



Staff Report

File #: 21-520

Version: 1

Date: 1/10/2022

Item #: 4.b.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Norman Wright, Community Development Director

SUBJECT:

City Council review of subdivision approval (SUB21-09) located at 4540 Pringle Road SE.

Ward(s): 3
Councilor(s): Phillips
Neighborhood(s): Morningside Neighborhood Association
Result Area(s): Welcoming and Livable Community

SUMMARY:

The Planning Administrator approved a phased subdivision tentative plan to divide approximately 29.68 acres into 139 single family lots ranging in size from 4,000 square feet to 3.64 acres in two phases of development for property located at 4540 Pringle Road SE. City Council will decide to affirm, modify, or deny the approval.

ISSUE:

Shall the City Council affirm, modify, or reverse the Planning Administrator's decision approving phased subdivision tentative plan case number SUB21-09.

RECOMMENDATION:

Affirm the Planning Administrator's decision approving phased subdivision tentative plan case number SUB21-09.

FACTS AND FINDINGS:

1. On July 14, 2021, a consolidated application for a Phased Subdivision Tentative Plan was filed for a proposal to divide property approximately 29.68 acres in size and located at 4540 Pringle Road SE (Attachment 1) into 138 single family lots in two phases of development.

2. On September 13, 2021, the applicant provided a response to staff's notification letter that the application was incomplete, including revised plans and written findings. The applicant indicated per ORS 227.178(2)(a) that all missing information had been provided and that the City is required to start the 120-day period for issuance of a final decision under ORS 227.178(1).
3. The application was deemed complete for processing on September 13, 2021. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on September 17, 2021, and public notice was posted on the subject property on September 17, 2021 pursuant to SRC 300.520(b)(2).
4. On October 25, 2021, the applicant provided updated application materials that include an adjustment to the phasing plan, inclusion of the existing homestead as a separate lot in the subdivision which increased the number of lots proposed from 138 to 139, an updated tree inventory, and additional written findings.
5. On October 27, 2021, the applicant granted a 30-day time extension, extending the state-mandated local decision deadline from January 11, 2022 to February 10, 2022.
6. On November 3, 2021 the Planning Administrator issued a decision approving the 139-lot phased subdivision tentative plan (Attachment 2).
7. At the November 8, 2021 regularly scheduled meeting, the City Council voted to initiate review of the Planning Administrator's decision.
8. The Morningside Neighborhood Association notified the Planning Division on November 5, 2021 that they had voted to appeal the Planning Administrator decision approving SUB21-09, however, a notice of appeal for this case was not filed prior to the November 18, 2021 appeal deadline.
9. On November 29, 2021, the applicant granted a second time extension, extending the state-mandated local decision deadline from February 10, 2022 to March 2, 2022.

BACKGROUND:

Notice of the application was provided to the Morningside Neighborhood Association, property owners and tenants within 250 feet of the subject property and posted notice was provided on each street frontage. Comments from Morningside Neighborhood Association and South Gateway Neighborhood Association as well as 72 public comments were received during the 14-day public comment period from September 17, 2021 to October 1, 2021. They are included as Attachment F of the decision for Subdivision 21-09 (Attachment 2). Nine additional comments were received after the initial comment period had expired; those comments are included as Attachment 3. A summary of the questions and concerns indicated in the comments is included below, followed by a response from staff.

A. Tree Removal. Several comments received express concern regarding the removal of trees, including significant Oregon White Oaks, which will be required to accommodate the proposed subdivision.

Response: Tree preservation and removal in conjunction with proposed subdivisions is regulated under the City's tree preservation ordinance (SRC Chapter 808). As required under SRC Chapter 808, the applicant submitted a tree conservation plan in conjunction with the proposed subdivision that identifies a total of 808 trees on the property, 28 of which are significant trees (Oregon white oaks with a diameter at breast height (dbh) of 24 inches or greater).

The tree conservation plan approval criteria require in part that no significant trees are designated for removal, no trees or native vegetation in a riparian corridor are designated for removal, and not less than 25 percent of all trees located on the property are designated for preservation. Of the 808 existing trees on the property, the tree conservation plan identifies 355 trees (43.9%) for preservation and 453 trees (56.1%) for removal. The proposal protects all trees and native vegetation in the riparian corridor located at the northwest corner of the subject property.

