

## NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
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*Si necesita ayuda para comprender esta información, por favor llame  
503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

**TENTATIVE PARTITION PLAN / CLASS 2 ADJUSTMENT CASE NO.: PAR-ADJ24-11**

**APPLICATION NO.: 24-105587-PLN**

**NOTICE OF DECISION DATE:** October 7, 2024

**SUMMARY:** A partition of a property into a three parcel flag lot.

**REQUEST:** A consolidated Tentative Partition Plan to divide a property into three parcels, proposed Parcel 1 8,714 square feet in size and proposed Parcels 2 and 3 5,278 square feet in size, with one Class 2 Adjustment to exceed the maximum flag lot accessway from 150 feet to 177 feet. The subject property is 0.44-acres in size, zoned RS (Single Family Residential) and located at 2886, 2888, 2890 Brooks Avenue NE (Marion County Assessors Map and Tax Lot Number 073W14AC / 700).

**APPLICANT:** Steve Jasperson

**LOCATION:** 2886, 2888 and 2890 Brooks Ave NE, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapters 205.005(d) – Partition Tentative Plan; 250.005(d)(2) – Class 2 Adjustment

**FINDINGS:** The findings are in the attached Decision dated October 7, 2024.

**DECISION:** The **Planning Administrator APPROVED** Partition Tentative Plan, Class 2 Adjustment Case No. PAR-ADJ24-11 subject to the following conditions of approval:

- Condition 1:** Prior to final plat, the applicant shall revise the proposed partition plan to ensure proposed Parcel 2 and Parcel 3 meet the minimum lot standards of SRC 511.010, Table 511-2.
- Condition 2:** Prior to final plat approval, obtain a demolition permit to remove the existing garage on the south side of the existing residence on Parcel 1, as well as the accessory structure within the proposed flag lot accessway. A minimum three-foot setback to the proposed flag lot accessway is required for any part of the existing dwelling on the parcel.
- Condition 3:** Prior to final plat approval, obtain a demolition permit to remove the existing accessory structure on proposed Parcel 2 or obtain the required building permits to establish it as a standalone dwelling.
- Condition 4:** Prior to final plat, if the accessory building on Parcel 2 is to remain, the applicant shall revise the proposed plat to ensure the building meet the minimum setback standards of SRC 511.010, Table 511-3.

- Condition 5:** Prior to final plat approval, the applicant shall pave the entire 20-foot-wide flag lot accessway with a hard surface material.
- Condition 6:** At time of building permit, the applicant shall demonstrate an automatic fire sprinkler system is provided on proposed Parcel 2 and Parcel 3 or demonstrate an alternative means of fire protection is provided, as approved by the Fire Marshall.
- Condition 7:** Prior to final plat approval, the applicant shall install "NO PARKING" signs on both sides of the flag lot accessway.
- Condition 8:** Any off-street parking or vehicle storage on proposed Parcel 1 shall meet the development standards of SRC 806.025 and SRC 806.030.
- Condition 9:** Prior to final plat, submit a tentative stormwater design to serve all proposed parcels in compliance with Public Works Design Standards. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces on all parcels.
- Condition 10:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve Parcel 2 and Parcel 3.
- Condition 11:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct sewer services in the public right-of-way to serve Parcel 2 and Parcel 3.
- Condition 12:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), the applicant shall individually connect the existing building on proposed Parcel 2 to public water and sewer, as shown on the applicant's utility plan.
- Condition 13:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), construct stormwater facilities that are proposed in the public right-of-way to serve Parcels 1, 2, and 3.
- Condition 14:** Prior to final plat, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 15:** Prior to final plat approval, provide a 10-foot-wide public utility easement along the frontage of Brooks Avenue NE on the final plat.
- Condition 16:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), the applicant shall permanently close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalks.
- Condition 17:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), reconstruct and widen the southern driveway approach to meet

current Public Works Design Standards and meet the minimum width required to serve the flag lot accessway.

**Condition 18:** Prior to final plat, two trees shall be planted on Parcel 1 to meet the minimum amount required, per SRC 808.050, Table 808-1.

**Condition 19:** The properties served by the flag lot accessway shall be limited to a maximum of four dwelling units throughout the three lots.

The rights granted by the attached decision must be exercised, or an extension granted, by October 29, 2026, or this approval shall be null and void.

|                                  |                          |
|----------------------------------|--------------------------|
| Application Deemed Complete:     | <u>August 26, 2024</u>   |
| Notice of Decision Mailing Date: | <u>October 7, 2024</u>   |
| Decision Effective Date:         | <u>October 29, 2024</u>  |
| State Mandate Date:              | <u>December 24, 2024</u> |

Case Manager: Peter Domine, [pdomine@cityofsalem.net](mailto:pdomine@cityofsalem.net), (503) 540-2311

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Tuesday, October 22, 2024. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 205, 250. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM**

**DECISION**

|  |   |                           |
|--|---|---------------------------|
| <b>IN THE MATTER OF THE</b>            | ) | <b>FINDINGS AND ORDER</b> |
| <b>APPROVAL OF TENTATIVE PARTITION</b> | ) |                           |
| <b>AND CLASS 2 ADJUSTMENT</b>          | ) |                           |
| <b>CASE NO. PAR-ADJ24-11</b>           | ) |                           |
| <b>2886 BROOKS AVE NE</b>              | ) | <b>October 7, 2024</b>    |

In the matter of the application for a Tentative Partition application submitted by the property owner, Steve Jaspersen, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

**REQUEST**

**Summary:** A partition of a property into a three parcel flag lot.

**Request:** A consolidated Tentative Partition Plan to divide a property into three parcels, proposed Parcel 1 at 8,714 square feet in size and proposed Parcels 2 and 3 at 5,278 square feet in size, with one Class 2 Adjustment to exceed the maximum flag lot accessway from 150 feet to 177 feet. The subject property is 0.44-acres in size, zoned RS (Single Family Residential) and located at 2886, 2888, 2890 Brooks Avenue NE (Marion County Assessor’s Map and Tax Lot Number 073W14AC / 700).

