

FACTS & FINDINGS**SUBDIVISION TENTATIVE PLAN, URBAN GROWTH AREA PRELIMINARY DECLARATION, CLASS 3 SITE PLAN REVIEW, CLASS 2 ADJUSTMENT, TREE REGULATION VARIANCE, AND CLASS 1 DESIGN REVIEW
CASE NO. SUB-UGA-SPR-ADJ-TRV-DR23-02****AUGUST 28, 2023****PROCEDURAL FINDINGS**

- (a)** On September 21, 2022, a consolidated application for Subdivision Tentative Plan, Urban Growth Area Preliminary Declaration, Class 3 Site Plan Review, Tree Regulation Variance, and Class 1 Design Review was filed for a proposal to divide approximately 37 acres located at the 2100 Block of Doaks Ferry Rd NW into six lots in in conjunction with a proposed multi-family development of 436 units for Titan Hill Apartments.
- (b)** After additional information was provided, including submission of a Class 2 Adjustment application, on January 26, 2023, the applications were deemed complete for processing at the request of the applicant on January 26, 2023.
- (c)** Notice to surrounding property owners was mailed pursuant to Salem Revised Code on February 24, 2023, and public notice was posted on the subject property on February 27, 2023 pursuant to SRC 300.520(b)(2).
- (d)** The 120-day State mandated deadline was extended by the applicant to September 22, 2023.
- (e)** On April 26, 2023, the applicant submitted a revised site plan indicating conformance with some of the conditions of approval of this decision prior to issuance. However, staff anticipated additional revisions to the applicant's plans to be made to comply with all conditions of approval within the decision issued. Therefore, the applicant's originally proposed site plans and building elevations are included in the decision issued by the Planning Administrator as Attachment B.
- (f)** On May 10, 2023 the Planning Administrator issued a decision approving the consolidated application for a proposed six-lot subdivision for Titan Hill Estates in conjunction with a proposed multi-family development of 436 units for Titan Hill Apartments.
- (g)** On May 25, 2023, the West Salem Neighborhood Association appealed the Planning Administrator's decision. A hearing was scheduled before the City Council on July 24, 2023.
- (h)** On July 3, 2023, notice of the hearing was sent to the West Salem Neighborhood Association and surrounding property owners and tenants pursuant to Salem Revised Code requirements. Notice of the hearing was posted on the subject property on July 10, 2023.

- (i) On July 24, 2023, the City Council conducted a public hearing, received testimony, and closed the public hearing but left the record open for additional evidence and testimony and applicant's final written argument.
- (j) The record was left open until July 31, 2023 at 5:00 pm for anyone to provide additional written evidence or testimony.
- (k) The record was left open for any party to submit rebuttal to testimony given in the open record period until August 7, 2023 at 5:00 pm.
- (l) The record was left open for the applicant's final written argument until August 14, 2023 at 5:00 pm.
- (m) The City Council conducted deliberations on August 14, 2023, and voted to affirm the Planning Administrator's decision to conditionally approve the consolidated application for Subdivision Tentative Plan, Urban Growth Area Preliminary Declaration, Class 3 Site Plan Review, four Class 2 Adjustments, Tree Regulation Variance, and Class 1 Design Review Case No. SUB-UGA-SPR-ADJ-TRV-DR23-02.

SUBSTANTIVE FINDINGS

1. Existing Conditions

Site and Vicinity

The subject property is located in the 2100 Block of Doaks Ferry Rd NW, is 36.72 acres in size, and has frontage on Doaks Ferry Road NW and Orchard Heights Road NW, with access from Landaggard Drive NW. Doaks Ferry Road is designated as a Major Arterial Street under the City's Transportation System Plan (TSP); Orchard Heights Road is designated as a Minor Arterial Street; and Landaggard Drive is designated as a Collector Street. The applicant has submitted a separate application for a Transportation System Plan Amendment to change the classification of Landaggard Street NW to a local street and to change the alignment of the collector street to follow proposed "Street A", which would be an extension of Colorado Drive NW to the northwest (Application No. 22-121104-GP).

Salem Area Comprehensive Plan (SACP)

The subject property is designated as "Multi-family Residential" in the SACP map for the northern portion of the property, and "Mixed Use" for the southern portion. The surrounding properties are designated as follows:

Comprehensive Plan Map Designations of Surrounding Properties	
North	Developing Residential
South	Across Orchard Heights Rd NW, Developing Residential and Community Service Education

East	Across Doaks Ferry Rd NW, Developing Residential
West	Developing Residential

Zoning Map Designation

The subject property is split-zoned with approximately 25 acres of the northern portion zoned RM-II (Multiple Family Residential), and approximately 12 acres of the southern portion zoned MU-II (Mixed Use-II) The surrounding properties are zoned as follows:

Zoning of Surrounding Properties	
North	Polk County Suburban Residential
South	Across Orchard Heights Rd NW, RA (Residential Agriculture) and PE (Public and Private Education Services)
East	Across Doaks Ferry Rd NW – RA (Residential Agriculture) and PA (Public Amusement)
West	RA (Residential Agriculture)

Relationship to Urban Service Area

The subject property lies outside the City's Urban Service Area. The Urban Service Area is that territory within the City where all required public facilities (streets, water, sewer, storm water, and parks) necessary to serve development are already in place or fully committed to be extended.

Pursuant to the urban growth management requirements contained under SRC Chapter 200 (Urban Growth Management), properties located outside the Urban Service Area are required to obtain an Urban Growth Preliminary Declaration prior to development in order to determine the required public facilities necessary to fully serve the proposed development. A request for an Urban Growth Preliminary Declaration is included with the proposal.

Infrastructure

Water: The subject property is located within the W-1 water service level.

An 18-inch water main is located in Doaks Ferry Road NW.

An 18-inch water main is located in Orchard Heights Road NW.

An Orchard Heights Water District main is located in Landaggard Drive NW.

Sewer: A 21-inch sewer main is located in Doaks Ferry Road NW, approximately one-half-mile north of the subject property.

An 8-inch sewer main is located in Doaks Ferry Road NW, approximately 1,250-feet north of the subject property. This main does not have adequate capacity to serve the proposed development.

Storm

Drainage: An 18-inch storm main is located in Doaks Ferry Road NW.

An 18-inch storm main is located in Orchard Heights Road NW.

Streets: Doaks Ferry Road NW:

- a. Standard – This street is designated as a major arterial street in the Salem TSP. The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way.
- b. Existing Conditions – This street has an approximate 20-to-40-foot improvement within a varied 62-to-88-foot-wide right-of-way abutting the subject property.

Orchard Heights Road NW:

- a. Standard – This street is designated as a minor arterial street in the Salem TSP. The standard for this street classification is a 46-foot-wide improvement within a 72-foot-wide right-of-way.
- b. Existing Conditions – This street has an approximate 46-foot improvement within a 72-foot-wide right-of-way abutting the subject property.

Landaggard Drive NW:

- a. Standard – This street is designated as a collector street in the Salem TSP. The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way.
- b. Existing Conditions – This street has an approximate 20-foot improvement within a 60-foot-wide right-of-way abutting the subject property.
- c. The applicant has submitted an application to amend the TSP to downgrade the street designation from a collector street to a local street. The standard for a local street classification is a 30-foot improvement within a 60-foot-wide right-of-way. This is described further in the criteria and findings below.

Parks: The proposed development is served by Grice Hill Park and West Salem High School Park. These parks are within one-half-mile of the subject property.

2. City Department Comments

Public Works Department: The City of Salem Public Works Department, Development Services Section, reviewed the proposal and has provided comments included in full in the Planning Administrator's decision.

Building and Safety: The Building and Safety Division reviewed the proposal and indicated no concerns.

Fire Department: The Salem Fire Department reviewed the proposal and indicated that aerial fire department access will be required if the building height exceeds 30 feet per the Oregon fire code; fire flow will be required per OFC Appendix B. Fire Department water supply will be evaluated with the building addition at the time of building permit plan review. All portions of the building shall be within 400 feet of a fire hydrant, or 600 feet if the building has an approved fire sprinkler system.

Staff Response: The applicant is responsible for addressing these comments during the building permit process. The configuration of the buildings and parking area may be modified, if necessary, to meet the Fire Department standards, provided that the modifications meet applicable development standards, design standards, and conditions of approval. To ensure these standards are met, the following condition applies:

Condition 1: At the time of building permit review, the applicant shall provide plans showing Fire Department access, fire hydrant locations, and Fire Department Connection as required.

3. Public and Private Agency Comments

Salem-Keizer Public School District: Planning and Property Services staff for the Salem-Keizer School District reviewed the proposal and submitted comments included in full in the Planning Administrator's decision.

Cherriots: Salem Area Mass Transit District (SAMTD), also known as Cherriots, reviewed the proposal and provided comments and submitted comments included in the Planning Administrator's decision. The comments in full, with construction details, are available in the record.

Salem Electric: Planning and Property Services staff for the Salem Electric reviewed the proposal and submitted comments included in full in the Planning Administrator's decision.

4. Neighborhood Association Comments and Public Comments

The subject property is within the West Salem Neighborhood Association (WSNA). Notice of the initial application was provided to the neighborhood association, pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. Notice was provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property, posted notice was also provided on each street frontage during the initial comment period pursuant to SRC

300.520(b)(2). The West Salem Neighborhood Association submitted comments for the proposal during the initial comment period; eleven citizens also submitted comments during the public comment period. Questions and concerns raised by the neighborhood association and the public are summarized below followed by a response from staff.

A summary of comments received during the initial review is included below.

- **Alternative Street Standards:** WSNA expressed concern over the “variance request” to street slope.

Response: A variance is not required to allow the increase in slope for “Street A”. The applicant submitted a request for an Alternative Street Standard pursuant to SRC 803.065, which were addressed with the analysis of the Alternative Street Standards and the Subdivision Approval Criteria in Section 9 of the decision. Additional concerns raised by WSNA include inclement weather days and emergency response time, and the effect on homeowner insurance rates in the area as a result. Salem Revised Code (SRC) 803.065 includes criteria for approval of an Alternative Street Standard and City Council finds these criteria have been met, as discussed in the analysis. In addition, the requested street grade (12 percent) does not exceed the maximum street grade allowed for emergency service access, which is 15 percent. Extreme weather events and insurance rates are not criteria for granting or denying alternative street standards or the associated subdivision tentative plan.

- **Wilark Brook and Wetlands:** WSNA expressed concerns for the environmental impacts to Wilark Brook that lies on the subject property.

Response: Wilark Brook flows through proposed Lot 6, which is being created through the subdivision portion of the application. No plans for development of this area have been submitted. Moreover, opponents have not identified any applicable approval criteria regarding the alleged environmental impacts to Wilark Brook. For the Site Plan Review application, the applicant submitted a geotechnical assessment of the site and preliminary stormwater report as required in the Salem Revised Code. Final reports are not required as part of this proposal. In addition, a wetlands delineation was submitted by the applicant and City staff sent a Wetland Notice to Oregon Department of State Lands (DSL). Specific environmental studies regarding effect on the temperature profile, hydrological flow and groundwater recharge, nutrient and metal levels, and the wetlands located downstream, are not done at the City level and require input from the Oregon Department of State Lands (DSL). The response from DSL indicates that a State permit would be required if removal or fill in the wetlands area is anticipated. The impacts to this area would be determined at time of Site Plan Review application for proposed Lot 6. For the subdivision application, Public Works recommends a condition of approval that would establish an open channel and drainage easement be provided around the boundaries of Wilark Brook.

- **More Density than Allowed for Site:** WSNA expressed concern over the proposal providing more density than the existing natural site conditions may allow, and how variances are evaluated.

Response: As described in this report, the proposal includes development of 436 units for a 24.8-acre portion of the property, meeting the minimum density standard in the RM-II zone and well below the maximum density allowed for a multi-family zoned property of this size. Staff reviewed the proposal for conformance with all the applicable criteria, including the associated Tree Variance, to ensure a development that provides required housing and balances the provisions of required, streets, utilities, and pedestrian amenities with preservation of the natural site as possible to provide a livable and compatible development. The proposal, as modified (which includes denial of parking adjustment request) satisfies the Applicant's burden of proof under the tree removal and variance criteria. The City did consider reducing the density of the development or requiring greater building height; however, such modifications would create an unreasonable hardship, cost, and delay on the proposal.

- **Traffic Impacts and Request for Increased Parking:** WSNA expressed concern for the additional traffic that will be generated by the proposed development and whether or not improvements to Orchard Heights Road NW and Doaks Ferry Road NW would be required, and questions regarding the centerline for these streets. In addition, WSNA expressed concern over the proposal providing more than the maximum parking allowed when there is a trip cap in place.

Response: The applicant submitted a Traffic Impact Analysis (TIA) that includes mitigation to be provided by the development. In addition, boundary street improvements along Doaks Ferry Road NW are required, which include the construction of adequate travel lanes, and sidewalks to accommodate pedestrians. A design of the required boundary street improvements will be reviewed by city staff prior to issuance of Public Construction Permits. Typical sections for the required boundary street improvements are described below. Plan review will include review of the centerline of boundary streets to determine the centerline of the street, the required improvement locations, and the required right-of-way dedication.

The Assistant City Traffic Engineer has reviewed the proposed development in relation to the applicant's TIA and agrees with the findings; recommends additional conditions of approval; and concurs with the requirement to improve boundary streets as a condition of approval. The TIA submitted by the applicant also includes an analysis of the trip cap and proposed use. The TIA demonstrates that the proposal complies with the trip cap established by CPC-ZC21-06.

WSNA raised concerns about the potential effect on the Average Daily Trips when the development is subject to a trip cap of 500 multi-family units established by CPC-ZC21-06. While the number of trips generated by a site is based on the use, square footage and/or number of dwelling units, and not on the number of parking spaces provided, the request for an increase to the maximum allowed parking on site was ultimately denied by the Planning Administrator.

- **Trees:** WSNA, and many surrounding property owners, expressed concern over the inaccuracy of the tree plans submitted, trees in the right-of-way, and the request to remove trees while also requesting an adjustment to maximum parking allowed on site. WSNA requested an analysis of how staff evaluates the "intent to preserve"

significant trees as declared in SRC Chapter 808 versus the applicant's request to remove trees for development, and how this logic is applied in the decision to preserve or remove a tree.

Response: This kind of analysis is discussed in Section 13 of the decision with the analysis of the Tree Regulation Variance Criteria, which establishes the standards to potentially allow removal, and includes several conditions for the preservation of trees, submittal of additional plans and arborist reports, and the denial of an increase of parking to preserve more trees on site. As a general matter, the purpose statements of Chapter 808 is not a mandatory approval criterion and is not a basis of a denial of any development proposal.

Should the applicant need to remove any additional trees on the property as a result of any street improvements or public construction, they will be required to obtain the necessary approval(s) through a Tree Removal Permit, Street Tree Removal Permit, or additional Tree Variance, depending on the type of tree and criteria for removal. The applicant is responsible for providing a tree inventory of all the trees located on the subject property; any tree located within the public right-of-way is considered a City tree and is subject to the standards of SRC Chapter 86.

Staff finds that the addition of 22 parking spaces in excess of the maximum allowance will have a significant impact on the surrounding trees and appearance of the residential area, and is thereby denying the request to allow an increase in the maximum parking for the development. In addition, staff has conditioned the preservation of several trees, and required an updated tree plan indicating critical root zones and protection measures at the time of grading permit review.

When staff finds that there are other design alternatives that would otherwise save one or more trees, conditions of approval have been added to ensure those design changes are made. An example of how this was implemented with this proposal is the denial of the maximum parking adjustment, and Conditions 49, 55, and 56 which require the applicant to remove parking and preserve trees in areas where an alternative design is feasible.

In addition, the applicant's initial application requested the removal of 53 significant trees; through the completeness review process and conditions of approval on the proposal, staff has been able to reduce that number to 42 significant trees to be removed. The applicant worked with staff during the completeness review process to redesign Building 29 to accommodate preservation of a grove of trees to the south; trees located towards the interior of the development where Building 29 is currently located prove harder to save with surrounding development impacts, as discussed below. In areas where there are multiple trees that could potentially be saved and the applicant did not provide design changes, conditions of approval have been included to ensure those changes are made and the trees are preserved.

- **Preservation of Significant Trees:** The Glenn and Gibson Creeks Watershed Council provided a detailed response for each significant tree requested for removal by the applicant. In summary, they requested denial of the adjustment to increase maximum parking and denial of the Tree Regulation Variance for all 46 trees.

Staff Response: Many of the comments suggest that development could be made around significant trees by shifting buildings, locating them in planters or contouring sidewalks around a tree. However, by definition, removal of tree means to cut down a tree or remove 30 percent or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline or die. The term "removal" includes, but is not limited to, topping, damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical condition. Because of the size of the trees on site, the large critical root zones, and the significant topography of the site, contouring sidewalks or planters around these trees would still require significant grading and inflict damage beyond the 30 percent threshold that a tree could potentially withstand and still survive. This means that trees located in setbacks or open space areas would endure the least disruption and have the greatest chance of survival. A condition to removal of excess parking and the preservation of trees in these locations with the least disruption and greatest chance of survival. Where the applicant has not met the burden of proof to remove a tree, a condition has been imposed to provide such proof, or redesign to save the tree. The adjustment request to increase maximum parking was also denied in preference for saving additional trees.

- **EV Chargers:** The West Salem Neighborhood association (WSNA) requested information on the provisions of EV chargers for this development.

Response: The provision requiring multi-family buildings to ensure 40 percent of their parking spots are available for Electric Vehicle (EV) charging stations (wired to allow chargers) was adopted to the Salem Revised Code and effective as of December 28, 2022. The subject application was submitted on September 21, 2022, prior to the effective date of the new code standard; therefore, the proposal was not subject to EV charging conduit requirements of the Salem Revised Code as part of the land use decision. However, prior to the City's code amendment to require EV charger conduit for 40 percent of parking spaces provided, State law required multi-family developments to provide 20 percent of parking spaces provided with EV charger conduits, which is evaluated and enforced through the Building Division at the time of building permit review.

- **Landaggard Drive NW:** Comments received expressed concerns with the additional traffic that will be generated by the development and flow through traffic on Landaggard Drive NW, which is an underimproved public street.

Response: As described above, Landaggard Drive NW is an underimproved public street. The subject property has a small amount of frontage on Landaggard Drive NW, but the majority of Landaggard Drive NW is not considered a "boundary street" pursuant to SRC 803.040. A connection to Landaggard Drive NW is needed for secondary fire access purposes and is required to meet street connectivity requirements in SRC Chapter 803. The applicant has submitted a separate application for a Transportation System Plan Amendment to change the classification of Landaggard Street NW from a collector street to a local street and to change the alignment of the collector street to follow proposed "Street A", which would require an

extension of Colorado Drive NW to the northwest (Application No. 22-121104-GP). The proposed change in classification is also intended to recognize the condition of Landaggard and its unsuitability for higher volumes of traffic.

As described in this report, the Assistant City Traffic Engineer has reviewed the applicant's TIA and recommends mitigation as a condition of approval. Additionally, staff recommends that speed humps be installed on Landaggard Drive NW as an interim improvement to slow traffic and to reduce flow-through traffic on the underimproved street. The applicant's TIA mitigation includes construction of sidewalks along Doaks Ferry Road NW and Orchard Heights Road NW, and an ADA pedestrian connection across Orchard Heights Road NW that includes a raised pedestrian refuge on the west side of the intersection.

- **Impact on Neighborhood Character and Livability:** Comments expressed concern about the impact the development will have on adjacent properties and the character of the existing neighborhood due to loss of open space and development of a higher density development than those in the surrounding area.

Staff Response: The applicant has applied for a multiple family development, which is an outright permitted use in the RM-II (Multiple Family Residential) zone. The City has to evaluate development requests as designed by the applicant for conformance with approval criteria and development standards of the Salem Revised Code. There is no approval criterion or development standard which requires development to resemble adjacent existing developments. As discussed throughout this report, the proposal has been reviewed for conformance with all applicable zoning requirements to allow a multi-family development in the RM-II zone.

- **Property values:** Comments expressed concern over loss of property values and the quality of life for surrounding properties and neighbors.

Staff Response: The criteria for approval of the proposed application does not require a demonstration that property values will not be adversely affected. The zoning code allows the proposed multiple family use, provided that they are conducted in accordance with all applicable provisions of the Salem Revised Code and the conditions of approval to reduce and mitigate the negative impacts of the proposed uses, which is outlined in this report.

- **Natural features and wildlife:** Several comments received express concern regarding the loss of wildlife habitat and open space that will result from tree removal, grading, and development of the subject property.

Staff Response: The subject property is within Salem City Limits and has been designated on the City of Salem Comprehensive Plan Map as "Multi-family Residential", which anticipates existing or future residential development similar to the subdivision proposed with this application. Loss of wildlife habitat is not a criterion for granting or denying a subdivision tentative plan.

In regard to impacts on open space, the Salem Area Comprehensive Plan has adopted goals, policies, and plan map designations to protect identified open space

areas. There is a dedicated nature park just east of the property across Doaks Ferry Road NW, but the subject property has not been identified as a natural open space area. Instead, the Comprehensive Plan Map designates the subject property as “Multi-family Residential”, and the site has been zoned RM-II (Multiple Family Residential). While the subject property is currently undeveloped, it is surrounded by an already developed residential area within the corporate limits of the City of Salem and as the City continues to grow, development is expected to occur in areas designated for residential development.

- **Easement to Landlocked Parcel:** Comments expressed concern over the applicant’s proposal to provide easement access through a proposed parking lot for the land-locked property within the development.

Staff Response: The subject property contains a parcel of land solely within its boundary housing a single-family residence, which is not a part of this proposal (Tax Lot 1100). An existing access easement through the subject property provides access to the land-locked parcel. The applicant is proposing to adjust the width and location of the easement to align with a proposed parking lot, while maintaining access to Tax Lot 1100. As conditioned below, existing easements and rights-of-way on the subject property shall be relocated, extinguished, or vacated, as appropriate, prior to final plat approval. The configuration of the parking area may be modified during plat review, as necessary to provide adequate easement access to Tax Lot 1100, provided that the modifications meet applicable development standards, design standards, and conditions of approval. However, pursuant to SRC 110.060, the City does not enforce any easement, covenant, condition, restriction, or other agreement between private parties, nor is the UDC generally intended to abrogate, annul, or impair such easements, covenants, conditions, restrictions, or agreements. Therefore, the proposal has also been conditioned to ensure the access easement is not eliminated altogether, and to ensure alternative access is provided to the land-locked property during construction.