Of the 453 trees proposed for removal, four are significant oaks which the applicant has identified for removal based on their location within either the future building envelopes of lots or adjacent to required street and/or sidewalk improvements. Tree 2823 is proposed for removal due to grading for Lot 40, Tree 3213 is proposed for removal due to grading for Lot 60, Tree 3228 is proposed for removal due to grading for Lot 62, and Tree 3194 is proposed for removal due to grading for Hilfiker Lane SE. Their removal is necessary because of no reasonable design alternatives that would enable their preservation. The tree conservation plan is being reviewed concurrently and, if approved, will be binding on the lots until final occupancy is granted for the construction of dwelling units on the lots.

In addition to the trees located on the subject property, there are also several trees located within the existing right-of-way for 12th Street SE and Hillrose Street SE, including one significant tree. Pursuant to the tree preservation ordinance (SRC Chapter 808), tree conservation plans are required to identify and preserve the minimum required number of trees on private property. Trees located within the existing right-of-way of 12th Street SE and Hillrose Street SE are not located on the property; they are not subject to the tree conservation provisions of SRC Chapter 808 and are not counted toward the total number of trees on the site. These trees are instead considered trees on City owned property and subject to the provisions of SRC Chapter 86. Based on the current under-improved width of 12th Street SE and Hillrose Street SE, the existing trees located within these right-of-way's, including one significant tree (tree 2579), will likely need to be removed to accommodate the required widening, sidewalk installation, and grading associated with required street improvements. Removal of street trees requires a permit pursuant to SRC 86.090.

The City Council is currently considering updates to the Unified Development Code (UDC), including proposed revisions to SRC Chapter 808. The proposed revisions will broaden the definition of significant tree so that any tree with a dbh of 30 inches or greater will be considered significant and will reduce the dbh requirement for Oregon white oaks to be considered

significant from 24 inches to 20 inches. Under the proposed ordinance, the number of significant trees located on the subject property would increase from 28 to 88, and the number of significant trees proposed for removal would increase from four to 13, the overall preservation rate for significant trees would reduce slightly from 85.7% to 85.2%.

Oregon law requires the City to apply the standards and criteria that are in effect at the time of the application (the "goal post rule"). Therefore, regardless of potential upcoming changes to the City's land use regulations, the City's currently adopted land use regulations must be applied to this application.

	Significant Trees under Current Ordinance (Oregon white oak greater than 24" dbh)	Significant Trees under Proposed Ordinance (Oregon white oak greater than 20" dbh and any tree with dbh 30" or greater)
Total Trees on Property	28	88
To be Removed	4	13
To be Preserved	24	75
Preservation Rate	85.7%	85.2%

In addition, revisions are proposed to the tree conservation plan approval criteria. Currently the approval criteria for a tree conservation plan require a minimum 25 percent of all trees located on the property to be preserved. Under the proposed ordinance, the preservation requirement will increase from a minimum of 25 percent to a minimum of 30 percent of the total trees located on the property. As previously indicated, of the 808 existing trees on the property, the tree conservation plan identifies 355 trees (43.9%) for preservation and 453 trees (56.1%) for removal, the proposal complies with both the current and proposed tree conservation plan preservation requirements. The goal post rule applies in this instance as well.

B. Traffic Impact and Safety. Comments received expressed concern with traffic impacts related to the subdivision. Concerns were also expressed regarding the intersection of Hilfiker Street SE and Commercial Street SE, and the proposed intersection of Battle Creek Road SE and Hilfiker Street SE.

Response: Addressing traffic safety, the applicant submitted a traffic impact analysis that demonstrated what improvements needed to be made to mitigate the traffic impacts from the proposed subdivision. All interior and abutting streets are being constructed to meet Public Works Design Standards, except where alternative street standards have been authorized.

The City of Salem has recognized the lack of east-west connectivity in this area. The Salem Transportation System Plan has long identified this extension of Hilfiker Lane as necessary to provide the missing east-west connectivity. The nearest east-west connections are Madrona Avenue SE and Kuebler Boulevard SE. The street was originally classified as a "minor arterial" street. The design of a "minor arterial" street has one travel lane in each direction with a center

two-way-left-turn-lane, bike lanes, no on-street parking, and single-family residential driveways are not allowed. About 10 to 15 years ago, the neighborhood association requested that the City downgrade the street to a "collector" street. The design of a "collector" street is one lane in each direction, bike lanes, with provisions for on-street parking (collector B), and single-family residential driveways are allowed.

