

## Legislation Details (With Text)

**File #:** 19-113 **Version:** 1

**Type:** Public Hearings **Status:** Passed

**In control:** City Council

**On agenda:** 3/11/2019 **Final action:** 3/11/2019

**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.

A public hearing for this case was held on February 25, 2019, the public hearing was closed on February 25, but the record was left open until 5:00 p.m. on March 11, 2019.

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 Site Plan 2-25-2019, 4. Revised Site Plan 3-5-2019, 5. Public Comment from S. Quady and B. Fujii

Date	Ver.	Action By	Action	Result
3/11/2019	1	City Council	approved	Pass

**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.

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

## **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 MODIFY the December 19, 2018 decision of the Planning Commission, to include the following additional conditions of approval:

**Condition 1:** The applicant shall make every effort to preserve the 30" diameter at breast height (dbh) significant tree. If the Fire Department determines that the roundabout does not work for fire operations, the significant tree may be removed.

**Condition 2:** Development plans shall be revised to protect and retain a minimum of three significant trees, and a minimum of 15 percent of the existing trees located on the property. All trees designated for preservation shall be marked and protected during construction.

**Condition 3:** Prior to approval of site development permits, the applicant shall provide a report prepared by a certified arborist identifying the health of each significant tree to be preserved, including identifying any prior impacts that have occurred within the root zone.

The arborist report shall provide a detailed description of tree protection measures to be implemented, description of alternative construction techniques and materials if applicable, and remedial actions taken to mitigate negative impacts on the tree, if necessary.

A final arborist report verifying the viability of the trees shall be provided prior to final inspection.

## **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).

## **FACTS AND FINDINGS:**

### **Procedural Findings**

1. On February 25, 2019, the City Council conducted a public hearing, and received testimony. At

the public hearing, the applicant submitted a revised site plan (Attachment 3) which protects four of the five significant trees, as well as approximately 15 percent of the total number of trees on the subject property.

2. The applicant has provided a 30-day extension to the 120-day State mandated deadline. The new 120-day State mandated deadline for final decision is April 19, 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. At the February 25<sup>th</sup> City Council meeting the applicant submitted a revised site plan that protects four of the five significant trees and approximately 15 percent of the total number of trees on the subject property. The public hearing was closed on February 25<sup>th</sup>, but the record was left open to allow staff time to review the applicant's revised plan.
3. On March 5<sup>th</sup>, the applicant provided a second revised plan (Attachment 4) addressing initial concerns raised by the Fire Department.
4. City staff have reviewed the March 5<sup>th</sup> revised site plan. Findings from staff review:
  - a. The revised plan proposes a roundabout that preserves an Oregon white oak that is approximately 30 inches in diameter at breast height. The inside radius of the proposed roundabout is approximately 15 feet and the outside radius is approximately 30-33 feet.

The Fire Department has reviewed the proposed roundabout and commented that the plan generally looks to accommodate fire truck access and aerial access. Fire Department access will be determined once final detailed plans are submitted and reviewed and during construction.

A second concern raised by the Fire Department regarding the roundabout is with tree branches. A minimum vertical clearance of 13'6" is required for fire trucks. Branches that interfere with height clearance requirements will need to be removed so they don't obstruct access.

Staff recommends that the applicant take all necessary steps to try and preserve this 30" dbh significant tree. It does not appear, however, that this tree can be reasonably preserved without requiring significant changes to the site plan. Staff recommends that the City Council affirm the Tree Regulation Variance, allowing the removal of this significant tree if necessary for fire operations.

**Condition 1:** The applicant shall make every effort to preserve the 30" dbh significant tree. If the Fire Department determines that the roundabout does not work for fire operations, the significant tree may be removed.

- b. The revised plan replaces the previous Building 10 with a new building that has a smaller footprint, allowing two significant trees, 24' dbh and 36" dbh, to be preserved. In addition, the revised site plan indicates that a minimum of 15 percent of the existing trees on the property will be preserved throughout development. Staff recommends that the City Council adopt the following additional condition of approval.

