



Legislation Details (With Text)

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In control: City Council

On agenda: 2/25/2019 **Final action:**

Title: City Council review of the Planning Commission’s decision approving Class 3 Design Review / Class 3 Site Plan Review / Class 2 Driveway Approach Permit / Tree Regulation Variance Case No. DR-SPR-DAP-TRV18-07 for proposed development of a 111-unit apartment complex with frontage on Wiltsey Road SE and Candy Flower Court SE.

Ward(s): 4
 Councilor(s): Leung
 Neighborhood(s): SGNA
 Result Area(s): Welcoming and Livable Community

Sponsors:

Indexes:

Code sections:

Attachments: 1. Vicinity Map, 2. Planning Commission’s Decision DR-SPR-DAP-TRV18-07, 3. Revised Grading Plan from Applicant, 4. Written Testimony received from W. Dalton, 5. Comments received from Bill Fujii on 2/11/19

Date	Ver.	Action By	Action	Result
2/25/2019	1	City Council	tabled	
2/11/2019	1	City Council	tabled	

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

City Council review of the Planning Commission’s decision approving Class 3 Design Review / Class 3 Site Plan Review / Class 2 Driveway Approach Permit / Tree Regulation Variance Case No. DR-SPR-DAP-TRV18-07 for proposed development of a 111-unit apartment complex [with frontage on Wiltsey Road SE and Candy Flower Court SE.](#)

Ward(s): 4
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ISSUE:

Shall the City Council affirm, amend, or reverse the Planning Commission's decision for Class 3 Design Review, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance Case No. DR-SPR-DAP-TRV18-07?

RECOMMENDATION:

Staff recommends that the City Council AFFIRM the December 19, 2018 decision of the Planning Commission.

SUMMARY AND BACKGROUND:

The subject property is approximately 6.5 acres in size and has frontage on Wiltsey Road SE and Candy Flower Court SE (Attachment 1). The Planning Commission approved the consolidated application subject to conditions of approval (Attachment 2). No public testimony was provided during the comment period or at the public hearing.

FACTS AND FINDINGS:

Procedural Findings

1. On October 5, 2018, Class 3 Design Review, Class 3 Site Plan Review, and Class 2 Driveway Approach Permit Applications were submitted to the Planning Division. Staff notified the applicant of missing or incomplete items.
2. On November 14, 2018, a Tree Regulation Variance application was submitted to remove four significant trees on the subject property.
3. After holding a public hearing on the consolidated applications on December 19, 2018, the Planning Commission approved the applications, subject to conditions of approval.
4. At the January 14, 2019 regularly scheduled meeting, the City Council voted to initiate review of the appeal of the Planning Commission's decision.
5. The 120-day State mandated deadline for final decision is March 20, 2019.

Substantive Findings

1. The applicable criteria and considerations that must be satisfied for the approval of the Class 3 Design Review, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance are included within the Salem Revised Code (SRC) Design Review chapter (SRC Chapter 225), under section 225.005(e)(2), the Site Plan Review chapter (SRC Chapter 220), under section 220.005(f)(3), the Driveway Approach Permit chapter (SRC Chapter 804, under section 804.025(d), and the Preservation of Trees and Vegetation chapter, under section 808.045(d)(1).

Findings addressing the applicable approval criteria for the proposed Class 3 Design Review, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance are included in the December 19, 2018 decision, which is included as Attachment 2 to this report and incorporated by reference.

2. Concerns were raised during the Council motion for review regarding the number of trees to be removed with this proposed development.

The plans provided by the applicant show that there are approximately 321 trees on the subject property. Landscaping plans also provided by the applicant indicate that one significant tree will remain and be included in the proposed landscape design, the other 320 trees do not appear to be incorporated into the landscape design.

