

TO: Planning Commission

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

DATE: August 31, 2021

SUBJECT: **Comprehensive Plan Change and Zone Change Case No. CPC-ZC21-03 –
1055 Schurman Drive S; Open Record**

On August 3, 2021, the Planning Commission held a public hearing to consider a proposed Minor Comprehensive Plan Map Amendment and Zone Change (Case No. CPC-ZC21-03) for property located at 1055 Schurman Drive S. The hearing was closed, and the record subsequently left open until August 10, 2021 at 5:00 p.m. for anyone to submit additional written testimony. Following that deadline, there was an opportunity for anyone to submit rebuttal on any of the additional written testimony by August 17, 2021 at 5:00 p.m. The applicant had until August 24, 2021 at 5:00 p.m. to submit final written rebuttal.

During the first open record period there were seven additional comments received (Attachment A), followed by one comment submitted by the second open record period deadline (Attachment B), then the Applicant submitted final rebuttal (Attachment C). All these comments were sent to the Planning Commission on August 18, 2021 and are attached in this memo.

Attachments:

- A. Comments Submitted by August 10, 2021
- B. Comments Submitted by August 17, 2021
- C. Applicant Final Rebuttal

cc: CPC-ZC21-03 File

Steven McAtee

From: Bill Dixon <bill.r.dixon@gmail.com>
Sent: Friday, August 6, 2021 9:58 AM
To: Steven McAtee
Subject: 1055 Schurman Rezoning
Attachments: 14116.pdf

Dear Mr. McAtee,
Please share the attached testimony regarding 1055 Schurman Drive South with the members of the Planning Commission. Thank you for your help and your work for the city.

Shared from Word for Android
<https://office.com/getword>

To: Salem Planning Commission
From: Bill Dixon, 608 Salem Heights Ave. S
Re: Reject Proposed Zone Change for 1055 Schurman Drive S.
Case No. CPC-ZC21-03

I urge the Commission to reject the zone change proposed for the property located at 1055 Schurman Dr. S. The proposed change would allow construction of a project that is incompatible with the surrounding neighborhood and that presents traffic risks which have not been adequately studied.

Incompatibility:

A core principle of neighborhood planning in Salem is to protect and enhance existing residential neighborhoods, and ensure compatible development. A change to multifamily zoning at 1055 Schurman would contradict this principle.

One contradiction would involve authorizing a zone that allowed the developer to build three-story units. Indeed, this is the course the developer has said he intends to pursue (per his comments at the July 6 meeting of the SWAN neighborhood association.) Three-story units would be incompatible because the surrounding apartment buildings and single-family homes in the area all are two stories or less.

A related contradiction would involve significant potential reduction of the tree canopy in a tree-shaded neighborhood. The developer has stated that there are about 50 well-established trees on the lot, which he intends to protect. But it is hard to see how he can do that without building three-story units. If he were to drop the height of the complex to two stories but retain the planned 42 units, then more trees almost certainly would have to be removed.

As other submitted testimony (from Don Herman and Betty Markey) has noted, the higher density implied in a multifamily zone is inappropriate for a residential neighborhood on a collector street. A more appropriate option, as noted in the referenced testimony, would be to retain the zoning as single family and encourage development of the property as a 'cottage cluster' of homes.

Traffic Danger:

Staff recommends that the Commission accept traffic projections based on a formula rather than on a fuller traffic impact analysis, which would look at how and to what extent Schurman Drive S. is used.

Schurman is a primary route for traffic from River Road S. to Crestview Drive S. and into the residential neighborhoods up the hill. It also is a primary route for young children to Candalaria Elementary School. The sight lines on Schurman are limited because of curves and hills, and it makes a sharp turn at the point where it intersects with Crestview. Traffic coming down Crestview faces the same limitations. Plus, pedestrian access for most of Crestview up to Hansen is limited by the lack of a sidewalk on Crestview's west side.

The potential traffic risks, especially for young children, are simply too high to warrant reliance on a formula. A more appropriate option would be for the Commission to require a full traffic impact analysis for this proposal.

Thank you for keeping the record open on this case and for your work in behalf of our city.

The Applicant and his Architect have met with the Neighbors three times.

In **May**, Charles Weathers and Geoffrey James, prior to filing any application, asked if they could present at the SWAN meeting held in Fircrest Park. The proposal was presented and received a positive response and no concerns were expressed.

In **June**, after filing an application at the City, Charles Weathers and Geoffrey James were asked to present at the SWAN meeting (which was held in Nelson Park) in more detail. The proposal was presented and received a positive response and no concerns were expressed.

A Hearing was scheduled for August 3rd. In July the City mailed letters to the neighbors on July 14, and the Applicant posted the sign on the property July 20.

Just prior to the Hearing the City received emails from some neighbors, complaining about short notice. However, the problem seems to be slow delivery of the mail.

SWAN land use chair emailed the City and requested that maybe the written comments period could be extended for a week.

The **August 3 Hearing** was held before the Planning Commission and 5 neighbors appeared and testified on Zoom.