A vicinity map indicating the subject property and surrounding area is included herein as **Attachment A**.

**PROCEDURAL FINDINGS**

**1. Background**

On March 05, 2024, an application for a Tentative Partition Plan was filed proposing to divide a 0.44-acre property located at 2886 Brooks Avenue NE into three parcels. The proposed partition plan is included as **Attachment B**.

After additional information was provided, including the addition of an application for a Class 2 Adjustment, the consolidated application was deemed complete for processing and notice of filing was sent pursuant to Salem Revised Code requirements on August 26, 2024. The state-mandated local decision deadline for the application is December 24, 2024.

**SUBSTANTIVE FINDINGS**

**2. Proposal**

The tentative partition plan proposes to divide the 19,270 square foot property into three parcels; the existing single-family dwelling would remain on Parcel 1 and Parcels 2 and 3 would be infill flag lots consisting of vacant land for the future development of single-family uses. The proposed flag lot accessway to the parcels would take access off Brooks Ave NE. The three parcels within the tentative partition plan are proposed as follows:

**PROPOSED PARCEL 1**

Parcel Size: 8,714 square feet (5,168 square feet exclusive of the accessway)  
Parcel Dimensions: Approximately 79.24 feet in width and 87.37 feet in depth

**PROPOSED PARCEL 2**

Parcel Size: 5,278 square feet  
Parcel Dimensions: Approximately 59.13 feet in width and 89.36 feet in depth

**Proposed Parcel 3**

Parcel Size: 5,278 square feet  
Parcel Dimensions: Approximately 65.79 feet in width and 79.02 feet in depth

**3. Summary of Record**

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City’s online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 24 105587.

**4. Existing Conditions**

Site and Vicinity

The subject property has approximately 79.24 feet of frontage on Brooks Ave NE. The property is currently approximately 79.24 feet in width and 242.72 feet in depth. The applicant proposes to retain the existing single-family dwelling on Parcel 1. There is also an existing accessory building on proposed Parcel 2, marked “cottage” on the plans, that is proposed to remain.

Salem Area Comprehensive Plan (SACP) Designation

*Urban Growth Policies:* The subject property is located inside the Salem Urban Growth Boundary and inside the corporate city limits.

*Comprehensive Plan Map:* The subject property is designated “Single Family Residential (SF)” on the Salem Area Comprehensive Plan (SACP) Map. The surrounding properties are designated as follows:

| <b>Comprehensive Plan Map Designations of Surrounding Properties</b> |                                  |
|--|----------------------------------|
| <b>North</b>   | Single Family Residential        |
| <b>East</b>  | Industrial                       |
| <b>South</b>   | Single Family Residential        |
| <b>West</b>  | Across Brooks Ave NE, Industrial |

Zoning and Surrounding Land Use

The subject property is zoned RS (Single Family Residential) and is currently developed with a single-family dwelling. The surrounding properties are zoned and used as follows:

| <b>Zoning of Surrounding Properties</b> |  |
|---|--|
| <b>North</b>                            | RS (Single Family Residential)             |
| <b>East</b>                             | IG (General Industrial)                    |
| <b>South</b>                            | RS (Single Family Residential)             |
| <b>West</b>                             | Across Brooks Ave NE, IP (Industrial Park) |

Relationship to Urban Service Area

The subject property lies within the City's Urban Service Area. The Urban Service Area is that territory within 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. However, the proposal is a partition application, which does not meet the definition of "development" under SRC Chapter 200, and therefore, no UGA development permit is required for the proposed development.

Infrastructure

*Water:* The subject property is located within the G-0 water service level. A 6-inch public water main is located in Brooks Ave NE.

*Sewer:* An 8-inch sewer main is located in Brooks Ave NE.

*Storm*

*Drainage:* A 10-inch storm main is located in Brooks Ave NE, terminating near the southwest corner of the subject property.

*Streets:* Brooks Ave NE:

- a. Standard – This street is designated as a Local Street in the Salem TSP. The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way.
- b. Existing Conditions – This street has an approximate 34-foot improvement within a 50-foot-wide right-of-way abutting the subject property.

**5. City Department Comments**

Development Services Division – Reviewed the proposal and has provided comments and recommendation for plat approval. Their memorandum is included as **Attachment C**.

Building and Safety Division – Reviewed the proposal and indicated no concerns.

Fire Department – Reviewed the proposal and indicated Fire Department access and water supply will be required for development.

## 6. Public Agency and Private Service Provider Comments

Salem-Keizer Public Schools – Reviewed the proposal and provided a memo, dated September 4, 2024, and which is included in the record. In summary, the memo indicated the property is served by Highland Elementary, Parrish Middle School, and North Salem High School, and is in the walk zone for Highland Elementary, and that students are eligible for school transportation for Parrish Middle School and North Salem High School. Each school is found to have adequate capacity for the anticipated number of students added by the proposed development.

Salem Electric – Reviewed the proposal and indicated Salem Electric will provide service according to the rates and policies at the time of future development.

## 7. Neighborhood Association Comments and Public Comments

The subject property is located within the boundaries of the Highland Neighborhood Association and is adjacent to the Northgate Neighborhood Association to the east.

Applicant Neighborhood Association Contact: SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), land use applications included in this proposed consolidated land use application request require neighborhood association contact. On March 6, 2023, the applicant contacted the Highland Neighborhood Association to provide details about the proposal.

Neighborhood Association Comment: Notice of the application was provided to the neighborhood association, pursuant to SRC 300.620(b)(2)(B)(iii), which requires public notice to be sent to “any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property.” The Highland Neighborhood Association provided a response indicating no concerns. The Northgate Neighborhood Association provided a response with concerns regarding off-street parking for each lot, particularly Parcel 1, which will remove its attached garage to allow space for the flag lot accessway.

