

TO: HEARINGS OFFICER

**FROM: LISA ANDERSON-OGILVIE, AICP
DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING
ADMINISTRATOR**

**SUBJECT: APPEAL OF PLANNING ADMINISTRATORS REVOCATION OF URBAN
GROWTH PRELIMINARY DECLARATION CASE NO. UGA18-01 FOR
PROPERTY LOCATED AT 1800 CORDON RD. SE - 082W05 01700 &
01701**

ISSUE

Should the Hearings Officer affirm, modify, or reverse the Planning Administrator's revocation of the urban growth preliminary declaration to determine the public facilities required for development of property approximately 19.26 acres, designated as IND (Industrial) in the Comprehensive Plan, and located at 1800 Cordon Road SE (Marion County Map and Tax Lot Number 082W05 01700 and 01701). A vicinity map of the subject property is included with this staff report as **Attachment A**.

RECOMMENDATION

Affirm the Planning Administrator's revocation of

- A. Urban Growth Preliminary Declaration approval for Case No. UGA18-01, pursuant to Salem Revised Code (SRC) Chapter 300, Section 300.860(a)(1).

SUMMARY AND BACKGROUND

On June 21, 2018, the Planning Administrator issued a decision for Urban Growth Preliminary Declaration Case No. UGA18-01. The decision was appealed by the applicant, but the appeal was ultimately withdrawn prior to a hearing on the issue.

On March 14, 2019, an Urban Growth Preliminary Declaration Amendment application was received from AKS Engineering and Forestry, on behalf of the applicant and property owner, seeking to amend the conditions of the previous decision. On March 21, 2019, the Planning Administrator issued a revocation of approval for Case No. UGA18-01 for 1800 Cordon Road SE 18-107978-LD. The amendment application was returned to the applicant as there is no land use decision to amend. The applicant's written statement submitted with the amendment application is included with this staff report as **Attachment B**.

An appeal of the Planning Administrator's revocation was filed prior to the April 1, 2019 appeal deadline. The appeal was filed by AKS Engineering and Forestry on behalf of the property owner, Alpha 3, LLC.

1. **APPEAL**

An appeal of the Planning Administrator's revocation was filed prior to the April 1, 2019 appeal deadline. The appeal submitted on behalf of the applicant, is included as **Attachment C**. Issues raised in the appeal pertain to the following:

Property Owner Appeal:

- Basis for Planning Administrator's decision to revoke the approval in UGA18-01.
- Previous issuance of approval for UGA18-01 confirms that the City has formally interpreted that SRC 200.005 and 200.025(a) and (b) grants the City explicit authority to issue such a decision.
- The City's assertion that the UGA Amendment application is improper, runs afoul of ORS 227.173(1).

A summary and response to the issues raised in the appeals is provided below.

Property Owner Appeal:

- A. Basis for Planning Administrator's Revocation.** The appeal from the property owner's representative states that the applicant is unclear as to the basis for the City's decision to revoke the approval of UGA18-01.

Staff Response:

As stated in the revocation of decision letter from the Planning Administrator, upon further review of the applicant's submitted Urban Growth Preliminary Declaration Amendment application, noting specifically the written statement that the City does not have jurisdiction to issue such a decision, the Planning Administrator revoked the previous approval for Case No. UGA18-01 (**Attachment D**), pursuant to Salem Revised Code (SRC) Chapter 300.860(a)(1). The Planning Administrator's letter of revocation is included in its entirety as **Attachment E**.

The subject property is outside of the city limits of the City of Salem. In accordance with the Salem Area Comprehensive Policies Plan, Salem has exclusive jurisdiction over all land use actions applicable within its city limits other than regional planning actions and amendments to urban area policies. The subject property is within the City of Salem's Urban Growth Boundary and falls under the jurisdiction of Marion County. In accordance with the Salem Area Comprehensive Policies Plan, Marion County has exclusive jurisdiction over all land use actions applicable within that portion of the Salem Urban Area and Keizer Urban Area that are outside the Salem city limits and outside the Keizer city limits other than regional planning actions and amendments to urban area policies.

In addition to the Salem Area Comprehensive Policies Plan describing specifically Salem's jurisdictional authority, it should be noted that the City of Salem and Marion County do not have an Intergovernmental Agreement (IGA) granting the City any

authority beyond its city limits for any land use actions. In accordance with Oregon Revised Statutes (ORS) 190.010, a unit of local government may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. Because there is no governing document (IGA) authorizing the City of Salem to make decisions on behalf of Marion County, the Planning Administrator concurred with the applicant's statement regarding Salem not having the jurisdiction to issue such a decision.

The statement specifically considered from the applicant's UGA Amendment application, listed on page 3 of their narrative is the following: *"Because the subject property is currently located outside of the City, a future multi-family, commercial, office, warehouse, or retail use on the site (or a combination of these uses) must first obtain approval to be annexed into the City, have a local zoning designation, obtain building permit approval to erect structures hosting said future use(s) of the site. Given the current zoning of the subject site (UT-5), the City does not have the legal jurisdiction to make development-related decisions pertaining to the subject site; that authority is reserved for the County. Subsequently, the City does not have the jurisdiction nor enough detail regarding development-related benefits and impacts to perform a competent analysis of nexus and proportionality as is required by the City in their justification for all private property dedications and exactions."* The applicant's full and complete written statement submitted with their UGA Amendment application is included as **Attachment B**.

The Planning Administrator, having fully considered the applicant's written statement supplied with the UGA Amendment application, specifically that the City did not have jurisdiction to issue such a decision, issued the March 21, 2019 revocation of approval for Case No. UGA18-01. By citing to the applicant's written statement regarding the lack of jurisdiction, the Planning Administrator's revocation of approval of UGA 18-01 is clearly based on a lack of jurisdiction.

- B. City's formal interpretation of SRC 200.005 and 200.025(a) and (b).** The appeal from the property owner's representative states that the decision to approve UGA18-01 on June 21, 2018 confirms that the City has formally interpreted that SRC 200.005 and 200.025(a) and (b) does grant the City explicit authority to issue such a decision. The letter goes on to state it is the opinion of the appellant that a Code Amendment is necessary for the City to revise or cease consideration of UGA permits outside of the city limits.

Staff Response: Salem Revised Code 200.005 defines the *urban growth area* as "that territory of the City lying between the urban service and the urban growth boundary." Nothing in this definition, however, grants the City the authority of land use jurisdiction over land outside of the city limits.

Salem Revised Code Chapter 66.070 (c) previously stated that "no application for a tentative subdivision plan approval, planned unit development, manufactured dwelling park, or zone change shall be deemed complete without a copy of the

Preliminary Declaration” until the code was amended in 2014 with Ordinance 04-2013 to remove that sentence. The only applications that the City has ever accepted, and processed, for property outside of the city limits are for Annexation requests and the Comprehensive Plan Changes and/or Zone Changes that were required with those annexations (per SRC 260.045 and previously SRC 165.100. When properties requesting annexation required, or desired, a zone change, they were then subject to the requirement in SRC 66.070(c) cited above, which required a UGA preliminary declaration prior to the zone change application being deemed complete. This set of circumstances is where the mistaken practice of accepting and issuing decisions for UGA’s for property outside of city limits originated. However, the code only actually applied to those narrow set of circumstances where one type of application request (the annexation) required another application (a zone change) and another application (a UGA declaration).

Regardless of this past history and practice, those code sections have been removed and those set of facts do not apply to this application. The applicant states that the City must amend the code to cease consideration of a UGA for property outside of the city limits. However, the code has in fact been amended (see ordinance 04-2013) to remove any set of circumstances that would have required or allowed review of this application for property outside of the city limits.

Additionally, even if prior interpretations of SRC 200.005 and 200.025 (a) and (b) may have been read to assert jurisdiction beyond its borders, the City cannot grant itself extraterritorial jurisdiction sua sponte. Since the City did not have the right to assert jurisdiction outside city limits, the City should not be required to repeal such authority prior to addressing decisions made improperly. Without a grant of jurisdiction from Marion County, the City acted outside its authority and erred in accepting the application for the Urban Growth Preliminary Declaration and issuing a decision in Case No. UGA 18-01 In light of that fact, the City has offered to refund the full land use fee to the applicant.

- C. City’s assertion that the UGA Amendment application is improper, runs afoul of ORS 227.173(1).** The appeal letter provided by the property owner’s representative indicates that ORS 227.173(1) establishes that the City must base their decision on a permit application on standards and criteria in place at the time the application is submitted. This “goal post” rule applies to established interpretations of the standards and criteria as well. In the March 21 letter, the City asserts that the UGA Amendment application is improper because of the revocation of UGA18-01. The statement by the appellant continues, because the UGA Amendment application was submitted before (March 14, 2019) the City attempted to formally reinterpret the scope of their UGA decision-making authority (March 21, 2019), it’s believed the City’s assertion that the UGA Amendment application is improper, runs afoul of ORS 227.173(1).

Staff Response: The City issued a revocation of approval of UGA 18-01 based on the lack of jurisdiction over extraterritorial land use matters. ORS 227, 137(1) assumes jurisdiction to issue the decision exists. ORS 227.173(1) states as follows:

Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance and which shall relate approval or denial of a discretionary permit application to the development ordinance and to the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.

Because the subject property is outside city limits, the City's development ordinance does not apply. Jurisdiction is neither a standard nor criteria. Jurisdiction is the legal authority to assert power. Without jurisdiction, the City does not have the authority to issue either an approval or a denial. Therefore, the Planning Administrator's revocation of the approval was the only appropriate action.

The City finds appellant's argument that it violated ORS 227.173(1) inconsistent with their own application. As noted above, the application for a UGA Amendment noted that the City did not have jurisdiction to issue the approval. The City agrees with this argument and concedes that there is not jurisdiction. Without jurisdiction to issue a decision, the City did not violate ORS 227.173(1).