Concerns were about the late notice, they did not want the property rezoned, the traffic speeding on Schurman, whether the trees would be saved, and if the storm water design could correct problems at the west boundary.

One neighbor suggested that there are other housing types that they would like considered, so maybe a meeting with the applicant would be possible. None of them had attended any of the SWAN meetings.

Charles Weathers suggested that a meeting with the neighbors indeed be held to see what suggestions they had.

Geoffrey James therefore emailed all the neighbors, who had sent in comments, and invited them to come to a local restaurant to exchange ideas that same week.

The **Third Meeting** was therefore held **Friday August 6** at Panera Bread from 7 p.m. to 9 p.m. The following is a summary of the topics, concerns, and suggestions.

ZONE CHANGE

All present seemed to agree that intensification of development is appropriate at that property, but they were opposed to a zone change for apartments, like the adjacent RM2 to the west and north.

They all admitted that the parcel is a good choice for redevelopment versus the dilapidated structures that currently exist.

AESTHETICS

Some tried to articulate what they would like to see instead. Examples mentioned were Pringle Creek Community or the Rural Avenue PUD. Both of those are Planned Unit Developments and Subdivisions, which is not this Application, which is just to change the color on the zone map. No subdivision of land is requested. It will be the same one parcel with more dwelling units, i.e. apartments.

Neighbors had trouble articulating what they wanted. "Craftsman Style" was mentioned. "Make it look just like the neighborhood", meaning clusters of houses of traditional styles.

TRAFFIC

Neighbors said that cars speed up and down Schurman. Not something this project can affect.

THE PROCESS

It was explained that this is just the Zone Change, i.e. changing the color of the zone on the map. Site Plan Review, storm water, parking, sidewalks, all come later in the next phase of the process. There will be Design Review of the proposed apartment buildings, including architectural articulation, materials, and general esthetics. It is a land use process, where neighbors will have the opportunity to comment once again.

AGREEMENT

Everyone attending seemed to agree that redevelopment of the parcel is needed. It is a matter of design, and that step comes next, with Site Plan Review and Design Review.

Steven McAtee

From: Drew Cornedi <cornedi@gmail.com>
Sent: Monday, August 9, 2021 11:03 AM
To: Steven McAtee
Subject: Case No. CPC-ZC21-03 1055 Schurman Drive S
Attachments: Graphic Supplement Case No. CPC-ZC21-03.pdf

Mr. McAtee and City of Salem Planning Commissioners,

I am writing in reference to the proposed zone change, which is the subject line of this email. I appreciate that you allowed the record to remain open so that we were afforded adequate time to provide informed testimony. You will find that the following is structured with some objective information regarding the neighborhood first, then references to the SRC, followed by a request for either a revision of the application, or a Condition of Approval, along with one other request for Condition of Approval. Finally, I have provided some commentary on the provided preliminary site plan, which is held separate, since it is not being reviewed with the current application.

While I am not opposed to the zone change in its entirety, I do have concerns regarding what an RM-II designation would allow and the compatibility of this zoning in context of the existing neighborhood, as built. This is a critical point to remember in the following: while some properties in the neighborhood are *zoned* RM-II, they are not *built* to this applied zoning, which defines the current character of this area.

As was stated at length during the Planning Commission hearing on Tuesday, August 3rd, the existing development along Schurman Drive and the lower portion of Crestview Drive is a mix of single family residential and multi-family apartment buildings; also discussed was that the current zoning for the apartment properties in the neighborhood matches the proposed RM-II. This, on its face, appears to make the subject property an ideal location for a similar high-density designation and development; however, and I will state again, regardless of how these are zoned, the existing apartments occupying these RM-II properties are constructed as moderate density, with none being more than two stories in height; the exception is a single building in the Minto Park Apartment complex. The following are the densities of those multifamily developments: Regency Park Apartments: 16 units/acre; Minto Park Apartments: 20 units/acre; Wilton Condominiums: 4 units/acre; Crestview Townhomes: 7 units/acre; Willamette View Apartments: 18 units/acre; Average unit density: 13 units/acre. None of these are close to the possible 28 units/acre that the RM-II affords. Please see the attached PDF with photos of the complexes, their location, and their density, named "Graphic Supplement Case No. CPC-ZC21-03.pdf".

In addition to the difference in density from the proposed zone change, virtually all parking for each complex is located between buildings, which effectively shields the view of parking areas from adjacent parcels. Further, each complex has allowed for large open spaces between and/or surrounding buildings, creating visually pleasing, soft landscaped areas for the entire neighborhood to enjoy (the view, not the use). All of these characteristics make the existing apartment and townhome structures compatible with the surrounding single family residences in the area, which are almost entirely one, or two, story structures.

Again, I am not opposed to a higher-density zoning, however, SRC 265.005 states the criteria for a zone change:

(e)

Criteria.

(1)

A quasi-judicial zone change shall be granted if all of the following criteria are met:

(A)

The zone change is justified based on the existence of one or more of the following:

(i)

A mistake in the application of a land use designation to the property;

(ii)

A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or

(iii)

A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

While the section lists items A through G, only A is needed because **ALL** criteria must be met. Under Criteria A, items (i) and (ii) do not apply; there have been no mistakes, as testimony from the hearing indicated, many residents of this neighborhood have been in their homes for 30+ years, and new multifamily structures have not been built in over a decade, so none of the listed changes in that subsection have occurred. This leaves item (iii) as the justification for the current application.

