



CITY OF SALEM

585 Liberty St SE
Salem, OR 97301

Staff Report

File #: 20-260

Version: 1

Date: 8/10/2020

Item #: 4. a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

City Council review of the Planning Administrator's decision for Class 3 Site Plan Review Case No. SPR20-19 for property located at 725 Market Street NE.

Ward(s): Ward 1

Councilor(s): Kaser

Neighborhood(s): Grant Neighborhood Association

Result Area(s): Welcoming and Livable Community

ISSUE:

Shall the City Council affirm, amend, or reverse the Planning Administrator's decision for Class 3 Site Plan Review Case No. SPR20-19?

RECOMMENDATION:

Staff recommends that the City Council affirm the Planning Administrator's decision for Class 3 Site Plan Review Case No. SPR20-19.

SUMMARY:

On June 26, 2020, the Planning Administrator issued a decision approving a request by Salem-Keizer Public Schools to reconfigure an existing off-street parking lot and construct an on-street bus and ADA parking area on Cottage Street NE using alternative street standards, subject to conditions of approval.

The subject property, the site of the Grant Community School, is approximately 2.59 acres and has frontage on Cottage Street NE on the west, Market Street NE on the south, and Winter Street NE on the east (**Attachment 1**).

The Grant Neighborhood Association filed an appeal on July 13, 2020 (**Attachment 2**). At their July 13, 2020 meeting, the City Council moved to review the decision.

FACTS AND FINDINGS:

Procedural Findings

1. On February 27, 2020, an application for a Class 3 Site Plan Review application was submitted to the Planning Division. On April 29, 2020, the application was deemed complete upon receipt of a statement from the applicant's representative that information submitted through April 24, 2020 would be the final materials submitted and no additional information would be submitted.
2. On June 26, 2020, the Planning Administrator issued a decision approving the application with conditions.
3. On July 13, 2020, the Grant Neighborhood Association filed an appeal.
4. On July 13, 2020, at a regularly scheduled meeting, the City Council voted to initiate the review of the Planning Administrator's decision. A public hearing before the City Council is scheduled for August 10, 2020.
5. On July 17, 2020, notice of the hearing was sent to the Grant Neighborhood Association and surrounding property owners and tenants pursuant to Salem Revised Code requirements. Notice of the hearing was posted on the subject property on July 27, 2020.
6. The 120-day State mandated deadline for final decision is August 27, 2020.

Substantive Findings

1. Proposal

The applicant is requesting to restripe an existing off-street parking area on the east side of the school and construct an on-street bus and ADA parking area on Cottage Street NE. Because the applicant requests alternative street standards to construct the on-street bus and ADA parking area, the proposal requires deviation from the clear and objective development standards of the UDC (Unified Development Code) relating to streets and the application requires Class 3 Site Plan Review.

The property is zoned PE (Public and Private Educational Services), which allows basic education uses including elementary schools as a permitted use.

2. Planning Administrator's Decision

The Planning Administrator approved the application with conditions (**Attachment 3**).

3. Class 3 Site Plan Review Criteria

The applicable criteria and considerations that must be satisfied for the approval of the Class 3 Site Plan Review are included within the Salem Revised Code (SRC) Chapter 220, under section 220.005(f)(3). An application for a Class 3 Site Plan Review shall be granted if all of the following criteria are met:

- (1) *The application meets all applicable standards of the UDC;*
- (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;*
- (3) *Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians; and*
- (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 Planning Administrator's decision, which is included as **Attachment 3** to this report and incorporated by reference, found that the application could meet the approval criteria, with conditions of approval.

The proposed reconfiguration under the alternative street standards would relocate an existing property-line sidewalk to the west so that it becomes a curbline sidewalk. The construction would require removal of five street trees and would result in a planting strip approximately five feet wide between the property line and relocated sidewalk. The building is set back approximately 10 feet in this area.

In order to mitigate the impacts of the construction that would require removal of existing street trees, the following conditions of approval were imposed:

Condition 1: Replace all of the trees proposed for removal at a ratio of at least 1:1 with street trees within the right-of-way abutting Cottage Street NE and/or private property trees within the setback between the building and the property line abutting Cottage Street NE and adjacent to the proposed bus pullout. The replacement trees shall be at least 2 inches in diameter and of a species approved by the City for placement within planter strips along streets.

Condition 2: Submit a landscape and irrigation plan at the time of building permit review that demonstrates compliance with the requirements of SRC Chapter 807 for any trees to be planted on the school property to replace the removed street trees.

4. Grant Neighborhood Association Appeal

The Neighborhood Association's appeal application and supporting documentation are included as **Attachment 2**. The appeal raises these issues:

Failure of staff to meet with the Neighborhood Association and District to work out a solution

The Neighborhood Association states that staff did not meet with the Neighborhood Association and the District to forge a solution.

Staff Response: Staff received approximately 30 emails from the Grant Neighborhood Association officers from the date cited in the letter, February 25, 2020, until the deadline for comments on May 27, 2020; many of these emails were copies of emails the Neighborhood Association sent to, or received from, the School District, including summaries of meetings between the Neighborhood Association and District. Staff has responded to specific questions with approximately 10 emails prior to the deadline for comments and responded to the Neighborhood Association's concerns in the decision.

