysis Wallace Rd NW (OR 221)/Glen Creek Rd NW

12/16/2018

Intersection Summary			
HCM 2000 Control Delay	91.5	HCM 2000 Level of Service	F
HCM 2000 Volume to Capacity ratio	1.17		
Actuated Cycle Length (s)	130.0	Sum of lost time (s)	20.0
Intersection Capacity Utilization	107.3%	ICU Level of Service	G
Analysis Period (min)	15		
c Critical Lane Group			

2035 Background Traffic
Weekday AM Peak Hour

Synchro 10 Light Report
Page 1

HCM Signalized Intersection Capacity Analysis 3: Wallace Rd NW & Glen Creek Rd NW

05/19/2017

Intersection Summary			
HCM 2000 Control Delay	48.4	HCM 2000 Level of Service	D
HCM 2000 Volume to Capacity ratio	1.01		
Actuated Cycle Length (s)	130.0	Sum of lost time (s)	19.0
Intersection Capacity Utilization	85.4%	ICU Level of Service	E
Analysis Period (min)	15		
c Critical Lane Group			

The Pointe at Glen Creek 03/09/2017 Existing AM

Synchro 9 Report
Page 4

These two intersection capacity reports are based upon raw data recorded 18 months apart. The March 2017 count was 3,307 AM peak hour trips. The November 2018 count was 3,449 AM peak hour trips. That is a 4.29% increase in traffic; the equivalent of a 2.86% annual increase in traffic passing through the Wallace and Glen Creek Roads intersection.

Appendix B



Oregon

Kate Brown, Governor

Department of Transportation

Region 2 Tech Center

455 Airport Road SE, Building A


Salem, Oregon 97301-5397

Telephone (503) 986-2990

Fax (503) 986-2839

DATE: February 13, 2019

TO: Dan Fricke
Region 2 Senior Planner

FROM: 
Keith P. Blair, PE
Region 2 Senior Transportation Analyst

SUBJECT: Riverbend Phase 2 (Salem) – Transportation Planning Rule
TPR Analysis Response Review Comments

ODOT Region 2 Traffic has completed our review of the submitted TPR analysis review response to comments (dated February 7, 2019) to address traffic impacts due to a comprehensive plan amendment, zone change, and development of a shopping center of up to 14,500 square feet and 112 apartment units on the northwest quadrant of OR 221 and Riverbend Road in the city of Salem, with respect to consistency and compliance with current versions of ODOT's *Analysis Procedures Manual (APM)*. Both versions of the *APM* were most recently updated in November 2018. Current versions are consistently published online at:

<http://www.oregon.gov/ODOT/TD/TP/Pages/APM.aspx>. As a result, we submit the following comments for the consideration of Region 2 Planning, Region 2 Development Review, and the City:

Analysis items to note:

- The study utilized a Commuter seasonal trend adjustment of 1.0132 based on 2017 numbers for a September 2017 count. However, per my calculations utilizing 2017 Commuter trend values and a September 12, 2017 count date, the adjustment should be 1.0235. This will have an effect on the operational analysis results, but should not be significant enough to have an effect on the conclusions of the study as the values are still within the mobility target.
- Table 5 – The OR221/Riverbend intersection operational performances presented within the table are lower than those within the corresponding analysis reports provided within Appendix H. This will have an effect on the operational analysis results, but not the conclusions of the study as the values are still within the mobility target.

1 of 2

Proposed mitigation comments:

1. ODOT maintains jurisdiction of the Salem-Dayton Highway No. 150 (OR 221) and ODOT approval shall be required for all proposed mitigation measures to this facility.
2. No mitigation measures have been proposed. This conclusion appears reasonable for this proposal.

Thank you for the opportunity to review this TPR analysis. As the analysis files were not provided, Region 2 Traffic has only reviewed the submitted report. This TPR analysis has been, for the most part, prepared in accordance with ODOT analysis procedures and methodologies. No further analysis work should be required. If there are any questions regarding these comments, please contact me at (503) 986-2857 or Keith.P.Blair@odot.state.or.us.

Amy Johnson

From: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>
Sent: Monday, October 28, 2019 9:30 AM
To: E Easterly
Cc: citycouncil; Tony Martin; BLAIR Keith P
Subject: RE: OHP 1F.5 mobility assessment criteria

Mr. Easterly –

Thank you for your questions. Our response is as follows:

Regarding Oregon Highway Plan (OHP) Action 1F.5, while you are correct that the Transportation Impact Analysis (TIA) for the proposed comprehensive plan amendment and zone change does project an increase in average daily traffic over 1,000 , Action 1F.5 does not establish that increase as “a significant mobility impact threshold.” The threshold you cite relates specifically to establishing only what constitutes a “small increase in traffic” which by definition does not cause further degradation. In a case where a proposed amendment increases average daily traffic by over 1,000 trips, Action 1F.5 states:

If the increase in traffic between the existing plan and the proposed amendment is more than 1,000 average daily trips, then it is not considered a small increase in traffic and the amendment causes further degradation of the facility and would be subject to existing processes for resolution.