Following this path, SRC Chapter 514 provides the parameters of an RM-II zone, which the property meets the basic area/dimensional requirements for, and includes a density of 12 dwelling units per acre minimum / 28 dwelling units per acre maximum and a maximum height of 50 feet. As I have described above in regard to the existing built fabric, the characteristics permitted in the proposed zone change are not "equally or better suited for the property than the existing zone." It is clear that this is referring to the property itself and not the structures, but the possibility of 52 units in a 50 foot tall building would absolutely not fit within this neighborhood context and would not be "logical with the surrounding land uses," given the actual built condition. Though 52 units at 50 feet is not what was shown in the preliminary site plan submitted, an RM-II designation would make this type of density and height feasible if the current developers decide to complete the zone change and sell the property to another party who is less sensitive to the neighborhood.

Requests for revision to the application / Conditions of Approval:

For the reasons listed above, I believe that an RM-I designation would be better suited for the subject property, which would limit the dwelling unit density to 8 dwelling units per acre minimum / 14 dwelling units per acre maximum and a maximum height of 35 feet.

As an alternative to revising the application from RM-II to an RM-I zone in order to maintain the consistency of the RM-II zone in the neighborhood, I would propose that a Condition of Approval be applied to the request which limits the height of structures to match the 35 foot maximum of the more appropriate RM-I zone. This limitation could even have an expiration date (suggestion of 10 years following the zone change approval) in order to require appropriate development near-term, but provide the City with consistent zoning in the long-term, should the area ever be redeveloped. This path would require compromise between the developer and the neighbors, but is fair to all parties involved.

Additionally, as noted during testimony, all sides of the site are lined with many mature trees; I would estimate most are at least 60' to 80' in height. Though I do not wish to delay a decision further, I did not see an existing conditions plan submitted, as required by SRC 265.005(d)(1), which would have been helpful in determining which of these trees are on the subject property and which are not. While some adjacent property owners may want trees "thinned," others might not. We, personally, overlook the trees along the east property line and appreciate the shade they provide from the summer western sun. Given the height and type (coniferous) of these trees, I think that understanding the tree root zones, and subsequent construction protection recommendations, would be valuable (and necessary) in determining which trees will be feasible to maintain when construction is complete, as well as which might be impacted on neighboring properties. The proposed RM-II (and RM-I as I have suggested above) requires a 10' minimum setback for interior side and rear property lines for both parking areas and structures, which may-or-may-not be enough for the

survival of such trees where the construction of foundations and paved parking areas occur. It would be a detriment to the development if trees unintended for removal died following construction due to construction activities, so I am requesting a Certified Arborist report be required, including root zones of significant trees and an indication of protection distances and fencing during construction, as a Condition of Approval.

With the Zone Change testimony out of the way, I will conclude my email providing testimony on the application at hand. A postscript follows, which contains some commentary on the provided site plan, realizing that it is not a part of the current application.

Thank you for your time and consideration,

Drew & Kelsey Cornedi
2540 Crestview Drive S
Salem, OR 97302

PS:

1. The plan does not appear to meet Oregon Fire Code requirements for fire truck access. While Fire Marshal approval will be required during the land use application process, this required access will likely impact the number of parking stalls available for the complex. Residents of the existing apartment buildings already park on streets outside of their complex, so a reduction of the 1.5 parking stalls to each dwelling unit is not recommended.
2. The plan labels "open space" which could be misconstrued as usable site area; with the roof areas and impervious surfaces proposed, these areas will be unoccupiable stormwater treatment areas. Please see my notes above regarding open space provided by the existing apartment developments above.
3. The location labeled "recycling" places the TRASH enclosure adjacent to neighboring single family residential properties. This location is south-facing and, as currently shown, is unprotected from the summer sun. The smell produced will be a detriment to the adjacent single family properties and should be relocated.
4. The plan shows existing single family properties overlooking a sea of parking. While the proposed 3-story buildings would not be desirable adjacent single family properties, that much parking seems equally insensitive. If development is limited to 35 feet in height as proposed above, locating the parking centrally between structures on the east and west would be much more appropriate (regardless of where the existing curb cut is). This would also likely simplify the fire truck access and allow the trash enclosure to be placed near adjacent undeveloped land and away from the existing single family residences.
5. Items 3 and 4 will have a direct negative affect the property value of the neighboring single family residences, which will affect the value of our property. It is **STRONGLY** recommended that the plan be reconsidered to be more sensitive to adjacent home-owners.

cornedi@gmail.com

TESTIMONY FOR Case No. CPC-ZC21-03, 1055 Schurman Drive S.



