



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St. SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

April 7, 2017

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

**NOTICE OF FINAL LAND USE DECISION    Appeal of Subdivision Case No. SUB15-04 (formerly PUD-SUB03-01A3) for Property located at 659 Sahalee Dr SE**

YOU ARE HEREBY NOTIFIED that the Salem Planning Commission, at their April 4, 2017 meeting, adopted findings affirming the Planning Administrator's decision. A copy of the Order is attached.

Any person with standing may appeal the City Council's decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, **not later than 21 days after April 7, 2017**. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR 97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-6173.

Lisa Anderson-Ogilvie, AICP  
Interim Community Development Director

Attachment: Order No. SUB15-04

**BEFORE THE PLANNING COMMISSION OF THE CITY OF SALEM**

<b>IN THE MATTER OF APPROVING</b>	)	<b>ORDER NO. SUB15-04</b>
<b>THE APPLICATION FOR A</b>	)	
<b>TENTATIVE SUBDIVISION PLAN,</b>	)	
<b>CASE NO. SUB15-04 FOR</b>	)	<b>SUBDIVISION CASE NO. 15-04</b>
<b>PROPERTY LOCATED AT 659</b>	)	
<b>SAHALEE DRIVE SE</b>	)	

This matter having come regularly for hearing before the Planning Commission at its April 4, 2017 meeting, and the Planning Commission, having received evidence and heard testimony, makes the following findings and adopts the following order affirming the decision of the Planning Administrator and approving the application for a Tentative Subdivision Plan in Case No. SUB15-04.

**(I) PROCEDURAL FINDINGS:**

- (a) On June 19, 2015, Mark Grenz, on behalf of applicant Lawrence E. Tokarski Revocable Living Trust, filed a PUD modification and subdivision application to divide approximately 2.83 acres of land within PUD03-01 located at 659 Sahalee Drive SE. The applicant submitted additional requested information and staff subsequently deemed the application complete for processing on August 17, 2015.
- (b) On October 20, 2015, the Planning Administrator issued a decision approving the application for PUD Modification with Subdivision (Case No. PUD-SUB03-01A3), subject to nine conditions of approval.
- (c) On October 26, 2015, the applicant filed a timely appeal of the decision. The applicant's appeal objected to certain conditions of approval, in particular Condition 3, which related to construction of Lone Oak Road SE and a bridge over Jory Creek. PUD 03-1 includes a condition of approval (Condition 4.d) requiring Lone Oak Road SE to be constructed through the PUD to provide circulation of traffic in, through, and out of each phase of the development. The improvements described in Condition 4.d of PUD03-01 had not been completed in full.
- (d) On November 17, 2015, a public hearing before the Planning Commission took place. At the applicant's request, the Planning Commission continued this hearing until February 9, 2016. On February 26, 2016, the Planning Commission issued a decision affirming the Planning Administrator's decision.
- (e) The applicant appealed the Planning Commission's decision to the Oregon Land Use Board of Appeals (LUBA). On August 1, 2016, LUBA remanded the case to the City to be reviewed solely as a tentative subdivision plan, without a modification to PUD03-01.

- (f) The applicant appealed LUBA's decision to the Oregon Court of Appeals, which affirmed the decision without opinion on December 20, 2016. LUBA in turn remanded the case back to the City on December 21, 2016.
- (g) On remand, the Planning Administrator reviewed the proposal as a tentative subdivision plan only, and issued a decision on February 24, 2017 approving the proposed tentative subdivision plan, subject to 7 conditions of approval.
- (h) On March 12, 2017, Creekside Homeowners Association filed a timely appeal of the remand decision.
- (i) On April 4, 2017, upon proper notice being provided by the City, the Salem Planning Commission conducted a hearing on appeal of the application, and received testimony and evidence regarding the application. At the conclusion of the hearing, the Planning Commission then conducted deliberations and voted on the application.
- (j) On April 4, 2017 the Planning Commission voted to affirm the Planning Administrator's decision to approve the application, subject to conditions of approval.
- (k) The Facts and Findings attached hereto as "Exhibit 1," are incorporated herein by this reference.

**(II) SUBSTANTIVE FINDINGS:**

- (a) The applicable criteria for approval of a tentative subdivision plan are SRC 205.010(d).
- (b) The March 12, 2017 Notice of Appeal filed by Creekside Homeowners Association raises the following issues:
  - a. Lack of secondary access to emergency services;
  - b. Precedent for development of future subdivisions in vicinity; and
  - c. Topography of the surrounding area.
- (c) Testimony and evidence was received by the Planning Commission that the impact of the four proposed lots represent a relatively small proportionate share of overall traffic generated in the surrounding area, and that future development on surrounding properties would be subject to linking street requirements through existing conditions of approval and/or application of Urban Growth Management standards. The Planning Commission finds that the application, as proposed and conditioned, has addressed the issues raised by the appeal filing. Complete findings are included in Exhibit 1.

(d) The Planning Commission finds that the proposed size and arrangement of lots along a relatively steep hillside minimizes potential impacts related to the topography and vegetation of the site. Proposed lots within the subdivision meet applicable minimum standards for width, depth, size, street frontage. Sahalee Drive SE, a local street, provides safe and convenient access for future development as allowed in the RS (Single Family Residential) zone.

(e) The Planning Commission finds that the subdivision will comply with City infrastructure standards, subject to the following conditions:

**Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.

**Condition 2:** Construct sewer services to the property line of each lot.

**Condition 3:** Obtain water meter permits to serve each lot.

(f) The Planning Commission finds that the subdivision will comply with special development standards, including the City's landslide hazard ordinance, subject to the following condition:

**Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.

(g) The Planning Commission finds that the subdivision will not impede the future use or development of the property or adjacent land, subject to the following condition:

**Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

(h) The Planning Commission finds that 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, subject to the following conditions:

**Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road be equipped with an approved sprinkler system.

**Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.

The Planning Commission finds that the application, as conditioned, meets the applicable criteria for approval of a Tentative Subdivision Plan.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:**

**Section 1.** The Salem Planning Commission affirms the decision of the Planning Administrator, and approves Tentative Subdivision Plan Case No. SUB15-04, subject to the following conditions of approval:

- Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.
- Condition 2:** Construct sewer services to the property line of each lot.
- Condition 3:** Obtain water meter permits to serve each lot.
- Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.
- Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.
- Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road shall be equipped with an approved sprinkler system.
- Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.