2. **FACTS AND FINDINGS**

Procedural Findings

- a. On June 21, 2018, the Planning Administrator issued a decision for Urban Growth Preliminary Declaration Case No. UGA18-01 (**Attachment D**).
- b. The decision for Case No. UGA18-01 was appealed by the applicant, but the appeal was ultimately withdrawn prior to a hearing on the issue.
- c. On March 14, 2019, an Urban Growth Preliminary Declaration Amendment application was received from AKS Engineering and Forestry, on behalf of the applicant and property owner, seeking to amend the conditions of the previous decision (**Attachment B**).
- d. On March 21, 2019, the Planning Administrator issued a revocation of approval for Case No. UGA18-01 for 1800 Cordon Road SE 18-107978-LD (**Attachment E**).
- e. The amendment application was returned to the applicant as there is no land use decision to amend.
- f. An appeal of the Planning Administrator's revocation was filed prior to the April 1, 2019 appeal deadline. The appeal was filed by AKS Engineering and Forestry on behalf of the property owners, Alpha 3, LLC (**Attachment C**).
- g. The City has jurisdiction for land use actions within its city limits, however, the subject property is outside the city limits.

- h. There is no IGA between the City of Salem and Marion County granting the City the authority over land use actions outside the city limits.
- i. SRC 200.005 and 200.025(a) do not grant the City extraterritorial jurisdiction, and need not be repealed or amended prior to action by the City which confirms that there is no jurisdiction for land use actions outside the city limits.
- j. The City's acknowledgement of a lack of jurisdiction and subsequent revocation of the previously issued Case No. UGA 18-01 and return of UGA Amendment did not violate ORS 227.173(1) because jurisdiction is neither a standard nor condition.

3. **CONCLUSION**

The March 21, 2019 Revocation of Approval for Case No. 18-01 was based on the fact that the City did not have jurisdiction to issue the land use approval for the property outside the city limits.

Based on the facts and findings presented above, staff recommends the Hearings Officer **AFFIRM** the Planning Administrator's decision.

ALTERNATIVES

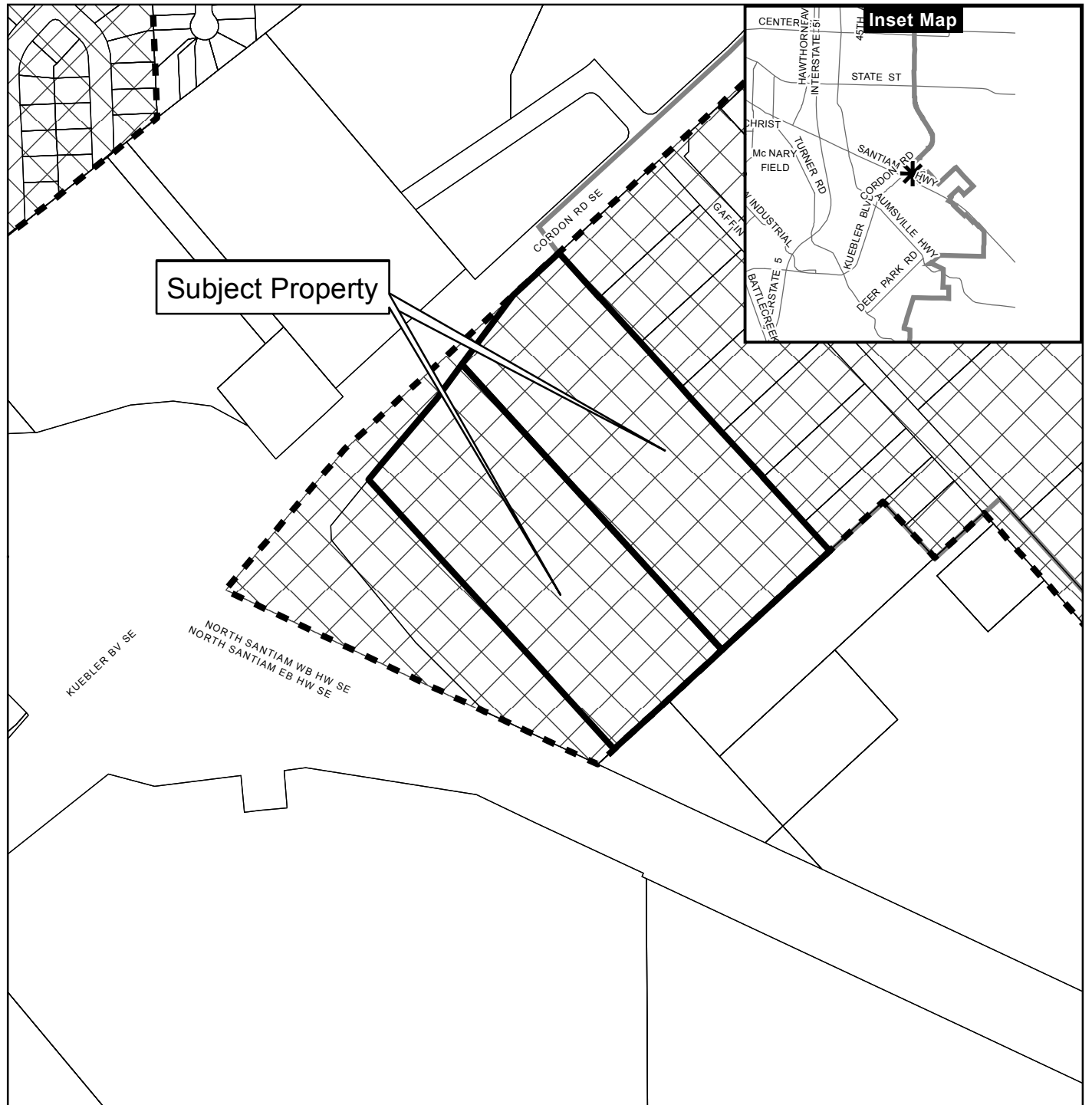
The Hearings Officer may take one of the following actions:

- I. **AFFIRM** the March 21, 2019 Revocation of Approval for Case No. UGA 18-01.
- II. **MODIFY** the March 21, 2019 Revocation of Approval for Case No. UGA 18-01.
- III. **REVERSE** the March 21, 2019 Revocation of Approval for Case No. UGA 18-01.

Attachments: A. Vicinity Map
B. Applicant's Written Statement for Amendment of UGA18-01
C. Applicant's Notice of Appeal
D. Original Decision for Case No. UGA18-01
E. Planning Administrator's Revocation of Case No. UGA18-01






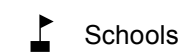

Prepared by Britany Randall, Planner II

Vicinity Map 1800 Cordon Road SE



Subject Property

Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

0 100 200 400 Feet



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Urban Growth Area Preliminary Declaration Amendment

Date: March 14, 2019

Submitted to: City of Salem
Community Development Department
555 Liberty Street SE, Room 305
Salem, OR 97301

Applicant: Alpha 3, LLC
PO Box 7362
Salem, OR 97303



4300 Cherry Avenue NE
Keizer, OR 97303
(503) 400-6028

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Exhibits

Exhibit A: Modification Application Form

Exhibit B: Prior UGA Preliminary Declaration (Case No. UGA18-01)

Exhibit C: City of Salem Urban Service Area Map

Exhibit D: Draft Improvement Agreement with Proposed Amendments to UGA-18-01 Conditions of Approval

Exhibit E: Pre-Application Conference Written Summary

Exhibit F: Recorded Deed with Legal Description

Exhibit G: Deeded Right to Access Subject Site from Cordon Road

Urban Growth Area Preliminary Declaration Amendment

Submitted to: City of Salem
Community Development Department
555 Liberty Street SE, Room 305
Salem, OR 97301

Applicant: Alpha 3, LLC
PO Box 7362
Salem, OR 97303

Property Owner: Alpha 3, LLC
PO Box 7362
Salem, OR 97303

Applicant's Consultant: AKS Engineering & Forestry, LLC
4300 Cherry Avenue NE
Keizer, OR 97303
Contact: Zach Pelz, AICP (pelzz@aks-eng.com)
Phone: (503) 400-6028 Fax: (503) 400-7722

Site Location: 1800 Cordon Rd SE / 97317

Site Size: ± 19.26 Acres

**Marion County
Assessor's Tax Map:** 082W05 Tax Lots 1700 and 1701

Land Use Districts: IND (Industrial) / UT-5 (Urban Transition 5 acres)



I. Executive Summary

Alpha 3, LLC (Applicant) is submitting this application to amend the Urban Growth Preliminary Declaration, UGA Case No. UGA18-01, approved by the City of Salem Planning Administrator on June 21, 2018. The Notice of Decision prepared by the City is included in Exhibit B. This amendment proposes to modify condition(s) of approval contained in UGA Case No. UGA18-01 regarding street improvements, property acquisition and dedication, and clarifying eligibility for SDC reimbursements.

This written narrative, together with the other documentation included in the application materials, establishes that the application complies with all applicable approval criteria. As detailed throughout the application, this documentation represents substantial evidence and provides the basis for approval by the City of Salem.

II. Site Description/Setting

The subject property comprises two tax lots encompassing a total area of ±19.26 acres located in southeast Salem, near the intersection of Cordon Road SE and Gaffin Road SE. The subject site carries a UT-5 (Urban Transition 5 Acres) designation under Marion County's zoning regime and is designated Industrial in the City of Salem's Comprehensive Plan. As shown on the City of Salem's Urban Service Area map in Exhibit C, the site is located inside the City of Salem's Urban Growth Boundary but outside both the Urban Service Area and City of Salem City Limits.

III. Applicable Review Criteria

SALEM REVISED CODE

Title X – Zoning

CHAPTER 200 URBAN GROWTH MANAGEMENT

200.030. Amendment to Urban Growth Preliminary Declaration.

- (a) **Applicability.** A change to the list of required projects, timing, or phasing of an Urban Growth Preliminary Declaration shall be made in the manner provided by this section.
- (b) **Procedure Type.** An amendment to an Urban Growth Preliminary Declaration is processed as a Type II procedure under SRC Chapter 300.

RESPONSE: This Urban Growth Preliminary Declaration Amendment application will be processed as a Type II procedure.

- (c) **Submittal Requirements.** In addition to the submittal requirements specified in SRC Chapter 300, an application to amend an Urban Growth Preliminary Declaration shall include:
 - (1) A copy of the Urban Growth Preliminary Declaration.
 - (2) A statement of the circumstances giving rise to the reason for the change.

