

## NOTICE OF DECISION

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



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

### REVISED DECISION OF THE HEARINGS OFFICER

*The original decision inadvertently contained two conditions unrelated to the application. They have been removed.*

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW / CLASS 2 ZONING  
ADJUSTMENT / CLASS 2 DRIVEWAY APPROACH PERMIT  
CASE NO.: CU-SPR-ADJ-DAP20-04**

**APPLICATION NO.:** 20-107338-ZO / 20-107339-RP / 20-107347-ZO /  
20-107349-ZO

**NOTICE OF DECISION DATE:** ~~July 17, 2020~~ July 21, 2020

**SUMMARY:** A proposal to construct four tennis courts and associated parking.

**REQUEST:** A consolidated Conditional Use, Class 3 Site Plan Review, Class 2 Zoning Adjustment, and Class 2 Driveway Approach Permit, for the development of tennis courts and associated parking on a property approximately 1.75 acres (including alley and 12th street right-of-way), zoned RM-II (Multi-Family Residential-II) and PE (Public and Private Education Services) zones and designated Multiple Family Residential in the Salem Comprehensive Plan.

The request includes four Class 2 Adjustments for the following:

1. To increase the height of the fence within the RM-II zone to six feet along E Street and eight feet for the remainder of the proposal.
2. Reduce the driveway spacing on a minor arterial to 270 feet
3. Eliminate the setback for a vehicle use area abutting 12<sup>th</sup> Street NE
4. Eliminate the setback for a vehicle use area abutting D Street NE.
- ~~5. Eliminate the 5-foot setback abutting a property line for a vehicle use area for property lines on the southern portion of the development site.~~

The subject property is located at 1163 D Street NE (Marion County Assessor Numbers 073W23CA / 7200, 073W23CA / 7100, 073W23CA / 8100, 073W23CA / 8200, 073W23CA / 8300 and City right of way.

**APPLICANT/AGENT(S):** Mark Shipman, Saalfled Griggs Lawyers, and Julie Condon, BRIC Architecture, on behalf of Joel Smallwood, Salem Keizer School District 24J

**LOCATION:** 1163 D Street NE, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapter(s) 240.005(d) – Conditional Use, 220.005(f)(3) – Class 3 Site Plan Review, 250.005(d)(2) – Class 2 Zoning Adjustment, and 804.025(d) – Class 2 Driveway Approach Permit

**FINDINGS:** The findings are in the attached Decision dated July 16, 2020.

**DECISION:** The **Hearings Officer APPROVED** Conditional Use CU-SPR-ADJ-DAP20-04 subject to the following conditions of approval:

**CONDITIONAL USE:**

**Condition 1:** The lighting shall be installed as shown in the lighting plan submitted and will not be lit after 9:00pm within the tennis courts, and after 10:00pm within the parking lots.

**Condition 2:** The applicant shall provide signage on-site indicating the facility closes at dusk.

**SITE PLAN REVIEW:**

**Condition 3:** The applicant shall provide landscaping within the 6.75 feet land area abutting E Street and the development with shrubs that will grow six feet in height along the length of the development site.

**Condition 4:** The applicant shall consult with staff and install an appropriate sign on the applicant's property facing E Street to direct parking and access for the tennis courts to the parking lot and D Street. Nothing in this condition prohibits a single sign that also satisfies Condition 2.

**Condition 5:** Prior to issuance of building permits, the applicant shall eliminate property lines within the development site.

**Condition 6:** Obtain approval in compliance with SRC 76.160 for proposed uses in the public right-of-way.

**Condition 7:** Install street trees to the maximum extent feasible along the frontage of D Street NE pursuant to SRC 86.015(e).

**Condition 8:** Install street trees to the maximum extent feasible along the frontage of E Street NE pursuant to SRC 86.015(e).

~~**Condition 9:** Replace nonconforming portions of existing sidewalk along the frontage of the property pursuant to SRC 78.180(a).~~

~~**Condition 10:** Install street trees to the maximum extent feasible along the frontage of Fairgrounds Road NE pursuant to SRC 86.015(e).~~

**Condition 11 9:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and Public Works Design Standards (PWDS).

**ADJUSTMENT:**

**Condition 12 10:** The applicant shall landscape the special setback of 11 feet between the vehicle use area and street improvements meeting Type A standards of SRC 807.

~~**Condition 13 11:**~~ The adjusted development standard, 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 all applicable development standards of the UDC, unless adjusted through a future land use action.

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

Conditional Use Permit	<del>August 4, 2022</del> <u>August 6, 2022</u>
Class 3 Site Plan Review	<del>August 4, 2024</del> <u>August 6, 2024</u>
Class 2 Adjustments	<del>August 4, 2022</del> <u>August 6, 2022</u>
Driveway Approach Permit	<del>August 4, 2022</del> <u>August 6, 2022</u>

Application Deemed Complete:	<u>May 29, 2020</u>
Public Hearing Date:	<u>June 24, 2020</u>
Notice of Decision Mailing Date:	<del>July 17, 2020</del> <u>July 21, 2020</u>
Decision Effective Date:	<del>August 4, 2020</del> <u>August 6, 2020</u>
State Mandate Date:	<u>September 26, 2020</u>

Case Manager: Olivia Dias, [odias@cityofsalem.net](mailto:odias@cityofsalem.net), 503-540-2343