**Section 2.** This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

ADOPTED by the Salem Planning Commission this 4<sup>th</sup> day of April, 2017.

  
\_\_\_\_\_  
Sheronne Blasi, Vice-President  
Salem Planning Commission

SUB15-04 Order  
April 5, 2017  
Page 5

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

Case Manager: Christopher Green, AICP, Planner II, [cgreen@cityofsalem.net](mailto:cgreen@cityofsalem.net)

Checked by: C. Green *CSG*

**CRITERIA AND FINDINGS FOR A PROPOSED TENTATIVE SUBDIVISION PLAN  
TO DIVIDE AN APPROXIMATELY 2.83-ACRE PROPERTY AT 654 SAHALEE DRIVE SE  
INTO 4 LOTS**

**PROCEDURAL FINDINGS**

On June 19, 2015, Mark Grenz, on behalf of applicant Lawrence E. Tokarski Revocable Living Trust, filed a PUD modification and subdivision application to divide approximately 2.83 acres of land within PUD03-01 located at 659 Sahalee Drive SE. The applicant submitted additional requested information and staff subsequently deemed the application complete for processing on August 17, 2015.

On October 20, 2015, the Planning Administrator issued a decision approving the application for PUD Modification with Subdivision (Case No. PUD-SUB03-01A3), subject to nine conditions of approval. On October 26, 2015, the applicant filed a timely appeal of the decision. Following a public hearing and several continuances, the Planning Commission issued a decision affirming the Planning Administrator's decision on February 26, 2016.

The applicant appealed the Planning Commission's decision to the Oregon Land Use Board of Appeals (LUBA). On August 1, 2016, LUBA remanded the case to the City to be reviewed solely as a tentative subdivision plan, without a modification to PUD03-01. The applicant appealed LUBA's decision to the Oregon Court of Appeals, which affirmed the decision without opinion on December 20, 2016. LUBA in turn remanded the case back to the City on December 21, 2016.

On remand, the Planning Administrator reviewed the proposal as a tentative subdivision plan only, and issued a decision on February 24, 2017 approving the proposed tentative subdivision plan, subject to 7 conditions of approval. On March 12, 2017, Creekside Homeowners Association filed a timely appeal of the remand decision.

On April 4, 2017, the Salem Planning Commission conducted a hearing on appeal of the decision on remand, and received testimony and evidence regarding the application. The Planning Commission then conducted deliberations and voted to affirm the Planning Administrator's decision approving the proposal, subject to conditions of approval as adopted in the Planning Administrator's February 24, 2017 decision.

Pursuant to SRC 300.1080, the City "shall take final action on decisions remanded by the Oregon Land Use Board of Appeals within 90 days of the effective order, pursuant to ORS 227.181." The applicant has granted an extension to issue a final local decision in response to the remand to April 20, 2017.

**FINDINGS ON APPLICABLE LAND DIVISION PROCESS**

At the public hearing on the appeal, Commissioner Pollock noted that the LUBA Final Opinion and Order remanding the case to the City discusses the correct review process for the proposal as a replat. The Planning Commission finds that the approval criteria for a tentative subdivision plan set forth in SRC 205.010(d) and the approval criteria for a replat set forth in SRC 205.025(d) do not differ substantially, and would not result in a different decision or adopted conditions of approval in the subject case. No provision of the Unified Development Code prohibits the proposal from being reviewed as either a subdivision or replat. The written statement submitted by the applicant with the original application address the approval criteria

for a tentative subdivision plan, indicating an intent to have the proposal reviewed as a subdivision rather than as a replat. Therefore, the Planning Commission finds that the review of the proposal as a tentative subdivision plan is consistent with instructions from LUBA on remand.

### **FINDINGS ON PLANNING COMMISSION JURISDICTION TO REVIEW APPEAL OF REMAND DECISION**

Written comments submitted by the applicant raise an objection to the Planning Commission's jurisdiction to review the appeal of the Planning Administrator's decision. The applicant takes note that SRC Chapter 300, Table 300-2 does not set forth a procedure for processing of a decision on remand from LUBA. The applicant contends, in summary, that this omission, combined with the 90-day processing deadline set forth in SRC 300.1080, effectively prohibit decisions rendered in response to a remand from LUBA from being appealed at the local level.

In considering this objection, the Planning Commission finds that the City's procedures ordinance, adopted as SRC Chapter 300, does not prohibit local appeals of decisions issued on remand, and does not specify a process or review authority for consideration of a decision on remand. The Planning Commission has held a public hearing and conducted review of the appeal of the decision on remand in accordance with the appeal provisions described in the February 24, 2017 notice of the Planning Administrator's decision approving SUB15-04.

### **FINDINGS APPLYING THE APPLICABLE SALEM REVISED CODE CRITERIA FOR A TENTATIVE SUBDIVISION 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 city staff signing the final subdivision plat.

SRC Chapter 205.010(d) sets forth the criteria that must be met before approval can be granted to a subdivision request. The following subsections are organized with approval criteria shown in bold, followed by findings of fact upon which the Planning Administrator's decision is based. The requirements of SRC 205.010(d) are addressed within the specific findings which evaluate the proposal's conformance with the applicable criteria. Lack of compliance with the following criteria is grounds for denial of tentative plan or for the issuance of conditions of approval to more fully 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.**



SRC Chapter 511 (Single Family Residential): The proposed subdivision would divide the 2.83-acre property into 4 lots with no remainder. The minimum lot area requirements of the RS zone are established under SRC 511.010(a) as follows:

**Lot Standards for RS zone (see SRC Chapter 511, Table 511-2)**

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Street Frontage	40 feet

Proposed lots in the subdivision range from approximately 30,011 square feet to 32,443 square feet in size. The proposed lots exceed minimum lot area, dimension, and frontage requirements and therefore conform to the applicable standards. The proposed lots within the subdivision are also of sufficient size and dimension to permit future development of uses allowed within the zone.

