

## Legislation Details (With Text)

**File #:** 18-438 **Version:** 1

**Type:** Public Hearings **Status:** Held  
**In control:** City Council

**On agenda:** 10/8/2018 **Final action:**

**Title:** City Council review of the Planning Administrator's decision denying a Tentative Subdivision Review and approving an Urban Growth Declaration for Permit Case No. SUB-UGA18-01 for property located at 1395 Boone Road SE - 97306.

Ward(s): Ward 3  
Councilor(s): Nanke  
Neighborhood(s): Morningside

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Vicinity Map, 2. Tentative Subdivision Plan, 3. Planning Administrator's Decision, 4. Appeal Letter and Withdraw Request, 5. Written Testimony received 10-8-18

Date	Ver.	Action By	Action	Result
10/8/2018	1	City Council	continued	Pass

**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 denying a Tentative Subdivision Review and approving an Urban Growth Declaration for Permit Case No. SUB-UGA18-01 for property located at 1395 Boone Road SE - 97306.

Ward(s): Ward 3  
Councilor(s): Nanke  
Neighborhood(s): Morningside

**ISSUE:**

Shall the City Council affirm, amend, or reverse the Planning Administrator's decision for Tentative Subdivision Review and Urban Growth Preliminary Declaration Permit Case No. SUB-UGA18-01?

**RECOMMENDATION:**

Staff recommends that the City Council AFFIRM the August 29, 2018 Planning Administrator's

Decision.

## **SUMMARY AND BACKGROUND:**

The subject property consists of two adjoining tax lots (Tax Lots 2900 and 3000) and is located on the north side of Boone Road approximately 0.25-miles from the intersection of Boone Road SE and Commercial Street SE (**Attachment 1**). The Planning Administrator denied a consolidated Tentative Subdivision application and approved an Urban Growth Preliminary Declaration Permit subject to conditions of approval (**Attachment 2 and 3**). The denial was based on a lack of a street connection to an abutting property and lack of parking for the existing dwelling. An appeal of the decision was filed by Brandie Dalton of Multi-Tech Engineering, on behalf of Boylan Construction, but was withdrawn on September 11, 2018 after City Council moved to call-up the decision for Council review (**Attachment 4**).

## **FACTS AND FINDINGS:**

### Procedural Findings

1. On February 26, 2018 Multi-Tech Engineering attended a pre-application conference with City staff to discuss a proposed subdivision on the subject property. They were informed that their tentative lay out would not meet connectivity standards and that a stub street to the east would be required.
2. On May 7, 2018, an application for a Tentative Subdivision Review and Urban Growth Preliminary Declaration Permit was submitted to the Planning Division. Staff notified the applicant that the application did not meet all of the applicable decision criteria and must either modify the subdivision plan or provide adequate evidence addressing the decision criteria and identified other missing items.
3. On July 3, 2018, the applicant submitted additional information without staff recommended modifications to the Planning Division and requested that their application be deemed complete. The application was deemed complete on July 18, 2018.
4. On August 29, 2018, the Planning Administrator issued a decision denying the tentative subdivision and approving the Urban Growth Preliminary Declaration Permit.
5. On September 5, 2018, the applicant filed a timely appeal of the decision.
6. On September 10, 2018, 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 October 8, 2018.
7. On September 11, 2018, the applicant withdrew their appeal after the City Council initiated Council review.
8. On September 18, 2018, notice of the hearing was sent to the Morningside Neighborhood Association, and surrounding property owners pursuant to Salem Revised Code requirements. Notice of the hearing was posted on the subject property on September 24, 2018.

9. The 120-day State mandated deadline for final decision is November 15, 2018.

## Substantive Findings

1. The applicable criteria and considerations that must be satisfied for the approval of the Tentative Subdivision Review and Urban Growth Preliminary Declaration in this case are included within the City's land division chapter (SRC Chapter 205) under section 205.010(d), and the urban growth management chapter (SRC Chapter 200) under section SRC 200.025 (d).

Findings for the proposed Tentative Subdivision Review and Urban Growth Preliminary Declaration Permit with the applicable approval criteria are included in the August 29, 2018 decision, which is included as **Attachment 3** to this report and incorporated by reference.

2. Basis for Subdivision Denial

The Planning Administrator denied the Tentative Subdivision due to a lack of street connectivity and parking for the existing house. The two issues are discussed more below.