ODOT staff have reviewed the TIA for the proposed amendment using existing processes and have determined that the projected increase in traffic, while causing a minimal degradation in operations at two Wallace Road intersections, will not have a significant impact on ODOT facilities. In accordance with OAR 660-012-0060, it is ODOTs responsibility to determine if a proposed land use or zoning change that is expected to have a net increase in trips exceeding 1,000 average daily trips will have a significant impact on ODOTs facilities. That there is a net increase of more than 1,000 trips does not constitute an automatic determination that the increase is significant. In this case, our analysis showed that the projected increase in traffic at Glen Creek and Orchard Heights was about 1% of the projected volumes at those intersections (based on volume/capacity ratios). This increase is well within the margin of error inherent in the analysis tools used to determine possible impacts. We have, therefore, concluded that this change does not constitute a significant impact to intersections on Wallace Road. This finding applies only to review of this proposed amendment and only to its potential impacts to ODOT facilities.

Dan Fricke, Senior Transportation Planner
ODOT Region 2

455 Airport Road SE, Building B

Salem, OR 97301-5395

Ph: 503-986-2663

E-mail: daniel.l.fricke@odot.state.or.us

From: E Easterly <emeasterly@comcast.net>
Sent: Monday, October 28, 2019 7:30 AM
To: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>
Cc: citycouncil <citycouncil@cityofsalem.net>; Tony Martin <TMartin@cityofsalem.net>
Subject: OHP 1F.5 mobility assessment criteria

Dear Mr. Fricke,

Thank you for affirming the ODOT 2/13/19 response to the Riverbend Phase 2 project cited in the 7 Oct 19 email copied below. You state, "the project would not have a significant impact on ODOT facilities".

I find your declaration confusing as well as disturbing. A projected 1465 ADT exceeds the 1001 ADT 1F.5 significant mobility impact threshold.

Are you declaring that the City of Salem comprehensive plan modification requested by the Riverbend Phase 2 applicant is exempt from the Oregon Highway Plan Policy 1F.5 significant impact criteria and the applicable mitigation actions that fall under Section -0060(1) of the TPR?

Are you declaring that Oregon State Highway OR221 within the Salem City limits exempt from the Oregon Highway Plan Policy Action 1F.5 mobility degradation threshold requirements and the mitigation requirements contained in OAR660-012-0060(1)(c)(C)?

E.M. Easterly
503-363-6221

From: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>
Sent: Monday, October 07, 2019 10:57 AM
To: Tony Martin <TMartin@cityofsalem.net>; BLAIR Keith P <Keith.P.BLAIR@odot.state.or.us>
Cc: Jennifer Scott <JRScott@cityofsalem.net>
Subject: RE: FW: Riverbend Phase 2 TPR Analysis (12/23/18) - ODOT Region 2 Traffic Comments

Tony -

Keith Blair (Region 2 Senior Traffic Analyst) and I have reviewed this application. ODOTs previous com proposal are attached. At the time this project was originally reviewed, we determined that the proje a significant impact on ODOT facilities as that term is used in OAR 660-012-0060. After consideration, comments remain appropriate and ODOTs position on this proposal. Let me know if you need any adc information.

Dan

Dan Fricke, SeniorTransportation Planner ODOT Region 2
455 Airport Road SE, Building B
Salem, OR 97301-5395
Ph: 503-986-2663
E-mail: daniel.l.fricke@odot.state.or.us

Amy Johnson

From: E Easterly <emeasterly@comcast.net>
Sent: Monday, October 28, 2019 11:20 AM
To: FRICKE Daniel L
Cc: citycouncil; Tony Martin; BLAIR Keith P
Subject: RE: OHP 1F.5 mobility assessment criteria

Thank you, Mr. Fricke, for the timely response to my query.

I do appreciate your thoughtful acknowledgement of my reading of OHP 1F.5 and your clarifying statements regarding the application of OHP 1F.5. Please see additional commentary within the body of your response below.

E.M. Easterly

On October 28, 2019 at 9:29 AM FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us> wrote:

Mr. Easterly –

Thank you for your questions. Our response is as follows:

Regarding Oregon Highway Plan (OHP) Action 1F.5, while you are correct that the Transportation Impact Analysis (TIA) for the proposed comprehensive plan amendment and zone change does project an increase in average daily traffic over 1,000, Action 1F.5 does not establish that increase as “a significant mobility impact threshold.” The threshold you cite relates specifically to establishing only what constitutes a “small increase in traffic” which by definition does not cause further degradation. **Mr. Fricke I fully concur with your prior interpretation. The issue to be addressed is "further degradation" which is cited in OAR 660-012-0060(1)(c)(C).** In a case where a proposed amendment increases average daily traffic by over 1,000 trips, Action 1F.5 states:

If the increase in traffic between the existing plan and the proposed amendment is more than 1,000 average daily trips, then it is not considered a small increase in traffic and the amendment causes further degradation of the facility and would be subject to existing processes for resolution.