Per the City of Salem Street Design Standards, the design speed for a "minor arterial" is 45 MPH, meaning the curves would be very flat and would encourage faster traffic along this extension of Hilfiker Lane. The design speed for a "collector" street is 35 MPH, but the developer has requested a "design exception" to allow for a design speed of 25 MPH. At a design speed of 25 MPH the curves are considerably sharper than for a "minor arterial" and will encourage slower travel speeds. The addition of on-street parking and driveways along the roadway will also naturally slow traffic along this route.

The City of Salem will be rebuilding the intersection of Hilfiker Lane SE and Commercial Street SE. The intersection will have a new traffic signal with eastbound and westbound left turn lanes on Hilfiker Lane. This project is expected to be constructed in 2023-2024. The Traffic Impact Analysis accurately reflects the operational conditions of the improved intersection including the traffic generated from this site.

There will be additional traffic using this new connection between Commercial Street and Battle Creek Road but estimating that number of vehicles is impossible to predict. Those additional vehicles that will be traveling along the new extension of Hilfiker Lane, are existing traffic that is being diverted. These vehicles will alleviate congestion on Madrona Avenue SE, Kuebler Boulevard SE and will certainly reduce the number of vehicles that currently cut-through the residential neighborhood using Suntree Drive SE, Mandy Avenue SE, and Albert Drive SE.

This development is not responsible to mitigate existing traffic issues; they are required to mitigate the impacts from their development. The traffic counts used in the analysis is the best information available. Given the on-going COVID-19 Pandemic, traffic volumes have decreased. Kittelson & Associates used the best methodology to adjust traffic volumes upwards to account for Pandemic traffic. The traffic volumes were adjusted upwards on Battle Creek Road by 41% and by 24% on Commercial Street. They were additionally grown by 1.5% per year to reflect general background growth of traffic in Salem.

The improvements at the intersection with Battle Creek Road and Hilfiker Lane will be constructed to ensure there is adequate sight distance for the vehicles turning left from Battle Creek Road, as well as vehicle turning onto Battle Creek Road from Hilfiker Lane.

C. Loss of Wildlife Habitat and Open Space. Several comments received express concern regarding the loss of wildlife habitat and open space that will result from tree removal, grading, and development of the subject property.

Response: The subject property is located within the Urban Growth Boundary and within Salem City Limits and has been designated on the City of Salem Comprehensive Plan Map as "Single

Family Residential”, which anticipates existing or future residential development similar to the subdivision proposed with this application. Loss of wildlife habitat is not a criterion for granting or denying a phased subdivision tentative plan.

In regard to impacts on open space, the Salem Area Comprehensive Plan has adopted goals, policies, and plan map designations to protect identified open space areas. The subject property has not been identified as a natural open space area. Instead, the Comprehensive Plan Map designates the subject property as “Single Family Residential”, and the site has been zoned RS (Single Family Residential). While the subject property is mostly undeveloped with one home on approximately 29.68 acres, the subject property is surrounded by an already developed residential area within the corporate limits of the City of Salem and as the City continues to grow, development is expected to occur in areas designated for residential development.

- D. Parks.** Several comments received suggested that the property should remain as dedicated open space with walking trails, bike paths, and could be used as an extension of abutting Hilfiker Park.

Response: The subject property is served by Hilfiker Park, which is an undeveloped park site located southeast of and abutting the subject property. Though many neighborhood comments express a desire for the subject property to be used as park land, there is no regulatory authority to require that the applicant dedicate all or a portion of the subject property to the City for use as park land. Recent park acquisitions in the area include a community park in the Fairview Development District to the north and a neighborhood park near the intersection of Reed Road and Battle Creek Road.

- E. Impact on Neighborhood Character and Livability.** Several comments received expressed concern about the impact the proposed subdivision will have on adjacent properties and the character of the existing neighborhood due to loss of open space and development of a higher density development with smaller lots sizes than those in the surrounding area.

Response: The single-family dwelling parcels proposed within the subdivision range from approximately 4,000 square feet to approximately 3.64 acres in size, which is consistent with the minimum lot size requirement of 4,000 square feet. Their size and layout are consistent with the expected development pattern of properties in the “Single Family Residential” Comprehensive Plan Map designation and RS (Single Family Residential) zone. There is no approval criterion or development standard which requires single family residential lots to resemble adjacent existing developments.