The subject property consists of two contiguous tax lots forming a 4.82 acre site that is bordered by Boone Road SE on the south side and vacant land to the north, west, and east. The northern 300-feet of the eastern property line abuts a platted residential subdivision and the southern 350-feet of the eastern property line abuts an undeveloped property zoned residential. The western property line abuts a multifamily development, to the north is a vacant residentially zoned land.

### *Lack of Street Connectivity*

Pursuant to SRC 803.035(a), local streets shall be connected to abutting undeveloped properties for eventual connection to the street system. The proposed subdivision plan provides internal street connectivity by extending Brewster Avenue SE from the existing termini across the interior of the subject property to a future street connecting to Boone Road SE and the undeveloped property to the north; these internal streets in turn provide several points of connection to these existing boundary streets and the surrounding street network. However, the proposal does not provide a connection to the undeveloped property to the east, which would preclude connectivity for the property to the east (**Attachment 3**).

Providing a connection to the undeveloped property to the east would allow future residents of future developments to the east to have direct access to the north (including, ultimately, Hilfiker Park) as the properties north of the subject site develop. No street or pedestrian connections are available from abutting properties to the north without traveling back out to Boone Road SE. Additionally, not requiring the eastern connection would commit the adjacent vacant residential property to a cul-de-sac development. Development of a cul-de-sac on the undeveloped property to the east would prohibit efficient circulation and potentially create unsafe turning movements. The additional turning movements do not provide for safe, orderly and efficient circulation. Pedestrians would be safer walking through a neighborhood than having to travel out to Boone Road before heading north to the City Park, school or

commercial amenities.

The connection to the undeveloped property to the east could be made between lot 16 and lot 17, and the entire subdivision could be reconfigured to retain all 20 lots. Alternatively, proposed lot 9 could be redesigned into two lots, if the existing dwelling is removed, thereby retaining all 20 lots. With the reconfiguration of the lots on the east property line, or the further division of lot 9, the subdivision would provide the same amount of housing with or without the connection to the east.

The applicant has not provided any evidence that the proposed subdivision is precluded from making connections to abutting properties due to physical conditions or existing development that would make the connection unfeasible.

Additional findings related to the criteria for street connectivity and the Salem Transportation System Plan (TSP), which contains adopted goals, policies and objectives related to local street connectivity, can be found in the Planning Administrators Decision (**Attachment 3**).

#### *Lack of parking for existing dwelling*

The existing single family dwelling will remain on the subject property, on proposed Lot 9. According to the Marion County Assessor, the existing dwelling does not have an attached garage. The applicant has provided findings that the garage is attached to the west side of the dwelling. If this is accurate the attached garage can only be accessed from Lot 8. There is not an easement proposed nor does the applicant provide information indicating if the dwelling would be modified.

The applicant has shown a driveway leading to an existing garage but has not indicated how the driveway will have access to a public street. The application does not address how the existing dwelling will meet the standards of SRC Chapter 806, which requires 2 off-street parking spaces per dwelling.

Additionally, the plans indicate that an existing accessory structure would remain near the existing house. However, after the new street is built, this structure will be in the front yard and does not appear to meet the required setback to the front property line. The applicant has not addressed this issue in their application.

### 3. Urban Growth Area Preliminary Declaration

The Urban Growth Management Program requires that an Urban Growth Preliminary Declaration must be obtained prior to development of property outside the Salem Urban Service Area. An application for an Urban Growth Preliminary Declaration was included as part of this consolidated application. The Urban Growth Preliminary Declaration addresses only those facility requirements necessary to link the development to adequate facilities and boundary requirements abutting the property. Standards related to required improvements for streets, water, sewer, storm drainage, and park sites are addressed within the findings of the Planning Administrator's Decision (**Attachment 3**).

## **ALTERNATIVES**

### 4. The City Council may affirm, amend, or reverse the decision of the Planning Administrator for

Tentative Subdivision Review and approving an Urban Growth Declaration for Permit Case No. SUB-UGA18-01.

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

### **RECOMMENDATION**

5. Based on the facts and findings within the August 29, 2018 decision, staff recommends that the City Council find that the proposed Tentative Subdivision Review does not satisfy the applicable approval criteria of SRC Chapter 205, and find that the Urban Growth Declaration does satisfy the applicable approval criteria of SRC Chapter 200, for Permit Case No. SUB-UGA18-01, and **AFFIRM** the decision of the Planning Administrator.

Olivia Glantz  
Planner III

Attachments:

- 1. Vicinity Map
- 2. Tentative Subdivision Plan
- 3. Planning Administrator's Decision
- 4. Appeal Letter and Withdraw Request