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April 22, 2013

Via hand delivery

Pete Fernandez
City of Salem, Public Works Director
555 Liberty St. SE
Salem OR 97301

Ryan Allbritton
Ladd & Bush (US Bank) Building
302 State Street S
Salem OR 97301

re: SRC 86.160 Appeal of Public Works Director Decision

Dear Mr. Fernandez,

I write to inform you that Mr. Brian Hines has appealed, pursuant to Salem Revised Code (SRC) 86.160, your decision, dated March 12, 2013, allowing the removal of five Japanese Zelkova trees on the south side of State Street.

Attached hereto as Exhibit A, please find a legal analysis of the applicable sections of the SRC. The legal analysis also identifies significant shortcomings in city staff's interpretation of the SRC which prevented affected parties/opponents from being able to appeal the removal decision, as 86.160 seems to require.

I would also like to inform you that Mr. Hines has submitted an application to prune the remaining two Japanese Zelkova trees, in accordance with SRC 86.030. I request that you expedite Mr. Hines' application to prune the remaining two Zelkova trees, and hold in abeyance the removal of the remaining two Japanese Zelkova trees.

Mr. Allbritton, I am also writing to request that you voluntarily refrain from removing the remaining Japanese Zelkova trees. Doing so will allow Mr. Hines' appeal of the affected parties' inability to appeal the removal decision to move forward, as well as his application to prune the

trees. I would remind you that the Shade Tree Committee has, on three occasions, recommended that the trees not be removed.

Further, any problems that US Bank believed were being caused by the trees must now have been reduced by at least 60%, given that three of the five trees have been removed. For example, the US Bank building now is markedly more visible, and the amount of leaves that drop in the fall is much reduced.

Lastly, Mr. Fernandez and Mr. Allbritton, I appeal to your spirit of community in requesting that you engage Mr. Hines in negotiations to determine if the three of you can reach an agreement that satisfies both your concerns and Mr. Hines' concerns regarding the remaining Japanese Zelkova trees.

We much prefer that this issue be resolved outside of the legal system, instead of having the Marion County Circuit Court determine whether affected parties/opponents were deprived of their right to appeal under SRC 86.160.

In the event you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is written in a cursive style with a large initial "S" and "M".

Sean T. Malone
Counsel for Brian Hines