**Staff Response:** The submittal requirements of SRC 205.030(m) for a tentative partition plan require any land division for the creation of a residential flag lot shall identify the number of units that will be developed on each lot served by the flag lot accessway. The requirement is intended to demonstrate how many units could potentially be developed in order to determine the width of the flag lot accessway. The applicant’s written statement and tentative plan propose a minimum flag lot accessway of 20 feet, which, per SRC 800.025, Table 800-1, can serve up to two dwelling units. With the existing house on proposed Parcel 1 to remain, the flag lot accessway will serve three lots. In order to create the flag lot accessway, the applicant is proposing to remove the attached garage of the existing house on Parcel 1. With the removal of the garage, there will be no off-street parking area serving the existing house. Per SRC 806.015, no minimum amount of off-street parking is required for any uses, however, access is available to Parcel 1 off the flag lot accessway, and off-street parking or vehicle storage could be provided behind the existing house on Parcel 1, provided it meets the development standards of SRC 806.025, such as a screened parking area in the rear yard of

Parcel 1. Any proposed development including new off-street parking, including driveway width and depth standards, will be reviewed at building permit to ensure conformance with the applicable standards of the UDC.

Homeowners Association: The subject property is not located within a Homeowners Association.

Public Comment: Property owners and residents within 250 feet of the subject property were mailed notification of the proposed partition. As of the date of this decision, no comments were received.

## **DECISION CRITERIA**

### **8. Analysis of Tentative Partition Plan Approval Criteria**

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 partition 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 parcels 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 partition plat.

SRC Chapter 205.005(d) sets forth the criteria that must be met before approval can be granted to a tentative partition plan. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings of fact evaluating the proposal for conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the tentative plan or for the issuance of conditions of approval to satisfy the criteria.

***SRC 205.005(d)(1): The tentative partition plan complies with the 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 applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes* (ORS) and SRC. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), 672.060(4), *Oregon Administrative Rules* 850-020-0015(4)&(10), 820-020-0020(2), and 820-020-0045(5).

The tentative partition plan proposes to divide the 19,270 square foot property into three parcels; the existing single-family dwelling would remain on Parcel 1, and Parcels 2 & 3 will consist of vacant land for future development. The subject property is currently zoned RS



(Single Family Residential). The minimum lot area requirements of the RS zone are established under SRC 511.010(b) as follows:

**SRC Chapter 511 – RS (Single Family Residential) Zone**

▪ **Lot Standards:**

Lot size and dimension standards within the RS zone are established in SRC 511.010(b), Table 511-2. A summary of the standards applicable to residential uses within the RS zone is provided in the following table:

| Requirement   | Minimum Standard                   |
|---|------------------------------------|
| Lot Area (applicable to infill lots)                                      | 5,500 square feet                  |
| Lot Width (All uses other than townhomes)                                 | 40 feet                            |
| Lot Depth (Single family and two family)<br>All other uses                | 70 feet minimum<br>80 feet minimum |
| Street Frontage (Single family, non-townhomes and non-cul-de-sac streets) | 40 feet                            |

**Finding:** As shown on the tentative partition plan (**Attachment B**), proposed Parcel 1 is 5,168 square feet, exclusive of the accessway, and would have 59 feet of frontage on Brooks Ave NE. The proposed parcel is 59 feet in width, exclusive of the accessway, and 87 feet in depth. Parcel 1 meets the area, width, depth, and frontage lot standards. Proposed Parcel 2 will be an infill flag lot 5,278 square feet in size with 59 feet of width and 89 feet of depth and will have access to Brooks Ave NE via the flag lot accessway. Proposed Parcel 3 will be an infill flag lot 5,278 square feet in size with 59 feet of width and 89 feet of depth and will have access to Brooks Ave NE via the flag lot accessway. Proposed Parcels 2 and 3 do not meet the minimum 5,500 square foot area required of an infill flag lot. To ensure the parcels meet the minimum area, the following condition shall apply.

**Condition 1:** Prior to final plat, the applicant shall revise the proposed partition plan to ensure proposed Parcel 2 and Parcel 3 meet the minimum lot standards of SRC 511.010, Table 511-2.

▪ **Setbacks:**

Setbacks within the RS zone are established in 511.010(d), Table 511-3. A summary of the standards applicable to residential uses within the RS zone is provided in the following table:

| Requirement                             | Minimum Standard | Limitations & Qualifications   |
|---|------------------|--|
| Abutting Street – Single to Four Family | 12 feet minimum  | 20 feet applicable along collector or arterial streets                           |
| Interior Front – Single to Four Family  | 12 feet minimum  |  |
| Interior Side – Single to Four Family   | 5 feet minimum   | Applicable to new buildings, other than zero side yard dwellings and townhouses. |

|                                       |                 |   |
|---------------------------------------|-----------------|---|
|                                       | 3 feet minimum  | Applicable to existing buildings, other than zero side yard dwellings and townhouses. |
| Interior Rear – Single to Four Family | 14 feet minimum | Applicable to any portion of a building not more than 1 story in height.              |
|                                       | 20 feet minimum | Applicable to any portion of a building greater than 1 story in height.               |

**Finding:** The existing single-family dwelling proposed to remain on Parcel 1 exceeds the setback standards in the RS zone, with a setback of 23.68 feet to the west (front) property line abutting Brooks Ave NE; 31.64 feet to the east (interior rear) property line; nine feet to the north (interior side) property line; and three feet to the south abutting the flag lot accessway. There is an attached garage on the existing single-family dwelling on Parcel 1 along the south side of the house that would encroach into the required flag lot accessway. Pursuant to SRC 112.050(c)(2), setbacks abutting a flag lot accessway shall be measured from the most interior access easement line, if an access easement exists. There is also an existing accessory structure within the area of the proposed flag lot accessway. The applicant proposes to remodel the existing dwelling to remove the garage in order to make way for the new flag lot accessway; once removed, the proposed plans indicate a four-foot setback to the accessway. To ensure that the dwelling is remodeled to provide the appropriate flag lot accessway to serve the partition, and the accessory structure located within the proposed accessway is removed, the following condition shall apply.