Regency Park Apartments: 2 Stories
28 Units, 1.79 acres = 16 units/acre



Crestview Townhomes: 2 Stories
30 Units, 4.33 acres = 7 units/acre



3 Stories on east side
2 Stories on west side

Minto Park Apartments:
30 Units, 1.49 acres = 20 units/acre

**AVERAGE MULTIFAMILY
UNITS PER ACRE: 13**



Wilton Condominiums: 1 story
6 Units, 1.74 acres = 4 units/acre

Steven McAtee

From: Sarah Westfall <WESTFALL_SARAH@salkeiz.k12.or.us>
Sent: Tuesday, August 10, 2021 1:08 PM
To: Steven McAtee
Cc: burney.ted.tb@gmail.com; re4890@comcast.net
Subject: Concerns for Zone Change Case number: CPC-ZC21-03

Cc:
burney.ted.tb@gmail.com; re4890@comcast.net
Subject:
Zone Change Case number: CPC-ZC21-03

Mr. McAtee

Thank you for your service to our community. Your dedication and effort are appreciated.

I am writing with concerns for the proposed zone change on Schurman Avenue in South Salem (Case Number CPC-ZC21-03).

As both a teacher at the nearby school, Candalaria, and a resident raising children on Crestview Dr S, I have significant concerns about the safety of adding such a large complex to this portion of the neighborhood. As it is, children walk to school on the one side of the Crestview that has a sidewalk. The visibility on the road is challenging with kids dangerously crossing the road at unsafe times. The stop sign on Crestview and Hansen is frequently obstructed and ignored by drivers. Increased car and foot traffic on this road present increased risks to the children and families in our neighborhood.

Were the traffic assessments conducted for this proposal completed on school days prior to March 13, 2020? If not, the data is inaccurate given the shift to remote (and then cohort) learning as of that date.

Please reconsider this proposal and prioritize the safety of children.

Sarah Westfall
Third-Fourth Grade Teacher | Candalaria Elementary
[Salem-Keizer Public Schools](#)
(O): 917 915-4438

westfall_sarah@salkeiz.k12.or.us

<https://www.donorschoose.org/sarah-westfall>

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Steven McAtee

From: Jeanine <nutritionetcetera@gmail.com>
Sent: Tuesday, August 10, 2021 2:26 PM
To: Steven McAtee
Cc: Shelby Guizar; burney ted tb; John Lattimer
Subject: SWAN Comments- RE: Case No. CPC-ZC21-03,
Attachments: Zone Change Case No. CPC-ZC21-03.pdf

Good Afternoon Steve,

Please add these concerns to the public record that has been held open from the Aug 3 planning commission meeting on Case. No CPC-ZC21-03.

Ted Burney, our Land Use Chair, is out this week so I am submitting the association concerns. I can be reached at 503-428-1882 if there are any questions that need clarification.

Sincerely,
Jeanine Stice
SWAN Board Chair

TO: Salem Planning Commission
FROM: Southwest Association of Neighbors (SWAN)

RE: Comprehensive Plan Amendment and Zone Change Case No. CPC-ZC21-03 currently under consideration by the Planning Commission meeting held Tuesday, August 3, 2021.

The Southwest Association of Neighbors has heard several concerns regarding the zone change proposed in this case since neighbors became aware of the case in late July. Additionally a SWAN board member was able to attend an informal meeting held with the developer and concerned neighbors that occurred August 6th. Based on these conversations and plan review SWAN has the following concerns and requests:

:

- SWAN has heard from numerous neighbors of the proposed apartments about the risks posed by adding traffic to Crestview and Schurman Drives. Neighbors are deeply concerned that the safety of children going to and from Candalaria Elementary School would be compromised by vehicles from the apartments. SWAN also has heard from neighbors that an apartment building would not be compatible with the single family homes that surround the property, especially given the developer's stated intention to build three-story units. Indeed, the neighbors who attended the meeting this past Friday with the developer's team opposed construction of apartments on the site. There were extensive concerns on increased traffic. Specifically, a zone change should trigger the requirement of a crosswalk and speed signage as is necessary for children's safety. In addition, the neighbors stated a left turn lane should be required for safety.
- Request that any approval of a zone change include a condition that the developer's construction plans provide for fencing and protection of trees on all four sides of the property. This reflects a verbal assurance that SWAN received from the developer during a meeting this past spring.
- Pending any approval of zone change, a condition of approval for the developer's plans contain a condition for construction that includes fencing and protection of trees on four sides of the property that SWAN received verbal assurance would be saved at one of the general meetings held this past spring.
- Request installation of a crosswalk at Gilbert pending the traffic engineer's approval or suggestions on improving pedestrian safety due to increased traffic and the need for safe routes to Candalaria School.
- Move to development of single family homes, which are in character with the neighborhood and neighbor's requests.
- Request the height of anything other than single family dwellings be no more than area apartments which are two story units, rather than three proposed by the developer.

Traffic has been an ongoing concern with rezoning and development and rises again in this case.

In the Schurman Dr development, the applicant is asking for a zone change. In this case the applicant submitted a traffic analysis, again not a full TIA, that concluded the 42 apartments would add only 5 trips in the morning peak hour and 11 trips in the evening peak hour to what would be allowed under existing zoning. All of which would be on the Schurman/Crestview collector street.