RESPONSE: A copy of the Urban Growth Preliminary Declaration is provided in Exhibit B. This narrative includes a statement of the circumstances leading to the reason for the change. This criterion is met.

- (d) **Criteria.** An amendment to an Urban Growth Preliminary Declaration shall be granted if:



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- (1) A change in the circumstances has occurred which has the effect of making the list of required public facilities inappropriate or inadequate.

RESPONSE: The City of Salem approved UGA18-01 on June 21, 2018 subject to 7 conditions of approval. The subject conditions of approval require new public street improvements, the acquisition of private property from nearby land owners to accommodate future right-of-way improvements, right-of-way dedication, and dedication or payment in lieu for future parks improvements. Per SRC Section 200.025(e), such improvements are to be constructed subsequent to any future development approval on the subject site.

The change in circumstances which makes the list of public facilities, as established in UGA 18-01 inappropriate, is the recent acknowledgement that the subject site is comprised of lots which front only on Cordon Road and which were created prior to regulations prohibiting direct access from the subject site onto Cordon Road (please see the attached access approval from Marion County, dated February 20, 1990, and related documents in Exhibit G). In establishing said conditions of approval, the City erred in their failure to acknowledge the legal status of, and necessary access to, the lots which comprise the subject site and it is therefore necessary to eliminate certain of these conditions through this modification application.

Because the subject property is currently located outside of the City, a future multi-family, commercial, office, warehouse, or retail use on the site (or a combination of these uses) must first obtain approval to be annexed into the City, have a local zoning designation applied to the property, obtain site plan review or similar land use permits, and finally obtain building permit approval to erect structures hosting said future use(s) of the site. Given the current zoning of the subject site (UT-5), the City does not have the legal jurisdiction to make development-related decisions pertaining to the subject site; that authority is reserved for the County. Subsequently, the City does not have jurisdiction nor enough detail regarding development-related benefits and impacts to perform a competent analysis of nexus and proportionality as is required by the City in their justification for all private property dedications and exactions.

Considering the changes in circumstance described above, the Applicant is seeking modifications to the following conditions of approval established in UGA18-01 (see also Exhibit D for a draft improvement agreement including a strikeout/underline version of proposed changes to the COAs):

Delete Condition of Approval No. 1 in its Entirety: COA No. 1 states that the Applicant shall be responsible for constructing a driveway access, or 30-foot wide local linking street improvement, from the southeast line of the subject site to Gaffin Road SE. This COA further requires that the Applicant be responsible for a 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject site to Cordon Road; or, a 34-foot wide improvement from the approved access point of the subject property to the west property line of the renewable energy and technology park; or, a 5-foot wide sidewalk along the southeast side of Cordon Road from the northeast line of the subject property to Gaffin Road SE.

Improvements along Gaffin Road SE or between the subject site and Gaffin Rd SE, are not appropriate for the following reasons: 1) the subject site does not abut Gaffin Road SE but is separated from it by seven, approximately 1.4-acre, residential home sites that are located outside of the City's Urban Growth Boundary. Because access from the subject site to Gaffin Road SE is blocked by existing privately owned property, the Applicant cannot guarantee that these private property owners will provide the needed consent to accommodate this access. Further, the Applicant does not possess the jurisdiction to condemn private land for this purpose; 2) Oregon Administrative Rule (OAR) 660-012-0065 does not allow the creation of a new access roadway outside of an adopted Urban Growth Boundary for the purposes of limiting access to or alleviating traffic onto a non-Highway facility (Cordon Road is designated as a Parkway and is under the jurisdiction of the City of Salem); 3) The Applicant is not proposing a development upon which the City can justify public facility improvements under the required nexus and proportionality analyses; and 4) Cordon Road is considered an 'adequate public facility' per SRC 200.055(b), whereby additional improvements or right-of-way dedication are not required as part of a UGA Preliminary Declaration.

The Applicant acknowledges that a new public street will likely be required to accommodate future urban scale development on the subject site and is prepared to voluntarily construct a local street, along the shared boundary of Tax Lots 1700 and 1701, beginning at Cordon Road and terminating near the subject site's southeast property line, as described in the Improvement Agreement in Exhibit D.

Delete Condition of Approval No. 2 in its Entirety: COA No. 2 states that the Applicant shall be responsible for acquiring right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.

As discussed above, Cordon Road is considered an 'adequate public facility' whereby additional improvements or right-of-way dedication may not be required by the City in its UGA Preliminary Declaration. Further, the Applicant is not proposing a development upon which the City can justify public facility improvements under the required nexus and proportionality analyses.

Delete Condition of Approval No. 3 in its Entirety: COA No. 3 states that the Applicant shall be responsible for conveying "land for dedication to equal a half width right-of-way of 60-feet on the development side of Cordon Road SE."

As discussed above, Cordon Road is considered an 'adequate public facility' whereby additional improvements or right-of-way dedication may not be required by the City in its UGA Preliminary Declaration. Further, the Applicant is not proposing a development upon which the

City can justify public facility improvements under the required nexus and proportionality analyses.

Delete Condition of Approval No. 4 in its Entirety: COA No. 4 states that the Applicant shall be responsible for constructing a boundary street improvement along the development side frontage of Cordon Road SE, widening the street to 40-feet from the centerline.

As discussed above, Cordon Road is considered an 'adequate public facility' per SRC 200.055(b), whereby additional improvements or right-of-way dedication are not required by the City in its UGA Preliminary Declaration. Further, the Applicant is not proposing a development upon which the City can justify public facility improvements under the required nexus and proportionality analyses.

Modify Condition of Approval No. 6: COA No. 6 states that the Applicant shall be responsible for extending "the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property." The Applicant desires to clarify that upsizing this water main in a manner that will provide capacity beyond that necessary to serve a future development on the property will be eligible for system development charge (SDC) credits.

The Applicant proposes the following language for this revised COA: *Extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property. Any upsizing of the water main beyond what is needed to support the development on the Property will qualify for SDC credits.*

Delete Condition of Approval No. 7 in its Entirety: COA No. 7 provides two options for accommodating recreational needs associated with a future residential development on the site: 1) convey 2 acres of property for dedication as a neighborhood park; or, 2) pay the City a temporary access fee of \$25,000.

As stated above, because development on the subject site is not proposed at this time, there are no associated benefits or impacts against which such dedications and exactions can be roughly calculated through a competent nexus and proportionality analysis.

Finally, the City's October 3, 2016 pre-application meeting summary indicates that the subject property is adequately served by Bill Reigel Park, which is a developed neighborhood park (see Exhibit E). Per SRC 200.055(b), where adequate public facilities are present additional improvements are not required by the City in its UGA Preliminary Declaration.

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- (2) The proposed amendment does not simply reduce the developer's costs by shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased.

RESPONSE: Because development is not proposed on the subject site at this time, it is unknown whether future public improvements and/or dedications and exactions will be more or less costly than those established in UGA18-01. The proposed amendments are intended to ensure that future improvements are reasonably related to and proportionate to the benefits and impacts generated by a future use on the subject property. This criterion is met.

- (3) The change does not result in a development that does not otherwise meet all requirements of this Chapter.

RESPONSE: As stated above, the application does not seek approval for development at this time and subsequently the change does not result in a development which does not meet the requirements of this Chapter. At such time development on the subject site is proposed, it will be subject to all pertinent public facility and site design requirements of this Chapter. The criterion is met.

CHAPTER 300 PROCEDURES FOR LAND USE APPLICATIONS AND LEGISLATIVE
LAND USE PROPOSALS

300.510. Type II Applications.

The following land use actions are Type II applications: The following land use actions are Type II applications:

- (a) Those identified in Table 300-2 as Type II applications;
- (b) Those identified in the UDC as Type II applications; or
- (c) Those identified by the Planning Administrator as Type II applications based upon the guidelines for classification of applications under SRC 300.100(c).

RESPONSE: Section 200.030 of the Salem Revised Code states: amendments to Urban Growth Preliminary Declarations are processed using the Type II procedures.

300.520. Type II Procedure

- (a) Application Requirements.
 - (1) Application Form. Type II applications shall be made on forms provided by the Planning Administrator.
 - (2) Submittal Requirements. Type II applications shall include the information required under SRC 300.210.

RESPONSE: Section 300.210 of the Salem Revised Code indicates what information must be submitted with Type II land use applications. The following is a summary of the list included in Section 300.210:

- 1. Completed application form;
- 2. Recorded deed/land sales contract with legal description;
- 3. Information regarding potential conflicts of interest, if applicable;

-
4. Pre-application conference written summary, if a pre-application conference was required;
 5. Written narrative addressing applicable approval criteria;
 6. Additional information required under the UDC;
 7. Additional information required as determined by the Planning Administrator;
 8. Payment of the applicable application fee.

The required information, as applicable, is included with this application submittal. The Applicant is not aware of any conflicts of interest related to this amendment application. A pre-application conference was held on September 22, 2016, a summary is included in Exhibit E. This document will serve as the written narrative and addresses each of the applicable approval criteria in enough detail for City staff to approve the application. This application includes the appropriate application fee, payable to the City of Salem. These criteria are met.

(***)

- (g) Expiration of Approval. Approval of a Type II application expires automatically as provided by SRC 300.850(a).

RESPONSE: Table 300-3 Extensions and Approvals indicates the approval of this application will automatically expire after 2 years. However, two extensions of 2 years (a total of 4 years) may be granted.

IV. Conclusion

The required findings have been made and this written narrative and accompanying documentation demonstrate the application is consistent with the applicable provisions of the City of Salem Revised Code. The evidence in the record is substantial and supports approval of the application. Therefore, the Applicant respectfully requests the City approve this Urban Growth Preliminary Declaration Amendment.



April 1, 2019

Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director
Planning Administrator
555 Liberty St SE, RM 305
Salem, OR 97301

RE: Notice of Appeal of Revocation of Approval of Case No. UGA18-01 for 1800 Cordon
Road SE 18-107978-LD

Ms. Anderson-Ogilvie,

Please accept this letter, on behalf of Alpha 3, LLC, as our notice of appeal regarding the City's decision to revoke the approval granted in UGA18-01, as outlined in your March 21, 2019 letter to Alpha 3, LLC and AKS Engineering and Forestry.