**Setback Requirements:** SRC Chapter 511 establishes the following setback standards for development within an RS (Single Family Residential) zone:

Front Yards and Yards Adjacent to Streets:

- Minimum 12 feet (minimum 20 feet when adjacent to a street designated 'Collector', 'Arterial', or 'Parkway')
- Minimum 20 feet for garages

Rear Yards:

- Minimum 14 feet (for any portion of a main building not more than one story in height); or
- Minimum 20 feet (for any portion of a main building greater than one story in height)

Interior Side Yards:

- Minimum 5 feet

Setback requirements for future development on the proposed lots will be reviewed at the time of application for building permits on those individual parcels.

SRC Chapter 800 (General Development Standards):

There are no existing structures on the subject property. The size, dimension, and proposed lot configuration are adequate to allow future development in conformance with

the general development standards. Conformance with any applicable general development standards will be reviewed at the time of application for building permits on these individual parcels.

The proposal conforms to the requirements of SRC Chapter 800.

**(B) City Infrastructure Standards.**

The Public Works Department reviewed the proposal for compliance with the City's public facility plans pertaining to provision of water, sewer, and storm drainage facilities. While SRC Chapter 205 does not require submission of utility construction plans prior to tentative subdivision plan approval, it is the responsibility of the applicant to design and construct adequate City water, sewer, and storm drainage facilities to serve the proposed development prior to final plat approval without impeding service to the surrounding area.

SRC Chapter 71 (Stormwater): The proposed partition is subject to the stormwater requirements of SRC Chapter 71 and the revised Public Works Design Standards as adopted in Administrative Rule 109, Division 004. To demonstrate that the proposed parcels can meet the PWDS, the applicant shall provide an engineered tentative stormwater design to accommodate future impervious surface on all lots. Pursuant to SRC 71.085, all proposed lots shall be designed and constructed with green stormwater infrastructure. In order to ensure that the partition can accommodate required stormwater facilities, the following condition of plat approval shall apply:

**Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.

As conditioned, the proposal meets the requirements of SRC Chapter 71.

SRC Chapter 200 (Urban Growth Management): The subject property is located outside of the City's Urban Service Area. Pursuant to the urban growth management requirements of SRC Chapter 200 (Urban Growth Management), an Urban Growth Preliminary Declaration is required for development of property located outside the Urban Service Area. On December 11, 1990, the original UGA preliminary declaration was approved for the Creekside Planned Unit Development, UGA Preliminary Declaration Case No. UGA90-9. The preliminary declaration identified the public facilities required to serve the proposed development and allowed up to 650 dwelling units to be constructed. Subsequent to the approval of UGA90-9 in 1990, a series of amendments to the preliminary declaration were made (Case Numbers.: UGA92-4, UGA96-6, UGA99-1, UGA00-3, and UGA02-1) adding additional properties to the development, revising required public facility improvement requirements as necessary, and increasing the total number of allowable dwelling units within the development to 767, plus 10 percent, as allowed under the associated infrastructure agreement with the applicant. The applicant's written statement indicates that there are 652 units within the boundaries of the Amended UGA and infrastructure agreement, and the four proposed lots would bring this total to 656 units, less than the 767 plus 10 percent maximum established in the agreement. The requirements of UGA preliminary declaration UGA90-9, and the subsequent amendments to the preliminary declaration, continue to apply to the development.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that water and sewer infrastructure is available in Sahalee Drive SE and appears to be adequate to serve the proposed subdivision. Specifications for required public improvements are summarized in the Public Works Department memo dated February 16, 2017.

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. In order to ensure that water and sewer infrastructure are provided to the new lots created by the subdivision, and that appropriate connection fees are paid, the following conditions of approval shall apply:

**Condition 2:** Construct sewer services to the property line of each lot.

**Condition 3:** Obtain water meter permits to serve each lot.

As conditioned, the proposal meets the requirements of SRC Chapter 802.

SRC Chapter 803 (Streets and Right-of-Way Improvements):

*SRC 803.015 (Traffic Impact Analysis)*: The proposed 4-lot subdivision generates less than 200 average daily vehicle trips to Sahalee Drive SE, a local street. Therefore, a TIA is not required as part of the proposed subdivision submittal.

*SRC 803.020 (Public and Private Streets)*: No internal streets are proposed within the subdivision. Lots within the subdivision would take access from the existing frontage of Lot 473 on Sahalee Drive SE, a private street. Sahalee Drive SE was originally constructed in conformance with applicable City standards as an internal street within a PUD, consistent with subsections (b)(1) and (b)(2).

*SRC 803.025 (Right-of-Way and Pavement Widths)*: No internal streets are proposed within the subdivision. The abutting portion of Sahalee Drive SE is constructed in conformance with the minimum right-of-way and pavement widths set forth in SRC Chapter 803, Table 803-1 and Table 803-2.

*SRC 803.030 (Street Spacing)*: Each lot within the proposed subdivision takes access from the subject property's existing frontage on Sahalee Drive SE. Abutting properties to the east and west are already developed with single family residences. The north boundary of the subject abuts the existing golf course, and is separated from Sahalee Drive by a steep ridge that falls nearly 100 feet to the golf course boundary. Based on existing development and topographic conditions in the vicinity, the proposed subdivision is precluded from making connections to adjacent properties within 600-foot intervals, and is excepted from this requirement under SRC 803.030(a)(2).

*SRC 803.035 (Street Standards)*: There are no internal streets proposed as part of the subdivision. All lots would take access from the subject property's frontage on Sahalee Drive SE, an existing private street which has previously been developed to public street standards.

*SRC 803.040 (Boundary Streets):* The south boundary of the subject property abuts Sahalee Drive SE, a private street terminating in a cul-de-sac. Sahalee Drive SE is already fully constructed in conformance with public street standards. Therefore, no boundary street improvements are necessary along the Sahalee Drive frontage.

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

SRC Chapter 808 (Preservation of Trees and Vegetation): The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet.