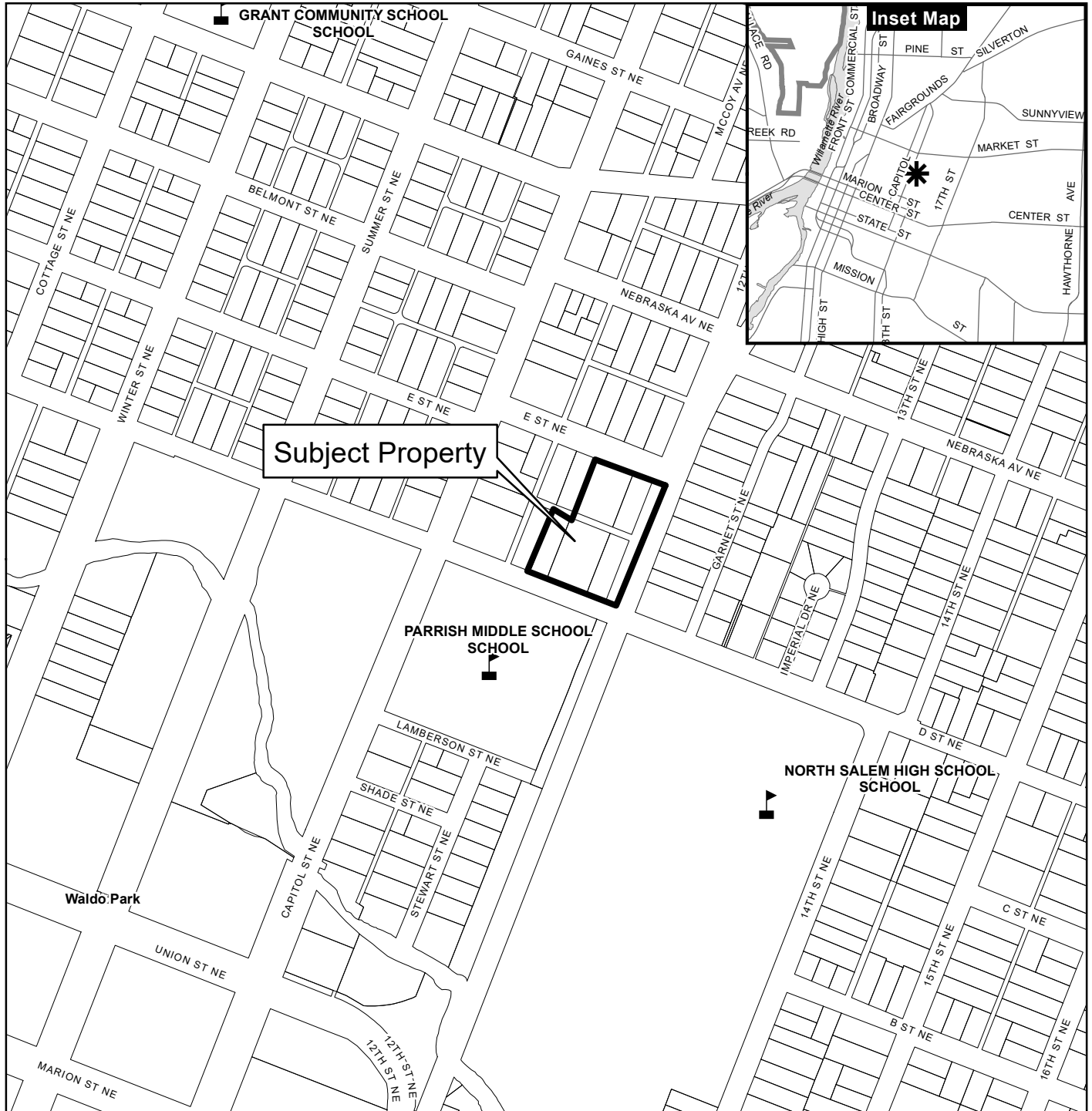
This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m., Monday, August 3, 2020 ~~Wednesday, August 5, 2020~~. Any person who presented evidence or testimony about this case may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240, 220, 250, and 804. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review during regular business hours. For access to case related documents during the closure of City Hall to the public because of the COVID-19 pandemic, please contact the Case Manager.

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

# Vicinity Map

## 1163 D Street NE



### Legend

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

Parks

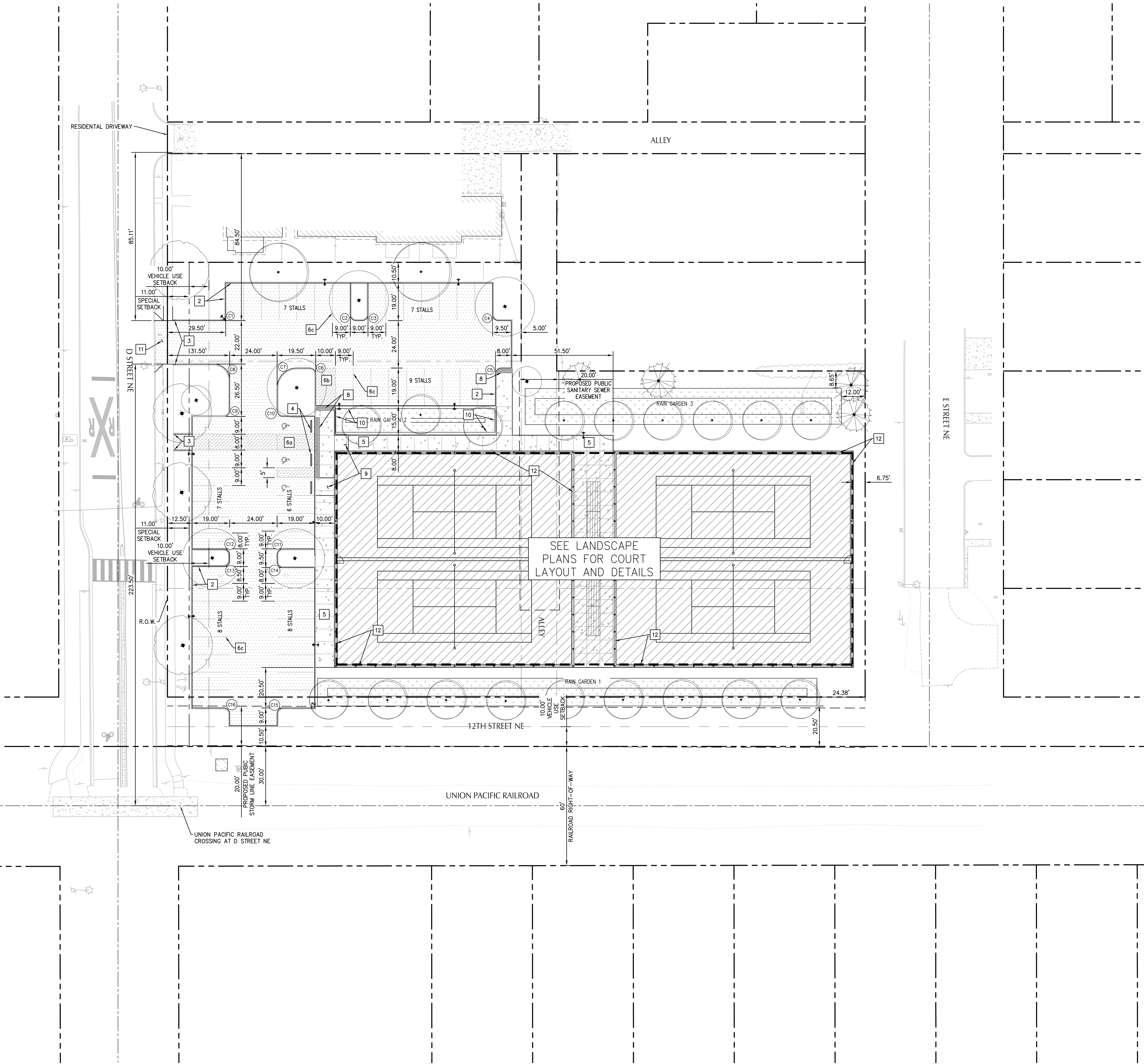
**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet







SHEET NOTES

- ALL DIMENSIONS ARE TO FACE OF CURB OR FACE OF WALL.
- SEE LANDSCAPE PLANS FOR PLANTING PLANS, TENNIS COURTS, AND ADDITIONAL SITE FEATURES.

KEY NOTES

#	DESCRIPTION	DETAIL REF.
1	SAWCUT LINE	
2	STANDARD CURB	4/C600
3	CURB ENDING	9/C600
4	WHEEL STOP	10/C600
5	CONCRETE SIDEWALK	3/C600
6a	ADA PARKING STALLS AND STRIPING	12/C600
6b	"NO PARKING" ZONE STRIPING	17/C600
6c	4" WIDE WHITE STRIPE	11/C600
7	ADA PARKING SIGN	13/C600
8	DETECTABLE WARNING	15/C600
9	CURB RAMP	16/C600
10	CONCRETE CURB WALL	6/C600
11	CONCRETE DRIVEWAY	REFERENCE SALEM CITY DETAIL NO.302/C602
12	TENNIS COURT FENCING	REFERENCE LANDSCAPE PLANS

SHEET LEGEND

	PROPERTY LINE
	STANDARD CURB
	CONCRETE SIDEWALK
	STANDARD ASPHALT PAVEMENT
	STORMWATER MANAGEMENT FACILITY RAIN GARDEN
	SEE LANDSCAPE PLANS
C	COMPACT PARKING STALLS
LT	LEFT
PC	POINT OF CURVATURE
PCC	POINT OF COMPOUND CURVE
PI	POINT OF INTERSECTION
PT	POINT OF TANGENT
R	RADIUS
RT	RIGHT
	SEE THIS SHEET FOR CURB RADIUS TABLE
	LIGHT, SEE ELECTRICAL PLANS FOR DETAILS

PARKING COUNT SUMMARY TABLE

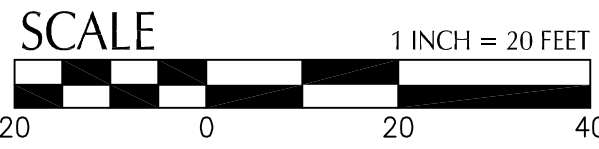
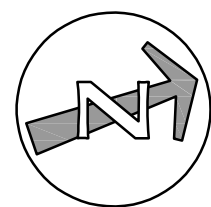
STANDARD STALLS	43
COMPACT STALLS	6
STANDARD ADA STALLS	2
VAN ADA STALLS	1
TOTAL STALLS	52

CURB RADIUS TABLE

CURB #	BEGINNING NORTHING	BEGINNING EASTING	LENGTH	RADIUS	DELTA	TANGENT DISTANCE	ENDING NORTHING	ENDING EASTING
C1	476681.87	7548880.23	4.71'	3.00'	90°00'00"	4.24'	476685.76	7548878.54
C2	476744.37	7548901.64	4.71'	3.00'	90°00'00"	4.24'	476746.06	7548905.53
C3	476748.85	7548906.63	4.71'	3.00'	90°00'00"	4.24'	476752.75	7548904.94
C4	476811.36	7548928.04	4.71'	3.00'	90°00'00"	4.24'	476813.05	7548931.93
C5	476805.64	7548954.81	4.71'	3.00'	90°00'00"	4.24'	476801.75	7548956.50
C6	476717.09	7548923.13	4.71'	3.00'	90°00'00"	4.24'	476715.40	7548919.24
C7	476709.35	7548916.86	15.71'	10.00'	90°00'00"	14.14'	476696.38	7548922.50
C8	476675.52	7548909.97	12.57'	8.00'	90°00'00"	11.31'	476671.01	7548899.60
C9	476665.95	7548926.08	4.71'	3.00'	90°00'00"	4.24'	476669.84	7548924.39
C10	476692.17	7548933.19	4.71'	3.00'	90°00'00"	4.24'	476693.86	7548937.09
C11	476669.29	7548999.42	4.71'	3.00'	90°00'00"	4.24'	476665.40	7549001.11
C12	476643.07	7548992.31	4.71'	3.00'	90°00'00"	4.24'	476641.38	7548988.42
C13	476638.08	7548996.79	4.71'	3.00'	90°00'00"	4.24'	476641.97	7548995.10
C14	476664.11	7549004.37	4.71'	3.00'	90°00'00"	4.24'	476665.80	7549008.26
C15	476639.77	7549074.31	4.71'	3.00'	90°00'00"	4.24'	476635.88	7549076.00
C16	476613.55	7549067.20	4.71'	3.00'	90°00'00"	4.24'	476611.86	7549063.31

SITE AREAS SUMMARY TABLE

TOTAL SITE AREA	76,900	SF
IMPERVIOUS AREA	50,100	SF
LANDSCAPE AREA	19,373	SF
STORMWATER MANAGEMENT AREA	7,421	SF
LANDSCAPE AREA PERCENTAGE OF TOTAL SITE AREA	25%	SF



**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

Request: A consolidated Conditional Use, Class 3 Site Plan Review, Class 2 Zoning Adjustment, and Class 2 Driveway Approach Permit, for the development of tennis courts and associated parking on a property approximately 1.75 acres (including alley and 12 <sup>th</sup> street right-of-way), zoned RM-II (Multi-Family Residential-II) and PE (Public and Private Education Services) zones and designated Multiple Family Residential in the Salem Comprehensive Plan.	} } } } } } } } } }	CU-SPR-ADJ-DAP20-04  FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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**DATE AND PLACE OF HEARING:**