**Condition 2:** Prior to final plat approval, obtain a demolition permit to remove the existing garage on the south side of the existing residence on Parcel 1, as well as the accessory structure within the proposed flag lot accessway. A minimum three-foot setback to the proposed flag lot accessway is required for any part of the existing dwelling on the parcel.

The plans also indicate there is an existing “cottage” on proposed Parcel 2, which is classified as an accessory structure. By definition, an accessory use cannot be permitted without a primary use on the property; therefore, in order to create the parcel, the accessory structure shall be removed or obtain the necessary permits to convert it to a standalone dwelling on the new parcel. To ensure the proposed partition plan meets the development standards of the RS zone, the following condition shall apply.

**Condition 3:** Prior to final plat approval, obtain a demolition permit to remove the existing accessory structure on proposed Parcel 2 or obtain the required building permits to establish it as a standalone dwelling.

If proposed to remain and be converted to a standalone dwelling, the building on Parcel 2 will not meet the setback requirements of the RS zone. Per SRC 800.020, the designation of lot lines for a flag lot shall be either the outside property line that is an extension of the flag lot accessway or the property line separating the flag portion of the lot from the lot between it and the street from which access is provided to the flag lot. Based on the lot

dimension of proposed Parcel 2 and the flag lot line designations, the interior west property line of Parcel 2 would be considered the front property line, and per SRC 511, Table 511-3, a minimum setback of 12 feet would be required to the building. To ensure the proposed partition meets the applicable setback standards, the following condition shall apply.

- **Condition 4:** Prior to final plat, if the accessory building on Parcel 2 is to remain, the applicant shall revise the proposed plat to ensure the building meet the minimum setback standards of SRC 511.010, Table 511-3.

Future development of Parcels 2 and 3 will be reviewed for adherence to setback requirements at the time building permit application. The proposed parcels exceed the minimum parcel size for the RS zone, and provide sufficient width and depth to accommodate the required setbacks.

- **Lot Coverage:**

Maximum lot coverage requirements within the RS zone are established under SRC 511.010(e), Table 511-4. The maximum lot coverage for single to four family uses within the RS zone is 60 percent. The maximum rear yard coverage for accessory structures to single- and two-family uses is 25 percent.

**Finding:** The existing single-family dwelling on proposed Parcel 1 is 1,285 square feet, or 25 percent lot coverage. As conditioned above, proposed Parcel 2 contains a nonconforming accessory structure which will be removed. Proposed Parcels 2 and 3 are otherwise undeveloped and will be reviewed for conformance with the lot coverage standards at the time of building permit application. The proposal meets the standard.

### ***SRC Chapter 800 – General Development Standards***

- **Designation of Lot Lines**

SRC 800.020 establishes standards for the designation of front, side, and rear lot lines for interior lots, corner lots, double frontage lots, flag lots, and all other lots.

For a flag lot, the front lot line shall be the outside property line that is an extension of the flag lot accessway or the property line separating the flag portion of the lot from the lot between it and the street from which access is provided to the flag lot, unless the Planning Administrator otherwise directs, in which case the front lot line shall be set forth in the conditions of approval for the tentative plan of the plat, which shall be recorded on deeds conveying lots.

**Finding:** Based on the lot width and depth dimensions and as defined in SRC 800.020(a)(4), the front lot line of proposed Parcel 2 would be the west interior lot line and the front lot line of proposed Parcel 3 would be the south interior lot line that is an extension of the flag lot accessway.

- **Flag Lots.**

SRC 800.025 establishes standards for flag lots and the flag lot accessways that serve them. SRC 800.025(c), Table 800-1 establishes the following standards for the development of flag lot accessways:

| <b>Table 800-1 Flag Lot Accessway Standards (Residential Zones)</b> |  |   |
|---|--|---|
|   | <b>1 to 2 Units Served by Accessway</b>  | <b>3 to 4 Units Served by Accessway</b> |
| <b>Length</b>   | 150 ft. Max.   | 400 ft. Max.                            |
| <b>Width</b>  | Min. 20 ft.  | 25 ft. Min.                             |
| <b>Paved Width</b>  | Min. 15 ft.  | 20 ft. Min.                             |
| <b>Parking</b>  | Not Allowed  | Not Allowed                             |
| <b>Turnaround</b>   | Required for flag lot accessways greater than 150 feet in length. <i>(Unless the buildings served by the flag lot accessway are equipped with approved automatic fire sprinkler systems or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshal)</i> |   |
| <b>Maximum Number of Lots Served</b>                                | A maximum of four units may be served by a flag lot accessway.   |   |

**Finding:** The tentative plan indicates the proposed flag lot accessway will be 177 feet in length by 20 feet in width, which, per Table 800-1, could serve a maximum of two dwelling units. With the existing dwelling on proposed Parcel 1, the flag lot accessway will serve three parcels and up to four units. The proposed accessway length is more than the maximum 150 feet length allowed and less than the minimum 25 feet in width to serve three to four units between the three parcels. Due to the location of the existing house and the infeasibility of providing a wider and longer accessway, the applicant has requested a Class 2 Adjustment to this standard, addressed in Section 9 below. To ensure the flag lot accessway can serve the three parcels and up to three-to-four units, the following condition shall apply.

**Condition 5:** Prior to final plat approval, the applicant shall pave the entire 20-foot-wide flag lot accessway with a hard surface material.

Per SRC 800.025(c)(3)(B), flag lot accessways greater than 150 feet in length shall include a turnaround meeting Salem Fire Prevention Code standards, unless the buildings served by the flag lot accessway are equipped with approved automatic fire sprinkler systems or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshall. To ensure future development of proposed Parcels 2 and 3 meet the requirements of this section, the following condition shall apply.