A summary of comments received during the City Council public review period and during the July 24, 2023 public hearing is included below.

- **Procedural Errors:** Comments submitted express concerns that the summary description for the decision and/or appeal notice incorrectly identified the zone of the property; incorrectly identified the size of the property as 34.72 acres; and that there was a discrepancy in the acreage cited for the property, versus the square footage of the combined lots resulting from the subdivision.

Staff Response: These items were addressed in the presentation to City Council on July 24, 2023, indicating that because the northern portion and the multi-family development are the focus of the application, the summary statement only noted the RM-II zone. However, both zones of the property were called out in the decision, with the indication that the proposal was only reviewed for the RM-II zoning standards that apply to the development of the northern portion of the property. Staff was not able to find where the property was indicated as 34.72 acres in the decision issued by the Planning Administrator. Polk County records indicate the subject property measures 36.72 acres, which was indicated in the decision. After the land division, Lots 1 through 6 will equal 31.96 acres, or 1,392,286 square feet as cited in testimony

received. The difference is attributed to right-of-way dedication for the new internal streets within the subdivision, as well as dedication for the boundary streets and water quality facility tracts; only the size of the lots created were addressed in the subdivision analysis for review of conformance with lot standards.

As conditioned with the street realignment of Condition 22, Lots 1 and 2 would be combined for a total of 223,655 square feet, or 5.13 acres, resulting in the same total area for all parcels indicated above of 31.96 acres. This change was addressed on page 13 of the Planning Administrator's decision, indicating that the change still provides parcels that exceed the minimum lot standards, thereby meeting the criteria.

Questions were raised whether this change requires the applicant to modify the application. Because the change results from a condition of approval and is not a substantial change in the proposal, it does not require a modification of the applicant's proposal. It is not uncommon to see lot dimensions and configurations, and even a minimal change in the number of lots created through the platting and review phases. A subdivision plan in the land use phase is called a Tentative Subdivision Plan to show how the land can be divided and meet applicable zoning standards, tentatively.

- **Completeness Review:** Questions were raised regarding deeming the application complete and the Planning Administrator's authority to deem an application complete.

Staff Response: Submittal items are listed in SRC Chapter 300.210 with additional requirements, if any, in specific chapters related to various application types. Testimony received indicates that submittal requirements are approval criteria because the code requires the Planning Administrator to find that the "tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC." Submittal requirements are not approval criteria and instead are intended to ensure the applicant has provided enough information to allow staff to review the application and issue a decision.

Testimony also suggested that the Planning Administrator had waived submittal requirements. Pursuant to SRC 300.210(b) the Planning Administrator may waive any submittal requirement "if the Planning Administrator determines that the specific requirement would not provide evidence needed to satisfy any of the applicable criteria." However, in this case the Planning Administrator did not waive any submittal requirements.

Under Oregon Revised Statutes (ORS) 277.178(2) and SRC 300.222(d), when an application is deemed incomplete, the applicant has the following options:

- Provide all of the missing information;
- Provide some of the missing information and written notice that no other information will be provided; or
- Written notice from the applicant that none of the missing information will be provided.

In this case, the applicant provided some of the missing information on January 26, 2023 and requested the application be deemed complete under this state code, thereby requiring staff to issue a decision without all the information requested. While

staff would prefer to receive a complete application, Staff cannot deny an application due to a missing item, an error, or incomplete information if we have enough information to determine that the proposal meets the approval criteria or can meet the approval criteria with conditions.

The City has reviewed the evidence in the record as a whole, including oral testimony at the hearing of the applicant and materials submitted in the open record and rebuttal periods, and the City finds the applicant's evidence satisfies all applicable criterion and development standards, as conditioned. Completeness review requirements are not approval standards, and are not a basis to deny the proposal.

- **Burden of Proof:** Several comments and testimony received indicate that the applicant did not meet the burden of proof for approval of their application.

Response: While the applicant does have the burden of proof on all elements of the proposal, the decision issued shall be based on the applicable standards and criteria set forth in the UDC, Salem Area Comprehensive Plan, and any other land use standards imposed by state law or administrative rule, if applicable. Pursuant to SRC 300.820, the Review Authority may impose conditions on land use actions to the extent allowed by law in order to protect the public and adjacent property owners from adverse impacts resulting from the proposed development, to fulfill an identified need for public services or infrastructure caused by or required for the proposed development, or to ensure conformance with the applicable development standards and criteria in the UDC. If a development standard can be met by imposing a condition of approval, then the decision can be issued based on the ability for the proposal to meet the applicable standards during the subsequent permit review processes. If there is no reasonable condition that can be applied or enforced, then a denial of the application or request is considered. In this case, the request to increase the maximum parking was not approved in favor of saving the trees. With 63 conditions of approval in place, a decision was issued for a proposal that would meet all applicable standards once the conditions have been satisfied.

Any opponents may submit to the Review Authority a set of written findings or statements of factual information which are intended to demonstrate the proposal complies or fails to comply with any or all applicable standards and criteria. Discretionary applications require critical thinking and judgment to determine if a proposal can meet the applicable standards, and if staff can find a path forward with the applicant with conditions of approval in place, then a decision can be issued. The Planning Administrator does not generally deny any application that does not provide every detail of information, if that information is easily obtainable by staff.

The City has reviewed the evidence in the record as a whole, including oral testimony at the hearing of the applicant and materials submitted in the open record and rebuttal periods, and the City finds the applicant's evidence satisfies all applicable criterion and development standards, as conditioned.

SUBDIVISION DESIGN AND SURVEY

- **Dimensions of Land to be Divided:** Comments received, and testimony heard at the hearing, question the legal description (metes and bounds) of the property.

Response: Prior to this development application, the property received approval for a Validation of Unit of Land application, Case Number VUL21-04, to validate the subject property which was unlawfully created when it was divided from its parent tract by deed in 1974. In review of the VUL application, the Survey Department reviews the historical deeds and chain-of-title to determine how the unit of land was created into its current configuration, and reviews what can lawfully be established as the boundary of the property when the plat is recorded with the County. That review is not a part of this application, and the change in metes and bounds for the property since 1946 are not a criterion for approval for the Subdivision application; that process was done with the Validation of the property. In addition, the survey used for the Zone Change Case CPC-ZC21-06 referenced in written testimony was an informational survey to conceptualize the zoning boundaries; it was not an official Record of Survey that was recorded with Polk County. The plat for the validation was recorded in June 2023, which supersedes any previous documents; therefore, any meets and bounds descriptions are no longer necessary to describe the subject property.

Comments received request the application be denied for not complying with SRC 205.030(a). It should be noted that SRC 205.030(a) lists *Submittal Requirements* and is not a criterion for approval or denial of an application. The City Surveyor reviewed the tentative plan submitted by the applicant, and while some required information was missing, deemed that the tentative plat had a path towards recording. Prior to the subdivision plat being recorded with Polk County, the applicant will provide a required field survey and subdivision plat as per the statute and code requirements outlined in the Oregon Revised Statutes (ORS) and the Salem Revised Code (SRC). This will be reviewed and approved by the City Surveyor prior to recording with Polk County.

- **Right-of-Way Dedications:** Questions were raised about how many linear feet of right-of-way dedication is required.

Response: The following table includes approximate measurements from the applicant’s “Lot Site Plan”, included in the record:

Street	Length*
Doaks Ferry Road NW	1,657 linear feet measured from property corner to property corner
Orchard Heights Road NW	543 linear feet measured from property corner to property corner
Landaggard Drive NW	1,230 linear feet measured from the existing terminus of Landaggard Drive NW to the northern property boundary.
Proposed Street A	1,325 linear feet measured from the eastern property boundary to the western property boundary
Proposed Street B	189 linear feet measured from the centerline intersection with Landaggard Drive NW.
Proposed Street C	132 linear feet measures from the centerline intersection with Landaggard Drive NW.
<p><i>*The lengths provided are only the linear feet of the right-of-way being dedicated. The widths of dedications vary. Additional survey work is required to verify the final dimensions of the right-of-way and lots created through the subdivision.</i></p>	

- **Improvement Agreements:** Appellants question whether or not the applicant intends to request deferral for any of the listed conditions pursuant to SRC 205.035(c)(7)(B).

Response: Staff cannot speak to the applicant's intention; a formal request has not been submitted at this time. As stated in the Planning Administrator's Decision, all subdivision conditions shall be completed prior to final plat approval or shown on the final plat. Apart from conditions 4-7, 12, 13, 17-21, 24, 30, and 31, which may be completed prior to final plat approval or may be delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B). Improvement Agreements are commonly used for subdivisions to allow the final plat to be recorded ahead of all public improvements being fully constructed and accepted by the City. As stipulated in SRC 205.035(c)(7)(B), the improvements must be completed within 18 months of final plat approval, unless an extension is granted.

Condition 41 requires that the plat for Titan Hill be recorded prior to issuance of building permits for the multi-family development, therefore; the public improvements would either need to be constructed or the developer would have to enter into an Improvement Agreement with the City, prior to recording the plat and issuing building permits.

- **Easement to Landlocked Parcel:** Comments received, and testimony heard at the hearing, express concerns over the applicant's proposal to provide easement access through a proposed parking lot for the land-locked property within the development.

Response: This item was addressed in the Planning Administrator's decision, and during the public hearing. The property owner indicated there have been no discussions with the applicant regarding the easement, but the condition in place requires this to take place prior to final plat. The access easement in question is a private easement between the two property owners. Pursuant to SRC 110.060, the City does not enforce any easement, covenant, condition, restriction, or other agreement between private parties, nor is the UDC generally intended to abrogate, annul, or impair such easements, covenants, conditions, restrictions, or agreements. The conditions of approval ensure the land-locked property will have access to a public street.

TRANSPORTATION

- **Traffic:** Comments received, and testimony heard at the hearing, express concerns for the additional traffic that will be generated by the proposed development; the underimproved condition of Doaks Ferry Road NW; and the pedestrian and bike safety within the immediate area.

Response: As a condition of development, the applicant is required to construct a boundary street improvement along Doaks Ferry Road NW, which will include a sidewalk, bike lane, and streetlights along the frontage of the property. Pavement widening is also required as part of the boundary street improvement to ensure safe travel lanes are provided for all uses.

In addition to the required boundary street improvements, the applicant's Traffic Impact Analysis (TIA) requires improvements to mitigate the impact of the development on the transportation system. The TIA identified the following needed improvements:

- i. Construct a left-turn lane on Doaks Ferry Road NW at the intersection with the new "Street A." The left-turn lane shall include a minimum 75 feet of vehicle storage.
- ii. Construct sidewalks along Doaks Ferry Road NW from the intersection of Orchard Heights Road NW to the northern boundary of the site.
- iii. Construct a linked ADA pedestrian connection from the proposed development across Orchard Heights Road NW, including a raised pedestrian refuge on the west side of the intersection. Improvements shall include upgraded ADA ramps on both sides of Landaggard Drive NW and the western side of the West Salem High School driveway, and a sidewalk extension along the north side of Orchard Heights Road NW to the intersection with Doaks Ferry Road NW. Pursuant to SRC 200.035(a)(4), sidewalks shall also be provided along the frontage of 2357 Orchard Heights Road NW (Polk County Assessors Tax Lot No. 073W17D00900).

The Assistant City Traffic Engineer has reviewed the TIA, agreed with the findings, and imposed conditions on the development to construct the required improvements. Conditions 12, 13, 21, 30, and 31 address boundary street improvements and mitigation required by the Applicant's Traffic Impact Analysis.

Condition 30(iii) specifically requires a "linked ADA connection" from the proposed development across Orchard Heights Road NW to West Salem High School, near the intersection of Landaggard Drive NW. Because the improvement is required to be "linked", sidewalks would be constructed along the property frontage on Orchard Heights Road NW and across the frontage of Polk County Taxlot No. 073W17CA00300 in order to "link" the development site to the American with Disabilities Act (ADA) crossing.

Testimony heard at the hearing indicated that the existing intersection of Doaks Ferry Road NW and Orchard Heights Road NW did not meet ADA standards and was difficult to cross. The existing intersection of Orchard Heights Road NW and Doaks Ferry Road NW met the ADA standards that were in place when it was constructed in 1999. It would not be the responsibility of this developer to improve the existing ADA ramps at this intersection. All new improvements within the public right-of-way that will be constructed by this development are required to meet the current ADA requirements. This includes all new street intersections within the development and the new pedestrian crossing of Orchard Heights Road at Landaggard Drive NW. This new crossing of Orchard Heights Road NW, with linked sidewalks along Doaks Ferry and Orchard Heights will provide an alternative to crossing at the Doaks Ferry and Orchard Heights intersection.

Above and beyond the TIA mitigation and minimum boundary street improvements required, the Assistant City Traffic Engineer required speed bumps along Landaggard Drive NW to slow traffic on the existing street and also prohibit construction traffic for the development from using Landaggard Drive NW as a construction entrance. The

speed bumps will be required prior to occupancy of any buildings and will be permanent.

- **Salem Transportation System Plan Amendment:** Testimony received related to the applicant's proposed Salem Transportation System Plan Amendment.

Response: Landaggard Drive NW is currently classified as a Collector Street according to the Salem Transportation System Plan (TSP). The current TSP Collector Street alignment extends from the existing portion of Landaggard Drive NW through the site to the western property line. The applicant has submitted a separate application for a Transportation System Plan Amendment to change the classification of Landaggard Street NW to a Local Street, and to change the alignment of the Collector Street to follow proposed Street A (Application No. 22-121104-GP). The proposed change in classification is intended to recognize the condition of Landaggard Street NW and its unsuitability for higher volumes of traffic. Amendments to the TSP are subject to City Council approval. The two alignments are shown in Attachment D, Exhibit A of the Planning Administrator's Decision.

Staff has conditioned the application on two outcomes of the TSP Amendment. If the TSP amendment is approved, the applicant would construct the internal streets in accordance with Conditions 17 and 18 of the Planning Administrator's Decision. If the TSP amendment is not approved, the applicant would construct the internal streets in accordance with Conditions 19 and 20 of the Planning Administrators Decision.

City Council will be asked to approve, or deny, the TSP amendment prior to issuance of Public Construction Permits for the internal streets within the subdivision. Staff cannot approve public construction permits without knowing the street classification to which the streets shall be designed as "local" and "collector" streets have different cross sections for construction according to the Salem TSP; hence the condition states that the TSP Amendment must be completed prior to Public Construction permits, thereby ensuring the condition is enforceable.

- **Unenforceable Conditions:** Testimony heard at the hearing, and comments received, allege that conditions are not enforceable and/or rely on the actions of a third party before compliance with code can be achieved.

Response: Staff addressed this in the staff report submitted to City Council for the public hearing conducted on July 24, 2023. However, additional testimony was received inaccurately relating the TSP Amendment conditions to the applicability of EV Charger requirements, stating "that it seems contrary to logic why a future action of the City Council can be considered a valid condition of approval, [given that staff indicated they cannot enforce a future standard in the case of the EV Chargers]." However, neither instance involves applying future standards. The application for development was received prior to the effective date of the new code related to EV charging station standards. Pursuant to ORS 227.178(3) and SRC 300.220(e) an application can only be reviewed on Criteria and Standards effective at the time the application is submitted, and therefore the City cannot retroactively require developments to comply with codes that were not in effect at the time their development process started.

The TSP Amendment is a separate application applied for concurrently, where there are existing street classifications in place already. Only two scenarios are possible with the TSP Amendment, and both have been accounted for with conditions of approval that provide a path forward in each instance. If the TSP Amendment is not approved, then the street classifications remain the same and the conditions in place for that scenario apply. If the TSP Amendment is approved, then the applicant has designed the development to fit that scenario as well, and the conditions of approval for the change in street classifications apply. This is not an application of future standards, but a signal as to which standards apply as the development moves forward in the public construction process; hence why the TSP Amendment is conditioned to receive a final decision from City Council prior to issuance of Public Construction Permits to ensure that the conditions are enforceable during permit review.

- **Easements for Public Vehicular and Pedestrian Access:** Questions were raised regarding Conditions 26 and 27, relating to dedications of public vehicular and pedestrian access through the development site and how they interact with each other.

Response: Condition 26 required a pedestrian access easement from proposed Street A to proposed Lot 6 whereas Condition 27 required a vehicular and pedestrian access easement from proposed Street A to Lot 6. These easements were required because the applicant submitted a request for Alternative Street Standards to deviate from the block spacing and connectivity requirements in SRC Chapter 803. Staff found that due to the topography of the site, and providing vehicular and pedestrian easements as conditioned, the Alternative Street Standards could be approved. The easements will ensure there is adequate connectivity between the proposed development and future development on Lot 6 without requiring full street connections.

- **Relocation of Proposed Street C:** Testimony heard indicated that Condition 22 to move Street C was unnecessary, citing the belief that the existing structure it aligned with would likely be demolished when the property develops; future streets could meander around the structure; and that the street would never be able to connect to Doaks Ferry due to the topography of the site.

Response: Pursuant to SRC 803.035(a), Local Streets shall be extended to adjoining undeveloped properties for eventual connection with the existing street system. The applicant's tentative plan shows Street C that stubs to neighboring property for an eventual connection to Doaks Ferry Road NW. This stub is required in order to provide for the 600-foot block spacing required under SRC 803.030(a) and meet street connectivity standards. The applicant's location of proposed "Street C" conflicts with an existing dwelling and accessory structure located at 2217 Doaks Ferry Road NW (Polk County Tax Lot No. 073W17B00300) while there is undeveloped property northerly that the street can be stubbed to (Polk County Taxlot No. 073W17B00200). Condition 22 ensures there are no conflicts with existing homes in the future, and fewer obstacles for the potential to develop the street with its connection to an undeveloped portion of property.

- **Pedestrian Access to Parks:** Testimony received indicated staff erred in the findings for the subdivision criteria SRC 205.010(d)(6) regarding the location of parks within one-half mile of the development.

Response: The purpose of the Subdivision Chapter 205 is to provide regulations governing the land division and reconfiguration of land. The subdivision tentative plan as part of this application includes the entire 36.72-acre property, which includes Lot 6 south of the multi-family development. Most subdivision applications are not consolidated with a site plan review application, and any single-family subdivision does not include the development plans for each residence on each individual lot; therefore, this measurement is always taken from the boundaries of the property subject to the subdivision review. The term “development” in association with this criterion refers to any future development of the property, including any future development of Lot 6. If the applicant chose to apply for the subdivision of the property separately from the site plan review of the multi-family development, the findings would have reflected the same measurements from the southeast corner of Lot 6 and would likely not be challenged as not being measured from the development portion.

There is no standard or approval criterion that requires multi-family development to be within a certain distance of parks, neighborhood centers, etc. The subject property is across the street from Straub Nature Park and within walking distance to Grice Hill Park and West Salem High School Park. Requiring the applicant to build additional off-site sidewalks and street improvements is not warranted and would not be proportional to the development proposed. As previously discussed, the applicant will be making substantial pedestrian upgrades in the vicinity which will benefit current and future residents’ ability to access the area parks. Additionally, the development includes a common open space that has a clubhouse, pool, basketball court, covered pavilion and a children’s playground, exceeding the minimum common open space requirements of the code.

An additional question was raised about Condition 45 requiring a pedestrian connection between Buildings 21 and 22, and how it supports the findings of SRC 205.010(d)(6). Condition 45 is related to the multi-family Design Review standard to orient buildings to the street and provide pedestrian access from the residential building to the street; it is not related to the subdivision criteria to provide pedestrian access from the subdivided property to neighboring activity centers, nor is related to Condition 30 which involves right-of-way construction requirements based on the TIA mitigation. However, requiring the applicant to provide adequate pedestrian connections from residential buildings to the streets within the development ensures that residential areas are connected to the boundaries of the site, where the subdivision ensures that there are amenities within range of the boundaries of the property.

UTILITIES

- **Urban Growth Area Preliminary Declaration:** Questions were raised regarding the City’s Urban Growth Area Preliminary Declaration criteria and findings within the Decision.

Response: The Urban Growth Area Preliminary Declaration (UGA) is a declaration that identifies *needed improvements* to serve a property that is outside the City's Urban Service Area; it is not a development permit and therefore does not impose conditions. For the purposes of Chapter 200, SRC 205.005 defines development as "the subdivision of land; the construction of a planned unit development; the establishment of a mobile home park; or the construction or structural alteration of a building or structure which will result in increased usage of a public facility." Therefore, in order to ensure the conditions are enforceable, the conditions of approval apply to the Subdivision development and establish the requirements to serve the development based on the identified needed improvements listed in the UGA.

- **City of Salem Water:** Questions were raised regarding where the development would connect to the public water system.

Response: A utility plan was provided with the application materials and shows the apartment site will be served by the existing 18-inch public water main in Doaks Ferry Road NW. City of Salem 18-inch W-1 water mains are available in Doaks Ferry Road NW and Orchard Heights Road NW. As shown on the applicant's utility plan, water mains will be extended into the internal streets within the development site. City of Salem public water mains will not be extended into the existing portion of Landaggard Drive NW as part of this development.

- **Orchard Heights Water District:** Questions were raised regarding how the development could impact customers currently served by the Orchard Heights Water District.

Response: Properties on Emerald Drive NW are outside of Salem City Limits and are within the Orchard Heights Water District. The Orchard Heights Water District is served by City of Salem Mains through an agreement between the District and the City. Many properties within the Orchard Heights Water District are served by existing wells and supplement water supply by purchasing water through the water district.

Properties on Emerald Drive NW are served by the City of Salem main in Doaks Ferry Road NW.