June 24, 2020, meeting held electronically at:  
<https://www.gotomeet.me/SalemPlanning/hearings-officer-june-24-2020>

**APPEARANCES:**

<u>Staff:</u>	Olivia Dias
<u>Neighborhood Association:</u>	No appearances
<u>Proponents:</u>	Salem-Keizer School District (applicant); Mark D. Shipman on behalf of applicant, oral testimony at hearing June 24, and via email (July 7, 2020).
<u>Opponents:</u>	The following appearances were via email: Randie Weathers (June 17, 2020), Annette DePuy (June 23, 2020), Isaak & Gin Stapleton (June 30, 2020), Larry Wittler (June 30, 2020).
<u>Neutral:</u>	None.



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

### **BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on June 24, 2020, regarding a request for a consolidated Conditional Use, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, for the development of tennis courts and associated parking on a property approximately 1.75 acres (including alley and 12th street right-of-way), zoned RM-II (Multi-Family Residential-II) and PE (Public and Private Education Services) zones and designated Multiple Family Residential in the Salem Comprehensive Plan. The subject property is located at 1163 D Street NE (Marion County Assessor Numbers 073W23CA / 7200, 073W23CA / 7100, 073W23CA / 8100, 073W23CA / 8200, 073W23CA / 8300) and City right of way.

During the hearing, Olivia Dias requested the Hearings Officer enter the Staff Report and presentation into the Record, and the Hearings Officer granted the request

The Staff Report and Staff presentation provided uncontested facts and analysis of the application. The Hearings Officer adopts the following:

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

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

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

#### **2. Zoning of Surrounding Properties**

The subject property is zoned RM-II (Multi-Family Residential) and PE (Public and Private Education Services). The subject property has a conflict between the zoning and Comprehensive Plan. In order to be consistent with the Comprehensive Plan, the uses within the RM-II zone governs the development of the subject property. The proposed use of Recreational and cultural community services is an allowed use in the PE zone, but a Conditional Use within the RM-II zone, therefore a conditional use permit is required for development of the four tennis courts and associated parking.

The zoning of surrounding properties is as follows:

North: Across E Street NE; RM-II (Multi-Family Residential)

South: Across D Street NE; PE (Public and Private Education Services)

East: RM-II (Multi-Family Residential)

West: Across 12<sup>th</sup> Street and Railroad; RM-II (Multi-Family Residential) and RD (Residential Duplex)

### **3. Site Analysis**

The subject property is five tax lots (7 subdivision lots) totaling approximately 1.75 acres (including alley and 12<sup>th</sup> street right-of-way) and has approximately 220 feet of frontage on D Street NE and approximately 160 feet of frontage on E Street NE. D Street NE is designated as a Minor Arterial street in the Transportation System Plan and E Street NE and the right of way for 12<sup>th</sup> Street NE, which includes the railroad, are designated as Local streets.

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

The subject property is located within the Grant Neighborhood Association and Northeast Neighbors Neighborhood Association (NEN). Notice was provided to Grant and NEN and to surrounding addresses, property owners, and tenants within 250 feet of the subject property. Email comments were received from Randie Weathers and Annette DePuy (on behalf of her mother, Dorothy Golik), expressing concerns about parking availability for residents on E Street. Ms. Weathers also expressed an interest in the tennis courts also being striped for use as pickleball courts. Virginia Stapleton and Larry Wittler would like to have some of the green space retained for community use and are concerned with student safety during pick-up and drop-off times.

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

The Public Works Department reviewed the proposal and provided the memo included as Attachment D to the staff report.

The Salem Building and Safety Division reviewed the proposal and identified no issues.

The Salem Fire Department reviewed the proposal and identified no issues. Cherriots reviewed the proposal and identified no issues.

### **6. Criteria for Conditional Use**

SRC Chapter 240.005(a)(1) provides that:

No building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter

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

#### Criterion 1:

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



The Hearings Officer notes that the subject property is zoned RM-II (Multi-Family Residential) and PE (Public and Private Education Services). The subject property has a conflict between the zoning and Comprehensive Plan. In order to be consistent with the Comprehensive Plan, the uses within the RM-II zone, SRC 514.005, govern the development of the subject property. The proposed use of Recreational and cultural community services is an allowed use in the PE zone, and is allowed as a Conditional Use within the RM-II zone; therefore a conditional use permit is required for development of the four tennis courts and associated parking.

The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 2:

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

The proposal is for the development of a vacant field, currently used as a sports field and vacant house, into a tennis facility and associated parking to benefit the neighboring schools, and indirectly benefit the neighboring properties. The tennis courts are part of the adjacent schools and will not increase the noise or nature of the neighborhood in any meaningful way beyond the current school uses. The schools and/or neighborhood currently use the site as an undeveloped sports field. There may be a slight increase in traffic associated with the parking lot, but the majority of the trips generated will be contained to school hours when the neighboring traffic is already impacted by the existing school structures. The access to the parking lot will be from D Street NE, a minor arterial and no driveway will be provided on a local street within the residential neighborhood. The setback and landscaping requirements will provide a buffer between the existing residential uses and the proposed tennis court. The applicant proposes to provide a 43-foot setback between the courts and the neighboring property on the north and a 10-foot setback adjacent to the vehicle use area. Both setbacks meet or exceed the requirements of the Salem Revised Code and will be landscaped pursuant to SRC 807, buffering the two uses.

The tennis courts are proposed to be located 6.75 feet from the right of way abutting E Street NE. The use is an intensification of the existing use on the property. In order to mitigate the impacts of the use from the residential uses along E Street, the applicant shall provide a landscaping buffer abutting E Street. To further mitigate the impacts of the use from the residential uses along E Street, the applicant shall consult with City staff and install an appropriate sign on the applicant's property, facing E Street NE, stating that

parking and access for the tennis court should use D Street NE and the parking lot.