The analysis did not specify an estimate for how many daily trips the development would actually add. It used as its basis of comparison what the traffic would be if the property were developed with 12 single family homes that would be allowed under existing zoning and the

maximum 53 multifamily housing units that would be allowed under the zone change. The range is from 148 average daily trips if the maximum single family units were built under existing zoning to 287 trips if the maximum multifamily units allowed under the proposed zoning were built – a range of 139 average daily trips.

The car trip analysis differs from another case that had a zoning change approved recently. In a prior rezoning, the Wren Heights case, the applicant submitted a traffic study, not a full Traffic Impact Analysis, that estimated the development with 32 new houses would generate an increase of 302 daily trips, 204 of which would be directed to Salem Heights Ave S, adding 16 trips during the peak morning hour and 22 during the evening peak hour. Salem Heights Ave is designated as a Collector street.

When comparing these two cases and their associated analysis, there are questions and concerns SWAN would like addressed before this area is approved for rezoning as the traffic impact could be significant if it is rezoned into multifamily from its current status of single family.

1. Can the City explain why one instance of 32 units generates 302 daily trips and 53 multifamily units generates only 287?
2. What is the basis for accepting a traffic analysis based on what is allowed under a zone when the code appears to ask for an analysis based on what impact the development itself would generate? The Wren Heights analysis provided specific traffic estimates for the development. The Schurman study does not. It uses the difference in trips between assumptions of what would be allowed under one zone versus another. SWAN could not locate an estimate of how much traffic the 42 units would generate.

Thank you for considering the concerns and requests stated above prior to approving a rezoning of this parcel.

Sincerely,
Jeanne Stice
SWAN Board Chair,
On behalf of the Southwest Association of Neighbor Board & Land Use Committee

TO: Steven McAtee, Planner II
City of Salem Planning Division

From: Don Herman & Betty Markey
2590 Crestview DR S

RE: Case No. CPC-ZC21-03
Minor Comprehensive Map Amendment/Zone Change
1055 Schurman Drive S

Thank you for the opportunity to provide written testimony on the requested zone change of the property located at 1055 Schurman Ave.

We wish to provide some additional comments regarding the zone change request for 1055 Schurman Drive

It appears that the last traffic study on Schurman Drive was completed in 2005. Since that time the neighborhood has observed a substantial amount of increased traffic on Crestview Drive and Schurman Drive. Vibbert Street, Cascara Loop, Promontory Court and Gilbert Street have all seen additional residential construction since 2005 thus contributing to traffic on Schurman and Crestview Drives. We request that a traffic study be completed prior to this zone change decision.

We want to thank the developer and architect for meeting with us last Friday. Although no final decisions were made, it appears that they were willing to take into consideration our concerns as it relates to speeding, safety of pedestrians, traffic, and design of units to provide livable green space and to reflect the character of the neighborhood.

Once again, we would like to thank you for this opportunity to voice our comments on this proposed zone change.

Don Herman and Betty Markey
2590 Crestview DR S

Steven McAtee

From: Linda Strike <lindastrike@gmail.com>
Sent: Tuesday, August 10, 2021 4:58 PM
To: Steven McAtee
Subject: addendum to original testimony re zone change
Attachments: addendum to testimony.docx

To : Steven McAtee, Planner II
City of Salem Planning Division

From: Linda Strike
2610 Crestview Dr. S
Salem, OR 97302

Re: Case No. CPC-ZC21-03
Minor Comprehensive Map Amendment/Zone Change
1055 Schurman Dr.

ADDENDUM TO ORIGINAL STATEMENT

I appreciate that the County Commissioners voted to provide extra time for the residents of the affected neighborhood additional time to review the proposed zone change. A number of us met with the new owner of the property and his architect to discuss his plans. While both the owner and his architect were open to hearing our concerns, I was not left with a sense that the concerns voiced caused them to change their pursuit of a zone change to multi-family, nor to seriously consider a dramatic reduction in the number of units they are proposing for the development.

I continue to have significant concerns about the proposed zone change and development of the property.

SAFETY: the additional traffic will exacerbate what is already a significant safety hazard to all pedestrians. The ingress and egress to the property is right by a blind curve on Schurman Road. Cars coming up the hill frequently crossed the middle line when taking the curve causing extreme risk of accident. I did a two hour observation and during that time on 13 occasions cars coming around the curve were straddling the line.

LIVIBILITY and REPOSNSIBLE GROWTH: There are no grocery stores within walkable distance, and the closest access to public transportation is at least a 20-30 minute walk. Cherriots has indicated that there is no future plan to have service in the area. This creates a situation where anyone living in the units would have no choice other than to use a car for transportation. Especially in our current times we should be focusing community growth in areas with easy access to public transportation.

I strongly believe that a zone change that contributes to high density housing in an area that has no access to public transportation and which has a significant impact of the safety of the neighborhood is shorted sighted and irresponsible. For that reason I urge the Commissioners to deny the zone change.