Properties on Landaggard Drive NW are within Salem City Limits and are served by the City of Salem main in Orchard Heights Road NW. The Orchard Heights Water District private main extends from Orchard Heights Road NW to the northern terminus of the existing portion of Landaggard Drive NW. The GIS mapping shows the private main extending through the development site; however, the Orchard Heights Water District manager confirmed this private main was previously abandoned.

City of Salem public water mains are not currently located in Landaggard Drive NW as the street is served by the Orchard Heights Water District. The proposed development is not required to construct public water mains in the existing portion of Landaggard Drive NW, nor are they proposing to construct City utilities within the developed portion of Landaggard Drive NW. The development will provide public water in the new internal streets. As shown on the applicant's utility plan, the public water main will terminate in the proposed extension of Landaggard Drive NW at the intersection of Landaggard Drive NW and proposed Street B.

Written testimony indicates that the landlocked parcel within the development site is served by the Orchard Heights Water District. Because the parcel is landlocked, the private lateral for this service would traverse through the development site, within a private utility and/or access easement. The City does not maintain records for the Orchard Heights Water District private services nor is the service shown on the applicant's existing conditions and utility plans. Utility field locates would be needed to determine the location of the private water service.

At time of Public Construction Plan review, the applicant will be required to submit plans that show all existing public and private utilities within Landaggard Drive NW and on the subject property and will be required to ensure that no disruptions to existing services occur.

- **City of Salem Sewer:** Questions were raised regarding the extent of the required sewer main extension to serve the development.

Response: The subject property is not served by public sewer. The nearest public sewer main is located in Doaks Ferry Road NW, approximately 1,250 feet north of the subject property; however, this main does not have adequate capacity to serve the proposed development. The Salem Wastewater Management Plan identifies a future public main of various sizes within Doaks Ferry Road NW and on the subject property. The master plan main extends from the intersection of Doaks Ferry Road NW and Brush College Road NW to the site, from approximately one-half-mile north. The applicant shall be required to construct the master plan sewer main in Doaks Ferry Road NW and through the site, to serve the proposed development and mains to the boundaries of the site that can be extended in the future to serve neighboring property.

The Salem Wastewater Master Plan shows the main extending from the intersection of Brush College Road NW and Doaks Ferry Road NW and into the development site. Public Sewer will be extended within the internal streets within the subdivision. Due to topography, the natural drainage of the area slopes northeast towards Doaks Ferry Road NW and gravity flows north into the existing sewer in Brush College Road NW. Extending the main in Orchard Heights Road NW would be redundant because the applicant is extending mains within the internal streets of the subdivision to provide sewer service to the westerly neighbors.

- **Bancrofting:** Testimony heard and provided in writing question whether or not properties on Landaggard Drive NW would be eligible to "Bancroft" System Development Charges and other fees associated with connection to the City of Salem Public Utility System. Bancrofting allows a property owner assessed for local improvement charges to finance said assessment with the City rather than paying one lump sum for the assessment charge.

Response: As discussed above, public water and sewer mains are not being extended into the existing developed portion of Landaggard Drive NW. If at such time sewer was extended in Landaggard Drive NW by the City, property owners would have the ability to Bancroft the associated System Development Charges for connection to the new system per SRC 21.100 and ORS 22.210.

- **Stormwater Management:** Issues relating to stormwater management submittal information for the development were raised at the public hearing and in written testimony.

Response: As part of the application package, the applicant submitted a Preliminary Drainage Report which did not include the appendices that were referenced in the report. As such, Public Works could not confirm whether or not the design of the facility would comply with SRC Chapter 71 and PWDS. Conditions of approval require a complete design to be submitted that meets SRC Chapter 71 and PWDS relating Green Stormwater Infrastructure (GSI) for treatment and detention of stormwater for the impervious surfaces within the development. The level of detail submitted at the time of Tentative Plan Approval varies. A complete drainage report at the time of Tentative Plan Approval can better indicate conformance with PWDS but it is expected to be preliminary in nature and can change. A detailed conformance review will be performed at the final design stage to ensure the design of the stormwater management system adequately treats drainage from the proposed development and controls flows to limit post development runoff rates to pre-existing conditions.

- **Public Utility Easements:** Questions were raised regarding required dedications of Public Utility Easements for proposed Lot 6 of the Subdivision.

Response: A 10-foot-wide public utility easement (PUE) is required along street frontages pursuant to SRC 803.035(n). The applicant's tentative plan shows a PUE along the new internal streets and along Doaks Ferry Road NW abutting the proposed water quality parcels. No PUE is shown along Doaks Ferry Road NW and Orchard Heights Road NW abutting Lot 6. Development plans for Lot 6 have not yet been submitted; at time of site plan review for Lot 6, the depth of the PUE will be established and may be dedicated by separate document.

Lot 6 is zoned mixed-use, which has a minimum setback of zero feet and a maximum setback of ten feet, unless an adjustment to the standard is approved. Therefore, development within the setback range would conflict with the standard ten-foot width of the Public Utility Easement (PUE). Staff recommended deferring dedication of a PUE until development plans for proposed Lot 6 are provided, to ensure easements and buildings on-site do not conflict. Condition 15 of the Planning Administrators Decision establishes that the PUE for lot 6 will be determined at time of development.

NATURAL RESOURCES

- **Removal of City-Owned Trees:** Testimony heard at the hearing, and comments received, indicate that the applicant submitted an incomplete Tree Inventory because the trees within the Doaks Ferry right-of-way were not shown on the Inventory.

Response: Staff agrees that there are many trees along Doaks Ferry Road NW that were not shown on the applicant's Tree Inventory, however; because these trees are within the right-of-way and considered City-owned Street Trees, they are not required to be shown on the applicant's Tree Inventory. Staff addressed this in the staff report submitted to City Council for the public hearing conducted on July 24, 2023. Pursuant

to SRC 808.045(c)(1)(C), an application for a tree variance shall include the identification of the type, size, and location of all existing trees on the property. Trees located adjacent to the property are not required to be shown on the applicant's plans and are not reviewed as part of the land use application.

Staff observed Oregon White Oaks and other large trees along the west side of Doaks Ferry Road NW and Orchard Heights Road NW that appear to be largely within the existing right-of-way and are considered City-owned Street Trees. Removal of City-owned street trees is reviewed through permitting under SRC Chapter 86 – *Trees on City Owned Property*, and not SRC Chapter 808 – *Preservation of Trees and Vegetation*. Pursuant to 86.050(a)(1) a permit is required prior to removal of any City-owned trees. Criteria for removal of City-owned trees is listed in SRC 86.090; it is the applicant's responsibility to demonstrate how the criteria for removal are met. If the applicant proposes removal of City-owned trees, a valid permit would be required prior to construction of the required improvements that necessitated removal of the tree. At this time, no applications for removal of the City-owned Trees on Doaks Ferry Road NW or Orchard Heights Road NW have been submitted.

In order to fully review an application for City-owned tree removals along Doaks Ferry Road NW, staff will need to review engineered plans for the necessary boundary street improvements. It is not clear what impact these improvements will have on existing oaks. A future design might include an Alternative Street Standard to allow preservation of White Oak trees while also providing necessary sidewalks, bike lanes, and adequate travel lanes to ensure safe and efficient transportation is provided along the boundary streets of the development. Without seeing a design for the streets, staff cannot determine what alternatives may be appropriate and would be beneficial for tree preservation.

- **Street Tree Planting**: Questions were raised regarding the planting of Street Trees and the definition of the "maximum extent feasible".

Response: Condition 24 requires the applicant to *install street trees to the maximum extent feasible along Doaks Ferry Road NW, Orchard Heights Road NW, and internal streets constructed within the subdivision*. The "maximum extent feasible" is not defined in SRC Chapter 86. Staff has interpreted this in the past to mean that as many as trees as possible shall be planted in the right-of-way considering minimum spacing standards, vehicular sight distance, utilities, and driveways and other obstructions. Public Works Design Standards and Administrative Rule 109-500 Public Works Trees on City Owned Property provide guidance for how and where street trees should be planted.

Oregon White Oaks are an approved street tree according to *Administrative Rule 109-500 Public Works Trees on City Owned Property Appendix A-Table A-1: Salem Recommended Street Trees List 2015*.

- **"Intent to Preserve"**: Several comments submitted express concerns about how staff evaluates the "intent to preserve" significant trees as declared in SRC Chapter 808 versus the applicant's request to remove trees for development. WSNA cited in their testimony that "the applicant's starting point was placing the maximum number of

dwelling units. Every time on their plan drawings a dwelling unit conflicted with a tree; the tree was to be removed. Maximizing the number of dwelling units onsite appears to be the priority.”

Response: The above issue is addressed in staff report submitted to City Council for the public hearing conducted on July 24, 2023. It was also addressed in the Tree Regulation Variance Criteria in Section 13 of the Planning Administrator’s decision, which establishes the standards to potentially allow removal. Further analysis was also made during the presentation to City Council on July 24, 2023, showing where areas of redesign happened during the review process to save trees, or where areas of redesign did not happen and conditions of approval were applied to save more trees, both significant and non-significant. With conditions of approval in place, the applicant is saving 43 percent of the significant trees on site, and 31 percent of all the trees on site. If this property was subdivided for single-family housing, a Tree Conservation Plan in conjunction with the application would only require a minimum of 30 percent of all the trees on site saved, with no minimum requirement for the percentage of significant trees to be saved. The applicant has provided the equivalent percentage requirement for the multi-family development through the Tree Variance process. Out of the total number of trees to be removed from the site, only 13 percent are significant trees ($42 / 322 = 13$).

Updated Tree Count with Conditions of Approval:

Tree Type	Remain	Remove	Total	% Saved
Significant	32 (28 + 4)	42 (46 - 4)	74	43
Non-Significant	68 (58 + 10)	180 (190 -10)	248	24
Total	100	222	322	31

It should also be noted that the applicant did not start the application with the maximum number of dwelling units, which is 769 units; nor have they proposed the maximum number of dwelling units that would be allowed with the trip cap placed on the property through CPC-ZC21-06, which is 500 units. The minimum density for multi-family development in the RM-II zone is 15 dwelling units per acre, or 372 units for the 24.8-acre portion of the property. The applicant’s proposal of 436 units provides a density of 18 dwelling units per acre ($436 / 24.8 = 17.58$), which is under the maximum allowed density of 31 units per acre by 333 units; the applicant has provided only 56 percent of the units that would otherwise be allowed for a 24.8-acre property in the RM-II zone in a time when housing is a necessity. The rezoning of this portion of property under CPC-ZC21-06 brought the City closer to their housing needs for multi-family zoned land, but there is a still a need to develop those lands with units that can provide the needed housing.

Additionally, the purpose statement of Chapter 808 is to “provide for the protection of heritage trees, significant trees, and trees and native vegetation in riparian corridors, as natural resources for the City, and to increase tree canopy over time by requiring tree preservation and planting of trees in all areas of the City.” However, purpose statements are not a criterion for approval or denial of an application. Staff has reviewed the proposal and balanced the intent to preserve trees with the intent to provide needed housing to meet the City’s Housing Needs Analysis by denying the request to increase maximum parking and conditioning the preservation of enough

trees to bring the preservation rate to the same 30 percent threshold that would apply if the site was developed as a single-family subdivision with a Tree Conservation Plan. In addition, other conditions of approval require the applicant to plant over 500 trees throughout the development, as well as to replant two trees for every one that is removed within a required setback, meeting the purpose to increase the tree canopy over time and ensuring the development will provide a livable community and climate benefits for future generations.

- **Value and Age of Trees:** Testimony and comments received indicate that the value and the age of an existing tree has not been considered in the removal or preservation of trees, and alternative methods for parking surfacing, like pervious pavement, should be considered.

Response: Staff considers the type, size, and location of all existing trees on site; the value of a tree is not a required standard for review or an approval criterion. A tree's critical root zone measures one-foot in radius for every one-inch of diameter-at-breast-height (dbh); meaning a tree with a 44-inch dbh has a critical root zone that spans 88 feet, and a tree with a 60-inch dbh has a critical root zone that spans 120 feet. Comments were received about the preservation of two trees of this size located near each other in the southeast portion of the multi-family development. These trees are located near each other and at least 45 feet away from the boundary of the property where topography of the site requires significant grading to ensure the safe construction of residential buildings, sidewalks, drive-aisles, and streets.

Surfacing standards for streets and vehicle use areas are set forth in the Salem Revised Code and Public Works Design Standards (PWDS). Pursuant to PWDS, *Pervious pavement can be used for private streets, driveways, and parking lots* under certain circumstances, but it is not approved for use in the public right-of-way. However; the SRC and PWDS do not establish whether or not this method would be appropriate within the Critical Root Zone of a tree in order to preserve it. In this case, because of the significant topography of the site, the installation of pervious pavement would still require significant grading within the large critical root zones of these trees in order to provide safe parking slopes and grade that would meet the surrounding development, and thereby threaten the survival of the tree. The size, location, and topography of the site are special conditions of the property that create a hardship or practical difficulty that is most effectively relieved by a variance, meeting the criteria for their removal, as indicated in the Planning Administrator's decision.

- **Accurate Tree Inventory:** Testimony received claims that subdivision criteria SRC 205.010(d)(9) has not been met because the finding that "all existing conditions of topography or vegetation have been identified on the site which would necessitate variances during future development of the property and evaluated with this decision" is not accurate when the Tree Inventory is incomplete on proposed Lot 6, and that Condition 51 is improper as a future condition to circumvent compliance with SRC 205.010(d)(9).

Response: The applicant's tree plan is only required to indicate all trees ten inches or more dbh, as defined in Chapter 808, located on the property. The applicant stated that the tree plan has been reviewed for accuracy and is an accurate representation of the trees that exist on the subject property. Applicant's tree plan is a stamped

professional document. During the hearing and record periods the Applicant explained how the tree plan was reviewed and corrected. The City finds the Applicant's evidence credible, and there is no evidence demonstrating that the tree plan, as revised, contains any inaccuracies. Condition 51 requires the applicant to provide an updated plan to reflect all conditions of approval requiring tree preservation or allowing additional tree removal (due to street realignment), and verification of trees located on property lines due to trees proposed for removal located on property lines or on adjacent property; this condition is not in place to allow the applicant to submit revised plans with changes that have not gone through the appropriate review, or to circumvent compliance with the subdivision criteria but to ensure that the tree plan is updated to reflect conditions of approval. The tree preservation requirements will be tracked throughout the development process, ensuring trees are marked for preservation on all relevant plans, including grading permits, public construction plans and building permits for each structure. Inspections are conducted throughout the development process.

Subdivision criteria SRC 205.010(d)(9) specifically states that "the tentative subdivision plan *takes into account* the topography and vegetation of the site, such that the *least disruption* of the site, topography, and vegetation will result from the reasonable development of the lots." The corresponding finding from staff cites:

"As explained in the findings establishing conformance with SRC 205.010(d)(8) above, the tentative subdivision plan configures lots and streets to allow residential development of the site, which has been reviewed in conjunction with a Tree Regulation Variance application to ensure the proposal minimizes disruptions to topography and vegetation. The proposed lots are of sufficient size and dimension to permit future development of uses allowed within the zone. This approval criterion is met."

The reference back to criteria (d)(8) is in regard to the lot configuration and standards. The sentence from the (d)(8) finding that corresponds to this reference reads:

"...the lot and street configuration established by the proposed subdivision meet applicable development standards; and the configuration of the proposed lots makes logical use of the developable land."

Subdivision criteria SRC 205.010(d)(8) also states that "the tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is *minimized to the greatest extent* practicable." Neither of these criteria require that there can be no variances granted with the subdivision, or no additional variances reviewed for any future development after any division of land. The intent of the criteria is to ensure that natural features, topography, and vegetation are *taken into account*, and that land division is proposed to provide the *least disruption* to the site and *minimize* the need for variances. With the analysis of the Tree Regulation Variance and the conditions of approval applied to the proposal, staff found these criteria to be met.

- **Citizen Review of Changes:** Testimony received requested a process for citizen review of any changes to the building layout.

Response: Staff has issued a decision with 63 conditions of approval to ensure a development that conforms to the standards of the code. Findings as to how those conditions will bring the development into conformance have been included in the decision. The items that are conditioned as part of the project would not constitute any substantial changes that would affect the overall development proposal, and can therefore be made with the subsequent permit reviews.

Substantial changes would include, but are not limited to, a change in the number of units, removal of required pedestrian connections, a change in access or required street connectivity, or removal of any additional protected trees. Substantial changes to the proposal would require an application for a Modification, which is subject to the same review process as the original application, or additional permits or applications depending on the request. All land use applications are classified by a Type, per SRC Chapter 300, which establishes a standardized review process for the public. For instance, if the applicant was to request the removal of additional protected trees, a new Tree Variance application would be processed as a Type II procedure, and would go out for noticing and public comment.

The changes anticipated in order to comply with conditions of approval include removal of excess parking, a shift in setbacks to meet minimum requirements, the preservation of additional trees and planting of new trees, required street improvements and utility connections, etc. Minimal building layout changes do not require further reviews of the public for each step in the permitting process, because the necessity of the change to meet code standards have already been addressed in the decision findings.. Avenues exist for continued citizen involvement. The public can view the status of development permits through the City's online Permit Application Center. Citizens can also submit a Public Records Request to receive specific information..

- **Wilark Brook:** Stormwater Management as it relates to Wilark Brook was also raised as an issue. Specifically, how temperature and hydrologic flow, groundwater recharge, and nutrient levels could be impacted as a result of the proposed development. In addition, questions were raised regarding how the proposed tree removals and change to the urban forest canopy could impact Wilark Brook.

Response: According to SRC Chapter 71.001, The Objectives of City of Salem Stormwater Standards are to:

- Establish requirements for discharges into stormwater systems, receiving waters, and the environment;*
- Protect, to the greatest extent practicable, life, property, receiving waters, aquatic life, and the environment from loss, injury, degradation, or damage by pollution, erosion, low flows, excessive flows, flooding, landslides, and other potential hazards, whether from natural causes or from human activity;*
- Protect the public stormwater system from damage;*
- Meet the requirements of state and federal law and the City's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit;*
- Implement site-specific practices, including using green stormwater infrastructure, to mimic natural hydrologic functions as much as practicable.*

As stated previously, the applicant is required to comply the mandatory standards in SRC Chapter 71 and Public Works Design Standards relating to Green Stormwater Infrastructure (GSI) for treatment and detention of stormwater. These do not include purpose statements separately. The code and standards are applied in order to meet the purpose and intent of the chapter. Temperature, hydrologic flow, groundwater recharge, and nutrient levels are not standards in the SRC or adopted Stormwater Administrative rules and cannot be applied to this development. The applicant's design will be required to comply with any other applicable State or Federal laws relating to stormwater (SRC 71.035). The applicant will be required to obtain any State or Federal Permits necessary for discharge into Wilark Brook. Additionally, Condition 28 requires dedication of an open channel-drainage easement along the banks of Wilark Brook, which will allow the City to inspect and maintain the channel, as needed. This easement will be shown on the final plat, or dedicated by separate document, prior to final plat approval.

The applicant submitted testimony indicating a revision that would ensure the survival of the single riparian tree that was initially designated for removal. While this revision to the adjacent stormwater facility still requires review to comply with Public Works Design Standards, the applicant has agreed to designate the riparian tree for preservation, and will reflect the change with the updated tree plans required by Condition 51. Applicant included such updated designs during the rebuttal record period. At this time, there are no trees proposed for removal within the riparian corridor on the subject property. As stated previously, trees within the right-of-way are considered City-owned Street Trees. Pursuant to 86.050(a)(1) a permit is required prior to removal of any City-owned trees. However, at this time, no applications for removal of the City-owned Trees in Doaks Ferry Road NW near Wilark Brook have been submitted.

DECISION CRITERIA FINDINGS

5. Criteria for Granting a Subdivision Tentative Plan

The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created lots at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to approval of the final subdivision plat.

SRC Chapter 205.010(d) sets forth the following criteria that must be met before approval can be granted to a tentative subdivision plan. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings of fact upon which the City Council's decision is based. Lack of compliance with the following approval criteria is grounds for denial of the tentative plan or for the issuance of conditions of approval to satisfy the criteria.

SRC 205.010(d)(1): The tentative subdivision complies with all standards of this Chapter and with all applicable provisions of the UDC, including, but not limited to, the following:

(A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines.

Finding: The proposed subdivision would divide the approximately 37-acre property into six lots. The subject property is split-zoned RM-II (Multiple Family Residential-II) and MU-II (Mixed Use-II). The proposed tentative subdivision plan, as recommended to be conditioned, complies with the applicable standards of the RM-II and MU-II zones, and all other applicable provisions of the UDC, as required by this approval criterion, as follows:

SRC Chapter 514 (RM-II Zone) and SRC Chapter 534 (MU-II Zone)

The northern portion of the subject property is zoned RM-II (Multiple Family Residential); development within the RM-II zone must meet the applicable standards included under SRC Chapter 514. The southern portion of the subject property is zoned MU-II (Mixed Use-II); development within the MU-II zone must meet the applicable standards included under SRC Chapter 534. The standards of the RM-II and MU-II zones that are applicable to the proposed subdivision are as follows:

▪ **Land Division in the RM-II Zone:**

SRC 514.010(a) provides that lots subdivided or partitioned in the RM-II zone shall be a minimum of 20,000 square feet in size, unless the lots are restricted to contain three or more attached dwelling units per lot, are used for townhouse development, or are used for allowed uses other than household living.

Finding: Proposed Lot 2 is 16,862 square feet in size, while the remaining lots are 104,572 square feet or greater. The applicant's plans indicate development of Lot 2 will contain a building of six attached dwelling units, meeting the minimum standard of three or more attached dwelling units. However, due to the street alignment changes of "Street C", as required by Condition 22, Lot 2 will not be platted as a separate lot. This standard is met.

▪ **Lot Standards:**

Lot size and dimension standards within the RM-II zone are established under SRC 514.010(b), Table 514-2; and lot size and dimension standards within the MU-II zone are established under SRC 534.015(a), Table 534-2.

Within the MU-II zone there are no minimum lot size and dimension requirements other than a minimum street frontage requirement of 16 feet for all uses.