In addition, SRC 808.035(a) requires a Tree Conservation Plan for a development proposal involving the creation of lots or parcels to be used for the construction of single-family dwelling units, where trees are proposed for removal. 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."

There is an approved tree conservation plan that is applicable to the subject property that was approved in 2003 (Case No. TCP03-8) for PUD03-1. TCP03-08 applies to the entire 84-acre area of PUD03-01; and identifies 2,500 within that area. Subsequent to the approval of the tree conservation plan, a series of 15 separate tree conservation plan adjustments have been approved over the years amending the original tree conservation plan.

A Tree Conservation Plan Adjustment (TCPA15-04) was submitted in 2015, in conjunction with the subject application to divide the property into four lots. TCPA15-04 was approved on February 29, 2016, and identifies 2,500 trees on the overall subject property for PUD03-01, with 1,477 trees proposed for removal and 1,023 trees designated to be retained. The 1,023 trees proposed to be retained are equal to approximately 40.92 percent of the trees within the applicable 84-acre area, greater than the minimum of 25 percent required pursuant to SRC 808.035(d)(4). Staff finds that additional trees designated for removal under TCPA15-04 are consistent with the applicant's development proposal for the subject property.

As proposed, the tentative subdivision plan conforms to all applicable SRC Chapter 808 requirements.

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.

The Salem-Keizer Local Wetland Inventory (LWI) does not identify any potential wetlands on the subject property. A waterway, Jory Creek, runs along the base of the slope to the north of the subject property. PLA13-08, recorded in 2014, adjusted the north boundary of the subject property southward, further from the riparian corridor of Jory Creek.

SRC Chapter 810 (Landslide Hazards): City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, the subject property is mapped with areas of 2 assigned landslide hazard susceptibility points. There are 3 activity points associated with the proposed subdivision. Pursuant to the requirements of SRC Chapter 810, the cumulative total of 5 points between those associated with the land and those associated with the proposed development activity indicates a moderate landslide risk and therefore a geotechnical report is required.

A geologic assessment was submitted to the City of Salem in conjunction with PUD03-01. This assessment demonstrates that the 84-acre site of PUD03-01, which includes the subject property for the proposed 4-lot subdivision, could be subdivided and developed with single-family dwellings, without increasing the potential for slope hazard on the site or adjacent properties. In order to ensure that updated, site-specific information is available on geologic hazards on the subject property, the following condition shall apply:

**Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.

As conditioned, the proposal meets the requirements set forth in SRC Chapter 810.

**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 proposed subdivision would divide a 2.83-acre property into 4 lots with no remainder. No additional street or pedestrian connections are available from surrounding properties.

Due to existing development and topographic conditions, no street connections are needed to abutting properties to the north, east, and west. Frontage on the south boundary, along Sahalee Drive SE, would be divided nearly equally between the four proposed lots. Each lot exceeds minimum width standards for the RS zone, allowing for development of single family dwellings with driveways that approach the steep grade at an angle, allowing for a more gradual slope near than a perpendicular approach. Future residences on the lots are likely to be sited in a similar manner as those constructed along the ridge to the east and west, with houses at the top of the ridge adjacent to the street, and the remainder of the steep slope being left as open space. The topography of the site and surrounding areas generally precludes the subject property from providing a connection between nearby properties, or for being developed at or near the optimal density of 6.5 dwelling units per gross acre set forth in Comprehensive Plan Policy IV.B.7.

Comments from Portland General Electric, the franchise utility provider of electricity for the subject property request a 10-foot-wide PUE on all street front lots in order to allow installation and maintenance of typical utility services provided by franchisees, such as electricity, natural gas, and telecommunications. In order to ensure adequate access for the provision of electricity and other utilities, the following condition shall apply:

**Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

The lots within the proposed subdivision, as proposed and conditioned, are of sufficient size and dimensions to permit future development of one single family dwelling each, or development of other SRC Chapter 511 "permitted," "special," or "conditional" uses. 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. This criterion has been met.

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 individual lots proposed by the applicant would take street access from Sahalee Drive SE, a private street owned by the Creekside Estates Homeowners Association (HOA). Access to properties within PUD03-1 and other phases of residential development in the Creekside vicinity is provided by a network of private streets owned and maintained by the HOA. Beginning in 1992 with Golf Club Estates at Creekside Phase 1, successive phases within the overall Creekside development have been required to record HOA agreements with appropriate common linkages to provide for shared maintenance of the private street network and other common facilities.

The applicant may need to obtain permission from the HOA or otherwise record an agreement to provide for shared maintenance in order to take access from these private streets. The formation, articles, and contents of homeowners associations established to maintain common facilities in a Planned Unit Development are specified in code.<sup>1</sup> However, the subject proposal does not propose a new or modified Planned Unit Development, and a homeowners association has already been established for properties within the boundaries of PUD03-01, including the subject property, the form of such an agreement is not subject to review as part of this land use decision. The abutting portion of Sahalee Drive SE has been developed in conformance with applicable standards for a cul-de-sac street and is adequate to provide safe, orderly, and efficient local access to the proposed lots and surrounding properties.

Water and sewer infrastructure is available in Sahalee Drive SE and appears to be adequate to serve the property as shown on the applicant's preliminary utility plan. Developments are required to extend public utility services to serve upstream and neighboring properties; the tentative utility plan appears to meet that requirement. Conditions of approval require construction of water and sewer systems to serve each lot,

---

<sup>1</sup> SRC 210.055.

an engineered stormwater design to accommodate future impervious surfaces, and dedication of a public utility easement to allow installation and maintenance of private utility infrastructure.

The Public Works Department reviewed the proposal for consistency with the Comprehensive Parks Master Plan Update and found that the subject property is served by developed parks. Rees Park is a developed park east of the subject property; Bryan Johnston Park is a developed park north of the subject property. No park-related improvements are recommended as a condition of development.

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)(6)(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 proposal meets this criterion.

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

**Finding:** As described in findings above, Sahalee Drive SE is a private street which conforms to the Salem Transportation System Plan (TSP) standards for a cul-de-sac street. Approximately 1,000 feet southwest of the subject property, Sahalee Drive connects to a segment of Lone Oak Road SE that has been constructed to TSP standards for a collector street. This segment of Lone Oak Road SE is approximately 1,100 feet long, but does not connect to the street network at its current north or south terminus.