Linda L. Strike

Steven McAtee

From: Frances Chapple <fchapple@willamette.edu>
Sent: Friday, August 13, 2021 12:07 PM
To: Steven McAtee
Subject: Re: Development

Dear Mr McAtee

Many thanks for sending the comments individually; I had no problem accessing them. Here are some of my thoughts after studying each communication.

With all due respect to the developer,I believe it is ridiculously inappropriate to request a zone change in order to build many apartments that will dramatically increase the number of cars and walking children on the extremely dangerous Crestview and Schurman Drives. After 25 years, I still dread the dangerous corner at Schurman and Crestview when I am turning left to reach the Wilton Condos. As another person noted ,we need to be developing properties that are close to bus routes.

Surely the need for drastically dealing with climate change has shown us all that we MUST reduce the number of cars on the road. This development is using "old" criteria and is not considering what the near future will,hopefully,bring. So for this reason I strongly oppose the zone change. Additionally,I absolutely demand that only two story buildings be built; DEFINITELY no three story buildings. At 84 years old,I believe I have some right to the enjoyment of a modest condo where I have resided for 25 years. The best part of my living situation is the outlook from my balcony which is rural and peaceful; Except for winter,I see NO buildings; only trees . No developer has the right to ruin a current resident's tranquility,and I am pretty sure three stories would do just that. The need for current residents to continue to live happily in the way that they have for decades MUST be considered,PLEASE!

Sincerely

Frances Chapple

On 8/12/2021 9:23 AM, Steven McAtee wrote:

> Frances, they were sent in standard .pdf format. I am not able to send them in a different format. However, I have attached them individually to this email.

>

> Steven

>

> -----Original Message-----

> From: Frances Chapple <fchapple@willamette.edu>

> Sent: Wednesday, August 11, 2021 6:45 PM

> To: Steven McAtee <SMcAtee@cityofsalem.net>

> Subject: Development

>

> I was unable to open the document. I'm sure that there are points for which I wish to write a rebuttal but cannot access the comments.Can you please send them in a different format.

>

> Frances Chapple

>

Steven McAtee

From: Hannah F. Stevenson <HStevenson@sglaw.com>
Sent: Tuesday, August 17, 2021 3:45 PM
To: Steven McAtee
Cc: Alan M. Sorem; Margaret Gander-Vo
Subject: Applicant's Final Rebuttal Response (CPC-ZC21-03)
Attachments: Applicant's Final Rebuttal Response Memo (8-17-11) (CPC-ZC21-03), 4835-3543-5254, 4.pdf

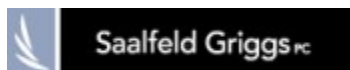
Steven,

Attached please find Applicant's final rebuttal response into the record for the above referenced case. Please confirm receipt and distribute to the Planning Commission.

Thank you,

Hannah Stevenson

Paralegal - Real Estate & Land Use Practice Group



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301
PO Box 470 | Salem, OR 97308
Office: 503.399.1070 | Direct: 503.485.4244 | Fax: 503.371.2927

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August 17, 2021

VIA ELECTRONIC MAIL: SMcAtee@cityofsalem.net



Planning Commission
City of Salem
555 Liberty ST SE, RM 305
Salem OR 97301

RE: CPC-ZC21-03 (1055 Schurman Drive S)
Our File No: 41075-00003

Dear Honorable Commissioners:

Orreo, LLC, an Oregon limited liability company (the "**Applicant**") applied for a Comprehensive Plan Amendment and Zone Change Application for approximately 1.87 acres of property, commonly known as 1055 Schurman Drive S. (the "**Property**"), requesting a change of the comprehensive plan designation from Single Family Residential (SF) to Multi-Family Residential (MF) and the zoning from Single Family Residential (RS) to Multiple Family Residential (RM-II). The City of Salem (the "**City**") assigned this consolidated land use request as Case No. CPC-ZC21-03 (the "**Application**").

The record includes an affidavit prepared by City staff proving they mailed notice of the hearing to tenants and property owners within a 250-foot radius of the Property on July 14, 2021, in compliance with SRC 300.620(b)(2)(A) (the "**Hearing Notice**"). Moreover, the Applicant met with the SouthWest Association of Neighbors (SWAN), on May 4, 2021, in compliance with SRC 300.320. City staff posted the Staff Report on the City's website on July 27, 2021. Staff received comments on August 1, 2021, stating that some surrounding residents did not receive the Hearing Notice until July 27-29, 2021.

At the hearing held before the Planning Commission on August 3, 2021, the record was left open for seven (7) days with an additional seven (7) day rebuttal period for the Applicant.

Hearing Notice

In compliance with ORS 197.763(2) and Statewide Planning Goal 1 (Citizen Involvement), the City has adopted public notice provisions within its procedural code. SRC Chapter 300. The Application is a Type III procedure and requires public notice in compliance with SRC 300.620(b). This provision requires the City to mail notice to adjacent residents and property owners and requiring Applicant to post notice on the Property. Staff mailed its notice, in compliance with SRC 300.620(b) and ORS 197.763(2) and submitted the affidavit of mailing into the record. Due to delays outside of the City and Applicant's control, notice was not delivered to certain surrounding property owners until between July 27th and July 29th, 2021. There is no allegation from any party that the City failed to provide notice or that any affected

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party failed to receive notice prior to the hearing. The only assertion is that some residents received the Hearing Notice after a longer than customary time.