At several points during the process, staff offered the applicant opportunities to respond to the concerns of the Neighborhood Association and other parties with revisions to the proposal. The applicant requested on April 29, 2020 that staff deem the application complete with plans submitted on April 24, 2020. State law requires staff to deem an application complete when the applicant requests it.

After receiving an email from the Neighborhood Association on April 30, 2020 indicating that they had met with District personnel, staff asked the applicant whether they would be submitting any further revisions of the plans beyond those received on April 24, 2020; the applicant responded that they would submit any revised plans as soon as possible if they decided to revise the plan but to continue the review process with the plans they had submitted. No further revisions were received.

After receiving an email from the Neighborhood Association on May 28, 2020 indicating that the Neighborhood Association and District had met on May 27, 2020 to discuss alternatives, staff forwarded the email to the applicant's representative and asked if the applicant would grant an extension to the State-mandated 120-day deadline and authorize staff to hold the decision for revisions. Staff also forwarded comments received for the case to the applicant and asked if the applicant would like to provide written responses by June 4, 2020 or authorize an extension; the applicant responded on May 28, 2020 that the District was evaluating the comments and ideas to see if they were feasible. On June 4, 2020, the applicant provided a written response, which is included in the Planning Administrator's decision (**Attachment E of Attachment 3**) but did not authorize an extension.

Staff was obligated to issue the decision based on the April 24, 2020 plans in order to meet the State-mandated 120-day deadline. The Planning Administrator found that this proposal met the criteria for approval, with conditions. If the District determines that alternatives to the Cottage Street NE proposal are viable, they may submit a modification of this site plan review application, a new site plan review application, or other applications that would be required for a specific proposal. An alternative proposing bus parking in the existing parking lot adjacent to Winter Street NE, for example, would require a new site plan review application, driveway permit application, and/or adjustment applications.

Loss of parking spaces on Cottage Street NE

The Neighborhood Association states that loss of on-street parking spaces for a bus lane that will be used for 60 to 90 minutes per day would cause harm to the neighborhood because a lack of garages for residential uses, an insufficient number of spaces for the school, and use by Capital Mall employees result in competition for the existing on-street spaces. The Neighborhood Association states that the neighbors surrounding the school may request that other on-street spaces near the school be converted to RP-restricted parking if the bus lane is constructed.

Staff Response: The existing school parking is nonconforming with respect to current code requirements of two spaces per each of 19 classrooms. The current proposal involves no increase in the number of classrooms and does not require the school to provide the current requirement of 38 off-street spaces. To mitigate the loss of on-street parking, the applicant may consider posting signage that would allow on-street parking in the bus pullout area when it is not needed for buses. However, because vehicles parked in violation of such signage could prevent buses from accessing the pullout during the school day, staff does not recommend a condition of approval requiring such signage.

Loss of trees and increase in pavement leading to increased vehicle speeds

The Neighborhood Association states that car speeds will increase because the proposal would increase pavement and provide smaller trees farther from the street.

Staff Response: The Public Works Department found that the proposal met the applicable criterion, "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 proposal would result in widened pavement, relocation of a property line sidewalk to the curbline, and relocation of a tree planting strip away from the curb. The total length of the section that would be widened is approximately 175 feet. The curb-to-curb pavement width would be increased from approximately 30 feet to 35 feet to allow buses to pull to the side of the street and from approximately 30 feet to 40 feet to create two new ADA spaces similar to the existing curb-to-curb pavement width for the existing ADA spaces near Market Street NE.

The sidewalk in the affected area would be relocated adjacent to the curb and widened from approximately 5 feet to 8 feet. The widened sidewalk allows for an ADA ramp serving two new ADA spaces and additional area for students, including those using wheelchairs and walkers, to enter and exit the bus.

The landscape area between the building and sidewalk near the bus pullout would be widened from approximately 12 feet to approximately 15 feet, including a planter strip approximately five feet wide located in the street right-of-way. The trees that would be replaced do not meet the definition of a mature tree in SRC Chapter 807 (10 inches or greater in diameter at breast height); based on aerial photos, they were planted between 2011 and 2014. To mitigate for the removal of existing trees, the conditions of approval require trees a minimum of two inches in diameter (caliper), which would be larger than the minimum caliper of one inch for an

ornamental tree or 1.5 inch for a shade tree that would be required for trees in a landscaped setback under SRC Chapter 807.

Violation of a compact between students, the neighborhood, and the City (through its arborist) and violation of the City's policy to preserve tree canopy

The Neighborhood Association states that removal of the trees and planter strip violates a compact that has resulted in beautification of the school grounds when the District was providing minimal landscaping and maintenance.