The TSP identifies a future extension of Lone Oak Road SE which would connect from the northern end of the currently unconnected segment to the existing street network on the north side of the golf course. A bridge over Jory Creek, identified as a key part of this extension, has been identified as a project in the City of Salem Capital Improvement Plan for Fiscal Years 2016-17 through 2020-21. The TSP further identifies future extensions of Lone Oak Road southward to Rees Hill Road, and improvement of Rees Hill Road to collector standards. Each of these master-planned improvements to the transportation system will provide more direct vehicular access to the subject property as well as other undeveloped parcels in the vicinity. Condition 7 requires the applicant to contribute \$9,212 per lot as a fee-in-lieu towards the costs of these future extensions of the arterial street network in the vicinity.

As proposed and conditioned, Sahalee Drive SE and the adjacent street system serving the subdivision conform to the TSP. The proposal meets this criterion.

**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:** The individual lots proposed by the applicant would take street access from Sahalee Drive SE, a private street owned by the Creekside Estates Homeowners Association (HOA). At its west terminus, Sahalee Drive connects to an approximately

1,100-foot-long segment of Lone Oak Road SE. This segment of Lone Oak Road has been developed to the applicable standard for a collector street, but planned connections northward across Jory Creek or southward to Rees Hill Road SE have not been completed at this time. As a result, the only connection between the subject property and the existing street network is a circuitous via Devon Avenue SE that leaves the City limits before connecting to Sunnyside Road SE nearly one mile from the subject property.

As described in greater detail above, Condition 4.d of PUD03-01 requires construction of Lone Oak Road northward to connect with the existing street network along the north side of the golf course. The City has since placed a significant portion of this street connection, a Lone Oak Road bridge over Jory Creek, on the Adopted Capital Improvement Program for Fiscal Years 2016-17 through 2020-21 (CIP). The Lone Oak Road extension was an on-site improvement for PUD03-01, and therefore not included in UGA90-9 or any of its subsequent amendments. However, because the subject property is now a separate unit of land (Lot 473), the Lone Oak Road connection would now constitute on off-site improvement.

Because the adjacent segment of Lone Oak Road remains disconnected from the overall street network, the system of traffic circulation in the vicinity of the subject property is incomplete. Currently, access to the subject property is provided by a combination of Devon Avenue SE and Rees Hill Road SE, on an indirect route over roads that do not currently meet collector standards. At this time, several surrounding properties within the Urban Growth Boundary remain undeveloped, and the surrounding street system, even in its incomplete state, is capable of accommodating the relatively small increase in traffic projected from development of single family dwellings on the four proposed lots.<sup>2</sup> However, if further development were to take place on larger lots in the vicinity, the lack of arterial and collector access could cause traffic circulation problems for properties along Sahalee Drive SE, including the four lots within the proposed subdivision.

Testimony submitted by the Creekside Homeowners Association during the 2016 public hearing on the proposal express concern about the adequacy of the current street network, particularly as it relates to emergency vehicle access. The subject appeal by Creekside Homeowners Association reiterates the concern that there is not adequate secondary access for emergency services to access the subject property and existing residences in the vicinity. The Fire Department reviewed the proposed development and indicated that, pursuant to Section D107 of the Oregon Fire Code, new dwelling units on all proposed lots shall include an approved automatic fire sprinkler system, or an approved secondary fire department access road shall be provided. Although the requirement to install sprinklers is typically implemented at the time of building permit review, the Planning Administrator's February 24, 2017 decision includes a condition to this effect in response to the concerns raised by the appellant and the lack of existing secondary access to the subject property.

In order to ensure that the homes constructed on the proposed lots conform to SRC Chapter 58 and are developed in a manner that allows for safe, orderly, and efficient fire service access, the following condition of approval shall apply:

---

<sup>2</sup> As described in findings on SRC 205.010(d)(7), the estimated trip generation from the four lots falls well below the 200 Average Daily Trip threshold for requiring a Traffic Impact Analysis.



**Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road be equipped with an approved sprinkler system.

Adequate circulation and access can be maintained for the four proposed lots using the existing portions of the street system in the vicinity and subject to installation of sprinkler systems in new dwelling units. However, further development of large residential lots in the vicinity, including the additional lots proposed as part of the subdivision, will eventually necessitate a direct, fully-improved connection to the existing arterial street network. The applicant has proposed a \$9,212-per-lot fee as a cash assurance to reimburse the subdivision's proportionate share of future construction costs of the Lone Oak Road connection. Public Works Department staff has reviewed the proposed fee and finds that it represents a reasonable estimate of the proposed development's share of future costs to provide arterial connectivity to the subject property and future developments in the vicinity.

Pursuant to SRC 200.405, the Public Works Director may allow a developer to enter into an agreement with the City for the payment of a fee-in-lieu of making a public improvement required as a condition of a development approval, when the following conditions are met:

- (1) The development approval only requires the construction of a portion of the public improvement, and additional portions are required to be constructed in order to have an operational, fully functioning public improvement;*
- (2) Construction of the additional portions of the public improvement will not or cannot occur simultaneously with the construction of the portion required as the condition of development approval because funding for other portions is unavailable at the time the developer would construct the developer's portion of the public improvement; and*
- (3) Construction of only a portion of the public improvement would impeded the construction of the additional portions or otherwise affect the physical integrity of the public improvement at a future date.*

Comments submitted by the Public Works Department find, in summary, that a fee in-lieu of the Lone Oak Road extension is warranted because the Jory Creek crossing and other topographical features make phased development of the street connection impossible, and that construction in the interim of a shorter segment of the proposed extension would impede future construction of the full extension while providing no benefit to the surrounding transportation system.