We are unclear as to the basis for the City's decision to revoke the approval in UGA18-01. Since receiving the letter on March 21, we have been unsuccessful, despite repeated attempts, to contact you or members of City staff to discuss the rationale for this decision. Your March 21, 2019 letter implies that the decision is based on a recent interpretation that the City does not have jurisdiction to issue such a decision:

"Upon further review of the applicant's submitted Urban Growth Preliminary Declaration Amendment application, noting specifically the written statement that the City does not have jurisdiction to issue such a decision, the Planning Administrator hereby revokes the previous approval for Case No. UGA18-01, pursuant to Salem Revised Code (SRC) Chapter 300.860(a)(1)."

The Urban Growth Area Preliminary Declaration Amendment application (UGA Amendment application), submitted by AKS on behalf of Alpha 3, LLC on March 14, 2019, states (on p.3) in response to the criterion in SRC Section 200.030(d)(1), that the City does not have legal jurisdiction to *make development-related decisions* because the original application (UGA18-01) did not propose any development in the City, as that term is defined by the SRC, and therefore the City could not perform the necessary nexus and proportionality analyses to determine whether, and the extent to which, the various property and financial exactions that were included as conditions of the approval in UGA18-01, were appropriate. *To be clear, our application challenged the City's authority to require exactions in UGA18-01 and not the City's jurisdiction to issue a UGA Preliminary Declaration approval more generally, for the subject site.*

Based upon advice from City staff leading up to the City's decision to approve UGA18-01 and feedback from City staff during the preparation of the UGA Amendment application, the Applicant clearly understood that the City interpreted SRC 200.005 and 200.025(a) and (b) to grant the City authority to issue an affirmative Urban Growth Preliminary Declaration in the context of the subject site. Additionally, the decision to approve UGA18-01 on June 21, 2018 confirms that the City has formally interpreted that SRC 200.005 and 200.025(a) and (b) *does* grant the City the explicit authority to issue such a decision. In our opinion, a Code Amendment is necessary for the City to revise or cease consideration of UGA permits outside of the city limits.

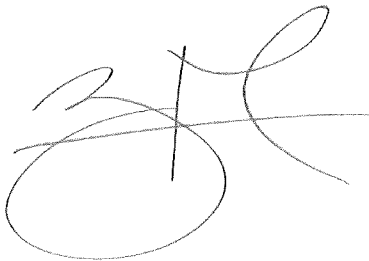
ORS 227.173(1) establishes that the City must base their decision on a permit application on standards and criteria in place at the time the application is submitted. This “goal post” rule applies to established interpretations of the standards and criteria as well. In the March 21 letter, the City asserts that the UGA Amendment application is improper because of the revocation of UGA18-01:

“Due to the revocation of Case No. UGA18-01, the Urban Growth Preliminary Declaration Amendment Application (19-107177-LD) is improper and will be returned to the applicant.”

Because our UGA Amendment application was submitted before (March 14, 2019) the City attempted to formally reinterpret the scope of their UGA decision-making authority (March 21, 2019), we believe the City’s assertion that our UGA Amendment application is improper, runs afoul of ORS 227.173(1).

This appeal is intended to preserve our right to continue to work with the City to seek a mutually agreeable resolution to this matter and is necessary due to our inability to contact staff directly to better understand the rationale used to reach this decision. We hope that through direct communication with staff in the coming weeks, an acceptable solution can be reached and that this appeal can be withdrawn.

Sincerely,
AKS ENGINEERING & FORESTRY, LLC

A handwritten signature in black ink, appearing to be 'Zach Pelz', written over a large, faint circular stamp or watermark.

Zach Pelz, AICP
Land Use Planner
3700 River Rd NE, Suite 1
Keizer, OR 97303
(503) 400-6028 | pelzz@aks-eng.com

*Si necesita ayuda para comprender esta información, por favor llame
503-588-6173*

REVISED

DECISION OF THE PLANNING ADMINISTRATOR

URBAN GROWTH PRELIMINARY DECLARATION CASE NO: UGA18-01

APPLICATION NO. : 18-107978-LD

NOTICE OF DECISION DATE: June 21, 2018

Summary: An Urban Growth Area Preliminary Declaration to determine the public facilities required for development of 19.26 acres located at 1800 Cordon Road SE.

Request: An Urban Growth Area Preliminary Declaration to determine the public facilities required for development of property approximately 19.26 acres, designated as IND (Industrial) in the Comprehensive Plan, and located at 1800 Cordon Road SE (Marion County Map and Tax Lot Number 082W05 01700 and 01701).

APPLICANT/OWNER(S): Alpha 3, LLC (Hunter Zeeb, Oliver Raab, Jeffery Zeeb)

REPRESENTATIVE(S): Tross Consulting, Inc. (Jeff Tross)

LOCATION: 1800 Cordon Road SE / 97317

CRITERIA: UGA Preliminary Declaration - SRC 200.025(d)(e)

FINDINGS: The findings are in the attached Order dated June 21, 2018.

DECISION: The Planning Administrator **APPROVED** Urban Growth Preliminary Declaration Case No UGA18-01 subject to SRC Chapter 200 and the following conditions of approval:

- Condition 1:** Construct a driveway access or a 30-foot-wide local linking street improvement from the southeast line of the subject property to Gaffin Road and in one of the following alignments to connect to an adequate linking street:
- a. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to Cordon Road SE; or
 - b. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to west line of the Renewable Energy and Technology Park; or
 - c. A 5-foot-wide sidewalk along the southeast side of Cordon Road from the northeast line of the subject property to Gaffin Road SE.

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



- Condition 2:** Acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.
- Condition 3:** Convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE.
- Condition 4:** Along the entire frontage on the development side of Cordon Road SE, construct a parkway boundary street improvement, widening the street to 40-feet from centerline.
- Condition 5:** Provide a linking sewer main to an existing public sewer facility. The nearest adequate facilities are located in Gaffin Road and Whitaker Drive.
- Condition 6:** Extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property.
- Condition 7:** As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:
- a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-24; or
 - b. Pay a temporary access fee of \$25,000 pursuant to SRC 200.080(a).

The rights granted by the attached decision must be exercised, or an extension granted, by July 7, 2020 or this approval shall be null and void.

Application Deemed Complete:	<u>May 3, 2018</u>
Notice of Decision Mailing Date:	<u>June 21, 2018</u>
Decision Effective Date:	<u>July 7, 2018</u>
State Mandate Date:	<u>August 31, 2018</u>

Case Manager: Britany Randall, brandall@cityofsalem.net

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., July 6, 2018.** The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 200. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem City Council will review the appeal at a public hearing. After the hearing, the Salem City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

**BEFORE THE PLANNING ADMINISTRATOR
OF THE CITY OF SALEM
(URBAN GROWTH PRELIMINARY DECLARATION NO. UGA18-01)**

Si necesita ayuda para comprender esta información, por favor llame 503-588-6173

<http://www.cityofsalem.net/planning>

IN THE MATTER OF THE)	
APPROVAL OF URBAN GROWTH)	FINDINGS AND ORDER
PRELIMINARY DECLARATION NO.)	JUNE 21, 2018
UGA18-01; 1800 CORDON ROAD SE)	

REQUEST

An Urban Growth Area Preliminary Declaration to determine the public facilities required for development of property approximately 19.26 acres, designated as IND (Industrial) in the Comprehensive Plan, and located at 1800 Cordon Road SE (Marion County Map and Tax Lot Number 082W05 01700 and 01701).

DECISION

The Urban Growth Preliminary Declaration is **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the following conditions of approval:

- Condition 1:** Construct a driveway access or a 30-foot-wide local linking street improvement from the southeast line of the subject property to Gaffin Road and in one of the following alignments to connect to an adequate linking street:
- a. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to Cordon Road SE; or
 - b. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to west line of the Renewable Energy and Technology Park; or
 - c. A 5-foot-wide sidewalk along the southeast side of Cordon Road from the northeast line of the subject property to Gaffin Road SE.
- Condition 2:** Acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.
- Condition 3:** Convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE.

- Condition 4:** Along the entire frontage on the development side of Cordon Road SE, construct a parkway boundary street improvement, widening the street to 40-feet from centerline.
- Condition 5:** Provide a linking sewer main to an existing public sewer facility. The nearest adequate facilities are located in Gaffin Road and Whitaker Drive.
- Condition 6:** Extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property.
- Condition 7:** As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:
- a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-24; or
 - b. Pay a temporary access fee of \$25,000 pursuant to SRC 200.080(a).

PROCEDURAL FINDINGS

On April 6, 2018, an application for an Urban Growth Preliminary Declaration was filed to determine the public facilities required for development on property approximately 19.26 acres in size, designated IND (Industrial), zoned Marion County UT-5 (Urban Transition – 5 Acres), and located at 1800 Cordon Road SE (**Attachment A**). The application was deemed complete on May 3, 2018, and notice was mailed pursuant to Salem Revised Code (SRC) requirements on May 3, 2018.

SUBSTANTIVE FINDINGS

1. Subject Property

The subject property consists of two tax lots encompassing a total area of 19.26 acres.

The site is located outside of and abutting Salem city limits. Parcel 01700 has frontage on Cordon Road SE on the north property line. The subject property is vacant.

The site is designated “Industrial” in the Comprehensive Plan and zoned UT-5 (Urban Transition – 5 Acres) in Marion County. The applicant provided a narrative indicating that the owners are considering future development of the property that would consist of a possible mix of industrial and commercial uses, such as self-storage, general warehousing, distribution, light industrial, and office, as well as possible multi-family residential uses. The applicant stated that in order to develop the property as desired, a variety of land use actions would be required such as annexation, and potentially a Comprehensive Plan Map Amendment and Zone Change. No other land use applications are being reviewed or approved with this UGA Preliminary Declaration application. Any future applications would be reviewed after the UGA Preliminary Declaration is issued and after the property is annexed.

In 1983, the subject property was assessed a deferred fee (lien) for the construction of offsite utility improvements for the Cascade Economic Development District (CEDD) area. In accordance with the assessment documents, the fees are to be deferred until such time as the property is served or developed.