**Condition 2:** Development plans shall be revised to protect and retain a minimum of three significant trees, and a minimum of 15 percent of the existing trees located on the property. All trees designated for preservation shall be marked and protected during construction.

- c. An adult recreation area was moved from the interior of the site to the area adjacent to proposed Building 10. The location of the recreation area does not comply with a design standard from SRC Chapter 702 requiring recreation areas to be centrally located and not be located within required setbacks (SRC 702.015(c)(2)(B) and (C)).

It is the applicant's burden to demonstrate that the proposal complies with the design standards or corresponding design guidelines. The applicant has not provided a statement. It appears that the recreation area is provided in this location in part to preserve two additional significant trees.

The City Council may find that this modification to the site plan is consistent with the corresponding design guidelines that require a variety of common open area opportunities to be provided for enjoyment by all residents (SRC 702.015(c)(1)(A)).

- d. The revised plan replaces the previous Building 10 with a new building that has a smaller footprint. SRC 702.035(c)(2)(C) requires that sites with 75 feet or more of buildable width have a minimum of 50 percent of that buildable width occupied by buildings placed on the setback line.

The subject property has a buildable width along Wiltsey Road SE of approximately 380 feet, requiring a minimum of 190 feet of the width to be occupied by buildings. The site plan approved by the Planning Commission showed approximately 135 feet of the buildable width occupied by a building placed on the setback line. With the smaller

footprint for Building 10, the proposed site plan further reduces the buildable width to 110 feet.

It is the applicant's burden to demonstrate that the proposal complies with the design standards or corresponding design guidelines. The applicant has not provided a statement. It appears that the reduced buildable width is provided in this case to preserve two additional significant trees.

The City Council may find that this modification to the site plan is consistent with the corresponding design guidelines that require the majority of dwelling units within the development to be placed as close as possible to the street right-of-way (SRC 702.035 (c)(1)(D)).

- e. The proposed development plans call for grading and construction activities in the vicinity of significant trees. Protection of the significant trees and their roots during construction is critical for the long term survival. While the City does not have adopted root protection standards, staff recommends a condition of approval requiring an arborist report that provides an explanation of what protection measures will be implemented to allow for continued tree preservation.

**Condition 3:** Prior to approval of site development permits, the applicant shall provide a report prepared by a certified arborist identifying the health of each significant tree to be preserved, including identifying any prior impacts that have occurred within the root zone.

The arborist report shall provide a detailed description of tree protection measures to be implemented, description of alternative construction techniques and materials if applicable, and remedial actions taken to mitigate negative impacts on the tree, if necessary.

A final arborist report verifying the viability of the trees shall be provided prior to final inspection.

## **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**

Staff recommends that the City Council MODIFY the December 19, 2018 decision of the Planning

Commission, and include the following additional conditions of approval:

- Condition 1:** The applicant shall make every effort to preserve the 30" dbh significant tree. If the Fire Department determines that the roundabout does not work for fire operations, the significant tree may be removed.
- Condition 2:** Development plans shall be revised to protect and retain a minimum of three significant trees, and a minimum of 15 percent of the existing trees located on the property. All trees designated for preservation shall be marked and protected during construction.
- Condition 3:** Prior to approval of site development permits, the applicant shall provide a report prepared by a certified arborist identifying the health of each significant tree to be preserved, including identifying any prior impacts that have occurred within the root zone.

The arborist report shall provide a detailed description of tree protection measures to be implemented, description of alternative construction techniques and materials if applicable, and remedial actions taken to mitigate negative impacts on the tree, if necessary.

A final arborist report verifying the viability of the trees shall be provided prior to final inspection.

Aaron Panko  
Planner III

Attachments:

1. Vicinity Map
2. Planning Commission's Decision DR-SPR-DAP-TRV18-07
3. Revised Site Plan 2-25-2019
4. Revised Site Plan 3-5-2019