A summary of the lot size and dimension standards applicable to residential uses within the RM-II zone is provided in the following table:

RM-II Zone Residential Use Lot Standards		
Lot Area	Min. 6,000 sq. ft.	Applicable to all other uses other than townhouses and single family.
Lot Width	Min. 40 ft.	Applicable to all other uses other than townhouses and single family.
Lot Depth	Min. 80 ft.	Applicable to all other uses other than townhouses and single family.
	Min. 120 ft.	Applicable to double frontage lots (<i>lots with front and rear lots lines abutting a street</i>).
	Max. 300% of average lot width	
Street Frontage	Min. 40 ft.	Applicable to all other uses other than townhouses and single family.

Finding: Lots 1-5 of the proposed subdivision will be developed with 31 buildings for development of 436 multiple family dwelling units, and no development plans have been submitted for Lot 6 at this time.

As shown on the tentative subdivision plan, the lot sizes of the proposed six lots within the subdivision range from 16,862 (.38 acres) to 519,696 square feet (11.93 acres) and are created for the development of multi-family housing. As conditioned with the street realignment of Condition 22 discussed later in this report, the subdivision plan will consist of five lots ranging from 104,572 (2.4 acres) to 519,696 square feet (11.93 acres), therefore, exceeding the minimum lot area standards of the RM-II zone. All of the proposed lots within the subdivision meet the minimum lot size requirements of the RM-II and MU-II zones.

All of the proposed lots within the subdivision similarly exceed the lot dimension and street frontage standards of both the RM-II and MU-II zones and are of sufficient size and dimension to permit development of uses allowed within the zone.

- **Density:**

Dwelling unit density for subdivisions within the RM-II zone are established under SRC 514.015(c), Table 514-3.

Dwelling Density Unit	Standard	
	Minimum	Maximum
Single Family, Two Family, Three Family, Four family and Multiple Family	15 dwelling units per acre	31 dwelling units per acre

Finding: The development site is 36.72 acres in size with 24.8 acres zoned RM-II, requiring a minimum 372 dwelling units and a maximum of 769 dwelling units. The proposal includes development of 436 units, meeting the minimum and maximum standards. The remainder of the site is zoned MU-II and could have a mix of

residential and commercial uses. Density for the MU-II portion of the property will be evaluated at the time of future development.

▪ **Setbacks:**

Setbacks for buildings and accessory structures within the RM-II zone are established under SRC 514.010(d), Table 514-4 and 514-5; and setbacks for buildings and accessory structures in the MU-II zone are established under SRC 534.015(c), Tables 534-3 and 534-4.

Garage Setback: In addition to the setbacks identified above, SRC 806.025(b) requires garages facing a street to be setback a minimum of 20 feet in order to accommodate a driveway and enough space for vehicles to park on the driveway without projecting into the street right-of-way.

Finding: As indicated in this report, Lots 1-5 will be developed with 31 buildings for development of 436 multiple family dwelling units, where analysis of the Site Plan Review and the specific setbacks applicable to each proposed building are included in Section 11 of this report. In addition, there are six townhome-style multi-family units abutting a street proposed at the northwest corner of the development, where the garage setback would apply, and is reviewed in Section 11 of this report.

Lot 6 will be reviewed for conformance with the applicable setback requirements of the MU-II zone at the time of future development.

(B) City Infrastructure Standards.

The Public Works Department reviewed the proposal for compliance with the City's public facility plans pertaining to provision of streets, water, sewer, and storm drainage facilities and determined that the proposed subdivision, with recommended necessary conditions of approval, conforms to the requirements of SRC Chapter 71 (Stormwater), SRC Chapter 802 (Public Improvements), SRC Chapter 803 (Streets and Right-of-Way Improvements), and the Public Works Design Standards (PWDS). While SRC Chapter 205 does not require submission of public construction plans for City infrastructure prior to tentative subdivision plan approval, it is the responsibility of the applicant to design and construct required City infrastructure to serve the proposed development prior to final plat approval without impeding service to the surrounding area.

Finding: The subject property is located outside of the Urban Service Area, and therefore; an Urban Growth Preliminary Declaration has been required. As conditioned, the tentative subdivision plan is designed to accommodate required on-site and off-site improvements. A summary of the existing and required City infrastructure improvements are as follows:

SRC Chapter 71 – Stormwater

The proposed subdivision is subject to the stormwater requirements of SRC Chapter 71 and the revised Public Works Design Standards (PWDS) adopted in Administrative Rule 109, Division 004. These requirements limit runoff from the development to levels not exceeding pre-existing conditions.

Finding: The Public Works Department indicates that the applicant submitted an incomplete preliminary stormwater report lacking appendices. It is not clear from the information submitted whether or not the proposed design complies with SRC Chapter 71 and PWDS. In addition, the applicants tentative plan shows a new 30-foot-deep public storm main in Landaggard Drive NW, that does not appear feasible to construct or maintain. Lack of design at this stage may require modification to the land use decision once a complete design is reviewed.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. To demonstrate the proposed parcels can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, an Engineering Method Report, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities for all proposed lots, with the exception of Lot 6. Stormwater design for proposed Lot 6 can be provided at the time of Site Plan Review for future development.

Condition 2: Provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots, with the exception of Lot 6.

Condition 3: At time of development of Lot 6, design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).

Condition 4: Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way.

SRC Chapter 802 – Public Improvements

SRC 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS). Specifications for required public improvements are found in the comments provided by the Public Works Department (**Attachment D**).

Finding: The subject property is located outside of the Urban Service Area, and therefore; an Urban Growth Preliminary Declaration has been required. As conditioned, the proposed development is designed to accommodate required on-site and off-site improvements.

The Public Works Department indicates water is available in Orchard Heights Road NW and Doaks Ferry Road NW to serve the development. The *Salem Water System Master Plan* identifies a future water main through the property. Within the new internal streets, the applicant shall provide a minimum 12-inch master plan water main.

Water: The subject property is located within the G-0 water service level. An 8-inch water main is located in Hearth Street NE.

Sewer: A 10-inch sewer main is located in Hearth Street NE.

The subject property is not served by public sewer. The nearest public sewer main is located in Doaks Ferry Road NW, approximately 1,250-feet north of the subject property, however, this main does not have adequate capacity to serve the proposed development. The *Salem Wastewater Management Plan* identifies a future public main of various sizes within Doaks Ferry Road NW and on the subject property. The master plan main extends from the intersection of Doaks Ferry Road NW and Brush College Road NW to the site, from approximately one-half-mile north. The applicant shall be required to construct the master plan sewer main in Doaks Ferry Road NW and through the site, to serve the proposed development and neighboring property. In order to ensure that required City infrastructure is provided to serve the proposed subdivision in conformance with the requirements of SRC Chapter 802, the following conditions of approval shall apply:

Condition 5: Extend a minimum 12-inch public water main within the new internal streets to serve neighboring property and the proposed development pursuant to PWDS.

Condition 6: Construct a *Salem Wastewater Management Master Plan* identified sewer main in Doaks Ferry Road NW from the intersection of Doaks Ferry Road NW and Brush College Road NW to the proposed development pursuant to PWDS.

Condition 7: Extend a minimum 8-inch public sewer main within the new internal streets to serve neighboring property and the proposed development pursuant to PWDS.

Private water, sewer, and storm services shall be constructed to serve each lot. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

The applicant's tentative plan shows multiple existing easements that will need to be extinguished or relocated as part of the platting action. According to the City Surveyor, there is likely an existing right-of-way over portions of Tax Lot 400, south of Tax Lot 1100, that was established by V. 145, P. 538, PCDR. This existing right-of-way lies within Landaggard Drive NW and extends onto the subject property north of Landaggard Drive NW. This right-of-way requires vacation pursuant to SRC 255.065. In addition, an existing access easement through the subject property (Tax Lot 400), provides access to the land-locked parcel (Tax Lot 1100) within the boundaries of the subject property, which is not a part of this proposal. The applicant is proposing to adjust the width and location of the easement to align with a proposed parking lot, while maintaining access to Tax Lot 1100. Pursuant to SRC 110.060, the City does not enforce any easement, covenant, condition, restriction, or other agreement between private parties, nor is the UDC generally intended to abrogate, annul, or impair such easements, covenants, conditions, restrictions, or agreements. Therefore, the proposal has also been conditioned to ensure the access easement is not eliminated altogether, and to ensure alternative access is

provided to the land-locked property during construction. As such, the following conditions apply:

- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 9:** Existing easements and rights-of-way on the subject property shall be relocated, extinguished, or vacated, as appropriate, prior to final plat approval.
- Condition 10:** The applicant shall not eliminate the easement providing access to Tax Lot 1100, and shall demonstrate alternative access provided to the property during construction.

As conditioned, the proposed subdivision conforms to the public improvement standards of SRC Chapter 802.

SRC Chapter 803 (Street and Right-of-Way Improvements)

The subject property has frontage on Doaks Ferry Road NW to the east, Orchard Heights Road NW to the south, and Landaggard Drive NW by a stubbed street along the southwest portion.

Finding: Orchard Heights Road NW is designed as a minor arterial street under the City's Transportation System Plan (TSP) and meets the required right-of-way width and improvement required for its classification of street per the Salem TSP. The Public Works Department indicates that TIA mitigation is required and will provide sidewalks along Orchard Heights Road NW fronting the subject property. Pursuant to SRC 200.035(a)(4), sidewalks shall also be provided along the frontage of Polk County Assessors Tax lot No. 073W17D00900.

Doaks Ferry Road NW is designated as a major arterial street under the City's TSP. The existing condition of Doaks Ferry Road NW does not meet current standards for its classification of street per the Salem TSP. As such, the applicant shall convey for dedication a half-width right-of-way up to 48-feet to major arterial standards as specified in the Public Works Design Standards and based on a rational nexus calculation. The applicant shall also construct a half-street improvement to an interim minor arterial street standard as specified in the Public Works Design Standards and consistent with the provisions of SRC Chapter 803. An interim minor arterial improvement with a turn lane, as required by the applicant's TIA, is appropriate based on the existing underimproved condition of the street and right-of-way width constraints. In addition, the Transportation System Plan identifies that Doaks Ferry Road NW between Brush College Road NW and Orchard Heights Road NW will be improved to an interim minor arterial standard as a Committed Street Improvement Project (Table 3-4 Project ID no. 82). In addition, Cherriots submitted comments indicating that a new transit stop is needed in coordination with the proposed street improvements along Doaks Ferry Road NW (**Attachment F**). The applicant shall be required to provide the bus stop as part of the street improvements pursuant to SRC 803.035(r). To ensure the applicant provides all required street improvements listed above, the following conditions apply:

- Condition 11:** Convey land for dedication to equal a half-width right-of-way of 48-feet on the development side of Doaks Ferry Road NW, including sufficient right-of-way to accommodate public infrastructure at the property corners.
- Condition 12:** Construct a half-street improvement along the frontage of Doaks Ferry Road NW to an interim minor arterial street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 13:** The applicant shall coordinate with Cherriots to provide bus stops along Doaks Ferry Road NW in locations approved by the Public Works Department.

A 10-foot-wide Public Utility Easement (PUE) is required along street frontages pursuant to SRC 803.035(n). The applicant's tentative plan shows a PUE along the new internal streets and along Doaks Ferry Road NW abutting the proposed water quality parcels, but no PUE is shown along Doaks Ferry Road NW and Orchard Heights Road NW abutting Lot 6. Development plans for Lot 6 have not yet been submitted; at time of site plan review for Lot 6, the depth of the Public Utility Easement will be established and may be dedicated by separate document.

- Condition 14:** Dedicate a 10-foot public utility easement along the street frontage of all internal streets and along Doaks Ferry Road NW abutting the proposed "W.Q. Parcel" as shown on the applicants tentative Plan.
- Condition 15:** At the time of development of Lot 6, a public utility easement shall be dedicated along the Lot 6 frontages of Doaks Ferry Road NW and Orchard Heights Road NW. The public utility easement width shall be established and dedicated by separate document, if required.

Landaggard Drive NW is currently classified as a collector street according to the Salem TSP. The current TSP collector street alignment extends from the existing portion of Landaggard Drive NW through the site to the western property line. The applicant has submitted a separate application for a Transportation System Plan Amendment to change the classification of Landaggard Street NW to a local street, and to change the alignment of the collector street to follow proposed Street A (Application No. 22-121104-GP). The proposed change in classification is intended to recognize the condition of Landaggard and its unsuitability for higher volumes of traffic. Amendments to the TSP are subject to City Council approval. If City Council approves the TSP Amendment, staff recommends that "Street A" be constructed to Collector B standards according to the Salem TSP to accommodate parking on one side of the street and bike lanes in both directions. If the City Council does not approve the amendment, streets shall be design and constructed to meet current street classifications as identified in the Salem TSP, as described in the conditions of approval and shown on **Exhibit a**. Recommended conditions ensure compliance with the Salem Transportation System Plan, as required by SRC 205.010(d)(4). Based on whether City Council approves the TSP Amendment, and taking into account the requested alternative street standards discussed later in this section, the following conditions apply:

Condition 16: Prior to issuance of Public Construction Permits, the applicant shall receive a final City Council decision on the proposed Salem Transportation System Plan Amendment (22-121104-GP) relating to the collector street alignment that is mapped through the property.

Condition 17: If City Council approves the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct Landaggard Drive NW within the property, proposed “Street B”, and proposed “Street C” to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803. Internal local streets are approved to have an increased curb-to-curb improvement of 34 feet.

Condition 18: If City Council approves the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct “Street A” to “Collector Street B” standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:

- i. “Street A” shall have a maximum grade of 12 percent.
- ii. “Street A” shall have a block length of approximately 985 feet between Doaks Ferry Road NW and the extension of Landaggard Drive NW.
- iii. A public street connection from “Street A” to proposed Lot 6 is not required.

Condition 19: If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct proposed “Street A” from Doaks Ferry Road NW to the intersection with Landaggard Drive NW within the property, “Street C”, and “Street B”, to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:

- i. “Street A” shall have a maximum grade of 12 percent.
- ii. “Street A” shall have a block length of approximately 985 feet between Doaks Ferry Road NW and the extension of Landaggard Drive NW.
- iii. A public street connection from “Street A” to proposed Lot 6 is not required.
- iv. Internal local streets are approved to have an increased curb-to-curb improvement of 34 feet.

Condition 20: If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct the extension of Landaggard Drive NW within the property to the intersection with proposed “Street A” and proposed “Street A” from the intersection of Landaggard Drive NW to the western property line to

“Collector Street B” standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.

The subject property has approximately 100 feet of frontage on the existing Landaggard Drive NW right-of-way as shown on **Exhibit a**. This portion of Landaggard Drive NW does not meet local street standards according to the Salem TSP. The applicant shall be required to construct a three-quarter street boundary street improvement along the existing Landaggard Drive NW frontage. If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the boundary street improvement shall be constructed to “Collector Street B” standards.

Condition 21: Along the frontage of the existing portion of Landaggard Drive NW adjacent to the subject property, construct a three-quarter street boundary street improvement to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803. If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the boundary street improvement shall be constructed to “Collector Street B” standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.

Pursuant to SRC 803.035(a) *local streets shall be extended to adjoining undeveloped properties for eventual connection with the existing street system*. The applicant’s tentative plan shows “Street C” which stubs to neighboring property for an eventual connection to Doaks Ferry Road NW. This stub is required in order to provide for the 600-foot block spacing required under SRC 803.030(a). The applicant’s location of proposed “Street C” conflicts with an existing dwelling and accessory structure located on Polk County Tax Lot No. 073W17B00300 (2217 Doaks Ferry Road NW) while there is undeveloped property northerly that the street can be stubbed to (Polk County Tax lot No. 073W17B00200). Staff recommends the proposed street stub be moved to the north to avoid conflicts with the existing structures as shown in **Exhibit a**. However, there are two significant trees designated for preservation at the northeast corner of the development, one 24-inch and one 30-inch Oak tree. Because of the street realignment required for “Street C”, these trees shall be evaluated for removal with the Variance request below in Section 13.

Condition 22: Modify the proposed “Street C” stub street location to the north line of proposed Lot 2 to avoid conflicts with existing structures on neighboring property not included in the development proposal.

The required boundary street improvements may require removal of city-owned trees within the existing right-of-way. Removal of trees located within the right-of-way requires a street tree removal permit pursuant to SRC Chapter 86.

Condition 23: Obtain any necessary street tree removal permits pursuant to SRC Chapter 86.

Pursuant to SRC 86.015(e), anyone undertaking development along public streets shall plant new street trees to the maximum extent feasible. Street trees shall be provided with the required boundary street improvements and internal street construction.

Condition 24: Install street trees to the maximum extent feasible along Doaks Ferry Road NW, Orchard Heights Road NW, and internal streets constructed within the subdivision.

The applicant's site plan shows new internal streets to be constructed within the subdivision; however, the street designs do not meet Public Works Design Standards for horizontal radius and a design exception has not been approved by the City Engineer to deviate from the standards. As conditioned below, the applicant shall design streets to local street standards, unless approved otherwise. In addition, the proposed streets do not meet maximum allowed grades, block lengths, or street connectivity standards established in SRC Chapter 803. Pursuant to SRC 803.065, the applicant requested an alternative street standard to deviate from street grade, block length, and connectivity standards established in SRC 803.

Alternative Street Standards (SRC 803.065)

Pursuant to SRC 803.065(a), the Director may authorize the use of one or more alternative streets standards where:

- (1) *Existing development or physical constraints make compliance with the standards set forth in this chapter impracticable;*
- (2) *The development site is served by fully developed streets that met the standards in effect at the time the streets were originally constructed; or*
- (3) *Where topography or other conditions make the construction that conforms to the standards impossible or undesirable.*

Finding: Specifically, the following alternative street standard requests have been submitted:

- (1) Allow internal local streets to have a 34-foot-wide curb-to-curb paved surface where the minimum paved surface for a local street is 30-feet (SRC 803.025(b));
- (2) Increase the maximum allowed block length of "Street A" from 600-feet to approximately 985-feet between Doaks Ferry Road NW and the extension of Landaggard Drive NW (SRC 803.030(a));
- (3) Deviate from street connectivity requirements and not provide a street connection from "Street A" to proposed Lot 6 (SRC 803.035(a)); and
- (4) Allow "Street A" to increase the maximum allowed grade for a collector street from 8-percent to 12-percent (SRC 803.035(c)).

Allow internal local streets to have a 34-foot-wide curb-to-curb paved surface where the minimum paved surface for a local street is 30-feet (SRC 803.025(b)).

The applicant's preliminary street plan shows a 34-foot curb-to-curb improvement for the new internal streets. According to the Salem TSP, local streets shall have a 30-foot curb-to-curb improvement. While 30-foot curb-to-curb allows parking on both sides, this standard is most often used on streets with numerous driveways, where cars can pull to the side to allow passing. Since these local streets are serving a multi-family development without individual driveway, a wider width will allow for on-street parking on both sides of the street and room to pass. Therefore, an Alternative Street Standard to

allow for a wider than standard curb-to-curb improvement pursuant to SRC 803.065(a) is approved. To ensure streets are dedicated and designed to local street standards, except where this alternative street standard allows otherwise, the following condition applies:

Condition 25: Dedicate a 60-foot-wide right-of-way for new internal streets within the subject property as shown on the applicant's tentative plan.

Increase the maximum allowed block length of "Street A" from 600-feet to approximately 985-feet between Doaks Ferry Road NW and the extension of Landaggard Drive NW (SRC 803.030(a)).

Finding: SRC 803.030 and SRC 803.035(a) establish street spacing and connectivity requirements for the development of streets throughout the City. Pursuant to these requirements, street connections are generally required to be provided to existing streets and abutting undeveloped property at an interval of no greater than 600 feet unless special conditions, such as existing physical conditions or existing development on adjacent land, preclude streets from meeting spacing requirements or where strict application of the street spacing requirements would result in a street network that is no more beneficial to vehicular, pedestrian, or bicycle traffic than the proposed street network.

In this case, the block length along "Street A" between Doaks Ferry Road NW to the west of the proposed development and the extension of Landaggard Drive NW is approximately 985 feet, which exceeds the maximum 600-foot street spacing interval. If a street were to be provided from "Street A" through Lot 5 to stub to Lot 6 for future development, the street spacing and connectivity requirements of SRC Chapter 803 could be met. However, due to site topography and grading, the applicant indicates a street meeting the required standards under SRC Chapter 803 cannot be feasibly provided and the street connection would not provide any greater benefit for vehicular traffic than that already provided by the existing street network.

Deviate from street connectivity requirements and not provide a street connection from "Street A" to proposed lot 6 (SRC 803.035(a)).

As indicated above, constructing an additional street from "Street A" to Lot 6, that meets standards is not feasible due to the existing site topography. In lieu of constructing a street, the applicant has submitted a request to dedicate an easement for an accessible walkway from "Street A", through Lot 5 to Lot 6. In addition to providing pedestrian access, staff recommends an easement be dedicated by separate document that provides vehicular and bike access from "Street A" to Lot 6 through a drive aisle proposed on site. This will provide connectivity for all modes of transportation, for the future development of Lot 6. This easement may be dedicated by separate document and extinguished if determined not necessary at time of Site Plan Review for Lot 6.

Condition 26: As shown on the applicant's tentative plan, dedicate public pedestrian access easement from "Street A" to Lot 6.

Condition 27: Dedicate an additional public access easement for vehicular and pedestrian access from "Street A" to Lot 6 through the southeastern drive aisle within the development site. This easement may be

dedicated by separate document and extinguished if determined not necessary at time of Site Plan Review for proposed Lot 6.

Allow "Street A" to increase the maximum allowed grade for a collector street from 8-percent to 12-percent (SRC 803.035(c)).

The development site has existing topography that makes construction that conforms to the standards difficult. Pursuant to SRC 803.065(a)(3) the Director approved the alternative street standard request for increased street grades, which allows for use of an alternative street standard where topography or other conditions make the construction that conforms to the standards impossible or undesirable.