The applicant has indicated that the courts will be open during school hours and for after school activities. The courts will be secured and locked after those events/ activities are completed. The applicant is not providing lighting for play on the courts but will provide security lights in the parking lot and bleacher areas. In order to minimize impacts to the abutting and adjacent residential uses, limits on lighting and hours of operation are important. The District has stated that the courts will be closed at dusk, therefore, a condition requiring signage is also imposed.

**Condition 1:** The lighting shall be installed as shown in the lighting plan submitted and will not be lit after 9:00pm within the tennis courts, and after 10:00pm within the parking lots.

**Condition 2:** The applicant shall provide signage on-site indicating the facility closes at dusk.

**Condition 3:** The applicant shall provide landscaping within the 6.75 feet land area abutting E Street and the development with shrubs that will grow six feet in height along the length of the development site.

**Condition 4:** The applicant shall consult with staff and install an appropriate sign on the applicant's property facing E Street to direct parking and access for the tennis courts to the parking lot and D Street. Nothing in this condition prohibits a single sign that also satisfies Condition 2.

As conditioned, the proposed development will have a minimal impact on the immediate neighborhood.

The Hearings Officer finds that, with these four conditions, the proposal satisfies this criterion.

Criterion 3:

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

The Hearings Officer notes that the Subject Property is surrounded on two sides by residential properties, to the east is the railroad and to the south,

across D Street NE, by Parrish Middle School. The proposed development is consistent with the school use to the south and offers a benefit to the residential properties in the vicinity by providing parking for the creational school uses, minimizing the traffic impact of the proposed use, as well as usable recreational facilities that will be open to the public when not in use by the adjacent schools or neighborhood clubs. The proposed tennis courts will generate minimal noise, and the close proximity to North Salem High School will allow students practicing on the Subject Property to walk there, minimizing additional trips to other off-site facilities.

Any impact on the surrounding properties related to the tennis courts currently exists because of the proximity to Parrish Middle School and North Salem High School, making the Development compatible with the existing property uses in the vicinity. Increased impact from the parking lot will be offset by decreasing traffic and congestion on D Street NE and will alleviate parking constraints at Parrish Middle School and North Salem High School. Although several neighbors raised concerns about parking on E Street, the Hearings Officer finds that the parking lot, with its access from D Street will alleviate any impacts the tennis courts would have on E Street.

The Hearings Officer notes the citizen concerns related to parking on E Street NE, and the interest citizens expressed in retaining some of the green space for community use and in striping the tennis courts for community use as a pickleball court. The Hearings Officer notes that the property is owned by the School District, and the tennis courts will not be open to the general public for recreational use, nor does the district intend for the property to be a public park. The Hearings Officer notes that the concerns about parking and the interest in using parts of the property for recreational uses, rather than as a school tennis court, are somewhat in conflict with one another. In balance, the Hearings Officer finds that using the property for school tennis court purposes, as conditioned, will have little impact, or somewhat improve, the livability of the surrounding properties.

The Hearings Officer finds that because the development will have minimal impact on surrounding uses, the proposed development, as conditioned related to Criterion 2, satisfies this approval criterion.

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

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

### **Criterion 1:**

**The application meets all applicable standards of the UDC.**

The Hearings Officer notes the subject property is zoned RM-II (Multi-Family Residential) and PE (Public and Private Education Services). The subject property has a conflict between the zoning and Comprehensive Plan. In order to be consistent with the Comprehensive Plan, the uses within the RM-II zone govern the development of the subject property. The proposed use of Recreational and cultural community services is an allowed use in the PE zone, and is allowed as a Conditional Use within the RM-II zone, therefore a conditional use permit is required for development of the four tennis courts and associated parking. The following is a summary of the applicable development standards for the proposed development:

The applicant is proposing to remove lot lines between the properties and locating improvements within the existing alley and 12<sup>th</sup> Street right of way (including the railroad right of way), which includes the existing railroad right of way. The application was evaluated based on the submitted property line adjustment applications, which consolidate the northern two lot and consolidate the southern three lots, therefore the following conditions apply:

**Condition 5:** Prior to issuance of building permits, the applicant shall eliminate property lines within the development site.

**Condition 6:** Obtain approval in compliance with SRC 76.160 for proposed uses in the public right-of-way.

#### **Use and 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. The Hearings Officer finds that the Recreational and cultural community services uses are allowed as a conditional 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 all uses other than single family uses in the RM-II zone is 6,000 square feet. Lots are required to have 40-ft width, 120-ft depth, and 40-ft of frontage.

The Hearings Officer finds that the RM-II portion of the subject property is approximately 1.75 acres, once consolidated, in size, exceeding the minimum lot size requirement. The property, once the property is consolidated, will meet lot standards of the RM-II zone.



*SRC 522.010(b) – Setbacks:*

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

**South:** Adjacent to the south is right-of-way for D Street NE. Buildings are required 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.

**North:** Adjacent to the north is right-of-way for E Street NE. Buildings are required 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.

**East:** Adjacent to the east is the 12<sup>th</sup> Street NE right-of-way and the railroad. Buildings are required to meet 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.

The Hearings Officer finds that there are no proposed buildings and the vehicle use area is located over the property line abutting 12<sup>th</sup> Street right-of-way. The applicant has applied for an adjustment, addressed below, and has received an encroachment permit to locate the vehicle use area within the right-of-way. The Hearings Officer notes that there is not a setback requirement for fencing.

**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.

The Hearings Officer finds that the proposed building and parking area is setback 10 feet or greater from the western property line and greater than five feet to the alley, meeting or exceeding the minimum setback requirement. The applicant has applied for a property line adjustment to eliminate the underling lot lines, which would eliminate the five-foot setback requirement to those property lines. To ensure the setback to the underlining lot lines are not required, Condition 3, above, applies.

*SRC 514.010(e) - Lot Coverage, Height:*

The maximum lot coverage allowance for all uses in the RM-II zone is 60 percent. The maximum building height allowance for uses other than single family, two family or multi-family is 70 feet.

The Hearings Officer finds that the site plan indicates that the proposed tennis courts will have fences approximately six to eight feet in height. Pursuant to SRC 800.050(B), fences in a residential zone shall not exceed four feet abutting a street and six feet in the rear yard. The applicant is not proposing a building, therefore meeting the standard. The fence exceeds the maximum height, the applicant has requested an adjustment to the standard, which is addressed below.

*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.

The Hearings Officer notes that the 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.