2. SRC Chapter 200 – Urban Growth Management

The subject property is located outside of the City's Urban Service Area. Pursuant to the Urban Growth Management requirements contained under SRC Chapter 200, an Urban Growth Preliminary Declaration is required prior to subdivision approval for a residential or commercial subdivision, or application for a building permit for any development where no subdivision is contemplated, if the development is within the Urban Growth Area (UGA), or is within the Urban Service Area (USA), but precedes city construction of required facilities shown in the adopted capital improvement plan, public facilities plan, or comparable plan for the area of the development.

3. Neighborhood Association Comments

The subject property is located within the boundaries of the Southeast Mill Creek Association. The neighborhood association did not submit comments on the proposal prior to the comment deadline.

4. Citizen Comments

Property owners within 250 feet of the subject property were mailed notification of the Urban Growth Preliminary Declaration request.

Two property owners provided written comments on the proposal prior to the close of the comment period.

One property owner was against any development on the subject property citing the sprawl of the City and the natural resources that are present on the site.

Staff Response: Prior to development of the subject property, the applicant will need to annex the property into the City. Upon annexation, development will be subject to the standards of the Salem Revised Code (SRC), including the City's standards for preservation of natural resources. The property is located inside the City of Salem's urban growth boundary and abutting City limits to the south which means the property may be annexed into the City and developed in the future. One property owner submitted comments indicating the following objections and concerns:

Natural Resources

- The subject property contains a branch of the Little Pudding River, that conveys runoff from 150-200 acres of publicly and privately-owned property.

- This section of the Little Pudding and the subject property experiences annual winter flooding.
- There are approximately two acres of jurisdictional wetlands that were identified by City staff in the late 1990s. With changes to wetland identification rules, there could be significantly more acres identified during a formal delineation process.

Staff Response: Concerns regarding wetlands and future use are not pertinent to the approval criteria.

Access

- No access will be granted to Cordon Road from the City of Salem.
- ODOT owns the property to the south (Highway 22) and the vast majority of frontage to the west and would not allow direct access to the ODOT right-of-way.
- To the northeast of the subject property are privately owned lots that are 90-165 feet wide, all located outside of the City's UGB.
- The properties to the southeast are within the City of Salem, but are privately owned. There are no City streets serving those parcels. There appears to be a private driveway, possibly owned by the Salem-Keizer School District, which is encumbered by an underground petroleum transport line. The private drive intersects Gaffin Road which at that point is under the jurisdiction of Marion County.

Staff Response: Concerns regarding access are addressed in the findings by requiring a linking street connection to Gaffin Road.

Concluding Comments

- The subject parcel's highest and best use might be for the continued use as a flood storage area, a wetland mitigation site, and/or a natural area.
- The neighboring property owner is very opposed to any zone change that would allow any residential development that has a density greater than the surrounding Marion County lands.
- The neighboring property owner wants to receive all updated information on any proposals impacting the area near their property at 5170 Gaffin Road SE – 97317.

Staff Response: The Urban Growth Preliminary Declaration determines the master-planned public facilities needed to service development of property outside of the Urban Service Area, but does not confer an approval to develop land. Future development of the subject property would be subject to the land use and/or development review processes applicable to the type of development proposed. For

instance, single family residential development would be subject to review under the tentative subdivision criteria.

Streets

A more specific analysis of trip generation and traffic safety would be undertaken as part of the review of future development.

Water, Sewer, and Stormwater

The conditions of approval adopted in this order require adequate linking facilities to water and sewer facilities. Water, sewer, and stormwater facilities will be provided at the time of development according to the requirements of the Salem Revised Code and Public Works standards.

5. City Department Comments

Public Works Department - The Public Works Department reviewed the proposal and provided comments regarding existing and required public facilities necessary to serve the subject property. Comments from the Public Works Department are included as **Attachment B**.

Building and Safety Division – The Salem Community Development Department, Building and Safety Division, reviewed the proposal and has no objections to it.

Fire Department – The Salem Fire Department submitted comments indicating that they have no concerns with the proposal. Fire will address issues such as fire department access and water supply at the time of building permit plan review.

6. Public and Private Agency Comments

Salem-Keizer Public Schools – Salem-Keizer Public Schools submitted comments stating that a school bus stop on Gaffin Road or Cordon Road would be needed. A bus stop on Gaffin Road should have sufficient clearance for vehicles turning from Cordon Road to stop safely. A bus stop on Cordon Road and a bus pull-out lane should be planned. A memo with additional comments is included as **Attachment C**.

7. Criteria for Granting Urban Growth Preliminary Declaration

Salem Revised Code (SRC) 200.025(d) & (e) set forth the applicable criteria that must be met before approval can be granted to an Urban Growth Preliminary Declaration. The following subsections are organized with approval criteria shown in **bold italic**, followed by findings identifying those public facilities that are currently in place and those that must be constructed as a condition of the Urban Growth Preliminary Declaration in order to fully serve the development in conformance with the City's adopted Master Plans and Area Facility Plans.

A. SRC 200.025(d): *The Director shall review a completed application for an Urban Growth Preliminary Declaration in light of the applicable provisions of the Master Plans and the Area Facility Plans and determine:*

(1) *The required facilities necessary to fully serve the development;*

(2) *The extent to which the required facilities are in place or fully committed.*

B. SRC 200.025(e): *The Urban Growth Preliminary Declaration shall list all required facilities necessary to fully serve the development and their timing and phasing which the developer must construct as conditions of any subsequent land use approval for the development.*

Finding: The Public Works Department reviewed the proposed Urban Growth Preliminary Declaration to identify those public facilities that must be constructed in order to fully serve the proposed development consistent with the City's adopted Master Plans and Area Facilities Plans. Findings provided by the Public Works Department are included in **Attachment B**. The proposed development will be fully served by Public Facilities as required under SRC Chapter 200 as follows:

I. SRC 200.055 – Street Improvements.

SRC 200.055 requires development to be connected, through a linking street, to an adequate public street. An adequate linking street is defined under SRC 200.055(b) as the nearest point on a street that has a minimum 60-foot-wide right-of-way with a minimum 30-foot improvement for Local streets or a minimum 34-foot improvement for Major streets (SRC 200.055(b)).

All streets abutting the boundary of a property shall be designed to the greater of the standards of SRC Chapter 803 and the standards of linking streets in SRC 200.055(b).

Linking Streets:

An adequate linking street is defined as the nearest point on a street that has a minimum 60-foot-wide right-of-way with a minimum 30-foot improvement for local streets or a minimum 34-foot improvement for major streets (SRC 200.055(b)). All streets abutting the property boundaries shall be designed to the greater of the standards of SRC Chapter 803 and the standards of linking streets in SRC 200.055(b).

The property abuts Cordon Road SE, which is designated a Parkway in the Salem Transportation System Plan. Pursuant to SRC 804.040(a), access to the site is limited to uses generating 10,000 or more vehicle trips per day. Additionally, SRC 804.040(c) prevents additional driveway approaches due to the proximity of the intersection of Cordon Road SE and Gaffin Road SE. Therefore, the applicant will need to secure access to Gaffin Road SE through one or more adjacent parcel(s) to the east.

Gaffin Road SE is designated a Minor Arterial in the Salem Transportation System Plan and is under the jurisdiction of Marion County. It currently has an approximate 25-foot improvement within a 58-foot right-of-way between the intersection with Cordon Road SE and the western property line of the Renewable Energy and Technology Park, a length of approximately 2,600 feet.

Therefore, the following conditions shall apply:

- Condition 1:** Construct a driveway access or a 30-foot-wide local linking street improvement from the southeast line of the subject property to Gaffin Road and in one of the following alignments to connect to an adequate linking street:
- a. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to Cordon Road SE; or
 - b. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to west line of the Renewable Energy and Technology Park; or
 - c. A 5-foot-wide sidewalk along the southeast side of Cordon Road from the northeast line of the subject property to Gaffin Road SE.
- Condition 2:** Acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.

The applicant shall acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.

Boundary Streets:

Cordon Road is designated as a Parkway street in the Salem TSP. The standard for this street classification is an 80-foot-wide improvement within a 120-foot-wide right-of-way. The applicant shall convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE. Along the entire frontage on the development side of Cordon Road SE, the applicant shall construct a parkway boundary street improvement, widening the street to 40-feet from centerline.

This portion of street meets the criterial for deferral pursuant to SRC 803.070(a)(1))(A)(iv), "Unusual or special conditions exist that, in the opinion of the Director, would warrant a deferral of all or a part of the improvement." This street is in the influence area of the future Highway 22/Cordon interchange, so the improvement may be delayed until a later time in order to better integrate into the future interchange alignment.

The following conditions shall apply:

- Condition 3:** Convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE.
- Condition 4:** Along the entire frontage on the development side of Cordon Road SE, construct a parkway boundary street improvement, widening the street to 40-feet from centerline.

II. SRC 200.060 – Sewer Improvements.

SRC 200.060 requires development to be linked to existing adequate sewer facilities through construction of sewer lines and pumping stations necessary to connect to such existing sewer facilities.

The nearest available sewer facility is located in Gaffin Road SE, northeast of the subject property. The applicant shall construct the Salem Wastewater Management Master Plan improvements and link the site to existing facilities that are defined as adequate under 200.005(a). The nearest adequate facilities are located in Gaffin Road and Whitaker Drive.

The applicant shall construct the improvements and link the site to existing facilities that are defined as adequate under SRC 200.005(a), as conditioned below:

- Condition 5:** Provide a linking sewer main to an existing public sewer facility. The nearest adequate facilities are located in Gaffin Road and Whitaker Drive.

As a condition of sewer service, all developments will be required to provide public sewers to adjacent upstream parcels. This shall include the extension of sewer mains in easements or rights-of-way across the property to adjoining properties, and across the street frontage of the property to adjoining properties when the main is located in the street right-of-way. This shall include trunk sewers that are oversized to provide capacity for upstream development (PWDS Sewer Division 003).

III. SRC 200.065 – Storm Drainage Improvements.

The proposed development shall be linked to existing adequate facilities by the construction of storm drain lines, open channels, and detention facilities which are necessary to connect to such existing drainage facilities. The applicant shall link the on-site system to existing facilities that are defined as adequate under SRC 200.005(a). Two existing waterways are located on the subject property. By complying with the flow control and water quality requirements of SRC Chapter 71, the applicant shall meet the requirements of this chapter.