The appeal by Creekside Homeowners Association contends, in summary, that the proposed fee-in-lieu would set a precedent allowing further development in the vicinity to take place prior to construction of the Lone Oak Road extension and bridge. The appeal statement describes "38 lots already approved for this area" and "1 or 2 more subdivisions under consideration." At the public hearing, the Planning Commission received further testimony emphasizing that owners of undeveloped lots between Sahalee Drive SE and Rees Hill Road SE would in turn claim a right to subdivide their

property subject to the fee-in-lieu, and that this in turn would allow dozens or hundreds of lots to be developed in the vicinity without construction of secondary access.

Testimony from staff contained in the supplemental staff report and presentation at the public hearing indicates that the Oak Ridge Estates subdivision (Case No. SUB08-4) was approved in 2008, allowing approximately 9.95 acres at 6617 Devon Avenue SE to be divided into 38 lots. In 2016, the fourth and final extension was granted for the tentative subdivision plan, which is set to expire in 2018. Conditions 5 and 6 of the decision approving SUB08-4 require the construction of the Lone Oak Road extension and bridge prior to final plat recording. Pursuant to SRC 205.070(d)(1), any modification to SUB08-4 would have to remain consistent with adopted conditions of approval.

To date, there have been no other applications for subdivisions or other residential development in the area proposed to be served by the Lone Oak Road extension and Jory Creek Bridge. Remaining undeveloped properties in the vicinity are outside of the Urban Service Area. Unlike the subject property, these undeveloped lots are not within the area covered by UGA90-9 and its successors, and will therefore need to obtain an Urban Growth Preliminary Declaration prior to development.<sup>3</sup> Pursuant to SRC 200.055, an Urban Growth Preliminary Declaration on these properties would address requirements for linking streets to connect future development with the existing street network. These future review processes, based on a different set of circumstances, and in some cases different approval criteria, would not create a binding precedent to allow significant future development in the vicinity without accompanying upgrades to the nearby street network.

The Planning Commission notes that individual development proposals are reviewed on their own merits, the facts of each case, and conformance with applicable approval criteria. The decision reached by the Planning Commission on SUB15-04 addresses only the specific circumstances of that case, in which the proposal would further divide a previously platted lot within an area subject to the infrastructure requirements of Urban Growth Preliminary Declaration UGA90-9 and subsequent amendments. Future subdivisions in the vicinity will be required to meet all applicable approval criteria, regardless of the outcome of the subject case.

Therefore, in order to ensure that the proposed development provides a proportionate share of funding to complete the arterial street network serving the subject property, the following condition shall apply:

**Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.

---

<sup>3</sup> At the time that UGA90-9 and later amendments were enacted, the subject property for the tentative subdivision was still part of a larger property that encompassed all lands within PUD03-01. The proposed alignment of Lone Oak Road extension and Jory Creek Bridge crosses through that property and would therefore have been considered an "on-site" improvement for PUD03-01, rather than an off-site improvement listed in the Urban Growth Preliminary Declaration.

The subdivision, as proposed and conditioned, is served with adequate transportation infrastructure to serve the proposed lots within the subdivision. The proposal meets this criterion.

**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 subdivision is located near the south boundary of the city limits, in an area where many properties remain undeveloped or developed in a rural residential pattern. Since the early 1990s, the Creekside series of Planned Unit Developments have been developed around the perimeter of the Creekside golf course and are oriented to access the golf course as an amenity. At present, Bryan Johnston Park, approximately 3,300 feet from the subject property, is the nearest neighborhood activity center.

Future development of several larger properties within the Urban Growth Boundary but south of the present city limits will be accompanied by further development of the nearby street network and neighborhood activity centers. Condition 7 requires the applicant to provide a portion of funding required to connect the subject property to the arterial street network in the vicinity. The existing street system in the vicinity of the subject property is developed to public street standards, including curbs and sidewalks, and will provide for safe and convenient access to the future street network and neighborhood activity centers as they are developed.

The proposal meets this criterion.

**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 Public Works Department has reviewed the proposal and finds that the 4-lot subdivision will generate less than 200 average daily vehicle trips to Sahalee Drive SE, designated in the Transportation System Plan as a local street. Accordingly, a Transportation Impact Analysis is not required as part of the review of the tentative subdivision plan.

**SRC 200.010(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. The subject property occupies a relatively steep ridgeline that falls nearly 100 feet from the Sahalee Drive right-of-way at the southeast corner of the property to the boundary of the golf course at the northwest corner.

The tentative subdivision plan proposes four lots, each in excess of 30,000 square feet in size. The large lot configuration maximizes the lot area and street frontage available to accommodate more gradual grade changes necessary for construction of foundations, driveways, utility service, and other typical home site elements. The layout allows for reasonable development of all lots within the subdivision without any anticipated variances from the UDC.

The proposal meets this criterion.

**SRC 200.010(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 described above, the subject property occupies a relatively steep ridgeline that falls nearly 100 feet from the Sahalee Drive right-of-way at the southeast corner of the property to the boundary of the golf course at the northwest corner. The tentative subdivision plan utilizes the available frontage on an existing street. No internal streets are proposed, and future homes are expected to be sited adjacent to the existing street frontage at the top of the slope.

The four lots proposed by the applicant all exceed 30,000 square feet in size, in response to the steep slope across the subject property. The large lot configuration allows the majority of the site to be left as open space, with little or no disruption to topography or vegetation across the northern portions of each lot. The large lots also minimize the total number of home sites to be created along this portion of the ridge, thereby reducing overall impacts caused by grading and construction of foundations, driveways, and utility service lines across the subject property.

A tree conservation plan adjustment, TCPA15-04, demonstrates that the proposed lots may be developed for home sites while retaining a majority of the existing trees on the subject property. Additional trees proposed for removal under TCPA15-04 are concentrated on the southern portion of Lots 1 and 4, where grading and construction related to new home development is most likely to occur. No vegetation removal is proposed within the adjacent riparian corridor for Jory Creek.

The appeal contends that "the topography of the area is another issue as steep hills and creeks surround the area." Testimony at the public hearing did not provide further elaboration on this issue. As described above, the Planning Commission finds that the proposed tentative subdivision plan adequately addresses the existing topography of the site and vicinity, as required under approval criteria SRC 205.010(d)(8) and (9). Further, the Planning Commission concurs with the applicant's contention in their March 15, 2017 letter that the appellant's comment regarding topography lacks the specificity needed for the decision-maker or the applicant to respond to the issue being raised.