ODOT staff have reviewed the TIA for the proposed amendment using existing processes and have determined that the projected increase in traffic, while causing a minimal degradation in operations at two Wallace Road intersections, will not have a significant impact on ODOT facilities. **Mr. Fricke, while I appreciate your above declaration, I too have reviewed the submitted TIA summary & appendices, have seen the conclusion contained therein, but do not see any evidence of actual data supporting such a declared conclusion.** In accordance with OAR 660-012-0060, it is ODOTs responsibility to determine if a proposed land use or zoning change that is

expected to have a net increase in trips exceeding 1,000 average daily trips will have a significant impact on ODOT's facilities. **Thank you for acknowledging such ODOT responsibility.** That there is a net increase of more than 1,000 trips does not constitute an automatic determination that the increase is significant. **Thank you for this clarification.** In this case, our analysis showed that the projected increase in traffic at Glen Creek and Orchard Heights was about 1% of the projected volumes at those intersections (based on volume/capacity ratios). **What was your analysis? The TIA in question provides only a conclusion unsupported by actual analysis. If you and ODOT staff performed such analysis, I would appreciate receiving a copy of same.** This increase is well within the margin of error inherent in the analysis tools used to determine possible impacts. **If such analysis exists, what is the ADT arriving from the project at the Wallace/Glen Creek intersection which "was about 1% of the projected volumes" at that intersection? According to the traffic count contained in my October 22 email to you at Appendix A the Wallace/Glen Creek intersection was 6 points above the OHP mobility standards in 2017. We have, therefore, concluded that this change does not constitute a significant impact to intersections on Wallace Road. Again, please provide me, Salem City staff and the Salem City Council evidence supporting your conclusion.** This finding applies only to review of this proposed amendment and only to its potential impacts to ODOT facilities. Again, please provide me, Salem City staff and the Salem City Council evidence supporting your conclusion.

Dan Fricke, Senior Transportation Planner

ODOT Region 2

455 Airport Road SE, Building B

Salem, OR 97301-5395

Ph: 503-986-2663

E-mail: daniel.l.fricke@odot.state.or.us

From: E Easterly <emeasterly@comcast.net>

Sent: Monday, October 28, 2019 7:30 AM

To: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>

Cc: citycouncil <citycouncil@cityofsalem.net>; Tony Martin <TMartin@cityofsalem.net>

Subject: OHP 1F.5 mobility assessment criteria

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Are you declaring that Oregon State Highway OR221 within the Salem City limits exempt from the Oregon Highway Plan Policy Action 1F.5 mobility degradation threshold requirements and the mitigation requirements contained in OAR660-012-0060(1)(c)(C)?

E.M. Easterly

503-363-6221

Oct. 27, 2019

Good Evening Council Members and Chamber,

My name is Dan Gerges, I live in West Salem Community. I am also a Member of Land Use Group.

I'm here to talk about the conditions for the Riverbend Phase II project, we West Salem Neighborhood Association are asking Salem Planning Commission to require the Project to have an open space area with trails and community connections be a condition of approval of the project. The applicant has explained this to the WSNA to engender project acceptance; however, it is only in force as long as the Homeowner Association or other governing body agrees to continue. Since it was a selling point for WSNA support of the project, we request that there be a condition within the zoning and/ or project that enforces this provision for trails, community connections and open space therein.

We are asking the City Council buying in and full support on these conditions, Per our discussion with Geoffrey James, Architect and project representative, the Riverbend Center project has considerable open and recreational space planned that the adjoining neighborhood is welcomed to use and enjoy. The open and recreational space is expected to be maintained by the property owner with HOA fees. There is no guarantee that open space will continue in existence or continue to be open to the neighborhood residents, let's why we need the support from the City Council and written guarantee from the project to have these conditions as easements for future use.

Thank you for your time and have a good evening,

Dan Gerges

503-551-2216

gergesdan@gmail.com

Oct. 27, 2019

Good Evening Council Members and Chamber,

My name is Dan Gerges, I live in West Salem Community. I am also a Member of Land Use Group.

I'm here to talk about the conditions for the Riverbend Phase II project, we West Salem Neighborhood Association are asking Salem Planning Commission to require the Project to have an open space area with trails and community connections be a condition of approval of the project. The applicant has explained this to the WSNA to engender project acceptance; however, it is only in force as long as the Homeowner Association or other governing body agrees to continue. Since it was a selling point for WSNA support of the project, we request that there be a condition within the zoning and/ or project that enforces this provision for trails, community connections and open space therein.

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Thank you for your time and have a good evening,

Dan Gerges

503-551-2216

gergesdan@gmail.com