- F. Climate Action Plan.** Comments received express concern that the 139-lot subdivision, which proposes removal of significant trees and will create additional traffic in the area, is contrary to the City’s goals for reducing greenhouse gas emissions.

Response: While the Salem Area Climate Action Plan will be used to guide policies aimed at achieving community-wide reductions in greenhouse gas emissions, and adoption of the plan may lead to future changes to the City’s Unified Development Code, this subdivision application has to be reviewed based on the development standards and tree protection standards that are

currently adopted. The proposed single-family subdivision is an allowed use under the current zoning for the subject property, the proposed lots meet minimum lot size and dimensional standards, and the proposed tree removal is consistent with tree removal standards in SRC Chapter 808.

- G. Historic Significance of the Site.** Comments received express concern for development of the property given the historic significance of the site.

Response: The subject property does not contain any known archaeological sites; however, the area is within a high probability archaeological zone, so an Inadvertent Discovery Plan would be required for any ground disturbing activity associated with development. The existing house is not designated as a Salem Historic Resource; therefore, SRC Chapter 230 does not apply to the proposed development. However, the house was built in 1915 and could be eligible for designation as a local historic resource.

- H. Support for Increased Residential Density.** Comments received indicate that the proposed subdivision does not go far enough to address housing affordability an accessibility and that multi-family residential development should be required for this property.

Response: The subject property is currently zoned RA (Residential Agriculture) and will change to RS (Single Family Residential) upon recording of a final subdivision plat. The RA and RS zones do not permit multi-family residential uses. While the community needs more diverse housing options, including multi-family residential development, the City must evaluate development requests as designed by the applicant for conformance with approval criteria and development standards. The City cannot require an applicant to develop a use that is not permitted under current zoning regulations. The City is required to allow middle housing (duplex, triplex, quadplex, townhouse and cottage cluster developments) in the RS zone with the passage of House Bill 2001. The City is expected to adopt regulations that comply with House Bill 2001 by the end of the year. The proposed lots are of sufficient size to each allow a duplex, at a minimum. The developer or future building has the option of building middle housing if they choose.

- I. Impact of Stormwater Runoff.** Comments received express concern regarding potential stormwater, drainage and flooding impacts on adjacent properties.

Response: As described in further detail in findings included under Section 9 of this decision regarding compliance with the standards set forth in SRC Chapter 71 (Stormwater), the proposed subdivision is required to meet flow control requirements which limit runoff to levels not exceeding pre-existing conditions. The applicant's engineer is required to demonstrate that there is no increase in stormwater runoff from the subject property based on a variety of storm frequencies up to a 100-year storm. All stormwater infrastructure, including flow control and treatment facilities, will be constructed pursuant to Public Works Design Standards.

- J. School Capacity.** Comments received express concern regarding the impact the proposal will have on school capacity.

Response: Salem-Keizer Public Schools has reviewed the proposal and provided a memo dated September 29, 2021, included in the attachments, which outlines the anticipated impact of the proposed development on the school district. The City and the School District work closely together on development potential and impacts on school capacity. However, school capacity is not an approval criterion for a tentative subdivision and cannot be applied as such to this application.

K. Meyer Family Trust. Questions and concerns were received regarding the applicant's authority to submit the subdivision application.

Response: Land use applications are required to be submitted on an application form containing the signature of the applicant(s), owner(s) of the subject property, and/or duly authorized representative(s) thereof authorizing the filing of the application. In addition, recorded deed or land sales contract with a legal description, and a current title report for the property are required for submittal of a tentative subdivision application.

The land use application form for this subdivision request was signed by Michelle M. Morrow. Documentation provided by the applicant indicates that title to the fee simple estate is vested in Michelle M. Morrow, Successor Trustee of the Henry A. Meyer Revocable Living Trust. The applicant has satisfactorily demonstrated they have authority to act on this request.

ALTERNATIVES:

The City Council may affirm, amend, or reverse the decision of the Planning Administrator for Tentative Subdivision Case No. SUB21-09.

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

Aaron Panko
Planner III

Attachments:

- 1. Vicinity Map
- 2. SUB21-09 Decision
- 3. Additional Public Comments