SRC Chapter 808, the Preservation of Trees and Vegetation chapter, provides protections for heritage trees, significant trees, trees and native vegetation in riparian corridors and trees on lots or parcels 20,000 square feet or greater. The subject property does not contain any heritage or riparian trees. There are five (5) Oregon White Oaks on the property that are at least 24 inches dbh (diameter at breast height), which classifies them as significant trees. Significant trees can only be removed with approval of a tree removal permit, tree conservation plan, or tree variance. The applicant submitted, and the Planning Commission approved, a tree variance for the removal of 4 of the 5 Oregon White Oaks on the property.

The Planning Commission granted the tree regulation variance request subject to the following conditions of approval:

Condition 11: All trees designated for preservation shall be marked and protected during construction. Any significant tree shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence, or its equivalent. Protection measures shall continue until the issuance of final occupancy.

Condition 12: A minimum of eight Oregon White Oaks (*Quercus garryana*), with a minimum caliper of 2", shall be incorporated into the landscape design and replanted for the proposed development.

The tree preservation ordinance also provides that no person shall remove more than five trees or 15 percent of the trees, whichever is greater, from a lot or parcel greater than 20,000 square feet, within a single calendar year, prior to site plan review approval, unless the removal is undertaken pursuant to a tree removal permit, tree conservation plan, or tree variance.

The non-Oregon White Oak trees that are proposed to be removed are exempted from the permit or variance requirement once the site plan review is approved.

3. In addition to the tree preservation ordinance requirements, landscaping and screening development standards apply to the proposed development. SRC Chapter 807, the

Landscaping and Screening chapter, establishes standards for required landscaping and screening under the UDC to improve the appearance and visual character of the community, promote compatibility between land uses, encourage the retention and utilization of existing vegetation, and preserve and enhance the livability of the City.

The preservation of existing trees and vegetation is encouraged. If preserved, existing trees and vegetation may be utilized to satisfy required landscaping if they conform to the minimum requirements of this chapter. However, when existing trees are proposed for removal from within required setbacks or from a development site, then additional replanting shall be required. For removal of trees within required setbacks, a minimum of two new trees shall be planted for each tree removed.

When more than 75 percent of the existing trees on a development site are proposed for removal, two new trees shall be planted for each tree removed in excess of 75 percent. The proposal appears to result in the removal of more than 99 percent of the existing trees from the development site. Per SRC Chapter 807, a minimum of two new trees shall be planted for each tree removed in excess of 75 percent. In this case, it appears there will be 79 trees removed in excess of 75 percent, requiring a total of 158 replacement trees in addition to the required landscaping.

4. SRC Chapters 807 and 808 encourage the preservation of trees and provide incentives for developers to retain existing trees, such as assigning a higher plant unit value for existing mature trees when they are retained as part of a landscape plan, and requires additional replanting if trees in required setback areas are removed or if more than 75 percent of the trees on site are removed. However, the code does not require a minimum preservation rate, or other limitation to the number of trees that are removed for a development such as this.

ALTERNATIVES

The City Council may affirm, amend, or reverse the decision of the Planning Commission for Class 3 Design Review, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, and Tree Regulation Variance Case No. DR-SPR-DAP-TRV18-07.

- a. **AFFIRM** the decision;
- b. **MODIFY** the decision; or
- c. **REVERSE** the decision

RECOMMENDATION

Based on the facts and findings within the December 19, 2018 decision, staff recommends that the City Council find that the proposed Class 3 Design Review satisfies the applicable approval criteria of SRC Chapter 225, that the proposed Class 3 Site Plan Review satisfies the applicable approval criteria of SRC Chapter 220, that the proposed Class 2 Driveway Approach Permit satisfies the applicable approval criteria of SRC Chapter 804, and that the proposed Tree Regulation Variance complies with the applicable approval criteria of SRC Chapter 808, for Case No. DR-SPR-DAP-TRV18-07, and **AFFIRM** the decision of the Planning Commission.

Aaron Panko
Planner III

Attachments:

1. Vicinity Map
2. Planning Commission's Decision DR-SPR-DAP-TRV18-07