The Hearings Officer finds that no outdoor storage areas are proposed for the proposed use.

**General Development Standards SRC 800**

*Pedestrian access SRC. 800.065*

Pedestrian connections required.

The on-site pedestrian circulation system shall provide pedestrian connectivity throughout the development site as follows:

- (1) Connection between building entrances and streets.

- A. A pedestrian connection shall be provided between the primary building entrance of each building on the development site and each adjacent street. Where a building has more than one primary building entrance, a single pedestrian connection from one of the building's primary entrances to each adjacent street is allowed; provided each of the building's primary entrances are connected, via a pedestrian connection, to the required connection to the street.
- B. Where an adjacent street is a transit route and there is an existing or planned transit stop along street frontage of the development site, at least one of the required pedestrian connections shall connect to the street within 20 feet of the transit stop.
  - (3) Connection between buildings on the same development site. Where there is more than one building on a development site, a pedestrian connection, or pedestrian connections, shall be provided to connect the primary building entrances of all of the buildings.

The Hearings Officer finds that the applicant is not proposing a building; therefore, this standard is not applicable.

(3) Connection through off-street parking areas.

- (iii) Regardless of the size of the off-street parking area, pedestrian connections are not required through off-street surface parking areas that have a depth, in all locations, of not more than 124 feet. For purposes of this subsection, parking area depth is measured through the parking area from its outside edge towards the building.

The Hearings Officer finds that the proposal does not include a parking area greater than 25,000 square feet, more than four consecutive drive aisles or have a depth of 124-feet. There are no planned paths or trails near the subject property and the property does not share access with adjacent properties.

**Design and materials.**

Required pedestrian connections shall be in the form of a walkway or may be in the form of a plaza.

(1) Walkways shall conform to the following:

- (A) Material and width. Walkways shall be paved with a hard-surface material meeting the Public Works Design Standards and shall be a minimum of five feet in width.

- (B) Where a walkway crosses driveways, parking areas, parking lot drive aisles, and loading areas, the walkway shall be visually differentiated from such areas through the use of elevation changes, a physical separation, speed bumps, a different paving material, or other similar method. Striping does not meet this requirement, except when used in a parking structure or parking garage.
  - (C) Where a walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping, or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.
- (2) Wheel stops or extended curbs shall be provided along required pedestrian connections to prevent the encroachment of vehicles onto pedestrian connections.

The Hearings Officer finds that as there are no required pedestrian connections, these standards are not applicable.

#### *Solid Waste Service Areas – SRC 800.055*

##### *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.

The Hearings Officer finds that as the proposal does not include a solid waste service area; this section is 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 an outdoor recreational and cultural community services is one space per 2,000 square feet of gross site area.
- 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.

The Hearings Officer notes that the proposed development site, including the right-of-way is 1.75 acres or 76,230 square feet. The minimum off street parking is 38 spaces ( $76,230 / 2,000 = 38.1$ ). The maximum off-street parking allowance for the use is 67 spaces ( $38 \times 1.75 = 66.5$ ). The site plan indicates 52 spaces. The Hearings Officer finds that the proposal satisfies the minimum and maximum parking standard.

The proposal is allowed 29 compact spaces ( $38 \times 0.75 = 28.5$ ), the site plan indicates six compact spaces. The Hearings Officer finds that the proposal satisfies the standard.

*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.

The Hearings Officer notes that 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.

The Hearings Officer finds that 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.

The Hearings Officer notes that the proposal does not contain a building. The Hearings Officer finds that the off-street parking area complies with all applicable perimeter and interior setback requirements for the proposed tennis courts.

- d) *Interior Landscaping.* Interior landscaping shall be required for off-street parking areas less than 50,000 square feet is a minimum of five percent.

The Hearings officer notes that the proposed off-street parking areas are 17,700 square feet in size, requiring 885 square feet of interior landscaping ( $17,700 \times 0.05 = 885$ ). The site plan indicates 2,350 square feet of interior landscaping is provided. A minimum of one deciduous shade tree is proposed for every 12 parking spaces. The Hearings Officer finds that the proposal meets this standard.

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

The Hearings Officer finds that 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).*

The Hearings Officer notes that the proposal is to develop the off-street parking area 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 will meet the standards of SRC 806. The applicant shows lighting will be provided on site.

### **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.*

An outdoor recreational and cultural community services use is required to have the greater of 4 bicycle spaces or a minimum of one bicycle spaces per 30 vehicle parking spaces.

The Hearings Officer notes that the applicant has submitted a supplemental site plan indicating four bicycle parking spaces will be provided. The proposal satisfies the standard.

#### *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. Except as otherwise provided in this section, bicycle parking shall be located outside a building.

- 1) Bicycle parking located outside a building shall be located within a convenient distance of, and be clearly visible from, the primary building entrance. In no event shall bicycle parking be located more than 50 feet from the primary building entrance, as measured along a direct pedestrian access route.
- 2) Where bicycle parking cannot be located outside a building, it may be located inside a building within a convenient distance of, and accessible 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 that is free of obstructions and any barriers, such as curbs or stairs, which would require users to lift their bikes in order to access the bicycle parking area.

(c) Dimensions. Except as provided in subsection (f) of this section, bicycle

parking areas shall meet the following dimension requirements:(

- 1) Bicycle parking spaces. Bicycle parking spaces shall be a minimum of six feet in length and two feet in width with the bicycle rack centered along the long edge of the bicycle parking space. Bicycle parking space width may be reduced, however, to a minimum of three feet between racks where the racks are located side-by-side.
  - 2) Access aisles. Bicycle parking spaces shall be served by a minimum four-foot-wide access aisle. Access aisles serving bicycle parking spaces may be located within the public right-of-way.
- (d) Surfacing. Where bicycle parking is located outside a building, the bicycle parking area shall consist of a hard surface material, such as concrete, asphalt pavement, pavers, or similar material, meeting the Public Works Design Standards.
- (e) Bicycle racks. Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall meet the following standards.
- 1) Racks must support the bicycle frame in a stable position, in two or more places a minimum of six inches horizontally apart, without damage to wheels, frame, or components.
  - 2) Racks must allow the bicycle frame and at least one wheel to be locked to the rack with a high security, U-shaped shackle lock;
  - 3) Racks shall be of a material that resists cutting, rusting, and bending or deformation; and
  - 4) Racks shall be securely anchored.
  - 5) Examples of types of bicycle racks that do, and do not, meet these standards are shown in Figure 806-10.