**Condition 6:** At time of building permit, the applicant shall demonstrate an automatic fire sprinkler system is provided on proposed Parcel 2 and Parcel 3 or demonstrate an alternative means of fire protection is provided, as approved by the Fire Marshall.

SRC 800.025(d) prohibits parking on flag lot accessways. No parking signs shall be posted and maintained on both sides of the accessway. To ensure conformance with the standards, the following condition shall apply.

**Condition 7:** Prior to final plat approval, the applicant shall install “NO PARKING” signs on both sides of the flag lot accessway.

### ***SRC Chapter 806 – Off-Street Parking, Loading, and Driveways***

#### **▪ *Maximum Parking***

Except as otherwise provided in this section, and unless otherwise provided under the UDC, off-street parking shall not exceed the amounts set forth in Table 806-1. For the purposes of calculating the maximum amount of off-street parking allowed, driveways shall not be considered off-street parking spaces.

**Finding:** Per SRC 806.015(a), Table 806-1, the maximum allowed off-street parking for single-family uses is three spaces. The subject property contains an existing single-family dwelling with an attached garage. The proposed partition will require the attached garage be removed for development of the flag lot accessway. With the removal of the garage, the existing single-family dwelling will have no parking on site and will not exceed the maximum of three parking spaces. Any new off-street parking on proposed Parcels 2 and 3 will be reviewed for conformance at the time of development.

#### **▪ *Driveway Development Standards for Single Family and Two Family Uses***

Driveways for single-to-four-family uses shall be developed and maintained to the standards of SRC 806.030. Driveways shall be permitted within yards abutting streets when crossing from the lot line and leading to a permitted off-street parking area by the shortest direct route. Driveways shall conform to the minimum dimensions set forth in Table 806-3.

**Finding:** There is an existing driveway leading to the garage attached to the dwelling on proposed Parcel 1. As conditioned, the garage shall be removed in order to make way for the proposed flag lot accessway, and the driveway will be replaced with the flag lot accessway. The applicant has not proposed any additional parking for Parcel 1. To ensure any proposed future off-street parking areas on Parcel 1 meet the development standards of the UDC, the following condition shall apply.

**Condition 8:** Any off-street parking or vehicle storage on proposed Parcel 1 shall meet the development standards of SRC 806.025 and SRC 806.030.

Any future driveways on proposed Parcels 2 and 3 will be reviewed at the time of building permit.

#### ***(B) City Infrastructure Standards.***

The Development Services division reviewed the proposal for compliance with the City’s public facility plans as the pertain to provision of water, sewer, and storm drainage facilities. While SRC Chapter 205 does not require submission of utility construction plans prior to tentative partition 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. A summary of the existing and required City infrastructure improvements are as follows:

### ***SRC Chapter 200 – Urban Growth Management***

SRC Chapter 200 (Urban Growth Management) requires issuance of an Urban Growth Preliminary Declaration (UGA) prior to development of property located outside the City’s Urban Service Area.

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required.

### ***SRC Chapter 71 – Stormwater***

The proposed development is subject to SRC Chapter 71 and the revised Public Works Design Standards (PWDS) as adopted in Administrative Rule 109, Division 004.

**Finding:** 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, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities. The stormwater systems shall be tentatively designed to accommodate the future impervious surfaces on all proposed parcels within the partition.

**Condition 7:** Prior to final plat, submit a tentative stormwater design to serve all proposed parcels in compliance with Public Works Design Standards. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces on all parcels.

### ***SRC Chapter 802 – Public Improvements***

#### **▪ *Development to be served by City utilities***

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 Development Services division memo (**Attachment C**) and included in the following analyses of the partition approval criteria.

**Finding:** Public water, sanitary sewer, and stormwater infrastructure is available along the perimeter of the site and appears to be adequate to serve the property as shown on the applicant’s preliminary utility plan. As specified in the conditions of approval, private water, sewer, and storm services shall be constructed to serve each lot as a condition of plat approval. This shall include the requirement to provide individual services for the single-family dwelling that is planned to remain on proposed Parcel 2 (labeled as “cottage” on the plans). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured prior to final plat approval except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). In order to ensure the parcels are served by public utilities, the following conditions apply.

- Condition 8:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve Parcel 2 and Parcel 3.
- Condition 9:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct sewer services in the public right-of-way to serve Parcel 2 and Parcel 3.
- Condition 10:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), the applicant shall individually connect the existing building on proposed Parcel 2 to public water and sewer, as shown on the applicant's utility plan.
- Condition 11:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), construct stormwater facilities that are proposed in the public right-of-way to serve Parcels 1, 2, and 3.

▪ **Easements**

SRC 802.020 requires the conveyance or dedication of easements for City utilities as a condition of development approval.

**Finding:** Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat. The applicant's tentative plan shows a proposed 20-foot-wide access and utility easement to serve Parcel 2 and 3.

**Condition 12:** Prior to final plat, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.

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

**SRC Chapter 803 – Street and Right-of-Way Improvements**

▪ **Boundary Street Improvements**

Pursuant to SRC 803.025, except as otherwise provided in this chapter, right-of-way width and pavement width for streets and alleys shall conform to the standards set forth in Table 803-1 (Right-of-way Width) and Table 803-2 (Pavement Width). In addition, SRC 803.040 requires dedication of right-of-way for, and construction or improvement of, boundary streets up to one-half of the right-of-way and improvement width specified in SRC 803.025 as a condition of approval for partition applications.

**Finding:** Brooks Avenue NE abuts the subject property and is classified as a local street according to the Salem Transportation System Plan (TSP). Brooks Avenue NE meets the minimum right-of-way width and pavement width standards established in SRC 803.025; therefore, additional improvements along Brooks Avenue NE are not required.

▪ **Street Trees**

Pursuant to SRC 803.035(k) and SRC 86.015(e), anyone undertaking development along public streets shall plant new street trees to the maximum extent feasible.