Staff Response: Staff is unaware of any formal agreement between the City (or its Urban Forester), the District, and the Neighborhood that would prevent removal of the existing street trees and planter strips. While the proposal would result in removal of four existing trees, the conditions of approval require replanting. The District has proposed alternative street standards and has applied for a street tree removal permit. Public Works staff and the Planning Administrator found that the proposal is authorized as an Alternative Street Standard pursuant to SRC 803.065(a)(3) because "...other conditions make the construction that conforms to the standards impossible or undesirable." The applicant has stated that leaving the street as it is currently configured is undesirable because the area is needed to accommodate buses conducting drop-offs and pick-ups for additional students attending the school. Public Works approved the street tree removal, contingent on final approval of the Site Plan Review decision. Grant Neighborhood Association has appealed the street tree removal permit.

Request to delay approval or construction of a bus lane due to COVID-19

The Neighborhood Association states that COVID-19 may make it unlikely that students in the Medically Developmental Learning Center (MDLC) would be admitted to Grant in the fall and requests that the existing drop-off area on Market Street could be used as a temporary solution.

Staff Response: The applicant has not authorized an extension to the State-mandated 120-day deadline, and the City may not delay or deny approval of a proposal that meets all applicable criteria on the basis of potential school enrollment issues related to COVID-19. The applicant has stated that the Market Street drop off is not as feasible as the Cottage Street pullout, as it is very busy before and after school, the buses used for the Medically Developmental Learning Center (MDLC) may be parked for five to 10 minutes as they unload students in wheelchairs or walkers, and parked buses would likely back up westbound traffic on Market Street.

Request to delay construction of the proposed bus pullout to explore alternatives on Market Street NE or Winter Street NE

The Neighborhood Association states that delaying construction of the proposed bus lane will allow more time to explore alternatives including a Winter Street bus loop or Market Street drop-off and states that the Winter Street option would require removal of one tree, require construction of one driveway, and provide adequate turning radius for buses.

Staff Response: While staff appreciates the Neighborhood Association's suggestions for alternatives and encourages the applicant to explore them, the current proposal meets all applicable criteria, and the City may not impose conditions requiring that the applicant construct an alternative. The applicant provided documentation that the proposal was first discussed with the Neighborhood Association at their December 5, 2019 meeting ([Attachment F of Attachment 3](#)). The applicant has not authorized an extension to the State-mandated 120-day deadline, and the City may not delay or deny approval of a proposal that meets all applicable criteria to allow more time to explore alternatives. The suggested bus loop on Winter Street NE would likely require removal of a significantly larger street tree and would require the applicant to submit a new Class 3 Site Plan Review application, a Class 2 Driveway Approach Permit for a new driveway on a local street, and possible zoning adjustments. It would place the bus parking and ingress and egress area for the students in an area already used for a solid waste service area, bicycle parking, and vehicle parking, potentially requiring significant modifications to the existing features to provide a safe crossing for the students utilizing the buses. The applicant has not provided staff with a response to the Neighborhood Association's assertion that the proposal would provide adequate turning area for buses.

5. Other Comments Received from Grant Neighborhood Association and the Public

Prior to the comment deadline for the decision, five comments from citizens and comments from the Grant Neighborhood Association were submitted in opposition and one comment from citizens was submitted in support. Comments raised issues related to the proposed location of the bus parking, removal of street trees, traffic, parking, pedestrian safety, bus maneuvering on streets, location of the Medically Developmental Learning Center (MDLC), cost of the improvements, and communication from the School District. These comments and staff responses are included in the decision ([Attachment 3](#)).

Subsequent to issuance of the decision and prior to preparation of this report, two comments in opposition were submitted.

One comment raised the following issues: removal of trees and green space, loss of on-street parking near state buildings with limited parking for their employees, and suggestions to use existing parking and paved areas for the buses to meet needs of the new students. These issues were addressed in the decision in responses to previous comments ([Attachment 3](#)).

Another issue raised was that the proposed conditions requiring tree replacement do not account for the building overhang, the trees will need to be pruned regularly at the building edge, and the city and school district need to propose a better plan to replace the trees at the 1:1 ratio.

Staff Response: City standards do not prohibit street trees or private property trees from hanging over adjacent buildings. Existing street trees and private property trees around the school currently overhang the building. While the building roof is approximately 6 feet from the property line near the proposed bus pullout, the proposed configuration and conditions of approval would allow placement of trees in an area sufficient in width for root systems and

successful establishment. The landscape area between the building foundation and relocated sidewalk would vary from approximately 10 to 15 feet in width adjacent to the bus pullout. For comparison, street standards in the Transportation Systems Plan allow planting areas of 5.5 feet in width for street trees in collector streets; parking and vehicle use area standards allow landscaped setbacks between parking areas and streets a minimum of six feet in width; and interior parking lot landscaping standards allow planting areas for trees a minimum of five feet in width and 25 square feet in area.

ALTERNATIVES:

The City Council may affirm, modify, or reverse the decision of the Planning Administrator for Class 3 Site Plan Review Case No. SPR20-19.

- I. **AFFIRM** the decision;
- II. **MODIFY** the decision; or
- III. **REVERSE** the decision.

Pamela Cole
Planner II

Attachments:

1. Vicinity Map and Site Plan
2. Grant Neighborhood Association Appeal
3. Planning Administrator's Decision for Class 3 Site Plan Review Case No. SPR20-19