The proposal meets this criterion.

**SRC 200.010(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**

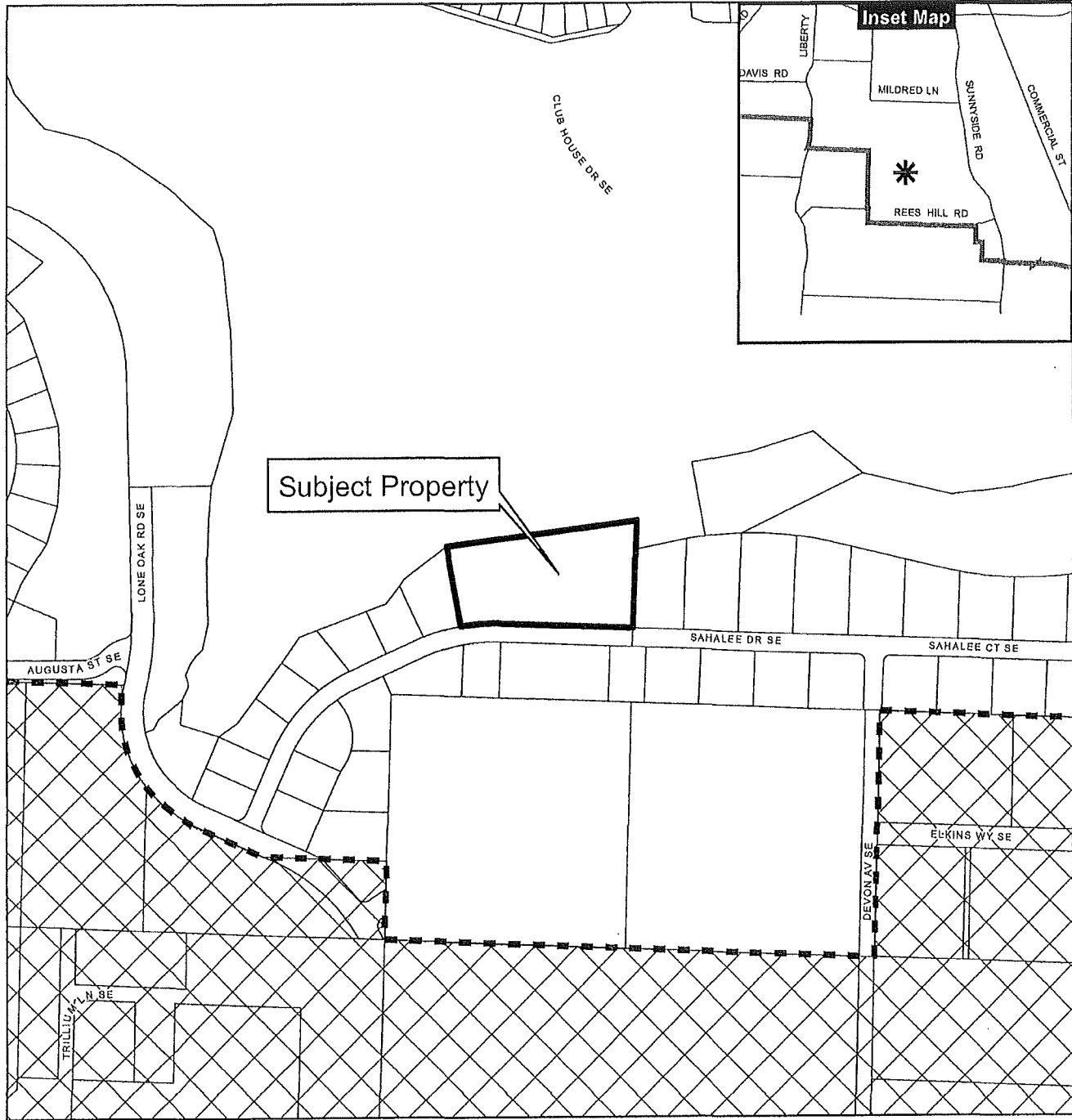
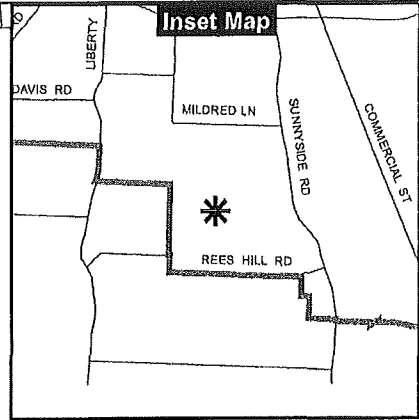
**of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.**

**Finding:** The subject property is located outside of the City's Urban Service Area. Pursuant to the urban growth management requirements of SRC Chapter 200 (Urban Growth Management), an Urban Growth Preliminary Declaration is required for development of property located outside the Urban Service Area. On December 11, 1990, the original UGA preliminary declaration was approved for the Creekside Planned Unit Development, UGA Preliminary Declaration Case No. UGA90-9.

The requirements of UGA preliminary declaration UGA90-9, and the subsequent amendments to the preliminary declaration, continue to apply to the development. These amendments added additional properties to the development, revising required public facility improvement requirements as necessary, and increasing the total number of allowable dwelling units within the development to 767, plus 10 percent, as allowed under the associated infrastructure agreement with the applicant. The applicant has indicated that there are approximately 493 dwelling units in the entire series of Creekside PUDs within the territory covered by the amended UGA Preliminary Declaration. The subject application is a further subdivision within a platted lot within the boundaries covered by UGA90-9, and none of the identified off-site improvements in that Preliminary Declaration or its amendments are specifically warranted by the proposed subdivision.








The proposal meets this criterion.