**Finding:** There are existing street trees within the right-of-way of Brooks Avenue NE along the property frontage. Additional street trees are not required.

▪ **Public Utility Easements**

SRC 803.035(n) requires dedication of a 10-foot Public Utility Easements (PUE) along all street rights-of-way.

**Finding:** As a condition of approval, the applicant shall dedicate a 10-foot-wide PUE along the street frontage of Brooks Avenue NE.

**Condition 13:** Prior to final plat approval, provide a 10-foot-wide public utility easement along the frontage of Brooks Avenue NE on the final plat.

**SRC Chapter 804 – Driveway Approaches**

Salem Revised Code Chapter 804 establishes requirements for driveway approaches in order to provide for safe and efficient access to public streets.

**Finding:** The subject property is currently served by two 10-foot-wide driveway approaches onto Brooks Avenue NE, one along the northern property boundary and one along the southern property boundary. The driveway approach along the northern property boundary does not serve an approved off-street parking or vehicle storage area, pursuant to SRC 806.025. Pursuant to SRC 804.030(b)(1) driveway approaches onto local and collector streets shall only provide access to a permitted parking or vehicular use area. In addition, SRC 804.050(b)(1) Table 804-1 requires a minimum 10-foot-wide width for driveway approaches. As a condition of approval, the applicant shall close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalk.

**Condition 14:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), the applicant shall permanently close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalks.

The driveway approach along the southern property boundary will serve the proposed flag lot accessway for proposed Parcels 1, 2 and 3 of the partition. The existing approach is approximately 10 feet in width and not constructed to meet current *Public Works Design Standards*. Pursuant to SRC 800.025(c) Table 800-1, a flag lot accessway serving two units shall have a minimum 15-foot paved width; however, as a condition of approval, the applicant is required to pave the flag lot to 20-feet in order to provide access to the three proposed parcels. As a condition of approval, the applicant shall reconstruct and widen the southern driveway approach to meet current *Public Works Design Standards* and meet the minimum width required to serve the flag lot accessway.

**Condition 15:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), reconstruct and widen the southern driveway approach to meet current Public Works Design Standards and meet the minimum width required to serve the flag lot accessway.



***(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 flow water discharges and to minimize danger to life and property.

**Finding:** The Floodplain Administrator 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 808 – Preservation of Trees and Vegetation***

SRC Chapter 808 (Preservation of Trees and Vegetation) requires tree conservation plans in conjunction with development proposals involving the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters. 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 diameter at breast height (dbh), and possesses an upright arrangement of branches and leaves."

Under the City's tree preservation ordinance, tree conservation plans are required to preserve all heritage trees, significant trees, trees and native vegetation within riparian corridors, and a minimum of 30 percent of all of the trees on the property. If less than 30 percent of the existing trees on the property are proposed for preservation, the applicant must demonstrate that there are no reasonable design alternatives that would enable preservation of such trees and that for each tree removed in excess of 70 percent, the mitigation measures required under SRC 808.035(e) are satisfied.

Similarly, if significant trees and trees within a riparian corridor are proposed for removal, the applicant must show that there are no reasonable design alternatives to enable preservation of those trees.

Pursuant to SRC 800.050, within development proposals for the creation of lots or parcels to be used for single-to-four-family uses or cottage clusters, each lot or parcel shall contain, at a minimum, the number of trees set forth in Table 808-1. If there are insufficient existing trees on a lot or parcel to satisfy the number of trees required under Table 808-1, additional trees sufficient to meet the requirement shall be planted. The additional trees shall be a minimum 1.5-inch caliper.

**Finding:** Since a Tree Conservation Plan is intended to preserve existing trees on a property and the subject property does not contain any trees, a tree conservation plan is not required. Pursuant to SRC 808.050, the creation of lots or parcels shall contain a minimum number of trees set forth in Table 808-1. Parcels 2 and 3 will be reviewed at time of building permit and shall meet the tree planting requirements of SRC 808.050. Separately, where there are insufficient trees to satisfy the number of trees required in Table 808-1, additional trees shall be planted. Parcel 1 contains an existing dwelling with insufficient trees under Table 808-1. To ensure conformance with the standard, the following condition shall apply.

**Condition 16:** Prior to final plat, two trees shall be planted on Parcel 1 to meet the minimum amount required, per SRC 808.050, Table 808-1.

***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:** According to the Salem-Keizer Local Wetland Inventory (LWI), the subject property does not contain any wetland areas or hydric soils.

***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, there are no mapped landslide hazard areas on the subject property.

***SRC 205.005(d)(2): The tentative partition plan does not impede the future use or development of the property or adjacent land.***

**Finding:** The proposed partition would divide the 19,270 square foot property into three parcels, with proposed Parcels 2 and 3 to be developed in the future, and proposed Parcel 1 to retain the existing single-family dwelling. The proposed partition would not impede the future use or development of any portion of the property, allowing for reasonable development of the parcels in accordance with the UDC. The adjacent properties are developed and have existing access to public or private streets.

The proposed configuration of the parcels allows for the future development of the site consistent with the applicable zoning standards. The proposal does not adversely affect the safe and healthful development of adjacent properties. The proposal meets this criterion.

***SRC 205.005(d)(3): Development within the tentative partition plan can be adequately served by City infrastructure.***

**Finding:** The Development Services division reviewed the proposal and determined that water, sewer, and storm infrastructure are available and appear to be adequate to serve the parcels within the proposed partition subject to the conditions of approval established in this decision. This approval criterion is met.

***SRC 205.005(d)(4): The street system in and adjacent to the tentative partition plan conforms to the Salem Transportation System Plan.***

**Finding:** As described in the findings above, the subject property is located adjacent to Brooks Avenue NE, which is classified as a Local Street under the City's Transportation System Plan (TSP). The existing condition of Brooks Avenue NE street meets the minimum standards for its classification according to the Salem TSP and SRC Chapter 803. This criterion is met.