IV. SRC 200.070 – Water Improvements.

The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 200.070). The applicant shall provide linking water mains consistent with the Water System Master Plan adequate to convey fire flows to serve the proposed development as specified in the Water Distribution Design Standards.

An existing 24-inch water main is located along a portion of the subject property frontage. The applicant shall extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property as specified in the Water Master Plan. The following condition shall apply:

Condition 6: Extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property.

These improvements ensure that permanent water service is available in accordance with the Water System Master Plan.

V. SRC 200.075 – Park Sites.

SRC 200.075 requires that the applicant shall reserve for dedication prior to development approval that property within the development site that is necessary for an adequate neighborhood park, access to such park, and recreation routes, or similar uninterrupted linkages, based upon the Salem Comprehensive Parks System Master Plan.

As a condition of residential use, the applicant shall acquire and convey for dedication prior to development approval that property which is necessary for an adequate neighborhood park, access to such park, and recreation routes, or similar uninterrupted linkages, based upon the Salem Comprehensive Parks System Master Plan.

The Comprehensive Parks System Master Plan shows that a future Neighborhood Park (NP 24) is planned near the subject property. The applicant shall acquire and convey a 2-acre property for dedication of neighborhood park facility NP-24 based on sizing established in the Master Plan. In lieu of acquiring and conveying park land pursuant to SRC 200.075, the applicant has the option of paying a temporary access fee pursuant to SRC 200.080(a). The temporary access fee is a reasonable alternative to conveyance of park land from within the subject property because the topography and location of the subject property is not desirable for a neighborhood park. The temporary access fee amount is \$25,000 based on the following analysis:

- Acquisition and development of the 2-acre park known as Miller Area Park is estimated to cost a total of \$663,200 according to Table E-1 of the Master Plan. City staff estimates that acquisition costs account for approximately 40 percent of the total cost, or \$265,280.

- The service area of NP-24 is estimated to be 204 acres, so the proportional cost for all property within the service area for park acquisition is \$265,280 divided by 204 acres, or \$1,300 per acre.
- For a 19.26-acre site at \$1,300 per acre, the proportional contribution to NP-24 is \$25,000 (rounded).

The temporary access fee will contribute to the permanent park facility by providing revenue for acquiring the property being proposed for NP-24.

The applicant shall reserve for dedication prior to development approval that property within the development site that is necessary for an adequate neighborhood park, as defined in SRC 200.075(b), as conditioned below:

Condition 7: As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:

- a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-24; or
- b. Pay a temporary access fee of \$25,000 pursuant to SRC 200.080(a).

8. Conclusion

Based upon review of SRC Chapter 200, the findings contained herein, and due consideration of the comments received, the Urban Growth Preliminary Declaration complies with the requirements for an affirmative decision.

IT IS HEREBY ORDERED

The Urban Growth Preliminary Declaration request to determine the public facilities required for development of property approximately 19.26 acres, designated as IND (Industrial) in the Comprehensive Plan, and located at 1800 Cordon Road SE (Marion County Map and Tax Lot Number 082W05 01700 and 01701) is hereby GRANTED subject to SRC Chapter 200 and the following conditions of approval:

- Condition 1:**
- d. Construct a driveway access or a 30-foot-wide local linking street improvement from the southeast line of the subject property to Gaffin Road and in one of the following alignments to connect to an adequate linking street:
 - a. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to Cordon Road SE; or

- e. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to west line of the Renewable Energy and Technology Park; or
- f. A 5-foot-wide sidewalk along the southeast side of Cordon Road from the northeast line of the subject property to Gaffin Road SE.

Condition 2: Acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.

Condition 3: Convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE.

Condition 4: Along the entire frontage on the development side of Cordon Road SE, construct a parkway boundary street improvement, widening the street to 40-feet from centerline.

Condition 5: Provide a linking sewer main to an existing public sewer facility. The nearest adequate facilities are located in Gaffin Road and Whitaker Drive.

Condition 6: Extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property.

Condition 7: As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:

- c. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-24; or
- d. Pay a temporary access fee of \$25,000 pursuant to SRC 200.080(a).



Lisa Anderson-Ogilvie, AICP
Planning Administrator

Attachments: A. Vicinity Map
B. Salem Public Works Department Comments
C. Salem-Keizer Public Schools Comments

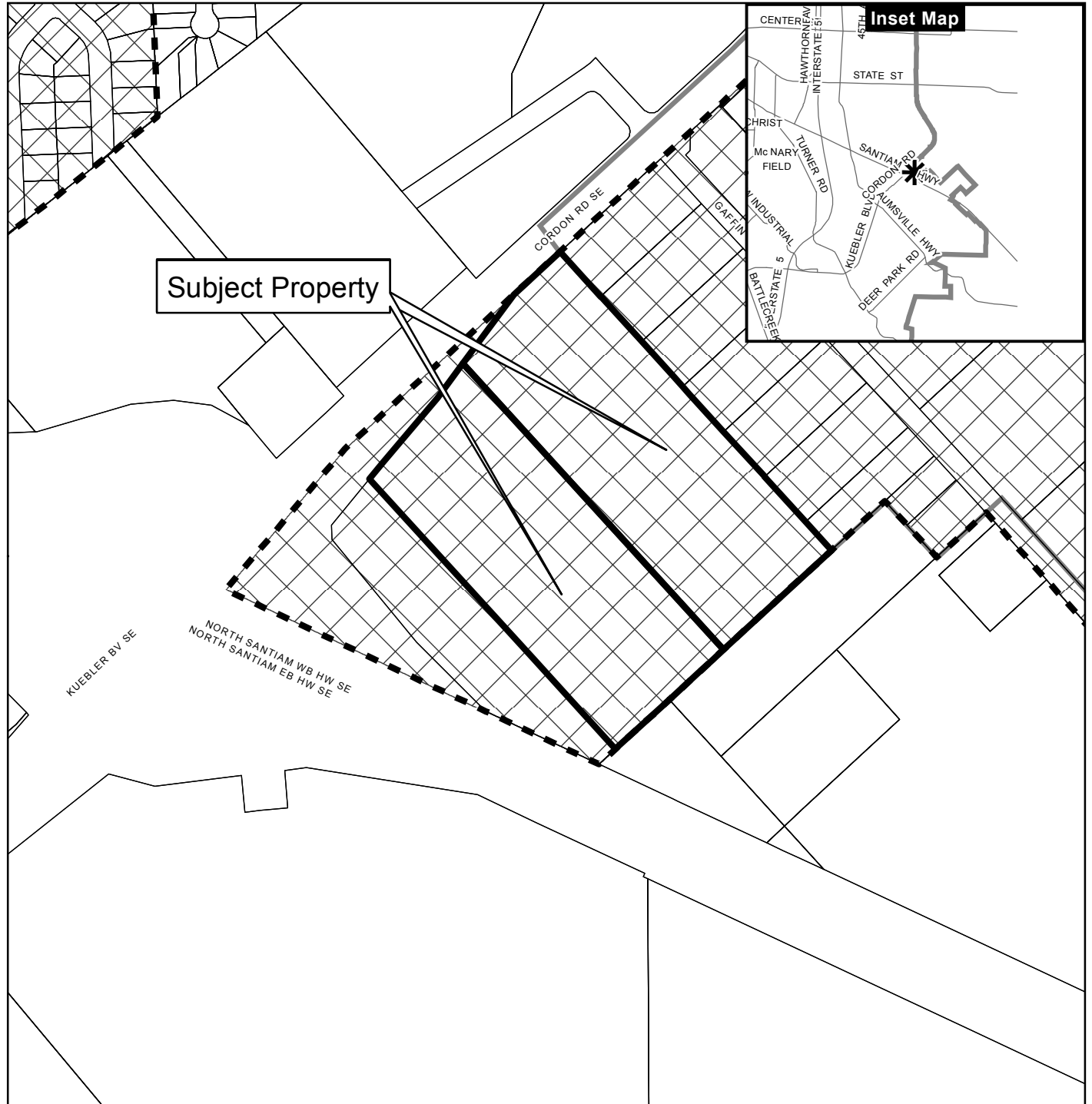
Application Deemed Complete: May 3, 2018
Notice of Decision Mailing Date: June 21, 2018
Decision Effective Date: July 7, 2018
State Mandated Decision Date: August 31, 2018

The rights granted by this decision must be exercised, or an extension granted, by **July 7, 2020** or this approval shall be null and void.

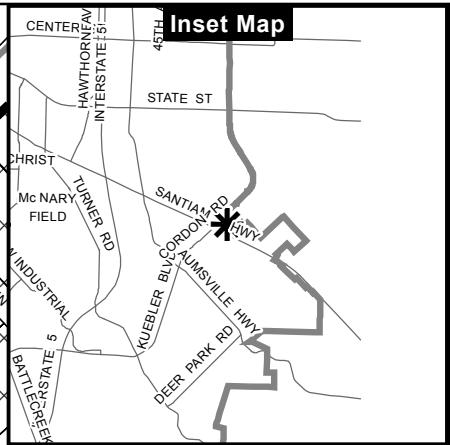
A copy of the complete Case File is available for review during regular business hours at the Planning Division office, 555 Liberty Street SE, Room 305, Salem OR 97301.

This decision is final unless written appeal from a party with standing to appeal, along with the appeal fee, is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, Oregon 97301, no later than **Friday, July 6, 5:00 p.m.** The notice of appeal must contain the information required by SRC 300.1020. The notice of appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the notice of appeal is untimely and/or lacks the proper fee, the notice of appeal will be rejected. The Salem City Council will review the appeal at a public hearing. The City Council may amend, rescind, or affirm the action or refer the matter to staff for additional information.






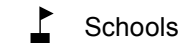

Vicinity Map 1800 Cordon Road SE



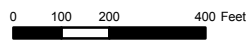
Subject Property



Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.