ORS 197.763(8) state that “failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given.” The City has provided the affidavit demonstrating that notice was given in compliance with the statute and the notice provisions of the SRC. There was no procedural error.

Even if a procedural error had occurred, the issue is whether the error prejudices a party’s substantial rights. *Lange-Luttig v. City of Beaverton, 39 Or LUBA 80 (2000)* (Failure to provide proper notice under ORS 197.763(3) is a procedural error and does not provide a basis for reversal or remand unless the error prejudices a party’s substantial rights). The neighboring property owners were provided the opportunity to provide both written and oral testimony regarding the Application before the Hearing, at the Hearing, and after the Hearing during the open record period. Neighbors had reasonable opportunity to prepare and provide testimony. The lack of a few days than is customarily expected did not deprive anyone of an opportunity to participate or prepare for the hearing. No substantial right was prejudiced.

Traffic Concerns

The neighboring property owners raised concerns regarding the increase in traffic in the area and associated safety concerns. As part of the Application, Applicant provided a traffic impact analysis (“*TIA*”), satisfying the transportation planning rule. This TIA was prepared by Rick Nys, a traffic engineer with Greenlight Engineering, and was then reviewed and approved by the City’s traffic engineer. As part of this rebuttal, Applicant has provided additional testimony from Rick Nys responding to the comments from the neighbors. As outlined by Mr. Nys, the appropriate analysis under this Application is not the impact of any specific proposed development; but rather, the applicable issue is whether the potential impact of the reasonable worst-case scenario under the new zoning compared to the reasonable worst-case scenario under the existing zoning. A licensed traffic engineer determined the change could potentially result in an increase of eleven (11) trips during the peak morning and evening hours using standard metrics and methodology provided in the Institute of Transportation Engineers (ITE) Manual. Additionally, Mr. Nys determined the increase of 11 trips during the peak hours does not result in a significant impact to the surrounding traffic facilities. The analysis was performed using standard counts and ITE methodology, which was reviewed and approved by the City’s traffic engineer.

If future development occurs, Applicant will be required to submit further trip generation analysis as part of the City’s site plan review process for the exact development proposal subject to that review. The analysis will serve as the basis for determining the transportation impacts and possible mitigation. However, such analysis is not applicable as part of the Application. Applicant has submitted sufficient evidence into the record demonstrating that the Application satisfies Goal 12 and the transportation planning rule, which are the applicable criteria.

Stormwater Management

The neighboring property owners raised several concerns regarding problems with stormwater management in the surrounding area. Applicant has not applied for site plan or design review as part of the Application and stormwater management is outside of the scope of this Application. The Property is within the City's urban service area. Developing the Property with multiple family homes will require additional stormwater management facilities; however, the criterion for the Application regarding stormwater management is whether "[t]he property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed plan map designation." SRC 64.025(2)(B). Applicant's civil engineer and architect have provided substantial evidence in the record demonstrating the infrastructure in the surrounding area can either support the proposed use or that it may be upgraded during development to support the proposed use. The technical specifications associated with the necessary stormwater management are outside of the scope of this Application and will be addressed at a future date through the site plan review and design review standards. These future applications will require the Applicant to demonstrate stormwater management that conforms to the Public Works design standards.

Compatibility with the Surrounding Area

Applicant is proposing residential development within the City limits on property developed with an existing residential use and is adjacent to other multiple family housing complexes. The neighboring property owners submitted comments regarding the impact Applicant's development may have in the surrounding area. Specific concerns were raised regarding the impact on the surrounding wildlife, the preservation of trees, and the intensity of the proposed development.

Applicant has provided a concept plan as part of this Application, which shows the feasibility of developing the types of uses permitted in the proposed RMII zone. The conceptual plan shows a development that is consistent with the surrounding area. The Property is large enough to allow the buildings to be adjacent to the existing multifamily residential uses, which are already zoned RMII. Further, the expected setback standards will facilitate preservation of most of the mature trees on site, many of which provide screening to properties zoned single family residential. This conceptual development plan demonstrates it is feasible to develop the Property in a manner that continues the existing development pattern in the vicinity and is compatibility with the surrounding area.

Neighboring property owners raised concerns regarding the impact on wildlife habitat. This is not an applicable approval criterion as the proposed development will occur within the City limits where this level of urban development is intended to occur. If the City were to deny the proposed infill project, the City potentially would be required to rezone more land on the fringes of the City, or even expand its urban growth boundary to comply with Goal 10. Such a denial would have significantly greater impact on wildlife and the climate than this proposal.

As it pertains to tree preservation, the concerns raised are premature. At site plan review, Applicant will demonstrate compliance with the tree preservation requirements in the Code. Applicant intends to develop the Property consistent with the Code. Retaining most of the mature trees on the Property is

feasible, barring safety concerns, which again, will be addressed during site plan review. Such concerns are not a basis for denial or conditions of approval on a zone change proposal.