***SRC 205.005(d)(5): The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.***

**Finding:** Access to the proposed partition will be provided by the network of existing public streets that surround the property. The street system in and adjacent to the partition will provide for the safe, orderly, and efficient circulation of traffic to and from the partition. This criterion is met.

***SRC 205.005(d)(6): The tentative partition 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 partition 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 and conditioned in findings above, the lot configuration established by the proposed partition meets applicable development standards and the configuration of the proposed parcels makes logical use of the developable land. No existing conditions of topography or vegetation have been identified on the site which would necessitate further adjustments during future development of the property. The proposed layout allows for reasonable development of the parcels without any anticipated variances from the UDC. This criterion is met.

***SRC 205.005(d)(7): The layout, size, and dimensions of the parcels within the tentative partition plan take into account the topography and vegetation of the site, such that the least disruption of site, topography, and vegetation will occur from the reasonable development of the parcels.***

**Finding:** As addressed in the findings establishing conformance with SRC 205.005(d)(6) above, the tentative partition plan configures the parcels to allow residential development of the site while minimizing disruptions to topography and vegetation. The proposed parcels are also of sufficient size and dimension to permit future development of uses allowed within the zone. This approval criterion is met.

***SRC 205.005(d)(8): When the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer:***

- (A) The property is zoned residential;***
- (B) The property has received a favorable site evaluation from the county sanitarian for the installation of an on-site sewage disposal system; and***
- (C) The proposed parcels are at least 5 acres in size and, except for flag lots, have no dimension that is less than 100 feet.***

**Finding:** The site is served by available sewer and water; therefore, this criterion is not applicable.

## 9. Adjustment Approval 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 has requested a Class 2 Adjustment to exceed the maximum accessway length of 150 feet to 177 feet and minimum flag lot accessway width. The proposed partition will create three new parcels served by a single accessway off Brooks Avenue NE, with the existing single-family dwelling on proposed Parcel 1 to remain, and proposed Parcels 2 and 3 to be developed for future residential uses. Pursuant to SRC 800.025, Table 800-1, flag lot accessways serving one to two units require a minimum accessway width of 20 feet (15 paved) and maximum length of 150 feet, and three to four units require a minimum accessway width of 25 feet (20 paved) and are limited to a maximum length of 400 feet.

The applicant's plan indicates the attached garage of the existing dwelling of Parcel 1 will be removed to accommodate the flag lot accessway. With the removal of the garage, the plans indicate the existing house will have a minimum setback of four feet from the proposed 20-foot-wide accessway. Due to the existing house and required setback, the accessway cannot be further widened without further alterations to the house. As proposed, the 20-foot accessway could only serve two units, limiting its access for proposed Parcels 2 and 3 only. Given the length of the existing lot at 242 feet, an accessway with a minimum 20-foot width and maximum 150-foot length would only allow for one exceptionally large lot in the rear of the property.

Although proposed Parcel 1 could be restricted from taking access from the accessway, this would still require exceptionally long parcels to meet the maximum 150-foot length of a 20-foot-wide accessway. As conditioned previously, the 20-foot-wide accessway will be entirely paved to accommodate the three parcels, which, per SRC 800.025, Table 800-1, could provide up to four total units. As Table 800-1 allows a minimum paved width of 20 feet within a 25-foot accessway to serve three to four units, the proposed 20-foot-wide and 177-foot-long paved accessway will still provide adequate access for the three parcels. Furthermore, as conditioned above, proposed Parcels 2 and 3 will be reconfigured to meet the minimum lot standards, which will require the proposed boundaries shift westward, shortening the accessway less than the proposed 177-foot length.

The intent of the accessway length and width requirement is to provide adequate Fire Department access to a corresponding number of new residential dwelling units on the created lots. As proposed Parcel 1 already frontage along the street, the 20-foot fully paved accessway could, in effect, only serve Parcels 2 and 3, which, and as required by Fire Code and

conditioned above, will provide adequate fire protection. Because middle housing developments and accessory dwelling units are allowed in the RS zone, the proposed parcels could be developed with more than single dwelling units. To ensure the proposed 20-foot-wide and 177-foot-long accessway meets the intent of these standards and does not provide access to more units than allowed under Table 800-11, the following condition shall apply.

**Condition 17:** The properties served by the flag lot accessway shall be limited to a maximum of four dwelling units throughout the three lots.

As conditioned, the requested adjustment equally meets the standards, and is in compliance with this criterion.

***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 proposed accessway length will not detract from the livability or appearance of the residential area.

***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:** Only one Class 2 Adjustment has been requested; therefore, this criterion is not applicable.

## 10. Conclusion

Based upon review of SRC 205 and SRC 250 and the applicable standards of the Salem Revised Code, the findings contained herein, and due consideration of comments received, the application complies with the requirements for an affirmative decision.

### **IT IS HEREBY ORDERED**

Final approval of Tentative Partition Plan, Case No. PAR-ADJ24-11, is hereby **APPROVED** subject to SRC Chapter 205 and 250, and the applicable standards of the Salem Revised Code, the findings contained herein, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

**Condition 1:** Prior to final plat, the applicant shall revise the proposed partition plan to ensure proposed Parcel 2 and Parcel 3 meet the minimum lot standards of SRC 511.010, Table 511-2.

**Condition 2:** Prior to final plat approval, obtain a demolition permit to remove the existing garage on the south side of the existing residence on Parcel 1, as well as the accessory structure within the proposed flag lot accessway. A minimum three-foot setback to the proposed flag lot accessway is required for any part of the existing dwelling on the parcel.