# Vicinity Map 659 Sahalee Drive SE



Subject Property

### Legend

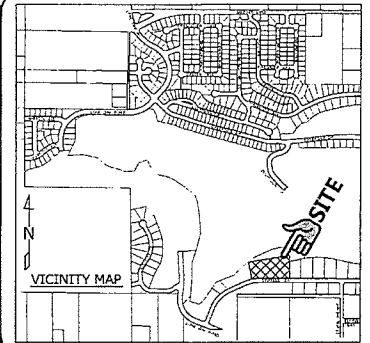
-  Taxlots
-  Outside Salem City Limits
-  Parks
-  Urban Growth Boundary
-  Historic District
-  City Limits
-  Schools



This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

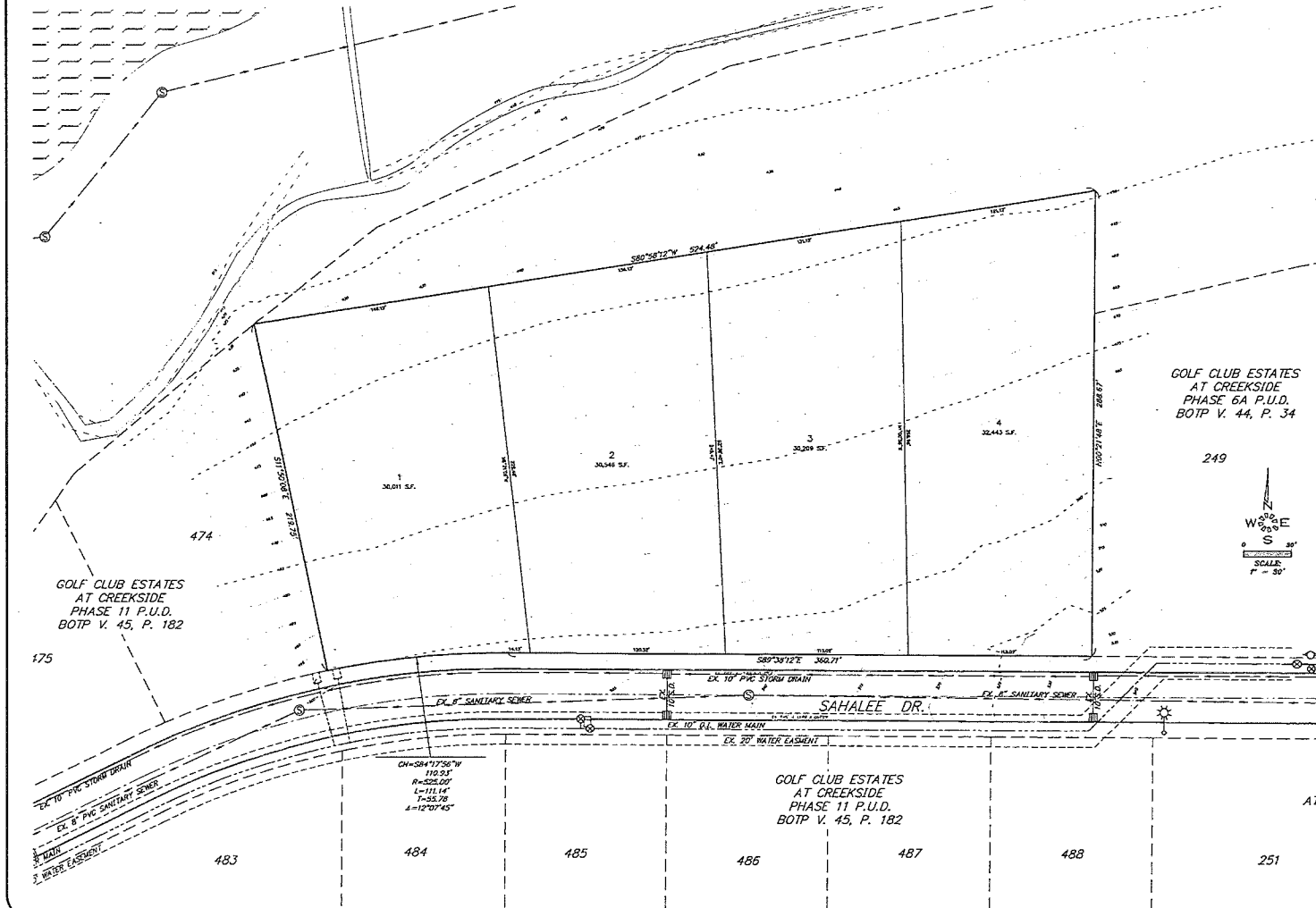
# CREEKSIDE GOLF COURSE

SEC. 22, T. 8 S., R. 3 W., W.M.  
CITY OF SALEM  
MARION COUNTY, OREGON



Owner / Developer:  
**Mt. West Investment Corp.**  
201 Ferry St. SE #400  
SALEM, OREGON 97301

PARCEL SIZE:	
DEVELOPABLE AREA	2.829 Ac.
NUMBER OF UNITS	4
DENSITY	1.41 UNITS/ACRE
LARGEST	32,443 S.F.
SMALLEST	30,011 S.F.
AVERAGE	30,802 S.F.
EXISTING ZONE	RS (SINGLE FAMILY RESIDENTIAL)
COMPREHENSIVE DESG.	RS (SINGLE FAMILY RESIDENTIAL)
UTILITIES:	
CABLE	COMCAST CABLE SERVICES
POWER	P.G.E.
PHONE	CENTURY LINK
GAS	N.W. NATURAL
STORM DRAIN, SANITARY SEWER, & WATER	CITY OF SALEM



J:\5800-5899\5882 Creekside Lot 473 LLA\Draw\5882b.dwg, P1--CS, 6/12/2015 9:30:30 AM, P.Saunders



MULTI/TECH ENGINEERING DESIGNED FROM LIABILITY IF NOT STAMPED APPROVED  
DESIGNED BY: [Signature]  
CHECKED BY: [Signature]  
DATE: [Signature]  
DATE: [Signature]



NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.  
DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

Design: B.H.G.  
Drawn: B.H.G.  
Checked: B.H.G.  
Date: JUNE 2015  
Scale: AS SHOWN  
As-Built:

## GOLF CLUB ESTATES AT CREEKSIDE Ph. 11

**PRELIMINARY PLAN**

Project Number  
**5882**  
Sheet Number  
**1 of 2**