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MEMO

TO: Britany Randall, Planner II
Community Development Department

FROM: Glenn J. Davis, PE, CFM, Chief Development Engineer
Public Works Department

DATE: June 20, 2018

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS
UGA NO. 18-01 (18-107978)
1800 CORDON ROAD SE
PROPOSED DEVELOPMENT**

A handwritten signature in blue ink, likely belonging to Glenn J. Davis, Chief Development Engineer.

PROPOSAL

An Urban Growth Area Preliminary Declaration to determine the public facilities required for development of property approximately 19.26 acres, designated as IND (Industrial) in the Comprehensive Plan, and located at 1800 Cordon Road SE (Marion County Map and Tax Lot Numbers 082W05 01700 and 01701).

RECOMMENDED CONDITIONS

1. Construct a driveway access or a 30-foot-wide Local linking street from the southeast line of the subject property to Gaffin Road SE and in one of the following alignments to connect to an adequate linking street:
 - a. A 34-foot-wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to Cordon Road SE; or
 - b. A 34-foot-wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to west line of the Renewable Energy and Technology Park; or
 - c. A 5-foot-wide sidewalk along the southeast side of Cordon Road SE from the northeast line of the subject property to Gaffin Road SE.
2. Acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.
3. Convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE.
4. Along the entire frontage on the development side of Cordon Road SE, construct a Parkway Boundary street improvement, widening the street to 40 feet from centerline.

5. As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:
 - a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-24; or
 - b. Pay a temporary access fee of \$25,000 pursuant to SRC 200.080(a).
6. Provide a linking sewer main to an existing public sewer facility. The nearest adequate facilities are located in Gaffin Road SE and Whitaker Drive SE.
7. Extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property.

FACTS

General

The subject property is within the Cascade Economic Development District initiated in 1983. The existing liens against the property will need to be paid or satisfied prior to issuance of building permits.

Streets

1. Cordon Road SE
 - a. Standard—This street is designated as a Parkway street in the *Salem Transportation System Plan* (TSP). The standard for this street classification is an 80-foot-wide improvement within a 120-foot-wide right-of-way.
 - b. Existing Condition—This street has an approximate 36-foot improvement within a variable-width (minimum of 100-foot) right-of-way abutting the subject property.
2. Gaffin Road SE
 - a. Standard—This street is designated as a Minor Arterial street in the *Salem TSP* and is under the jurisdiction of Marion County. The standard for this street classification is a 46-foot-wide improvement within a 72-foot-wide right-of-way.
 - b. Existing Condition—This street has an approximate 25-foot improvement within a 58-foot-wide right-of-way.

Storm Drainage

1. Existing Conditions
 - a. The subject property is within the Little Pudding Drainage Basin.

- b. The West Middle Fork of the Little Pudding River is located on the property in the southern and eastern quadrants. An unnamed waterway is located on the property at the western corner.
- c. There are multiple mapped wetlands located on the property.
- d. The subject property is located in a Stormwater Management Area as specified in an agreement among the City of Salem, Marion County, and the City of Keizer. The agreement limits discharge from the subject property to amounts not exceeding pre-existing runoff.

Water

1. Existing Conditions

- a. The subject property is located in the G-0 water service level.
- b. An existing 24-inch G-0 water line is located in Cordon Road SE.
- c. An existing 24-inch G-0 water line is located in Gaffin Road SE.

Sanitary Sewer

1. Existing Sewer

- a. An existing 30-inch sewer line is located in Gaffin Road SE.
- b. The nearest adequate linking facility is the existing 30-inch sewer line at Gaffin Road SE.

Parks

The Salem Comprehensive Parks System Master Plan shows that the subject property is served by a future neighborhood park NP-24, which is a 2-acre park located to the northwest of the subject property.

CRITERIA AND FINDINGS

SRC 200.055—Standards for Street Improvements

Findings:

Linking Streets:

An adequate linking street is defined as the nearest point on a street that has a minimum 60-foot-wide right-of-way with a minimum 30-foot improvement for Local

streets or a minimum 34-foot improvement for Major streets (SRC 200.055(b)). All streets abutting the property boundaries shall be designed to the greater of the standards of SRC Chapter 803 and the standards of linking streets in SRC 200.055(b).

The property abuts Cordon Road SE, which is designated a Parkway in the *Salem TSP*. Pursuant to SRC 804.040(a), access to the site is limited to uses generating 10,000 or more vehicle trips per day. Additionally, SRC 804.040(c) prevents additional driveway approaches due to the proximity of the intersection of Cordon Road SE and Gaffin Road SE. Therefore, the applicant will need to secure access to Gaffin Road SE through one or more adjacent parcel(s) to the east.

Gaffin Road SE is designated a Minor Arterial in the *Salem TSP* and is under the jurisdiction of Marion County. It currently has an approximate 25-foot improvement within a 58-foot right-of-way between the intersection with Cordon Road SE and the western property line of the Renewable Energy and Technology Park, a length of approximately 2,600 feet.

Therefore, the applicant shall be required to construct a driveway access or a 30-foot-wide Local linking street from the southeast line of the subject property to Gaffin Road SE and in one of the following alignments to connect to an adequate linking street:

- a. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to Cordon Road SE; or
- b. A 34-foot wide linking street improvement along Gaffin Road SE from the approved access point of the subject property to west line of the Renewable Energy and Technology Park; or
- c. A 5-foot-wide sidewalk along the southeast side of Cordon Road SE from the northeast line of the subject property to Gaffin Road SE.

The applicant shall acquire right-of-way along the linking street(s) sufficient to construct the required street improvements as specified by the Public Works Director.

Boundary Streets:

Cordon Road is designated as a Parkway street in the *Salem TSP*. The standard for this street classification is an 80-foot-wide improvement within a 120-foot-wide right-of-way. The applicant shall convey land for dedication to equal a half-width right-of-way of 60 feet on the development side of Cordon Road SE. Along the entire frontage on the development side of Cordon Road SE, the applicant shall construct a Parkway Boundary street improvement, widening the street to 40 feet from centerline.

This portion of street meets the criterial for deferral pursuant to SRC 803.070(a)(1)(A)(iv), "Unusual or special conditions exist that, in the opinion of the Director, would warrant a deferral of all or a part of the improvement." This street is in

the influence area of the future Highway 22/Cordon interchange, so the improvement may be delayed until a later time to better integrate the improvement with the future interchange alignment.

SRC 200.060—Standards for Sewer Improvements

Findings: The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 200.060). The nearest available sewer facility is located in Gaffin Road SE, northeast of the subject property. The applicant shall construct the *Salem Wastewater Management Master Plan* improvements and link the site to existing facilities that are defined as adequate under 200.005(a). The nearest adequate facilities are located in Gaffin Road SE and Whitaker Drive SE.

SRC 200.065—Standards for Storm Drainage Improvements

Findings: The proposed development shall be linked to existing adequate facilities by the construction of storm drain lines, open channels, and detention facilities which are necessary to connect to such existing drainage facilities. The applicant shall link the on-site system to existing facilities that are defined as adequate under SRC 200.005(a). Two existing waterways are located on the subject property. By complying with the flow control and water quality requirements of SRC Chapter 71, the applicant shall meet the requirements of this chapter.

SRC 200.070—Standards for Water Improvements

Findings: The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 200.070). The applicant shall provide linking water mains consistent with the *Water System Master Plan* adequate to convey fire flows to serve the proposed development as specified in the Water Distribution Design Standards.

An existing 24-inch water main is located along a portion of the subject property frontage. The applicant shall extend the existing 24-inch water main in Cordon Road SE to the southwest line of the subject property as specified in the *Water System Master Plan*.

SRC 200.075—Standards for Park Sites

Findings: As a condition of residential use, the applicant shall acquire and convey for dedication prior to development approval that property which is necessary for an adequate neighborhood park, access to such park, and recreation routes, or similar uninterrupted linkages, based upon the *Salem Comprehensive Parks System Master Plan*.

The Comprehensive Parks System Master Plan shows that a future Neighborhood Park (NP 24) is planned near the subject property. The applicant shall acquire and convey a 2-acre property for dedication of neighborhood park facility NP-24 based on sizing established in the Master Plan.

In lieu of acquiring and conveying park land pursuant to SRC 200.075, the applicant has the option of paying a temporary access fee pursuant to SRC 200.080(a). The temporary access fee is a reasonable alternative to conveyance of park land from within the subject property because the topography and location of the subject property is not desirable for a neighborhood park. The temporary access fee amount is \$25,000 based on the following analysis:

- Acquisition and development of the 2-acre park known as Miller Area Park is estimated to cost a total of \$663,200 according to Table E-1 of the Master Plan. City staff estimates that acquisition costs account for approximately 40 percent of the total cost, or \$265,280.
- The service area of NP-24 is estimated to be 204 acres, so the proportional cost for all property within the service area for park acquisition is \$265,280 divided by 204 acres, or \$1,300 per acre.
- For a 19.26-acre site at \$1,300 per acre, the proportional contribution to NP-24 is \$25,000 (rounded).

The temporary access fee will contribute to the permanent park facility by providing revenue for acquiring the property being proposed for NP-24.

RESPONSE TO CITIZEN COMMENTS:

1. *Dave and Lisa Young*

Response: The neighbors' concerns regarding wetlands and future use are not pertinent to the approval criteria. Concerns regarding access are addressed in the findings by requiring a linking street connection to Gaffin Road SE.

2. *Salem-Keizer Public Schools*

Response: The approval criteria does not include any requirement for school bus turnouts. City staff recommends that district staff contact the developer regarding transit needs.

Prepared by: Jennifer Scott, Project Coordinator
cc: File

REQUEST FOR COMMENTS

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

REGARDING: Urban Growth Preliminary Declaration Case No. UGA18-01

PROJECT ADDRESS: 1800 Cordon Road SE, Salem, OR 97317

AMANDA Application No. 18-107978-LD

COMMENT PERIOD ENDS: May 17, 2018

SUMMARY: An Urban Growth Area Preliminary Declaration to determine the public facilities required for development of 19.26 acres located at 1800 Cordon Road SE.

REQUEST: An Urban Growth Area Preliminary Declaration to determine the public facilities required for development of property approximately 19.26 acres, designated as IND (Industrial) in the Comprehensive Plan, and located at 1800 Cordon Road SE (Marion County Map and Tax Lot Number 082W05 01700 and 01701).