(C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

SRC Chapter 601 – Floodplain

Development in the floodplain shall be regulated to preserve and maintain the capability to the floodplain to convey the flood water discharges and to minimize danger to life and property.

Finding: Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

SRC Chapter 809 – Wetlands

Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetlands laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures. SRC Chapter 809 establishes requirements for notification of DSL when an application for development is received in an area designated as a wetland on the official wetlands map.

Finding: The Salem-Keizer Local Wetland Inventory shows that there are wetland channels and/or hydric soils mapped on the property. The applicant should contact the Oregon Department of State Lands to verify if any permits are required for development or construction in the vicinity of the mapped wetland area(s). Wetland notice was sent to the Oregon Department of State Lands pursuant to SRC 809.025.

In addition, a portion of Wilark Brook runs through Lot 6 of the proposed subdivision. Pursuant to PWDS 1.8(d), the application is subject to open channel drainage easements to be dedicated along the creek, allowing for access and maintenance. The easement width shall be either 15-feet from the channel centerline, or 10-feet from the top of the recognized bank, whichever is greatest.

Condition 28: Along Wilark Brook on the subject property, dedicate an Open Channel Drainage Easement. In accordance with PWDS, the easement width

shall be either 15 feet from the channel centerline, or 10 feet from the top of the recognized bank, whichever is greater.

SRC Chapter 810 – Landslide Hazards

The City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility.

Finding: According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are mapped 2-to-4-point landslide hazard areas on the subject property. The proposed activity of a subdivision adds 3 activity points to the proposal, which results in a total of 5-to-7 points. Therefore, the proposed development is classified as a moderate landslide risk and requires a geological assessment and/or geotechnical report. A Geological Assessment, prepared by Redmond Geotechnical Services and dated November 4, 2022, was submitted to the City of Salem with the subdivision application. This assessment demonstrates the subject property could be developed by implementing the mitigation measures provided in the report.

Condition 29: As a condition of building permit issuance, the developer shall provide a final report from a geotechnical engineer that describes construction monitoring activities for all site earthwork and addresses the geotechnical considerations for each individual building lot.

SRC 205.010(d)(2): The tentative subdivision plan does not impede the future use or development of the property or adjacent land.

Finding: The lots within the proposed subdivision, as proposed and conditioned, are of sufficient size and dimensions to permit future development of permitted, special, or conditional uses in the RM-II (Multiple Family Residential) zone pursuant to SRC Chapter 514. There is no evidence that the subdivision and subsequent development of the lots will adversely affect public services to any surrounding properties. Approval of the subdivision does not impede future use of the subject property or access to abutting properties. As conditioned, the proposal meets this criterion.

SRC 205.010(d)(3): Development within the tentative subdivision plan can be adequately served by City infrastructure.

Finding: The subject property is located outside of the Urban Service Area, and therefore; an Urban Growth Preliminary Declaration has been required. The Public Works Department reviewed the proposal and determined that the proposed development is designed to accommodate required on-site and off-site improvements, as conditioned.

SRC 205.010(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.

Finding: The subject property is located adjacent to Doaks Ferry Road NW and Orchard Heights Road NW; Landaggard Drive NW, currently a dead-end street, extends to the southwestern boundary of the subject property. Doaks Ferry Road is designated as a

Major Arterial Street under the City's Transportation System Plan (TSP); Orchard Heights Road is designated as a Minor Arterial Street; and Landaggard Drive is designated as a Collector Street.

The identified street improvements and public street right-of-way dedications, as proposed by the applicant in the application materials and conditioned with this decision, ensure all streets within and adjacent to the subdivision will conform to the TSP. This approval criterion is met.

SRC 205.010(d)(5): The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

Finding: Access to the proposed subdivision will be provided by the network of existing public streets that surround the property. As shown on the tentative subdivision plan, internal streets are extended through the site to provide safe and convenient access to the proposed lots within the subdivision, and proposed streets are extended to the boundaries of the property to provide opportunities for future street connectivity to abutting properties.

The required improvements will ensure that the street system in and adjacent to the subdivision will provide for the safe, orderly, and efficient circulation of traffic to and from the subdivision. This criterion is met.

SRC 205.010(d)(6): The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.

Finding: The proposed development is served by Grice Hill Park .25 miles west of the subject property, and West Salem High School Park .35 miles southwest of the subject property. Access to the park is available through the existing transportation system. This criterion is met.

SRC 205.010(d)(7): The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis, where applicable.

Finding: The property is subject to a "Trip Cap" established by CPC-ZC21-06. The applicant submitted a Traffic Impact Analysis (TIA) for the consolidated application prepared by Transit Consulting, LCC, and dated September 28, 2022, which demonstrates compliance with "Trip Cap". The TIA also recommends mitigation be provided by the development to account for the impact on the transportation system. The Assistant City Traffic Engineer has reviewed the TIA, agreed with the findings, and recommends the following condition of approval:

Condition 30: As specified in the TIA, provide the following mitigation:

- iv. Construct a left turn lane on Doaks Ferry Road NW at the intersection with the new "Street A". The left turn lane shall include a minimum 75 feet of vehicle storage.
- v. Construct sidewalks along Doaks Ferry Road from the intersection of Orchard Heights Road NW to the northern boundary of the site.
- vi. Construct a linked ADA pedestrian connection from the proposed development across Orchard Heights Road NW, including a raised pedestrian refuge on the west side of the intersection. Improvements shall include upgraded ADA ramps on both sides of Landaggard Drive NW and the western side of the West Salem High School driveway, and a sidewalk extension along the north side of Orchard Heights Road NW to the intersection with Doaks Ferry Road NW. Pursuant to SRC 200.035(a)(4), sidewalks shall also be provided along the frontage of 2357 Orchard Heights Road NW (Polk County Assessors Tax Lot No. 073W17D00900).

The Assistant City Traffic Engineer has reviewed the proposal and also recommends an additional condition of approval to address the increased traffic that will flow onto Landaggard Drive NW, which is an existing underimproved public street. The Assistant City Traffic Engineers recommends the applicant install speed bumps on Landaggard Drive NE to slow traffic, and to discourage cut-through traffic on the underimproved local street. Notice will be sent to neighbors along Landaggard Drive NW for input on the number of speed bumps prior to installation. In addition, Landaggard Drive NW shall not be used as a construction traffic entrance for the proposed development. As such, the following conditions apply:

Condition 31: Install not more than four speed humps on Landaggard Drive NW in locations approved by Public Works and in accordance with PWDS.

Condition 32: Landaggard Drive NW shall not be used as a construction entrance. A construction entrance shall be constructed from either Doaks Ferry Road NW or Orchard Heights Road NW, and all construction vehicles and equipment shall utilize this entrance for entering and leaving the site.

SRC 205.010(d)(8): The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Finding: The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site.

As described in findings above, the lot and street configuration established by the proposed subdivision meet applicable development standards; and the configuration of the proposed lots makes logical use of the developable land. All existing conditions of topography or vegetation have been identified on the site which would necessitate variances during future development of the property and evaluated with this decision. As

conditioned, the layout allows for reasonable development of all lots within the subdivision without variances from the UDC. The proposal meets this criterion.

SRC 205.010(d)(9): The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

Finding: As explained in the findings establishing conformance with SRC 205.010(d)(8) above, the tentative subdivision plan configures lots and streets to allow residential development of the site, which has been reviewed in conjunction with a Tree Regulation Variance application to ensure the proposal minimizes disruptions to topography and vegetation. The proposed lots are also of sufficient size and dimension to permit future development of uses allowed within the zone. This approval criterion is met.

SRC 205.010(d)(10): When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC Chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.

Finding: The subject property is located outside of the Urban Service Area; therefore, an Urban Growth Preliminary Declaration has been required. As conditioned, the tentative subdivision plan is designed to accommodate required on-site and off-site improvements.

6. Criteria for Granting an Urban Growth Preliminary Declaration

Salem Revised Code (SRC) 200.025(d) & (e) set forth the applicable criteria that must be met before an Urban Growth Preliminary Declaration may be issued. The following subsections are organized with approval criteria 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.

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.***

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: An Urban Growth Preliminary Declaration is required because the subject property is located outside the Urban Service Area in an area without required facilities. Analysis of the development based on relevant standards in SRC 200.055 through SRC 200.075 is as follows:

SRC 200.055 – Standards for Street Improvements

Finding: 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).

Doaks Ferry Road NW and Orchard Heights Road NW are adequate “linking” streets. Boundary street improvements will be required as a condition of development, described further below.

SRC 200.060 – Standards for Sewer Improvements

Finding: 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 adequate sewer is located at the intersection of Doaks Ferry Road NW and Orchard Heights Road NW, approximately one-half-mile north 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). As a condition of sewer service, all developments will be required to provide public sewers to adjacent upstream parcels, discussed further below.

SRC 200.065 – Standards for Storm Drainage Improvements

Finding: 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 nearest available public storm system appears to be located in Doaks Ferry Road NW and Orchard Heights Road NW abutting the subject property. The applicant shall link the on-site system to existing facilities that are defined as adequate under SRC 200.005(a).

SRC 200.070 – Standards for Water Improvements

Finding: 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 nearest available public water system appears to be located in Doaks Ferry Road NW and Orchard Heights Road NW abutting the subject property. 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.

SRC 200.075 – Standards for Park Sites

Finding: The proposed development is served by Grice Hill Park .25 miles west of the subject property and West Salem High School Park .35 miles southwest of the subject property.

7. Analysis of Class 3 Site Plan Review Approval Criteria

Salem Revised Code (SRC) 220.005(f)(3) provides that an application for a Class 3 Site Plan Review shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

SRC 220.005(f)(3)(A): The application meets all applicable standards of the UDC.

Finding: The proposal includes development of a new multi-family apartment complex of 31 buildings containing 436 dwelling units. The proposed development is located on the northern portion of the property zoned RM-II (Multiple Family Residential) and has therefore been reviewed for conformance with the RM-II zone under SRC Chapter 514. Four adjustments are requested to height, parking, building orientation and buildable width; findings for the adjustments are included in Section 12 of this report. The proposed development conforms to SRC Chapter 514 and all other applicable development standards of the Salem Revised Code as follows.

Development Standards – RM-II (Multiple Family Residential-II) Zone:

SRC 514.005(a) - Uses:

The permitted, special, conditional, and prohibited uses in the RM-II zone are set forth in Table 514-1.

Finding: Multiple family residential uses are allowed as a permitted use in the RM-II zone per Table 514-1.

SRC 514.010(a) – Land division in the RM-II zone:

Lots subdivided or partitioned in the RM-II zone shall be a minimum of 20,000 square feet in size, unless the lots are restricted to contain three or more attached dwelling units per lot, are used for townhouse development, or are used for allowed uses other than household living.

Finding: As described above, proposed Lot 2 is 16,862 square feet in size, while the remaining lots are 104,572 square feet or greater. The applicant's plans indicate development of Lot 2 will contain a building of six attached dwelling units, meeting the minimum standard of three or more attached dwelling units. However, due to the street alignment changes of "Street C", as required by Condition 22, Lot 2 will not be platted as a separate lot. As conditioned, the proposal complies with this section.

SRC 514.010(b) – Lot standards:

Lots within the RM-II zone shall conform to the standards set forth in Table 514-2. Multi-family uses are required to have a minimum lot area of 6,000 square feet, minimum lot width of 40 feet, minimum lot depth of 80 feet, maximum lot depth 300 percent of average lot width, and street frontage of 40 feet.

Finding: As discussed in Section 1 and as conditioned with the street realignment of Condition 22, the lot sizes of the five lots within the subdivision will range from 104,572 (2.4 acres) to 519,696 square feet (11.93 acres) and are created for the development of multi-family housing; therefore, exceeding the minimum lot area standards of the RM-II zone. The proposal meets the standards.

SRC 514.010(c) – Dwelling unit density:

Dwelling unit density within the RM-II zone shall conform to the standards set forth in Table 514-3. Maximum dwelling unit cannot be varied or adjusted. Multiple family uses are required to have a minimum density of 15 dwelling units per acre and maximum density of 31 units per acre.

Finding: The development site is 36.72 acres in size with 24.8 acres zoned RM-II, requiring a minimum 372 dwelling units and a maximum of 769 dwelling units. The proposal includes development of 436 units, meeting the minimum standard.

SRC 514.010(d) – Setbacks:

Setbacks within the RM-II zone shall be provided as set forth in Table 514-4 and Table 514-5.

Abutting Street

The proposed development is adjacent to right-of-way for Doaks Ferry Road NW to the east. In addition, the development plan includes construction of internal streets where each proposed parcel abuts right-of-way for “Street A”, “Street B”, “Street C”, and Landaggard Drive NW. For a multiple family use, Table 514-4 specifies that multi-family buildings abutting a street require a minimum setback of 12 feet plus one foot for each one foot of height over 12 feet, but need not exceed 20 feet; vehicle use areas require a minimum 12-foot setback.

Finding: All buildings for the proposed development are more than 20 feet in height, requiring at least a 20-foot setback abutting all streets, but need not exceed 20 feet. The applicant’s plans indicate buildings set back at least 20 feet in all areas of the development except along “Street A”, located between Doaks Ferry Road NW and Landaggard Drive NW, where the applicant has indicated a 15-foot setback. As such, the following condition applies:

Condition 33: Prior to building permits, all buildings along “Street A” meet the minimum 20-foot setback, or obtain approval of a Zoning Adjustment.

Pursuant to SRC 702.020(d)(2), off-street surface parking and vehicle maneuvering areas shall be located behind or beside buildings and structures; therefore, all vehicle use areas are setback at least 20 feet to be located beside buildings, meeting the minimum setback for vehicle use areas. As conditioned, the proposal meets the applicable standards.

Interior Side and Rear

The subject property is an irregular shape that abuts property zoned RA (Residential Agriculture) to the west, and also abuts RA zoned property adjacent to the south where

Landaggard Drive NW connects to the development. Adjacent to the north is property zoned Polk County Suburban Residential with a Salem Area Comprehensive Plan designation of DR (Developing Residential). The equivalent City of Salem Zoning designation is RA (Residential Agriculture). For a multiple family use, Table 514-5 specifies that buildings and vehicle use areas abutting a residential zone at an interior side property line require a minimum 10-foot setback with Type C landscaping (one plant unit per 20 square feet and a minimum 6-foot-tall sight-obscuring fence or wall).

Finding: The applicant's plans indicate the minimum 10-foot setback along the north property line, where all adjacent buildings and vehicle use areas meet the minimum setback. However, the applicant's plans indicate only a minimum five-foot setback for all other areas abutting RA-zoned property. While all buildings are proposed to be setback more than 10 feet from the RA-zoned properties, there are several vehicle use areas that need to be modified to meet the setback; therefore, the following condition applies:

Condition 34: Prior to building permit approval, all vehicle use areas and buildings abutting RA-zoned properties shall be setback a minimum of 10 feet, with Type C landscaping, or obtain approval of a Zoning Adjustment.

SRC 514.010(e) - Lot Coverage, Height:

Buildings and accessory structures within the RM-II zone shall conform to the lot coverage and height standards set forth in Table 514-6. The maximum lot coverage requirement for all uses in the RM-II zone is 60 percent. The maximum building height allowance for multiple family buildings is 50 feet, and the maximum building height for accessory structures is 15 feet.

Finding: The applicant's written statement and plans indicate the tallest building on site is approximately 40 feet to its highest point. The applicant has requested an adjustment to the maximum height for accessory structures for the proposed community building providing recreational amenities to the development. Findings for the adjustment are included in Section 12 of this report.

SRC 514.010(f) – Maximum Square Footage for All Accessory Structures:

In addition to the maximum coverage requirements established in Table 514-6, accessory structures to single family and two-family uses shall be limited to the maximum aggregate total square footage set forth in Table 514-7.

Finding: The proposed use is multiple family. This standard is not applicable.

SRC 514.010(g) – Landscaping:

- (1) *Setbacks.* Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) *Vehicle use areas.* Vehicle use areas shall be landscaped as provided under SRC Chapters 806 and 807.

Finding: Pursuant to SRC 702.020(b)(8), multiple family developments with 13 or more units are exempt from the landscaping requirements for vehicle use areas in SRC chapter 806, and are subject to landscaping standards under the Multiple Family Design Review Standards instead, which are addressed in Section 14 of this report. Landscape

and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review.

SRC 514.010(h) – Outdoor Storage:

Within the RM-II zone, outdoor storage shall be screened from streets and adjacent properties by a minimum six-foot-high sight-obscuring fence, wall, or hedge.

Finding: No outdoor storage areas are proposed. This development standard is not applicable.

SRC 514.015 – Design Review:

Design review under SRC chapter 225 is required for development within the RM-II zone as follows:

- (a) Multiple family development shall be subject to design review according to the multiple family design review standards set forth in SRC chapter 702.
- (b) Residential care with five or more self-contained dwelling units shall be subject to the multiple family design review standards set forth in SRC chapter 702.

Finding: The proposal is for a multiple family development of 436 units; therefore, it is subject to the Design Review standards of Chapter 702, which are addressed in Section 14 of this report.

General Development Standards SRC 800

SRC 800.055(a) – Applicability.

Solid waste service area design standards shall apply to all new solid waste, recycling, and compostable services areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

Finding: The proposed development includes a new solid waste service area. The standards of SRC 800.055 apply. Full adherence with these standards will be ensured at the time of building permit review.

SRC 800.055(b) – Solid Waste Receptacle Placement Standards.

All solid waste receptacles shall be placed at grade on a concrete pad that is a minimum of 4 inches thick, or on an asphalt pad that is a minimum of 6 inches thick. The pad shall have a slope of no more than 3 percent and shall be designed to discharge stormwater runoff.

- (1) *Pad area.* In determining the total concrete pad area for any solid waste service area:
 - (a) The pad area shall extend a minimum of 1-foot beyond the sides and rear of the receptacle.
 - (b) The pad area shall extend a minimum 3 feet beyond the front of the receptacle.
 - (c) In situations where receptacles face each other, a minimum four feet of pad area shall be required between the fronts of the facing receptacles.

Finding: The proposed plans do not indicate the pad area surrounding the trash enclosures. To ensure compliance with all of the above standards, the following condition applies:

Condition 35: At the time of building permit review, the applicant shall provide construction details for the trash enclosure indicating conformance with SRC Chapter 800.

(2) Minimum Separation.

- (a) A minimum separation of 1.5 feet shall be provided between the receptacle and the side wall of the enclosure.
- (b) A minimum separation of 5 feet shall be provided between the receptacle and any combustible walls, combustible roof eave lines, or building or structure openings.

Finding: Adequate separation distance appears to be available within the enclosure. Receptacles will not be placed within 5 feet of a building or structure. As conditioned above, conformance with this standard will be verified at the time of building permit review.

(3) Vertical Clearance.

- (a) Receptacles 2 cubic yards or less in size shall be provided with a minimum of 8 feet of unobstructed overhead or vertical clearance for servicing.
- (b) Receptacles greater than 2 cubic yards in size shall be provided with a minimum of 14 feet of unobstructed overhead or vertical clearance for servicing.

Finding: The applicant's plans do not indicate a roof for the trash enclosure. This standard is met.

SRC 800.055(c) – Permanent Drop Box and Compactor Placement Standards.

Permanent drop box and compactors shall meet the placement standards set forth in this section.

- (1) All permanent drop boxes shall be placed on a concrete pad that is a minimum of six inches thick. The pad shall have a slope of no more than one percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.
- (2) All permanent compactors shall be placed on a concrete pad that is structurally engineered or in compliance with the manufacturer specifications. The pad shall have a slope of no more than three percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.
- (3) *Pad area.* The pad area shall be a minimum of 12 feet in width. The pad area shall extend a minimum of five feet beyond the rear of the permanent drop box or compactor.
- (4) *Minimum separation.* A minimum separation of five feet shall be provided between the permanent drop box or compactor and any combustible walls, combustible roof eave lines, or building or structure openings.

Finding: The applicant's site plan indicates a trash compactor located within the trash enclosure, constructed on a six-inch reinforced concrete pad. However, the pad area does not appear to meet the minimum dimensions required. As conditioned above, conformance with this standard will be verified at the time of building permit review.

SRC 800.055(d) – Solid Waste Service Area Screening Standards.

- (1) Solid waste, recycling, and compostable service areas shall be screened from all streets abutting the property and from all abutting residentially zoned property by a minimum six-foot-tall sight-obscuring fence or wall; provided, however, where receptacles, drop boxes, and compactors are located within an enclosure, screening is not required. For the purpose of this standard, abutting property shall also include any residentially zoned property located across an alley from the property.
- (2) Existing screening at the property line shall satisfy screening requirements if it includes a six-foot-tall sight-obscuring fence or wall.

Finding: Construction details were not submitted for review. As conditioned above, the applicant shall provide construction details which include this information. Conformance with this standard will be verified at the time of building permit review.

SRC 800.055(e) – Solid Waste Service Area Enclosure Standards.

When enclosures are used for required screening or aesthetics, such enclosure shall conform to the following standards:

- (1) *Front Opening of Enclosure.* The front opening of the enclosure shall be unobstructed and shall be a minimum of 12 feet in width.

Finding: Construction details were not submitted for review. As conditioned above, the applicant shall provide construction details which include this information. Conformance with this standard will be verified at the time of building permit review.

- (2) *Measures to Prevent Damage to Enclosure.* Enclosures constructed of concrete, brick, masonry block, or similar types of material shall contain a minimum four-inch nominal high bumper curb at ground level located 12 inches inside the perimeter of the outside walls of the enclosure, or a fixed bumper rail to prevent damage from receptacle impacts.

Finding: Construction details were not submitted for review. As conditioned above, the applicant shall provide construction details which include this information. Conformance with this standard will be verified at the time of building permit review.

- (3) *Enclosure Gates.* Any gate across the front opening of an enclosure shall swing freely without obstructions. For any opening with an unobstructed width of 15 feet or greater, the gates shall open a minimum of 90 degrees. All gates shall have restrainers in the open and closed positions.

Finding: Construction details were not submitted for review. As conditioned above, the applicant shall provide construction details which include this information. Conformance with this standard will be verified at the time of building permit review.