The Hearings Officer notes that the supplemental site plan indicates the type of rack, which in turn meets the development standards, and that the rack will be located at the entrance of the tennis courts. The Hearings Officer finds that this satisfies the standard.

### **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 Recreation and cultural community services uses containing less than 5,000 square feet of floor area does not require off-street loading area per Table 806-9.

The Hearings Officer notes that the proposal is the development of tennis courts and associated parking area. There are no buildings proposed, and therefore no loading spaces are required. The Hearings Officer finds that the standard is met.

**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.

The Hearings Officer notes that the proposed site plan indicates that approximately 19,373 square feet of landscaping will be provided for the proposed development, requiring a minimum of 969 plant units ( $19,373 / 20 = 968.65$ ). Of the required plant units, a minimum of 40 percent, or 388 plant units ( $969 \times 0.4 = 387.6$ ) are required to be trees.

The Hearings Officer notes that landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review.

**Natural Resources**

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

*SRC 808 - Preservation of Trees and Vegetation:* The City's tree preservation SRC 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 Hearings Officer notes that no protected trees have been identified on the site plan for removal.

*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.

The Hearings Officer notes that according to the Salem-Keizer Local Wetland Inventory (LWI), there are not mapped wetlands present on the subject property.

*SRC 810 - Landslide Hazards:* A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. The subject property does not contain areas of mapped landslide hazard. The proposed commercial development is assigned 3 activity points. A total of 3 points indicates a low landslide hazard risk; a geological 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.

The Hearings Officer notes that D Street NE does not meet current standards for the collector classification of street, per the Salem Transportation System Plan. However, the development is not proposing a building addition that is subject to 803.040(a); therefore, no right-of-way or street improvements are required at this time. The property is subject to a special setback equal to 36 feet measured from the centerline of D Street NE.

E Street NE meets or exceeds the right-of-way width and pavement width standards pursuant to the Salem TSP. The development is not proposing a building addition that is subject to SRC 803.040(a); therefore, no additional street improvements are required as a condition of the proposed development.

The applicant shall install street trees to the maximum extent feasible along the frontage of D Street NE and E Street NE pursuant to SRC 86.015(e). The Hearings Officer imposes the following conditions to ensure compliance with this criterion:

**Condition 7:** Install street trees to the maximum extent feasible along the frontage of D Street NE pursuant to SRC 86.015(e).

**Condition 8:** Install street trees to the maximum extent feasible along the frontage of E Street NE pursuant to SRC 86.015(e).

Criterion 3:

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

The Hearings Officer notes that the proposed driveway access onto D Street NE provides for safe turning movements into and out of the property. The applicant is proposing access to the only developed street abutting the subject property. The proposal does not meet the driveway spacing standards, and therefore is addressed below, in the findings related to the Class 2 Adjustment.

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.

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

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

The Hearings Officer notes that the applicant is required to design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director. The trash area shall be designed in compliance with Public Works Standards.

The Hearings Officer imposes the following condition to ensure compliance with this criterion:

**Condition 9:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and *Public Works Design Standards (PWDS)*.

**8. Analysis of Class 2 Zoning Adjustment Permit Criteria**

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

Criterion 1:

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

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

**Proposed adjustment:**

***To increase the height of the fence within the RM-II zone to six feet along E Street and eight feet for the remainder of the proposal:***

The Hearings Officer notes that the applicant is requesting to develop new tennis courts in a RM-I (Multi-Family Residential) zone, and for the courts to be surrounded by traditional six-foot-tall and 8-foot-tall fence to contain balls within the court. The applicant indicates that the purpose underlying the development standard is clearly inapplicable to the proposed development. The purpose of the height limitation for fences and walls in residential zones is to limit the visual impact and mass of excessively tall fences, primarily at a property line, where fences and walls are typically placed. The tennis court fence is located approximately 10 feet from the abutting residentially zoned property to the north and will be visually screened by required landscaping and site-obscuring fencing requirements at the property line. The Hearings Officer finds that the proposed fencing equally meets the purpose of this standard and will reduce the impact of tennis balls and players going out of the development site. The Hearings Officer finds that the proposal satisfies Criterion 1.

***Reduce the driveway spacing on a minor arterial to 270 feet:***

The Hearings Officer notes that the proposal includes a Class 2 Adjustment. The Class 2 Adjustment requests approval to reduce the minimum required driveway spacing onto a Minor Arterial street. The subject property does not have adequate frontage to meet the spacing requirement of 270 feet from the intersection with a Minor Arterial (SRC 804.030(c)). The development is proposing a new driveway to serve the tennis court facility. The development site consists of several lots of an existing subdivision, which would have multiple driveways. The applicant is proposing a property line adjustment to consolidate four existing lots, thereby reducing the number of driveways allowed for the property. The Assistant City Traffic Engineer has reviewed the proposed plan and has determined that the proposed driveway configuration meets the adjustment criteria by allowing for turning movements and traffic

safety that is equal to what would be accomplished by meeting the development standard. The proposed driveway configuration meets the adjustment criteria by maximizing the distance from the intersection in a manner that allows for turning movements and traffic safety equal to what would be accomplished by meeting the development standard. The Hearings Officer finds that the proposal satisfies Criterion 1.

***Eliminate the setback for a vehicle use areas abutting 12<sup>th</sup> Street NE and D Street NE:***

The Hearings Officer notes that the applicant is requesting a setback adjustment to the property lines abutting 12<sup>th</sup> Street and D Street for the proposed vehicle use area. The 12<sup>th</sup> Street right of way is not developed as a street. The Hearings Officer notes that the applicant has applied to vacate the right of way, in order to own the land area. The City has received an application for encroachment into the right-of-way; if approved it will allow the applicant to operate this use over City right-of-way until the street vacation is approved. Since there is not an existing street, and the right-of-way is proposed for vacation, and an application for an encroachment has been received by the City, the reduced setback will not affect the existing, or planned, transportation system.