Attached is a copy of the proposal and any related maps. A decision for this proposal will be prepared by the planning staff from information available to the staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners or residents.

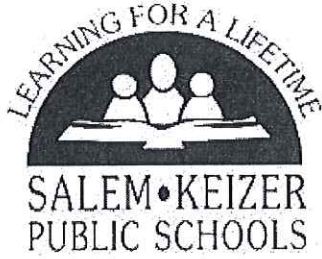
Comments received by 5:00 P.M., May 17, 2018, will be considered in the decision process. Comments received after this date will be not considered. **Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail or hand deliver your comments to the case manager listed below.**

SEND COMMENTS TO: Britany Randall, Planner II; City of Salem, Planning Division
555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503 540-2304; Fax: 503-588-6005
E-Mail: brandall@cityofsalem.net; <http://www.cityofsalem.net/planning>

PLEASE CHECK THE FOLLOWING THAT APPLY:

1. I have reviewed the proposal and have no objections to it.
2. I have reviewed the proposal and have the following comments: See attached.
A school bus stop on Claffin Rd. or Cordon Rd. would be needed. A bus stop on Claffin Rd. should have sufficient clearance for vehicles turning from Cordon Rd. to stop safely.
3. Other: A bus stop on Cordon Rd., a bus pull-out lane should be planned.

Name: _____	Salem-Keizer Public Schools
Address: _____	Planning and Property Services
Agency: _____	3630 State Street, Salem OR 97301
Phone: _____	David Fridenmaker, Manager
Date: _____	503-399-3335
	<u>5.17.18</u>



DAVID FRIDENMAKER, Manager
Facility Rental, Planning, Property Services
3630 State Street, Bldg. C • Salem, Oregon 97301-5316
503-399-3335 • FAX: 503-375-7847

Christy Perry, Superintendent

May 17, 2018

Britany Randall, Planner II
Planning Division, City of Salem
555 Liberty Street SE, Room 305
Salem OR 97301

RE: Land Use Activity Case No. Salem Case No. UGA18-01, 1800 Cordon Rd SE

The City of Salem issued a Request for Comments for a Land Use Case as referenced above. Please find below comments on the impact of the proposed land use change on the Salem-Keizer School District.

IDENTIFICATION OF SCHOOLS SERVING THE SUBJECT PROPERTY

The School District has established geographical school attendance areas for each school known as school boundaries. Students residing in any residence within that boundary are assigned to the school identified to serve that area. There are three school levels, elementary school serving kindergarten thru fifth grade, middle school serving sixth thru eighth grade, and high school serving ninth thru twelfth grade. . The schools identified to serve the subject property are:

School Name	School Type	Grades Served
Miller	Elementary	K thru 5
Houck	Middle	6 thru 8
North Salem	High	9 thru 12

Table 1

SCHOOL CAPACITY & CURRENT ENROLLMENT

The School District has established school capacities which are the number of students that a particular school is designed to serve. Capacities can change based on class size. School capacities are established by taking into account core infrastructure (gymnasium, cafeteria, library, etc.) counting the number of classrooms and multiplying by the number of students that each classroom will serve. A more detailed explanation of school capacity can be found in the School District's adopted Facility Plan.

School Name	School Type	School Enrollment	School Design Capacity	Enroll./Capacity Ratio
Miller	Elementary	417	387	108%
Houck	Middle	1,064	1,020	104%
North Salem	High	1,783	1,639	109%

Table 2

POTENTIAL ADDITIONAL STUDENTS IN BOUNDARY AREA RESULTING FROM APPROVAL OF LAND USE CASE

The School District anticipates the number of students that may reside at the proposed development based on the housing type, single family (SF), duplex/triplex/four-plex (DU), multi-family (MF) and mobile home park (MHP). The School District commissioned a study by the Mid-Willamette Valley Council of Governments in 2014 to determine an estimate of students per residence, for the Salem-Keizer area, in each of the four housing types. Since the results are averages, the actual number of students in any given housing type will vary. The table below represents the resulting estimates for the subject property:

School Type	Qty. of New Residences	Housing Type	Average Qty. of Students per Residence	Total New Students
Elementary	270	MF	0.201	54
Middle	270	MF	0.077	21
High	270	MF	0.084	23

Table 3

POTENTIAL EFFECT OF THIS DEVELOPMENT ON SCHOOL ENROLLMENT

To determine the impact of the new residential development on school enrollment, the School District compares the school capacity to the current enrollment plus estimates of potential additional students resulting from land use cases over the previous two calendar years. A ratio of the existing and new students is then compared with the school design capacity and expressed as a percentage to show how much of the school capacity may be used.

School Name	School Type	School Enrollment	New Students During Past 2 yrs	New Student from this Case	Total New Students	School Design Cap.	Enroll./Cap. Ratio
Miller	Elem.	417	1	54	55	387	122%
Houck	Mid.	1,064	13	21	34	1,020	108%
North Salem	High	1,783	18	23	41	1,639	111%

Table 4

ESTIMATE OF THE EFFECT ON INFRASTRUCTURE – IDENTIFICATION OF WALK ZONES AND SCHOOL TRANSPORTATION SERVICE

Civic infrastructure needed to provide connectivity between the new residential development and the schools serving the new development will generally require roads, sidewalks and bicycle lanes. When developing within one mile of school(s), adequate pathways to the school should be

provided that would have raised sidewalks. If there are a large number of students walking, the sidewalks should be wider to accommodate the number of students that would be traveling the path at the same time. Bike lanes should be included, crosswalks with flashing lights and signs where appropriate, traffic signals to allow for safe crossings at busy intersections, and any easements that would allow students to travel through neighborhoods. If the development is farther than one mile away from any school, provide bus pullouts and a covered shelter (like those provided by the transit district). Locate in collaboration with the District at a reasonable distance away from an intersection for buses if the distance is greater than ½ mile from the main road. If the distance is less than a ½ mile then raised sidewalks should be provided with stop signs where students would cross intersections within the development as access to the bus stop on the main road. Following is an identification, for the new development location, that the development is either located in a school walk zone or is eligible for school transportation services.

School Name	School Type	Walk Zone or Eligible for School Transportation
Miller	Elementary	Eligible for Transportation
Houck	Middle	Eligible for Transportation
North Salem	High	Eligible for Transportation

Table 5

ESTIMATE OF NEW SCHOOL CONSTRUCTION NEEDED TO SERVE DEVELOPMENT

The School District estimates the cost of constructing new school facilities to serve our community. The costs of new school construction is estimated using the Rider Levett Bucknall (RLB) North America Quarterly Construction Cost Report and building area per student from Cornerstone Management Group, Inc. estimates. The costs to construct school facilities to serve the proposed development are in the following table.

School Type	Number of Students	Estimate of Facility Cost Per Student*	Total Cost of Facilities for Proposed Development*
Elementary	54	\$51,123	\$2,760,642
Middle	21	\$60,232	\$1,264,872
High	23	\$69,342	\$1,594,866
TOTAL			\$5,620,380

Table 6

*Cornerstone Management Group, Inc. estimates based on RLB cost index average, 2017 Fourth Quarter.

Sincerely,

David Fridenmaker, Manager
Planning and Property Services

c: Mike Wolfe, Chief Operations Officer, David Hughes, Manager – Custodial, Property and Auxiliary Services, Katie Vorderstrasse, Risk Manager, Michael Shields, Director of Transportation

March 21, 2019

Alpha 3, LLC (Applicant, Property Owner)
1935 Silverton Road
Salem, OR 97301

AKS Engineering and Forestry (Applicant's Representative)
3700 River Road N, Suite 1
Keizer, OR 97303

**SUBJECT: Revocation of Approval of Case No. UGA18-01 for 1800 Cordon Road SE
18-107978-LD**

Dear Alpha 3, LLC:

On June 21, 2018, City Staff issued a decision for Urban Growth Preliminary Declaration Case No. UGA18-01. On July 6, 2018, a notice of appeal was filed by Jeffrey R. Tross, on behalf of Alpha 3, LLC (applicant and property owner). On October 18, 2018, a letter was submitted to the Planning Administrator, by Saalfeld Griggs on behalf of the applicant and property owner, withdrawing the appeal request for Case No. UGA18-01. On March 14, 2019, an Urban Growth Preliminary Declaration Amendment application was received from AKS Engineering and Forestry, on behalf of the applicant and property owner.

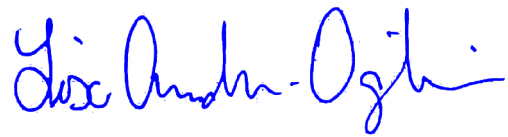
Upon further review of the applicant's submitted Urban Growth Preliminary Declaration Amendment application, noting specifically the written statement that the City does not have jurisdiction to issue such a decision, the Planning Administrator hereby revokes the previous approval for Case No. UGA18-01, pursuant to Salem Revised Code (SRC) Chapter 300.860(a)(1). Due to the revocation of Case No. UGA18-01, the Urban Growth Preliminary Declaration Amendment Application (19-107177-LD) is improper and will be returned to the applicant.

Pursuant to SRC Chapter 300, Section 300.860(b), revocation of a permit or approval shall follow a Type I procedure. This letter shall serve as the written notice of revocation, as required pursuant to SRC Chapter 300, Section 300.860(c). The revocation may be appealed to the Hearings Officer by filing a written notice of appeal within ten days of the date this notice of revocation is mailed, March 21, 2019. If no appeal is received within ten days (April 1, 2019 by 5:00 PM), this revocation of approval for Case No. UGA18-01 will become effective on April 2, 2019. If an appeal is filed the applicable fee, based on the most current City of Salem, Oregon Master Fee Schedule, must be paid by the appellant.

Alpha 3, LLC
March 21, 2019
Page 2

The City of Salem will refund the fees, in their entirety, paid for Case No. UGA18-01 and the Urban Growth Preliminary Declaration Amendment application number 19-107177-LD, to the payee once this revocation becomes effective.

Sincerely,



Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director
Planning Administrator

cc: Natasha Zimmerman, Deputy City Attorney
Norman Wright, Community Development Director
Peter Fernandez, Public Works Director

File: 18-107978-LD
19-107177-LD