SRC 800.055(f) – Solid Waste Service Area Vehicle Access.

- (1) *Vehicle Operation Area.* A vehicle operation area shall be provided for solid waste collection service vehicles that are free of obstructions and no less than 45 feet in length and 15 feet in width. Vehicle operation areas shall be made available in front of every receptacle.

Finding: The proposed site plan shows vehicle operation areas a minimum of 45 feet in length and 15 feet in width, perpendicular to the enclosures and extending into vehicle maneuvering areas. The proposal meets the standard.

- (A) For solid waste service areas having receptacles of two cubic yards or less, the vehicle operation area may be located:
- (i) Perpendicular to the permanent location of the receptacle or the enclosure opening (see Figure 800-8);
 - (ii) Parallel to the permanent location of the receptacle or the enclosure opening (see Figure 800-9); or
 - (iii) In a location where the receptacle can be safely maneuvered manually not more than 45 feet into a position at one end of the vehicle operation area for receptacle servicing.

Finding: The applicant has not indicated the size of the proposed trash receptacles. As conditioned above, the applicant shall provide this information with the trash enclosure details, and conformance with this standard will be verified at the time of building permit review.

- (B) The vehicle operation area may be coincident with a parking lot drive aisle, driveway, or alley provided that such area is kept free of parked vehicles and other obstructions at all times except for the normal ingress and egress of vehicles.
- (C) Vehicle operation areas shall have a minimum vertical clearance of 14 feet.
- (D) In the event that access to the vehicle operation area is not a direct approach into position for operation of the service vehicle, a turnaround, in conformance with the minimum dimension and turning radius requirements shown in Figure 800-10, shall be required to allow safe and convenient access for collection service.

Finding: The proposed site plan shows vehicle operation areas which are coincident with parking lot drive aisles which meets the minimum dimensions and turning radius for collection service. The proposal meets the standard.

SRC 800.065 – Pedestrian Access.

Except where pedestrian access standards are provided elsewhere under the UDC, all developments, other than single family, two family, three family, four family, and multiple family developments, shall include an on-site pedestrian circulation system developed in conformance with the standards in this section.

Finding: The proposal is a multiple family development; therefore, these standards are not applicable. The development standards under SRC 702 require pedestrian access and are addressed in Section 14 below. The standards of this subsection do not apply.

Off-Street Parking, Loading, and Driveways SRC 806

SRC 806.005 - Off-Street Parking; When Required.

Off-street parking shall be provided and maintained as required under SRC Chapter 806 for each proposed new use or activity.

SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.

Required off-street parking shall be located on the same development site as the use or activity it serves.

Finding: The proposal includes development of a new off-street parking area located on the same development site as the proposed building.

SRC 806.015 - Amount of Off-Street Parking.

- (a) *Minimum Required Off-Street Parking.* Unless otherwise provided under the UDC, off-street parking shall be provided in amounts not less than those set forth in Table 806-1.
- (b) *Compact Parking.* Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- (c) *Carpool and Vanpool Parking.* New developments with 60 or more required off-street parking spaces, and falling within the Public Services and Industrial use classifications, and the Business and Professional Services use category, shall designate a minimum of 5 percent of their total off-street parking spaces for carpool or vanpool parking.
- (d) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Tables 806-2A or 806-2B.

Finding: The proposal includes development of a 436-unit apartment complex requiring one parking space per dwelling unit. A minimum of 436 off-street parking spaces are required for the development site, with a maximum allowance of 763 spaces ($436 \times 1.75 = 763$). A maximum of 327 of the off-street parking spaces may be compact spaces ($436 \times .75 = 327$); the remaining spaces must be standard size spaces. Carpool/vanpool spaces are not required for a multi-family development.

The proposed site plan indicates 239 spaces provided on site will be compact spaces, meeting the minimum standard. However, the proposed development includes a total of 785 parking spaces, which exceeds the maximum allowance for parking. The applicant has requested an adjustment to increase the maximum allowed parking spaces throughout the development by 22 spaces. Findings for the adjustment are included in Section 12 of this report.

SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.

- (a) *General Applicability.* The off-street parking and vehicle use area development standards set forth in this section apply to the development of new off-street parking and vehicle use areas.
- (b) *Location.* Off-street parking and vehicle use areas shall not be located within required setbacks.
- (c) *Perimeter Setbacks and Landscaping.* Perimeter setbacks shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures.

Finding: The off-street parking and vehicle use area development standards of SRC Chapter 806 are applicable to this proposal. The proposed off-street parking area is in compliance with the minimum setback requirements of SRC Chapters 514 and 806.

Landscaping will be evaluated for compliance with the applicable standards at the time of building permit review.

(d) *Interior Landscaping.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. For parking areas less than 50,000 square feet in size, a minimum of five percent of the interior parking area shall be landscaped. A minimum of one deciduous shade tree shall be planted for every 12 parking spaces within an off-street parking area.

Finding: Pursuant to SRC 702.020(b)(8), multiple family developments with 13 or more units are exempt from the landscaping requirements in SRC chapter 806. This standard does not apply to the proposed development.

(e) *Off-Street Parking Area Dimensions.* Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6.

Finding: The proposed parking spaces, driveway and drive aisle for the off-street parking area meet the minimum dimensional requirements of SRC Chapter 806.

(f) *Off-street parking area access and maneuvering.* In order to ensure safe and convenient vehicular access and maneuvering, off-street parking areas shall:

- (1) Be designed so that vehicles enter and exit the street in a forward motion with no backing or maneuvering within the street; and
- (2) Where a drive aisle terminates at a dead-end, include a turnaround area as shown in Figure 806-9. The turnaround shall conform to the minimum dimensions set forth in Table 806-7.

Finding: The applicant's site plan indicates several off-street parking areas where the drive aisle terminates at a dead-end, and does not provide the appropriate turnaround area as shown in Figure 806-9. As such, the following condition applies:

Condition 36: At the time of building permit review, the applicant shall dedicate one parking space adjacent to each dead-end turnaround area by striping the parking space and installing no parking signs to provide safe and convenient vehicle maneuvering, pursuant to SRC 806.035(f).

(g) *Additional Off-Street Parking Development Standards 806.035(g)-(n).*

Finding: The proposed off-street parking area is developed consistent with the additional development standards for grade, surfacing, and drainage. The parking area striping, marking, signage, and lighting shall comply with SRC 806.035, and will be evaluated at the time of building permit review. Off-street parking area screening per SRC 806.035(n) is provided as part of multi-family design review and landscaping standards. Bumper guards and wheel barriers are required for the proposed vehicle use area where a portion of the vehicle will overhang or project into required landscaped setbacks or pedestrian accessways. As such, the following conditions applies:

Condition 37: At the time of building permit review, the applicant shall provide bumper guards or wheel barriers for all parking spaces adjacent to a required landscaped setback or a pedestrian walkway only five feet in width.

Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided and maintained for any intensification, expansion, or enlargement of a use or activity.

SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.

Bicycle parking shall be located on the same development site as the use or activity it serves.

SRC 806.055 - Amount of Bicycle Parking.

Unless otherwise provided under the UDC, bicycle parking shall be provided in amounts not less than those set forth in Table 806-9.

Finding: A multi-family use not located within one-quarter mile of the Core Network requires a minimum of 0.1 spaces per dwelling. For a development of 436 units, the minimum bicycle parking requirement is 44 bicycle spaces ($436 \times 0.1 = 43.6$). The applicant's written statement indicates 48 bicycle parking spaces will be provided on site. This standard is met.

SRC 806.060 – Bicycle Parking Development Standards

Unless otherwise provided under the UDC, bicycle parking areas shall be developed and maintained as set forth in this section.

- (a) *Location.* Short-term bicycle parking areas shall be located within a convenient distance of, and shall be clearly visible from, the primary building entrance. In no event shall bicycle parking areas be located more than 50 feet from the primary building entrance.
- (b) *Access.* Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance.
- (c) *Dimensions.* Bicycle parking spaces shall be a minimum of 6 feet by 2 feet, and shall be served by a minimum 4-foot-wide access aisle.
- (d) *Surfacing.* Where bicycle parking is located outside a building, the bicycle parking area shall consist of a hard surface material, such as concrete, asphalt pavement, pavers, or similar material, meeting the Public Works Design Standards.
- (e) *Bicycle Racks.* Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall meet the following standards:
 - (1) Racks must support the bicycle frame in a stable position, in two or more places a minimum of six inches horizontally apart, without damage to wheels, frame, or components.
 - (2) Racks must allow the bicycle frame and at least one wheel to be locked to the rack with a high security, U-shaped shackle lock;
 - (3) Racks shall be of a material that resists cutting, rusting, and bending or deformation; and
 - (4) Racks shall be securely anchored.
 - (5) Examples of types of bicycle racks that do, and do not, meet these standards are shown in Figure 806-10.

Finding: The applicant's site plan shows short-term bicycle parking areas located outside of buildings throughout the development site, meeting the location and access standards. However, bike rack details were not provided to verify conformance with the required

dimensions. In addition, the bike rack design provided does not meet design standards of this chapter. As such, the following condition applies:

Condition 38: At the time of building permit review, the applicant shall provide construction details for the bicycle racks indicating conformance with SRC 806.060.

Further conformance with these standards will be evaluated at the time of building permit review.

Off-Street Loading Areas

SRC 806.065 - General Applicability.

Off-street loading areas shall be provided and maintained for each proposed new use or activity; any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity; or any intensification, expansion, or enlargement of a use or activity.

SRC 806.070 – Proximity of Off-Street Loading Areas to Use or Activity Served.

Off-street loading shall be located on the same development site as the use or activity it serves.

SRC 806.075 - Amount of Off-Street Loading.

Unless otherwise provided under the UDC, off-street loading shall be provided in amounts and dimensions not less than those set forth in Table 806-11.

Finding: Three off-street loading spaces are required for multiple family development of 200 or more dwelling units, meeting the dimensions of 12 feet by 19 feet. The applicant's plans and written statement indicate three loading areas meeting the minimum dimensions located near activity areas within the site. This standard is met.

Landscaping

SRC 807 – Landscape and Screening: All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

Finding: The applicant submitted a landscape plan with the original application submittal materials; however, the site plan configuration changed during review of the application, and an updated landscape plan was not submitted. As such, the following condition applies:

Condition 39: At the time of building permit review, the applicant shall provide an updated, full landscape plan demonstrating how the development site meets Type A or Type C landscaping, where applicable, as well as all

multi-family landscaping requirements, by providing a summary table demonstrating conformance with the landscaping requirements of SRC Chapter 807 and SRC 702.020(b).

The original landscape plan submitted indicates approximately 141,118 square feet of landscaped area located within required setbacks, requiring a minimum of 7,056 plant units ($141,118 / 20 = 7,055.9$). Of the required plant units, a minimum of 2,822 plant units shall be trees ($7,056 \times 0.4 = 2,822.4$). The applicant's preliminary landscaping plan shows the areas which are to be landscaped, but does not indicate the plant units provided on site to demonstrate conformance with the landscape standards. With the condition above in place, landscape and irrigation plans will be reviewed again for conformance with the requirements of SRC Chapters 807 and 702 at the time of building permit application review.

In addition to the landscaping required under this chapter, when existing trees, as defined under SRC Chapter 808, are proposed for removal from within required setbacks or from a development site in excess of 75 percent, replanting shall be required as provided in this subsection, pursuant to SRC 807.015(d). The applicant has submitted a tree inventory for the development site which indicates several trees existing on site that are located within required setbacks and do not fall within areas to be cleared for required roads, utilities, sidewalks, trails, or stormwater facilities. The applicant has proposed removal of several trees within setbacks, as well as a number of trees that may exceed 75 percent of trees on the development site. However, as conditioned throughout this report, the applicant is to revise areas and submit an updated tree plan and landscaping plan. As such, the applicant shall indicate on their updated plans the number of significant and non-significant trees located with setbacks proposed for removal, as well as a total number of trees to be removed on site. To ensure that trees are planted to meet the replacement ratio and size requirements of this subsection, the following condition applies:

Condition 40: The applicant's updated plans shall provide two trees for each tree removed within a required setback and each tree removed in excess of 75 percent of the development site, if applicable, to meet the tree replanting requirement. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5-inch caliper.

SRC Chapter 808 – Preservation of Trees and Vegetation: The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove the following trees unless undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

1. Heritage Trees;
2. Significant Trees (including Oregon White Oaks with diameter-at-breast-height (*dbh*) of 20 inches or greater and any other tree with a *dbh* of 30 inches or greater, with the exception of tree of heaven, empress tree, black cottonwood, and black locust);
3. Trees and native vegetation in riparian corridors; and
4. Trees on lots or parcels 20,000 square feet or greater.

The tree preservation ordinance defines “tree” as, “any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves.”

Finding: The applicant has proposed removal of 46 significant trees on site which are not excepted under SRC 808.030(a)(2), and do not meet the criteria for a tree removal permit under SRC 808.030(d); therefore, an application for a Tree Regulation Variance has been submitted pursuant to SRC 808.045. Findings for the Tree Regulation Variance can be found in Section 13 of this report.

With completion of the conditions above, the subject property meets all applicable standards of these chapters of the UDC: *SRC 802 – Public Improvements, SRC 803 – Streets and Right-of-Way Improvements, SRC 804 – Driveway Approaches, SRC 805 – Vision Clearance, SRC 809 – Wetlands, and SRC 810 – Landslides.* This criterion is met.

SRC 220.005(f)(3)(B): The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

Finding: Recommended improvements to the transportation system are discussed in the preceding analysis. With the recommended conditions of approval for the proposed subdivision, this criterion is met. Staff recommends that the subdivisions conditions be satisfied before building permits are issued, as transportation improvements are conditioned on the subdivisions application to serve the proposed development. As such, the following condition applies:

Condition 41: Prior to issuance of any building permits, the final plat for the Titan Hill Subdivision shall be recorded.

SRC 220.005(f)(3)(C): Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

Finding: The proposal includes multiple driveways to be constructed on the new internal streets of the subdivision. The proposed driveway accesses provide for safe turning movements into and out of the property. Pursuant to SRC 804.015(b)(2), a driveway approach permit is not required when the driveways are constructed as part of a publicly or privately engineered public improvement project. If the driveways are not reviewed and approved on the Public Construction plans for the new internal streets, and not constructed with the new internal streets, the applicant shall be required to obtain a Class Two Driveway Approach Permit.

Condition 42: Submit a Driveway Approach Permit application if the driveways onto the new internal streets are not installed as part of the construction of the new internal street.

SRC 220.005(f)(3)(D): The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

Finding: The subject property is located outside of the Urban Service Area, and therefore; an Urban Growth Preliminary Declaration has been required. As conditioned, the proposed development is designed to accommodate required on-site and off-site improvements. Staff recommends that the subdivision conditions be satisfied before building permits are issued, as utility infrastructure improvements are conditioned on the subdivisions application to serve the proposed development.

The Public Works Department has reviewed the applicant's preliminary plan for the development site. The water and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development. As summarized in the conditions of approval, public sanitary sewer service is not available to serve the subject property and must be extended in Doaks Ferry Road NW prior to connection.

The applicant's engineer submitted a statement demonstrating compliance with Stormwater PWDS Appendix 004-E(4) and SRC Chapter 71. The preliminary stormwater design demonstrates the use of green stormwater infrastructure to the maximum extent feasible.

Condition 43: Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

The applicant shall design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director. The applicant is advised that a sewer monitoring manhole may be required, and the trash area shall be designed in compliance with Public Works Standards.

8. Analysis of Class 2 Adjustment Criteria

Salem Revised Code (SRC) 250.005(d)(2) provides that an application for a Class 2 Adjustment shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

SRC 250.005(d)(2)(A): The purpose underlying the specific development standard proposed for adjustment is:

- (i) Clearly inapplicable to the proposed development; or***
- (ii) Equally or better met by the proposed development.***

Finding: The applicant is requesting four Class 2 Adjustments to:

- (1) Increase the maximum height allowed for an accessory structure from 15 feet to 22 feet (SRC 514.010);
- (2) Eliminate the requirement to orient buildings toward the street with direct pedestrian access to adjacent sidewalks (SRC 702.020(e)(5));
- (3) Reduce the minimum 40 percent buildable width requirement at varying percentages along Doaks Ferry Rd NW, Landaggard Dr NW, and "Street A" (SRC 702.020(e)(4)); and

- (4) Increase the maximum allowed parking spaces throughout the development by 22 spaces (SRC 806.015(e)).

Increase the maximum height allowed for an accessory structure from 15 feet to 22 feet (SRC 514.010).

The applicant requested an adjustment to the maximum height for the Community Club House building provided for use of the residents, which is considered an accessory structure of the development site. The general purpose of the height standard of accessory structures is to provide limitations for structures not within the primary use of the development site, and to ensure that ancillary uses do not significantly impact surrounding residential uses.

The proposed club house building is located centrally within the subject property, with an average height of 22 feet, exceeding the 15-foot limitation by 7 feet. The proposal includes development of 31 multi-family buildings, with an average height of 35 feet, constructed throughout the development site and surrounding the club house building. The applicant indicates that the request to increase the height of the club house is to accommodate a design that includes high ceilings, tall windows, dormer windows in the roof design, and provides an open and welcoming environment for the residents to enjoy. Furthermore, the club house building design blends with the architecture of the surrounding residential buildings, and the increased building height provides a consistent design and visual flow with the rest of the buildings in the development site.

Council agrees the design of the community building provides a consistent and cohesive development, and that potential impacts for the increased height of the community building are mitigated by its central location within the development and adequate separation to surrounding properties.

Eliminate the requirement to orient buildings toward the street with direct pedestrian access to adjacent sidewalks (SRC 702.020(e)(5)).

The purpose of this design standard is to provide a pedestrian friendly development with buildings oriented outward towards the street providing direct pedestrian access from ground floor units to the abutting sidewalk. In some areas of the development site, there are physical limitations identified on the property that would cause a difficulty to provide individual pedestrian access points for ground level units. For instance, this adjustment is necessary for the Buildings 1 through 3, 29, and 30 along Doaks Ferry Road to the east. Doaks Ferry Road NW is a major arterial street, and the applicant has identified the area abutting the street to be the best location for storm water facilities on site where there is a change in grade of approximately 22 feet. The adjustment is warranted in this case given the requirement to provide adequate storm water facilities. The applicant has provided a single pedestrian connection to "Street A" near the intersection of Doaks Ferry Road and Building 30 to equally meet the intent of providing pedestrian friendly access to all abutting streets. However, a similar connection is missing across "Street A" near Building 1 to provide access for pedestrians residing in the units abutting Doaks Ferry Road; therefore, the following condition shall apply:

Condition 44: The applicant shall provide a pedestrian connection proposed west of the parking lot adjacent to Building 1 to the east side of the parking lot,

providing access near Building 1 for pedestrians in the east buildings to “Street A”.

For some areas located along Landaggard Drive and “Street A”, the topography of the site provides areas of steep grade that presents a difficulty in providing pedestrian connections to the street, particularly along the south side of “Street A” and the extension of Landaggard Drive up to where it connects to “Street A”. In this case, Council finds that Buildings 1 and 30 (which have frontage on both Doaks Ferry Road and “Street A”), and Buildings 32 through 34 along “Street A” warrant the adjustment to the standard to provide direct pedestrian access for the ground floor units of these buildings.

Furthermore, the applicant has provided alternative pedestrian accessways, located east of Building 33 and another west of Building 34, connecting with multiple pedestrian pathways throughout the south side of “Street A”, equally meeting the intent to provide a pedestrian friendly development. In addition, the applicant indicates all buildings have similar façades on all sides, with no distinguishable back of the building, ensuring that the buildings will still appear to be facing the streets.

Similarly, Buildings 21, 22, 24, and 25 along Landaggard Drive NW appear to warrant the adjustment as well due to significant inclines in grade along this portion of the street. The applicant has provided one connection on the east side of Landaggard adjacent to Building 25 which also connects the street with the rest of the development site and equally meets the intent of providing a pedestrian friendly development. However, the only pedestrian connection provided on the west side of Landaggard is from Building 19. In addition, the applicant has not addressed the approval criteria for eliminating the connection to these buildings. As such, the applicant shall provide one additional pedestrian connection adjacent to a building or parking lot to meet the intent of a pedestrian friendly development.

Condition 45: An additional pedestrian connection shall be provided along the west side of Landaggard Drive NW adjacent to Building 21 or 22.

In addition, the applicant’s plan includes several other buildings that are not providing the required pedestrian connection where there do not appear to be site constraints preventing them from doing so. For instance, there are no physical limitations identified on the north side of “Street A” that would cause difficulty to provide individual pedestrian access points for ground level units in Buildings 5 through 8 to the public sidewalk. In fact, the applicant is already providing ground floor pedestrian access from proposed Building 4 and Building 9 to “Street A”. Similarly, there are no physical limitations to provide individual pedestrian access points for ground level units in Buildings 12 through 14 to the public sidewalk on Landaggard Drive NW, and the applicant has not addressed the approval criteria for the connection to these buildings. Council finds that this development standard can be met with the proposed development and the applicant has not demonstrated that removing the direct pedestrian access requirement for these buildings equally or better meets the intent of the code; therefore, the adjustment request for buildings 5-8 and 12-14 is denied and the following conditions apply:

Condition 46: Proposed Buildings 5-8 shall comply with the direct pedestrian access standard of SRC 702.020(e)(5) along the north side of “Street A”.

Condition 47: Proposed Buildings 12-14 shall comply with the direct pedestrian access standard of SRC 702.020(e)(5) along Landaggard Drive NW.

Reduce the minimum 40 percent buildable width requirement at varying percentages along Doaks Ferry Rd NW, Landaggard Dr NW, and "Street A" (SRC 702.020(e)(4)).

On sites with 75 feet or more of buildable width, a minimum of 40 percent of the buildable width shall be occupied by buildings placed at the setback line to enhance visual interest and activity along the street. As described in the finding above, there are site constraints and physical limitations identified on the property that would cause difficulty to provide individual pedestrian access points for ground level units. Similarly, the same site constraints and topography of the site make it difficult to place all buildings along the setback line abutting all streets. In addition, because of the difficulty to provide pedestrian connections from the ground floor units to the streets, many buildings are oriented towards parking lots areas to provide convenient and safe pedestrian access for the development site.