The applicant requested to eliminate the setback to D Street NE, which is developed, but not at the full size of the improvement required by SRC 803. The property is subject to a special setback abutting the property. The applicant has proposed to encroach into the special setback for landscaping requirements, under SRC 807. The applicant will be providing landscaping within the right of way, which will equally meet the standard of the required six to ten-foot setback from the ultimate right of way. The proposed vehicle use area will be setback more than ten feet from the current improvement and will be landscaped between the improvement and the street. The Hearings Officer imposes the following condition to ensure the development satisfies this requirement:

**Condition10:** The applicant shall landscape the special setback of 11 feet between the vehicle use area and street improvements meeting Type A standards of SRC 807.

***Eliminate the 5-foot setback abutting a property line for a vehicle use area for property lines on the southern portion of the development site:***

The Hearings Officer notes that this adjustment request is not needed, since additional research on the Vacated Right of Way from D Street has been provided, indicating the property line of each lot includes the previously

vacated right of way. Therefore, the adjustment to the property lines along the southern portion of the property is not needed.

Criterion 2:

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

The Hearings Officer notes that the subject property is located within a residential zone. The proposed adjustment is requested to allow a tennis facility to be used in conjunction with the existing schools located across D Street. The Hearings Officer finds that the requested adjustment will not detract from the livability or appearance of the residential area.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

**Condition11:** The adjusted development standard, 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 all applicable development standards of the UDC, unless adjusted through a future land use action.

The proposal meets the criterion.

Criterion 3:

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:** Three separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.



**9. Analysis of Class 2 Driveway Approach Permit Criteria**

Salem Revised Code (SRC) 804.025(d) sets forth the following criteria that must be met before approval can be granted to an application for a Driveway Approach Permit. The Driveway Approach Permit is required for the driveway on D St NE.

Criterion 1:

The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.

The Hearings Officer notes that the proposed driveway is located less than 370 feet from adjacent driveways; therefore, a Class 2 adjustment is required for driveway spacing, as described below. Otherwise, the proposed driveway meets the standards for SRC 804 and PWDS. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 2:

No site conditions prevent placing the driveway approach in the required location.

The Hearings Officer notes that the proposal is to enlarge the existing driveway approach. The property frontage does not contain adequate length to meet the spacing standards. The current approach is function and does not contain site conditions that are unsafe site. The applicant has requested a Class 2 Adjustment for the location of the driveway, which is addressed above. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 3:

The number of driveways onto an arterial is minimized.

The Hearings Officer notes that the development is proposing to relocate an existing driveway and reduce the number of driveway approaches from two to one for the subject property along the Minor Arterial street. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 4:

The proposed driveway approach, where possible:

- a) Is shared with an adjacent property; or
- b) Takes access from the lowest classification of street abutting the property.

The Hearings Officer notes that the proposed parking lot development abuts only one street, which has a Minor Arterial classification. A shared driveway approach is not possible because of existing development on the westerly abutting property. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 5:

The proposed driveway approach meets vision clearance standards.

The Hearings Officer finds that the proposed driveway meets the PWDS vision clearance standards set forth in SRC Chapter 805.

Criterion 6:

The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.

The Hearings Officer finds that no evidence has been submitted to indicate that the proposed driveway will create traffic hazards or unsafe turning movements. Additionally, the Hearings Officer notes that the staff analysis of the proposed driveway indicates that it will not create a traffic hazard and will provide for safe turning movements for access to the subject property. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 7:

The proposed driveway approach does not result in significant adverse impacts in the vicinity.

The Hearings Officer notes that the Staff analysis of the proposed driveway and the evidence that has been submitted indicate that the location of the proposed driveway will not have any adverse impacts to the adjacent properties or streets. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 8:

The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.

The Hearings Officer finds that the proposed driveway approach relocates an existing approach located on a Minor Arterial street and does not create a significant impact to adjacent streets and intersections.

**Criterion 9:**

**The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.**

The Hearings Officer notes that the proposed development is surrounded by residentially zoned property. The proposed driveway is taken from the higher classification, D Street NE a minor arterial. Since Parrish Elementary and North Salem High School are currently located on D Street, locating a driveway on the lowest classification street abutting the subject property would adversely affect the residential neighborhood. The driveway balances the adverse impacts to residentially zoned property and will not have an adverse effect on the functionality of the adjacent streets. The Hearings Officer finds that the proposal satisfies this criterion.

**DECISION**

Based upon the Facts and Findings contained in the staff report, staff presentation and testimony from the public hearing, the Hearings Officer APPROVES the request for a conditional use, site plan review, adjustment, driveway approach permit, and design review application for the proposed development of tennis courts and associated parking on a property approximately 1.75 acres (including alley and 12<sup>th</sup> street right-of-way/railroad right of way) located at 1163 D Street NE, subject to the following conditions of approval:

**CONDITIONAL USE:**

- Condition 1:** The lighting shall be installed as shown in the lighting plan submitted and will not be lit after 9:00pm within the tennis courts, and after 10:00pm within the parking lots.
- Condition 2:** The applicant shall provide signage on-site indicating the facility closes at dusk.

**SITE PLAN REVIEW:**

- Condition 3:** The applicant shall provide landscaping within the 6.75 feet land area abutting E Street and the development with shrubs that will grow six feet in height along the length of the development site.
- Condition 4:** The applicant shall consult with staff and install an appropriate sign on the applicant's property facing E Street to direct parking and access for the tennis courts to the parking


lot and D Street. Nothing in this condition prohibits a single sign that also satisfies Condition 2.

- Condition 5:** Prior to issuance of building permits, the applicant shall eliminate property lines within the development site.
- Condition 6:** Obtain approval in compliance with SRC 76.160 for proposed uses in the public right-of-way.
- Condition 7:** Install street trees to the maximum extent feasible along the frontage of D Street NE pursuant to SRC 86.015(e).
- Condition 8:** Install street trees to the maximum extent feasible along the frontage of E Street NE pursuant to SRC 86.015(e).
- Condition 9:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and *Public Works Design Standards (PWDS)*.

**ADJUSTMENT:**

- Condition 10:** The applicant shall landscape the special setback of 11 feet between the vehicle use area and street improvements meeting Type A standards of SRC 807.
- Condition 11:** The adjusted development standard, 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 all applicable development standards of the UDC, unless adjusted through a future land use action.

DATED: July 16, 2020



James K. Brewer, Hearings Officer