One neighbor raised concerns regarding stormwater runoff and soil erosion. Applicant has noted in the Application there is a mapped geological hazard on the Subject Property. As part of site plan review, Applicant will address the criteria relating to the City's slope preservation requirements and the need to mitigate any additional stormwater created by the proposed development. However, the complaints in the record are focused on water flowing from upstream properties, which are addressed under Oregon Water Law, which are outside of the scope of this Application, or any, development applications.

Finally, several neighbors raised concerns regarding the appropriateness of the proposed development for this particular area due to the lack of bus services. As with many of the neighbors' concerns, this is outside of the scope of this Application. Moreover, bus service is not the only means of alternative modes of transportation. The Property provides reasonable access to the downtown core via established bicycle routes along River Road S and through Minto-Brown Island Park. As many neighbors noted, there is pedestrian access to Candelaria Elementary School, which is utilized by school children in the area, meaning there is also reasonable pedestrian access to the businesses and public transportation along Commercial Street SE, which is approximately 1.1 miles from the Property (approximately .6 miles from Candelaria Elementary School).

Please accept this correspondence as Applicant's rebuttal response to the comments submitted in the open record period and Applicant's final legal argument before the Planning Commission. Applicant respectfully requests you approve the consolidated Application as submitted, as recommended by City Planning Staff.

Sincerely,



ALAN M. SOREM
asorem@sglaw.com
Voice Message #303

AMS/MYG:hst
Enclosures
cc: Client



August 14, 2021

Steven McAtee
City of Salem Planning Division
555 Liberty Street SE, Room 305
Salem, Oregon 97301

RE: Response to SWAN's *1055 Schurman Drive Transportation Planning Rule Analysis* Comments

This memorandum addresses the Southwest Association of Neighbors (“SWAN”) comments regarding our *1055 Schurman Drive Transportation Planning Rule Analysis* (hereafter referred to as “the TPR analysis”) dated May 6, 2021 regarding the proposed zone change/comprehensive plan amendment.

SWAN's comments are summarized in italicized, bold and underlined typeface while our response in regular typeface.

The TPR analysis concluded that 42 units of multi-family residential development would add only five trips in the morning peak hour and 11 trips in the evening peak hour. The TPR analysis did not specify an estimate for how many daily trips the development would actually add. Why isn't the trip generation of the proposed development included?

Table 1 of the TPR analysis accurately concludes that the reasonable worst case increase in trips between the existing zone with 12 single-family detached units and the proposed zone with 53 multi-family units is five trips in the morning peak hour and 11 trips in the evening peak hour. The TPR analysis does not conclude that 42 units of multi-family development would result in an increase of five trips in the morning peak hour and 11 trips in the evening peak hour as suggested by SWAN. Given the minimal increase in trips per Table 1, city staff determined and the city's code supports the completion of limited traffic analysis to support the proposal.

While 42 multi-family units are envisioned, no development is proposed at this time and speculation on that future development is not relevant to a zone change/comprehensive plan amendment application. The purpose of a TPR analysis is not to evaluate the full impacts of a development itself, but to evaluate the reasonable worst case traffic impacts of the existing zone versus the proposed zone as was illustrated in Table 1 and reported in the TPR analysis.

Assuming that a 42 unit multi-family development is eventually proposed, that development would generate 227 weekday daily trips, 15 weekday AM peak hour trips, and 19 weekday PM peak hour trips based upon the current *Trip Generation Manual*. However, that development is not proposed at this time, and is again not relevant to the zone change/comprehensive plan amendment application.

Based on a review of a different project, 32 new homes generates an increase of 302 daily trips, 16 weekday AM peak hour trips and 22 weekday PM peak hour trips.

The trip generation included in the TPR analysis is based upon the industry standard and city required Institute of Transportation Engineers' *Trip Generation Manual*. The *Trip Generation Manual* is based on

collected traffic count data at hundreds of developments across the country. In the *Trip Generation Manual*, there are a variety of land use categories on which to base trip generation so that trip generation can be predicted based on the use proposed.

SWAN references a previous “Wren Heights” development and questions the disparity in trip generation of 32 “houses” (presumably single-family detached housing) versus the trip generation of the 53 multi-family units, the reasonable worst case in the proposed zone. The *Trip Generation Manual* data illustrates that single-family detached housing (ITE Code #210) generates significantly more trips per unit than does multi-family housing (mid-rise) (ITE Code #221). Single-family detached housing units vs multi-family units is not an apples to apples comparison.

The Wren Heights analysis wasn't included with the SWAN's comments, so we cannot confirm that analysis. However, according to the *Trip Generation Manual*, 32 single-family detached housing units (ITE Code #210) would generate 302 trips in a weekday using the average rate methodology.

The TPR analysis is accurate and reliable. The results of that analysis conclude that the requirements of the Transportation Planning Rule are met. We trust this memorandum adequately addresses SWAN's questions. Should you have any questions, feel free to contact me at rick@greenlightengineering.com or 503-317-4559.

Sincerely,

Rick Nys, P.E.
Principal Traffic Engineer