Along the south side of "Street A", between Doaks Ferry Road NW and the intersection with Landaggard Drive NW, only 28 percent of the buildings are placed at the setback line because there are two driveway accesses to parking lots, and four pedestrian connections provided, where the design of these accesses take up space along the setback line due to the grading and topography of the site. Approximately 13 percent of building frontage is provided along the south side of "Street A", west of the intersection with Landaggard Drive NW, and approximately 29 percent is provided along the south side of Landaggard Drive NW, north of the intersection with "Street A". Both to these street segments include corners of the development created by the intersection of "Street A" and Landaggard Drive NW, where buildings are placed along the adjacent street frontage, but prove difficult to be placed at the setback line along both street frontages for corner buildings.

Along the east side of Landaggard Drive NW, south of the intersection with "Street A", approximately 35 percent of building frontage is provided, not including the Community Club House serving the development located along this frontage. Pursuant to SRC 702.020(e)(4), accessory structures shall not apply towards meeting the required buildable width percentage; however, the applicant would meet the standard along this street with inclusion of the building. Lastly, there is no building frontage provided along Doaks Ferry Road NW, where the applicant has identified the area abutting the street to be the best location for storm water facilities on site where there is a change in grade of approximately 22 feet.

Council finds that the applicant's plans equally meet the intent to enhance activity along the street by providing pedestrian connections, driveway access, and a community club house building along street frontages where the topography of the site presents challenges to provide all buildings at the setback line. In addition, the applicant indicates that the building frontages provided along streets incorporate visually appealing design and architectural features, and landscaping will be included along the frontage areas to equally meet the intent of enhancing visual interest along the street.

Increase the maximum allowed parking spaces throughout the development by 19 spaces (SRC 806.015(e)).

The applicant is requesting an adjustment to increase the number of parking spaces beyond the maximum allowed parking of 763 spaces, which is 1.75 times more than the minimum required parking for the site, to 785 parking spaces proposed. The applicant cites the need for more parking for apartments with more bedrooms as was previously allowed in past code amendments, and to have ample parking to ensure that the parking will not bleed out to the surrounding neighborhoods. However, as approved with the alternative street standards described above, widening of the local streets and construction of "Street A" to Type B Collector Street standards will provide ample parking along the internal streets of the development. In addition, the direction of the City and the State is to provide less parking and more opportunities for use of pedestrian, bike, and public transportation to reduce greenhouse gas emissions, as outlined in the City's Climate Action Plan. Efforts are underway to update the City's Transportation System Plan and address new State requirements under the Climate-Friendly and Equitable Communities (CFEC) rulemaking. Additionally, Condition 13 requires the applicant to work with Cherriots to provide a new bus stop location along Doaks Ferry Road providing residents with direct access to public transportation, where an increased use of public transit will require less overall parking. That applicant has not demonstrated how providing more parking than allowed will equally or better meet the intent of a maximum parking requirement.

Lastly, the applicant's plans propose parking lots in close proximity to significant trees and trees along property lines that could otherwise be saved without grading of the site to accommodate parking. Analysis of the Tree Removal Variance in Section 13 below finds that removal of excess parking does not render the development unusable or create an unreasonable hardship, and the development is still able to provide a maximum of 763 parking spaces while saving significant trees on site. Council finds that this development standard can be met with the proposed development and the applicant has not demonstrated that removing the direct pedestrian access requirement equally or better meets the intent of the code; therefore, the request to increase the maximum allowed parking for the site by 22 spaces is denied. As such, the following conditions apply:

Condition 48: The applicant shall remove parking spaces in excess of the maximum allowed parking of 763 spaces.

Condition 49: The parking lots near Buildings 3 and 6 shall be shortened and/or reconfigured to ensure survival of trees conditioned for preservation.

SRC 250.005(d)(2)(B): If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

Finding: The subject property is located within a residential zone. Council finds that the addition of 22 parking spaces in excess of the maximum allowance will have a significant impact on the surrounding trees and appearance of the residential area, and is thereby denying the request. With this denial, the development, as conditioned, will not detract from the livability or appearance of the residential area. This criterion is met.

SRC 250.005(d)(2)(C): If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Finding: Four separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. Council is denying the request to increase parking beyond the maximum allowed parking by 22 spaces, and has imposed conditions for additional adjustment requests that results in a project which is still consistent with the overall purpose of the zone.

As conditioned, the cumulative impact of the adjustments results in a project which is overall consistent with the intent and purpose of the zoning code. Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

Condition 50: The adjusted development standards, as approved in this report, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development standards of the Unified Development Code, unless adjusted through a future land use action.

9. Analysis of Tree Removal Variance Approval Criteria

Salem Revised Code (SRC) 808.045(d) sets forth the following criteria that must be met before approval can be granted to a request for a Tree Regulation Variance. In this case, the applicant has requested to address the hardship criteria in SRC 808.045(d)(1).

SRC 808.045(d)(1)(a): There are special conditions that apply to the property which create unreasonable hardships or practical difficulties which can be most effectively relieved by a variance.

Finding: The applicant submitted a tree plan (**Attachment G**) in conjunction with the proposal identifying a total of 75 significant trees (Oregon White Oak greater than 20 inches in diameter-at-breast height (dbh), or any other tree with a dbh of 30 inches or greater) on the property. In the written statement for the Tree Variance, the applicant requests to remove 44 significant trees due to their locations severely limiting the development of the site. On review of the tree plan submitted, staff found an additional two significant trees proposed for removal, but not addressed with the applicant's request. In addition, several trees proposed for removal appear to be located on property lines or on an adjacent property, and several comments and pictures submitted from surrounding neighbors suggest the applicant's tree plan submitted with the project is not an accurate representation of the existing trees on site. Because of the neighborhood concerns and the fact that not all trees proposed for removal were addressed in the applicant's written statement, the following conditions apply:

Condition 51: At the time of grading permit review, the applicant shall submit an updated tree inventory plan representing all conditions of approval for

tree preservation or removal, and verification of trees located on property lines, including the critical root zone and protection measures of all trees on site and directly abutting the property in compliance with Chapter 808.

Condition 52: The two 32-inch Fir trees labeled 45 and 46 near the northern property line shall be preserved, until such time that a Tree Variance application can be approved for their removal.

Additionally, near the northern property line, the applicant's plans indicate preservation of a 30-inch Oak tree where a row of eight storage units are proposed to be constructed within the critical root zone; two non-significant Oak trees (13-inch and 16-inch dbh) designated for preservation abutting parking where the grading appears to affect the critical root zones; as well as a 36-inch Oak tree and 20-inch Fir tree designated for preservation where Building 14 encroaches into their critical root zones. The applicant may submit an arborist report documenting that disturbance up to a maximum of 30 percent of the critical root zone will not compromise the long-term health and stability of the tree, and all recommendations included in the report to minimize any impacts to the tree are followed. If the arborist report cannot be provided to ensure the health of the trees, then the applicant shall revise their plans to remove any unnecessary parking or storage units, or the applicant shall submit a Tree Variance application for removal of additional significant trees.

However, Council finds preservation of the 30-inch Oak tree adjacent to the storage units would only limit the development of the storage area, which is not considered a requirement of multi-family housing development under the Salem Revised Code. The development is still able to provide 436 units with all required amenities and open space, and an additional eight storage units does not render the development unusable or create an unreasonable hardship. As such, the following conditions apply:

Condition 53: The 30-inch Oak tree along the northern property line shall be preserved.

Condition 54: All trees designated for preservation shall have protective ground silt fencing encompassing 100-percent of their critical root zones. For all trees where construction is proposed within the critical root zone, the applicant shall either submit an arborist report documenting that disturbance up to a maximum of 30 percent of the critical root zone will not compromise the long-term health and stability of the tree; revise the plans to ensure the survival of the tree designated for preservation; or obtain approval of a new Tree Variance for additional removal of a significant tree.

Similarly, Council finds that there are several trees requested for removal adjacent to proposed parking lots that do not meet the criteria for hardship, as the applicant has requested an adjustment to increase the maximum allowed parking for the site; therefore, the site is able to be developed without the removal of these trees should the applicant provide only the minimum amount of parking required. The development is still able to provide a maximum of 763 parking spaces; therefore, removal of excess parking does

not render the development unusable or create an unreasonable hardship. As such, the following conditions apply:

Condition 55: Significant trees 35 and 36, two 30-inch Fir trees, adjacent to the parking lot near Building 3 shall be preserved. All other non-significant Fir and Maple trees in the vicinity of this parking lot shall also be preserved.

Condition 56: Significant trees 38 and 39, a 30-inch Madrona and 36-inch Oak, adjacent to the parking lot near Building 6 shall be preserved. All other non-significant Oak and Fir trees in the vicinity of this parking lot shall also be preserved.

Under SRC 808.020(d)(5), a typical tree removal permit could be granted where removal of the significant tree is necessary for the construction of a development other than single family, two family, three family, four family, or cottage cluster, and there are no reasonable design alternatives that would enable preservation of the tree. Factors including existing or planned street alignment, boundary improvements, proposed utilities, or site topography where severe grading of the critical root zone would occur in order to comply with maximum street or intersection grades, fire department access requirements, or ADA accessibility standards would satisfy the criteria for removal. In consideration of what would be allowed for similar multi-family developments, Council finds the location of the remaining 40 trees requested for removal meet the one of these criteria for removal. Removal of the remaining 40 trees on site are due to the location of trees well within the interior of the development site affected by substantial grading, or within areas dedicated for streets or stormwater facilities, which would interfere with providing the necessary infrastructure to meet standards. There are no other options to provide the required street connections or stormwater facilities on site due to site topography.

However, there are two significant trees designated for preservation at the northeast corner of the development, one 24-inch and one 30-inch Oak tree. Because of the street realignment required for "Street C", per Condition 22 above, these trees shall also be approved for removal with the Variance request for their location within existing or planned street alignment.

Council has conditioned preservation of six significant trees, while allowing removal of an additional two significant trees to accommodate a street realignment and allowing removal of 42 significant trees on site as indicated on the attached tree plan. Council finds that there are special conditions that apply to the property, as discussed throughout this report, where retaining the trees creates an unreasonable hardship that can most effectively be relieved by approval of the variance. As conditioned, the proposal meets this criterion.

Applicant's oral and written testimony demonstrates compliance with these conditions are feasible, and as conditioned, the proposal complies with the applicable standards and criteria.

SRC 808.045(d)(1)(b): The proposed variance is the minimum necessary to allow the otherwise lawful proposed development of activity.

Finding: No other options exist to provide the required street connections or stormwater facility on site. While all removed trees were considered, the impact of preservation of additional trees must be considered as a whole. Shifting roads and buildings create additional unintended impacts. The Applicant provided credible evidence that further modifications would result in reduction in the number of dwellings units provided. Reduction in the available dwelling units would not only exacerbate the housing crisis, it would significantly increase the cost and delay of the proposal as a whole. The conditions above limit the number of significant trees removed on site to 42 instead of the requested 46 trees, which is the minimum necessary to allow for the lawful development of the subject property. Therefore, this criterion is met

10. Analysis of Class 1 Design Review Approval Criteria

SRC 225.005 provides that design review approval is required for development applications that are subject to design review standards and guidelines. A Class 1 design review shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

SRC 225.005(e): A Class 1 design review shall be approved if all of the applicable design review standards are met.

Finding: SRC 514.015(a) provides that multiple family development within the RM-II zone shall be subject to design review according to the multiple family design review standards set forth in SRC Chapter 702. The proposed development conforms to SRC Chapter 702 as stated below.

Development Standards – Multiple Family Design Review Standards SRC 702

SRC 702.020 – Design Review Standards for Multiple Family Development with Thirteen or More Units.

SRC 702.020(a) – Open Space Standards.

(1) To encourage the preservation of natural open qualities that may exist on a site and to provide opportunities for active and passive recreation, all newly constructed multiple family developments shall provide a minimum 30 percent of the gross site area in designated and permanently reserved open space. For the purposes of this subsection, the term "newly constructed multiple family developments" shall not include multiple family developments created through only construction or improvements to the interior of an existing building(s). Indoor or covered recreation space may count toward this open space requirement.

Finding: The proposed development occurs on a portion of the subject property that is approximately 24.8 acres in size (1,080,288 square feet), requiring a minimum of 324,086 square feet ($1,080,288 \times 0.3 = 324,086.4$) of common open space, including indoor or covered recreation space. The applicant's open space plan indicates that 396,510 square feet (approximately 36 percent of the site area) of open space is provided for this development site, exceeding the minimum open space requirement.

(A) To ensure usable open space that is of sufficient size, at least one common open space area shall be provided that meets the size and dimension standards set forth in Table 702-3.

TABLE 702-3. COMMON OPEN SPACE AREA SIZE AND DIMENSIONS		
Number of Dwelling Units	Minimum Open Space Area Size	Minimum Horizontal Dimension
More than 20	1,000 sq. ft., plus an additional 250 sq. ft. for every 20 units, or portion thereof, over 20 units.	25 ft.

Finding: For a development with 436 dwelling units, at least one common open space shall be provided which is a minimum of 6,250 square feet in size, with a minimum horizontal dimension of 25 feet. The proposed site plan shows a common open space central to the development site that includes a clubhouse, pool, basketball court, covered pavilion, and a children’s playground. The clubhouse and pool area total one contiguous area of approximately 10,000 square feet, and the playground, basketball court, and pavilion provide a second contiguous area of approximately 7,000 square feet, exceeding the minimum standard in two areas. The proposal meets the standard.

(B) To ensure the provided open space is usable, a maximum of 15 percent of the common open space shall be located on land with slopes greater than 25 percent.

Finding: The applicant’s written statement does not fully address this standard, and the applicant’s grading plan indicate areas within landscaped setbacks that appear to have slopes greater than 25 percent, which have been counted towards the required open space square footage. However, the applicant has indicated that approximately 36 percent of open space is being provided for the development site, exceeding the minimum 30 percent by 72,424 square feet. The applicant will likely meet the open space requirement without inclusion of the sloped areas, or has areas on site where an additional amenity can be provided to count as double towards the requirement. However, like the landscape plan submitted, a revised open space plan was not submitted when changes to the development site occurred during review of the application. Therefore, to ensure conformance with this standard and the open space requirements, the following condition applies:

Condition 57: At the time of building permit review, the applicant shall provide an updated open space plan, including a summary table demonstrating conformance with the minimum private and common open space requirements under SRC 702.020(a).

(C) To allow for a mix of different types of open space areas and flexibility in site design, private open space, meeting the size and dimension standards set forth in Table 702-4, may count toward the open space requirement. All private open space must meet the size and dimension standards set forth in Table 702-4.

TABLE 702-4. PRIVATE OPEN SPACE SIZE AND DIMENSIONS		
Location of Dwelling Unit	Minimum Open Space Area Size	Minimum Dimension
Not more than 5 feet above finished grade	96 sq. ft.	6 ft.
More than 5 feet above finished grade	48 sq. ft.	6 ft.

Finding: The applicant’s development plans show ground-level private patio spaces with dimensions meeting the standards. However, not all patios meet the minimum dimensions exclusive of the storage rooms provided on the patio or balcony. As such, the following condition applies:

Condition 58: At the time of building permit review, the applicant shall demonstrate that any private open space patio or balcony provided for the development meets the respective minimum dimensions exclusive of any proposed storage room, or obtain approval of a Zoning Adjustment.

(D) To ensure a mix of private and common open space in larger developments, private open space, meeting the size and dimension standards set forth in Table 702-4, shall be provided for a minimum of 20 percent of the dwelling units in all newly constructed multiple family developments with 20 or more dwelling units. Private open space shall be located contiguous to the dwelling unit, with direct access to the private open space provided through a doorway.

Finding: The proposed development includes 436 dwelling units, requiring a minimum of 87 units with private open space ($436 \times .2 = 87.2$). All units have a ground-floor patio, exceeding the minimum requirement. As conditioned above, conformance with the minimum dimensions for the private open space provided will be verified at the time of building permit review.

(E) To encourage active recreational opportunities for residents, the square footage of an improved open space area may be counted twice toward the total amount of required open space, provided each such area meets the standards set forth in this subsection. Example: a 750-square-foot improved open space area may count as 1,500 square feet toward the open space requirement.

- (i) Be a minimum 750 square feet in size with a minimum dimension of 25 feet for all sides; and
- (ii) Include at least one of the following types of features:
 - a. Covered pavilion.
 - b. Ornamental or food garden.
 - c. Developed and equipped children's play area, with a minimum 30-inch-tall fence to separate the children's play area from any parking lot, drive aisle, or street.
 - d. Sports area or court (e.g., tennis, handball, volleyball, basketball, soccer).
 - e. Swimming pool or wading pool.

Finding: The applicant is proposing to improve a public open space with a clubhouse and pool area of approximately 10,000 square feet, and a basketball

court, covered pavilion, and a children's playground of approximately 7,000 square feet. This standard allows both of the improved open spaces to be counted as double, totaling approximately 34,000 square feet of open space.

(F) To encourage proximity to and use of public parks, the total amount of required open space may be reduced by 50 percent for developments that are located within one-quarter mile of a public urban, community, or neighborhood park as measured along a route utilizing public or private streets that are existing or will be constructed with the development.

Finding: The subject property is not located within one-quarter mile of a publicly owned park; therefore, a reduction is not warranted.

SRC 702.020(b) – Landscaping Standards.

(1) To encourage the preservation of trees and maintain or increase tree canopy, a minimum of one tree shall be planted or preserved for every 2,000 square feet of gross site area.

Finding: The subject property has a gross site area of approximately 1,080,288 square feet, requiring a minimum of 540 trees to be planted or preserved on site ($1,080,288 / 2,000 = 539.93$). The applicant's development plans show 457 trees to be planted on site, with approximately 90 trees preserved, meeting the minimum standard by providing approximately 547 trees. Per Condition 39 above, the applicant is to revise and submit an updated landscape plan and tree plan, and conformance with landscaping requirements will be reviewed again at the time of building permit.

(2) Where a development site abuts property that is zoned Residential Agricultural (RA) or Single Family Residential (RS), a combination of landscaping and screening shall be provided to buffer between the multiple family development and the abutting RA or RS zoned property. The landscaping and screening shall include the following:

- (A) A minimum of one tree, not less than 1.5 inches in caliper, for every 30 linear feet of abutting property width; and
- (B) A minimum six-foot tall, decorative, sight-obscuring fence or wall. The fence or wall shall be constructed of materials commonly used in the construction of fences and walls, such as wood, stone, rock, brick, or other durable materials. Chain link fencing with slats shall be not allowed to satisfy this standard.

Finding: The subject property abuts RA-zoned property to the north, northeast, west, and small portions to the south and southwest. The total shared boundary length of development site abutting the RA-zoned property is approximately 2,565 feet, requiring a minimum of 86 trees planted adjacent to these property lines ($2,565 / 30 = 85.5$). The applicant's landscape plans do not currently meet this standard. Per Condition 39 above, the applicant is to revise and submit an updated landscape plan and tree plan, and conformance with landscaping requirements will be reviewed again at the time of building permit.

(3) To define and accentuate primary entryways, a minimum of two plant units, shall be provided adjacent to the primary entryway of each dwelling unit, or combination of dwelling units.

Finding: The applicant has provided a preliminary landscaping plan which indicates a minimum of two plant units are provided adjacent to the primary entryway of each ground-level dwelling unit. Final landscape plans will be reviewed for conformance with this standard at the time of development.

- (4) To soften the visual impact of buildings and create residential character, new trees shall be planted, or existing trees shall be preserved, at a minimum density of ten plant units per 60 linear feet of exterior building wall. Such trees shall be located not more than 25 feet from the edge of the building footprint.

Finding: The applicant's preliminary landscape indicates the linear of the 31 buildings proposed on site, with the corresponding trees required per building. The applicant's preliminary plans show adherence with this standard. Final landscape plans will be reviewed for conformance with this standard at the time of development.

- (5) Shrubs shall be distributed around the perimeter of buildings at a minimum density of one plant unit per 15 linear feet of exterior building wall.

Finding: The applicant's preliminary landscape indicates the linear of the 31 buildings proposed on site, with the corresponding shrubs required per building. The applicant's preliminary plans show adherence with this standard. Final landscape plans will be reviewed for conformance with this standard at the time of development.

- (6) To ensure the privacy of dwelling units, ground level private open space shall be physically and visually separated from common open space with perimeter landscaping or perimeter fencing.

Finding: The applicant's written statement indicates that all ground level private open space areas will be screened with five-foot-high landscaping. Final landscape plans will be reviewed for conformance with this standard at the time of development.

- (7) To provide protection from winter wind and summer sun and to ensure trees are distributed throughout a site and along parking areas, a minimum of one canopy tree shall be planted along every 50 feet of the perimeter of parking areas. Trunks of the trees shall be located within ten feet of the edge of the parking area (see Figure 702-3).

Finding: There are several off-street parking areas provided on site which appear to meet the minimum 50-foot perimeter standard on the applicant's preliminary plans. Final landscape plans will be reviewed for conformance with this standard at the time of development.

- (A) A minimum of one canopy tree shall be planted within each planter bay.
(B) A landscaped planter bay a minimum of nine feet in width shall be provided at a minimum spacing of one for every 12 spaces. (See Figure 702-3.)

Finding: The applicant's preliminary landscape plans show a planter bay meeting every 12 parking spaces throughout the development site, with a tree planter in each planter bay. However, several of the planter bays appear to only be six feet in width. As such, the following condition applies:

Condition 59: At the time of building permit review, the applicant shall ensure that all landscaped planter bays meet the minimum nine feet in width, as measured from inside-of-curb to inside-of-curb.

(8) Multiple family developments with 13 or more units are exempt from the landscaping requirements in SRC chapter 806.

SRC 702.020(c) – Site Safety and Security.

(1) Windows shall be provided in all habitable rooms, other than bathrooms, on each wall that faces common open space, parking areas, and pedestrian paths to encourage visual surveillance of such areas and minimize the appearance of building bulk.

Finding: The applicant has indicated that all habitable rooms that face common open space, parking areas, and pedestrian paths will have windows. The elevations submitted appear to show adherence to the standard.

(2) Lighting shall be provided that illuminates all exterior dwelling unit entrances, parking areas, and pedestrian paths within the development to enhance visibility and resident safety.

Finding: The applicant's development plans show a lighting system throughout the site which adequately illuminates the development in accordance with this standard.

(3) Fences, walls, and plant materials shall not be installed between street-facing dwelling units and public or private streets in locations that obstruct the visibility of dwelling unit entrances from the street. For purposes of this standard, the term "obstructed visibility" means the entry is not in view from the street along one-half or more of the dwelling unit's frontage.

Finding: The applicant's proposed development plans do not show obstructed visibility between street-facing dwelling units and adjacent streets. The proposal meets the standard.

(4) Landscaping and fencing adjacent to common open space, parking areas, and dwelling unit entryways shall be limited to a maximum height of three feet to encourage visual surveillance of such areas.

Finding: The applicant's written statement indicates all landscaping adjacent to common open space, parking areas, and dwelling unit entryways will not exceed three feet in height. The proposal meets the standard.

SRC 702.020(d) – Parking and Site Design.

(1) To minimize large expanses of continuous pavement, parking areas greater than 6,700 square feet in area shall be physically and visually separated with landscaped planter bays that are a minimum of nine feet in width. Individual parking areas may be connected by an aisle or driveway (see Figure 702-3).

Finding: The applicant's preliminary landscape plans show a planter bay meeting every 12 parking spaces throughout the development site, with a tree planter in each

planter bay. As conditioned above, ensure that all landscaped planter bays meet the minimum nine feet in width, as measured from inside-of-curb to inside-of-curb.

- (2) To minimize the visual impact of on-site parking and to enhance the pedestrian experience, off-street surface parking areas and vehicle maneuvering areas shall be located behind or beside buildings and structures. Off-street surface parking areas and vehicle maneuvering areas shall not be located between a building or structure and a street.

Finding: The proposed development includes off-street surface parking areas or vehicle maneuvering areas located between buildings; however, several portions of the proposed vehicle use areas project beyond the façade line of the building towards the street and are not wholly located behind or beside the building. To ensure this standard is met, the following condition applies:

Condition 60: At the time of building permit review, the applicant shall revise the off-street vehicle areas so that no portion of a parking space projects beyond the adjacent buildings, as drawn as a straight line across the building façades, or obtain approval of a Zoning Adjustment.

- (3) Where a development site abuts, and is located uphill from, property zoned Residential Agriculture (RA) or Single Family Residential (RS), and the slope of the development site within 40 feet of the abutting RA or RS zoned property is 15 percent or greater, parking areas shall be set back not less than 20 feet from the property line of the abutting RA or RS zoned property to ensure parking areas are designed to consider site topography and minimize visual impacts on abutting residential properties.

Finding: The proposed development is located adjacent to RA-zoned properties along the northeast, north, west and portion of the southwest boundaries of the subject property. However, the grading plans indicate that there is no portion of the development that is located uphill from the adjacent properties. This standard is met.

- (4) To ensure safe pedestrian access to and throughout a development site, pedestrian pathways shall be provided that connect to and between buildings, common open space, and parking areas, and that connect the development to the public sidewalks.

Finding: The proposed site plan shows a network of pedestrian pathways which connect to and between buildings, common open space, and parking areas, and which connects the development to the public sidewalks along Doaks Ferry Road NW. This standard is met.

SRC 702.020(e) – Façade and Building Design.

- (1) To preclude long monotonous exterior walls, buildings shall have no dimension greater than 150 feet.

Finding: No building has a dimension greater than 150 feet. This standard is met.

- (2) Where a development site abuts property zoned Residential Agricultural (RA) or Single Family Residential (RS), buildings shall be setback from the abutting RA or RS

zoned property as set forth in Table 702-5 to provide appropriate transitions between new buildings and structures on site and existing buildings and structures on abutting sites.

(A) A 5-foot reduction is permitted to each required setback in Table 702-5 provided that the height of the required fence in Sec. 702.020(b)(2)(B) is increased to eight feet tall.

Finding: There are two buildings proposed near the portions of the property abutting an RA-zoned property at the southwest corner of the property near the east side of Landaggard Drive NW, Buildings 26 and 27. Per Table 702-5, buildings that are two or more stories shall be setback a minimum of one foot for each foot of building height. Building 26 is reported to be 38 feet in height, requiring a minimum 38-foot setback abutting the property line; Building 27 is reported to be 40 feet in height, requiring a minimum 40-foot setback abutting the property line. The applicant's written statement indicates an eight-foot-high fence will be provided along these property lines, allowing a five-foot reduction to the setback requirement. However, the applicant's plans do not indicate provision of the eight-foot-fence. To ensure this fence is provided, the following condition applies:

Condition 61: The applicant shall install an eight-foot-high sight-obscuring fence along the property lines adjacent to Buildings 26 and 27.

In addition, there are three buildings in close proximity to the property lines abutting RA-zoned properties along the north and northeast boundary: Buildings 3, 6, and 14. With the five-foot reduction for the provision of an eight-foot fence, Building 6 would meet the minimum setback of 30 feet for a building 35 feet in height; Building 3 would require a minimum setback of 29 feet for a building 34 feet in height; Building 14 would require a minimum setback of 32 feet for a building 37 feet in height. The applicant's plans show a 21-foot setback for both Building 3 and 14, not meeting the minimum setback requirement even with the five-foot reduction. As such, the following conditions apply:

Condition 62: The applicant shall install an eight-foot-high sight-obscuring fence along the property lines adjacent to Buildings 3, 6, and 14.

Condition 63: The applicant shall modify the locations of Building 3 to meet a minimum setback of 29 feet, and Building 14 to meet a minimum setback of 32 feet, or obtain approval of a Zoning Adjustment.

As conditioned, the proposal meets the applicable standards.

(3) To enhance compatibility between new buildings on site and abutting residential sites, balconies located on building facades that face RA or RS zoned properties, unless separated by a street, shall have fully sight-obscuring railings.

Finding: The applicant's written statement and elevation plans indicate all buildings abutting the RA-zoned properties will have sight-obscuring railings. This standard is met.

- (4) On sites with 75 feet or more of buildable width, a minimum of 40 percent of the buildable width shall be occupied by a building placed at the setback line to enhance visual interest and activity along the street. Accessory structures shall not apply towards meeting the required percentage.

Finding: The development does not meet the buildable width requirement for Doaks Ferry Road NW, portions of "Street A", and portions of Landaggard Drive NW. The applicant has requested an adjustment to buildable width requirement at varying degrees for multiple street frontages. Findings for the adjustment are included in Section 12 of this report.

- (5) To orient buildings to the street, any ground-level unit, cluster of units, interior lobbies, or portions thereof, located within 25 feet of the property line abutting a street shall have a building entrance facing that street, with direct pedestrian access to adjacent sidewalks.

Finding: Several buildings throughout the development are not oriented towards the street and providing direct pedestrian access. The applicant has requested an adjustment to eliminate this requirement for Buildings 1, 2, 3, 4, 5, 7, 8, 29, 30, 32, and 33. Findings for the adjustment are included in Section 12 of this report.

- (6) A porch or architecturally defined entry area shall be provided for each ground level dwelling unit. Shared porches or entry areas shall be provided to not more than four dwelling units. Individual and common entryways shall be articulated with a differentiated roof, awning, stoop, forecourt, arcade, or portico.

Finding: An architecturally defined entry area is provided for each ground level dwelling unit. This standard is met.

- (7) Roof-mounted mechanical equipment, other than vents or ventilators, shall be screened from ground level view. Screening shall be as high as the top of the mechanical equipment, and shall be integrated with exterior building design.

Finding: The applicant's statement indicates that rooftop-mounted mechanical equipment will be screened from ground level.

- (8) To reinforce the residential character of the neighborhood, flat roofs, and the roof ridges of sloping roofs, shall not exceed a horizontal length of 100 feet without providing differences in elevation of at least four feet in height. In lieu of providing differences in elevation, a cross gable or dormer that is a minimum of four feet in length may be provided. (See Figure 702-4)

Finding: The building roof heights include differences in elevation of at least 4 feet and do not exceed a horizontal length of 100 feet. This standard is met.

- (9) To minimize the appearance of building bulk, each floor of each building's vertical face that is 80 feet in length or longer shall incorporate one or more of the design elements below (see examples in Figure 702-5). Design elements shall vary from other wall surfaces by a minimum of four feet and such changes in plane shall have a minimum width of six feet.

- (A) Offsets (recesses and extensions)
- (B) Covered deck.
- (C) Covered balcony.
- (D) Cantilevered balcony, provided at least half of its depth is recessed.
- (E) Covered entrance.

Finding: The greatest dimension for any of the three buildings proposed is approximately 150 feet; therefore, this standard applies. According to the applicant's written statement and proposed building elevation plans, building offsets, covered decks, recessed balconies, and covered entrances will be incorporated into the design for each building in compliance with this standard.

- (10) To visually break up the building's vertical mass, the first floor of each building, except for single-story buildings, shall be distinguished from its upper floors by at least one of the following (see examples in Figure 702-6):
- (A) Change in materials.
 - (B) Change in color.
 - (C) Molding or other horizontally-distinguishing transition piece.

Finding: According to the applicant's written statement and building elevation plans, the first floor of each building will have contrasting building materials and colors, and horizontally distinguishing transition pieces will be used to distinguish between the first floor and upper floors in compliance with this standard. Changes in material and changes in color are included to break up the vertical mass of the building and distinguish the first level from upper floors. This standard is met.

CONCLUSION

Finally, the City Council makes its final decision to affirm the Planning Administrator decision approving the application with denial of one Class 2 Zoning Adjustment, on August 14, 2023. As a condition of approval, and to ensure the final plats for the subdivision and development is in substantial conformance with the plan approved by City Council, the following condition of approval shall apply.

Conditions applicable to all phases:

Condition 1: At the time of building permit review, the applicant shall provide plans showing Fire Department access, fire hydrant locations, and Fire Department Connection as required.

SUBDIVISION

All subdivision conditions shall be completed prior to final plat approval or shown on the final plat. Conditions 4-7, 12, 13, 17-21, 24, 30, and 31 shall be completed prior to final plat approval or may be delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B).

Condition 2: Provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and

future impervious surfaces on all proposed lots, with the exception of Lot 6.

- Condition 3:** At time of development of Lot 6, design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).
- Condition 4:** Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way.
- Condition 5:** Extend a minimum 12-inch public water main within the new internal streets to serve neighboring property and the proposed development pursuant to PWDS.
- Condition 6:** Construct a *Salem Wastewater Management Master Plan* identified sewer main in Doaks Ferry Road NW from the intersection of Doaks Ferry Road NW and Brush College Road NW to the proposed development pursuant to PWDS.
- Condition 7:** Extend a minimum 8-inch public sewer main within the new internal streets to serve neighboring property and the proposed development pursuant to PWDS.
- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 9:** Existing easements and rights-of-way on the subject property shall be relocated, extinguished, or vacated, as appropriate, prior to final plat approval.
- Condition 10:** The applicant shall not eliminate the easement providing access to Tax Lot 1100, and shall demonstrate alternative access provided to the property during construction.
- Condition 11:** Convey land for dedication to equal a half-width right-of-way of 48-feet on the development side of Doaks Ferry Road NW, including sufficient right-of-way to accommodate public infrastructure at the property corners.
- Condition 12:** Construct a half-street improvement along the frontage of Doaks Ferry Road NW to interim minor arterial street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 13:** The applicant shall coordinate with Cherriots to provide bus stops along Doaks Ferry Road NW in locations approved by the Public Works Department.

Condition 14: Dedicate a 10-foot public utility easement along the street frontage of all internal streets and along Doaks Ferry Road NW abutting the proposed “W.Q. Parcel” as shown on the applicants tentative Plan.

Condition 15: At the time of development of Lot 6, a public utility easement shall be dedicated along the Lot 6 frontages of Doaks Ferry Road NW and Orchard Heights Road NW. The public utility easement width shall be established and dedicated by separate document, if required.

Condition 16: Prior to issuance of Public Construction Permits, the applicant shall receive a final City Council decision on the proposed Salem Transportation System Plan Amendment (22-121104-GP) relating to the collector street alignment that is mapped through the property.

Condition 17: If City Council approves the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct Landaggard Drive NW within the property, proposed “Street B”, and proposed “Street C” to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803. Internal local streets are approved to have an increased curb-to-curb improvement of 34 feet.

Condition 18: If City Council approves the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct “Street A” to “Collector Street B” standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:

- iv. “Street A” shall have a maximum grade of 12 percent.
- v. “Street A” shall have a block length of approximately 985 feet between Doaks Ferry Road NW and the extension of Landaggard Drive NW.
- vi. A public street connection from “Street A” to proposed Lot 6 is not required.

Condition 19: If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct proposed “Street A” from Doaks Ferry Road NW to the intersection with Landaggard Drive NW within the property, “Street C”, and “Street B”, to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803, with the following exceptions:

- v. “Street A” shall have a maximum grade of 12 percent.
- vi. “Street A” shall have a block length of approximately 985 feet between Doaks Ferry Road NW and the extension of Landaggard Drive NW.
- vii. A public street connection from “Street A” to proposed Lot 6 is not required.

viii. Internal local streets are approved to have an increased curb-to-curb improvement of 34-feet.

Condition 20: If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the applicant shall construct the extension of Landaggard Drive NW within the property to the intersection with proposed "Street A" and proposed "Street A" from the intersection of Landaggard Drive NW to the western property line to "Collector Street B" standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.

Condition 21: Along the frontage of the existing portion of Landaggard Drive NW adjacent to the subject property, construct a three-quarter street boundary street improvement to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803. If City Council does not approve the requested Transportation System Plan Amendment (22-121104-GP), the boundary street improvement shall be constructed to "Collector Street B" standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.

Condition 22: Modify the proposed "Street C" stub street location to the north line of proposed Lot 2 to avoid conflicts with existing structures on neighboring property not included in the development proposal.

Condition 23: Obtain any necessary street tree removal permits pursuant to SRC Chapter 86.

Condition 24: Install street trees to the maximum extent feasible along Doaks Ferry Road NW, Orchard Heights Road NW, and internal streets constructed within the subdivision.

Condition 25: Dedicate a 60-foot-wide right-of-way for new internal streets within the subject property as shown on the applicant's tentative plan.

Condition 26: As shown on the applicant's tentative plan, dedicate public pedestrian access easement from "Street A" to Lot 6.

Condition 27: Dedicate an additional public access easement for vehicular and pedestrian access from "Street A" to Lot 6 through the southeastern drive aisle within the development site. This easement may be dedicated by separate document and extinguished if determined not necessary at time of Site Plan Review for proposed Lot 6.

Condition 28: Along Wilark Brook on the subject property, dedicate an Open Channel Drainage Easement. In accordance with PWDS, the easement width shall be either 15 feet from the channel centerline, or 10 feet from the top of the recognized bank, whichever is greater.

Condition 29: As a condition of building permit issuance, the developer shall provide a final report from a geotechnical engineer that describes construction monitoring activities for all site earthwork and addresses the geotechnical considerations for each individual building lot.

Condition 30: As specified in the TIA, provide the following mitigation:

- vii. Construct a left turn lane on Doaks Ferry Road NW at the intersection with the new "Street A". The left turn lane shall include a minimum 75 feet of vehicle storage.
- viii. Construct sidewalks along Doaks Ferry Road from the intersection of Orchard Heights Road NW to the northern boundary of the site.
- ix. Construct a linked ADA pedestrian connection from the proposed development across Orchard Heights Road NW, including a raised pedestrian refuge on the west side of the intersection. Improvements shall include upgraded ADA ramps on both sides of Landaggard Drive NW and the western side of the West Salem High School driveway, and a sidewalk extension along the north side of Orchard Heights Road NW to the intersection with Doaks Ferry Road NW. Pursuant to SRC 200.035(a)(4), sidewalks shall also be provided along the frontage of 2357 Orchard Heights Road NW (Polk County Assessors Tax Lot No. 073W17D00900).

Condition 31: Install not more than four speed humps on Landaggard Drive NW in locations approved by Public Works and in accordance with PWDS.

Condition 32: Landaggard Drive NW shall not be used as a construction entrance. A construction entrance shall be constructed from either Doaks Ferry Road NW or Orchard Heights Road NW, and all construction vehicles and equipment shall utilize this entrance for entering and leaving the site.

SITE PLAN REVIEW

Condition 33: Prior to building permits, all buildings along "Street A" meet the minimum 20-foot setback, or obtain approval of a Zoning Adjustment.

Condition 34: Prior to building permit approval, all vehicle use areas and buildings abutting RA-zoned properties shall be setback a minimum of 10 feet, with Type C landscaping, or obtain approval of a Zoning Adjustment.

Condition 35: At the time of building permit review, the applicant shall provide construction details for the trash enclosure indicating conformance with SRC Chapter 800.

Condition 36: At the time of building permit review, the applicant shall dedicate one parking space adjacent to each dead-end turnaround area by striping the parking space and installing no parking signs to provide safe and convenient vehicle maneuvering, pursuant to SRC 806.035(f).

- Condition 37:** At the time of building permit review, the applicant shall provide bumper guards or wheel barriers for all parking spaces adjacent to a required landscaped setback or a pedestrian walkway only five feet in width.
- Condition 38:** At the time of building permit review, the applicant shall provide construction details for the bicycle racks indicating conformance with SRC 806.060.
- Condition 39:** At the time of building permit review, the applicant shall provide an updated, full landscape plan demonstrating how the development site meets Type A or Type C landscaping, where applicable, as well as all multi-family landscaping requirements, by providing a summary table demonstrating conformance with the landscaping requirements of SRC Chapter 807 and SRC 702.020(b).
- Condition 40:** The applicant's updated plans shall provide two trees for each tree removed within a required setback and each tree removed in excess of 75 percent of the development site, if applicable, to meet the tree replanting requirement. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5-inch caliper.
- Condition 41:** Prior to issuance of any building permits, the final plat for the Titan Hill Subdivision shall be recorded.
- Condition 42:** Submit a Driveway Approach Permit application if the driveways onto the new internal streets are not installed as part of the construction of the new internal street.
- Condition 43:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

CLASS 2 ADJUSTMENTS

- Condition 44:** The applicant shall provide a pedestrian connection proposed west of the parking lot adjacent to Building 1 to the east side of the parking lot, providing access near Building 1 for pedestrians in the east buildings to "Street A".
- Condition 45:** An additional pedestrian connection shall be provided along the west side of Landaggard Drive NW adjacent to Building 21 or 22.
- Condition 46:** Proposed Buildings 5-8 shall comply with the direct pedestrian access standard of SRC 702.020(e)(5) along the north side of "Street A".
- Condition 47:** Proposed Buildings 12-14 shall comply with the direct pedestrian access standard of SRC 702.020(e)(5) along Landaggard Drive NW.
- Condition 48:** The applicant shall remove parking spaces in excess of the maximum allowed parking of 763 spaces.

Condition 49: The parking lots near Buildings 3 and 6 shall be shortened and/or reconfigured to ensure survival of trees conditioned for preservation.

Condition 50: The adjusted development standards, as approved in this report, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development standards of the Unified Development Code, unless adjusted through a future land use action.

TREE VARIANCE

Condition 51: At the time of grading permit review, the applicant shall submit an updated tree inventory plan representing all conditions of approval for tree preservation or removal, and verification of trees located on property lines, including the critical root zone and protection measures of all trees on site and directly abutting the property in compliance with Chapter 808.

Condition 52: The two 32-inch Fir trees labeled 45 and 46 near the northern property line shall be preserved, until such time that a Tree Variance application can be approved for their removal.

Condition 53: The 30-inch Oak tree along the northern property line shall be preserved.

Condition 54: All trees designated for preservation shall have protective ground silt fencing encompassing 100-percent of their critical root zones. For all trees where construction is proposed within the critical root zone, the applicant shall either submit an arborist report documenting that disturbance up to a maximum of 30 percent of the critical root zone will not compromise the long-term health and stability of the tree; revise the plans to ensure the survival of the tree designated for preservation; or obtain approval of a new Tree Variance for additional removal of a significant tree.

Condition 55: Significant trees 35 and 36, two 30-inch Fir trees, adjacent to the parking lot near Building 3 shall be preserved. All other non-significant Fir and Maple trees in the vicinity of this parking lot shall also be preserved.

Condition 56: Significant trees 38 and 39, a 30-inch Madrona and 36-inch Oak, adjacent to the parking lot near Building 6 shall be preserved. All other non-significant Oak and Fir trees in this area shall also be preserved.

DESIGN REVIEW

Condition 57: At the time of building permit review, the applicant shall provide an updated open space plan, including a summary table demonstrating

conformance with the minimum private and common open space requirements under SRC 702.020(a).

- Condition 58:** At the time of building permit review, the applicant shall demonstrate that any private open space patio or balcony provided for the development meets the respective minimum dimensions exclusive of any proposed storage room, or obtain approval of a Zoning Adjustment.
- Condition 59:** At the time of building permit review, the applicant shall ensure that all landscaped planter bays meet the minimum nine feet in width, as measured from inside-of-curb to inside-of-curb.
- Condition 60:** At the time of building permit review, the applicant shall revise the off-street vehicle areas so that no portion of a parking space projects beyond the adjacent buildings, as drawn as a straight line across the building façades, or obtain approval of a Zoning Adjustment.
- Condition 61:** The applicant shall install an eight-foot-high sight-obscuring fence along the property lines adjacent to Buildings 26 and 27.
- Condition 62:** The applicant shall install an eight-foot-high sight-obscuring fence along the property lines adjacent to Buildings 3, 6, and 14.
- Condition 63:** The applicant shall modify the locations of Building 3 to meet a minimum setback of 29 feet, and Building 14 to meet a minimum setback of 32 feet, or obtain approval of a Zoning Adjustment.