- Condition 3:** Prior to final plat approval, obtain a demolition permit to remove the existing accessory structure on proposed Parcel 2 or obtain the required building permits to establish it as a standalone dwelling.
- Condition 4:** Prior to final plat, if the accessory building on Parcel 2 is to remain, the applicant shall revise the proposed plat to ensure the building meet the minimum setback standards of SRC 511.010, Table 511-3.
- Condition 5:** Prior to final plat approval, the applicant shall pave the entire 20-foot-wide flag lot accessway with a hard surface material.
- Condition 6:** At time of building permit, the applicant shall demonstrate an automatic fire sprinkler system is provided on proposed Parcel 2 and Parcel 3 or demonstrate an alternative means of fire protection is provided, as approved by the Fire Marshall.
- Condition 7:** Prior to final plat approval, the applicant shall install “NO PARKING” signs on both sides of the flag lot accessway.
- Condition 8:** Any off-street parking or vehicle storage on proposed Parcel 1 shall meet the development standards of SRC 806.025 and SRC 806.030.
- Condition 9:** Prior to final plat, submit a tentative stormwater design to serve all proposed parcels in compliance with Public Works Design Standards. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces on all parcels.
- Condition 10:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve Parcel 2 and Parcel 3.
- Condition 11:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct sewer services in the public right-of-way to serve Parcel 2 and Parcel 3.
- Condition 12:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), the applicant shall individually connect the existing building on proposed Parcel 2 to public water and sewer, as shown on the applicant’s utility plan.
- Condition 13:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), construct stormwater facilities that are proposed in the public right-of-way to serve Parcels 1, 2, and 3.
- Condition 14:** Prior to final plat, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 15:** Prior to final plat approval, provide a 10-foot-wide public utility easement along the frontage of Brooks Avenue NE on the final plat.

- Condition 16:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), the applicant shall permanently close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalks.
- Condition 17:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), reconstruct and widen the southern driveway approach to meet current Public Works Design Standards and meet the minimum width required to serve the flag lot accessway.
- Condition 18:** Prior to final plat, two trees shall be planted on Parcel 1 to meet the minimum amount required, per SRC 808.050, Table 808-1.
- Condition 19:** The properties served by the flag lot accessway shall be limited to a maximum of four dwelling units throughout the three lots.



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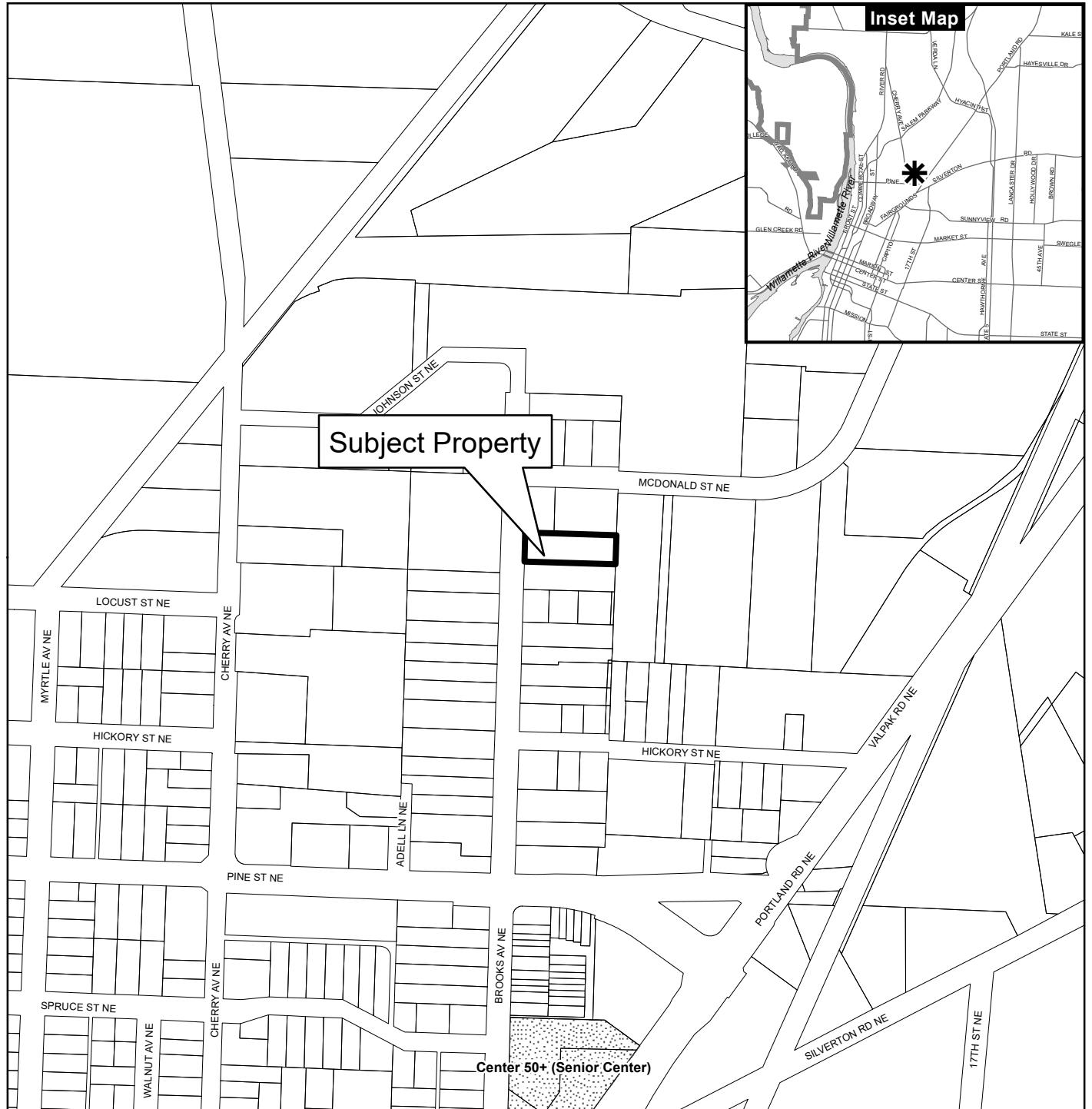
Peter Domine, Planner II, on behalf of,  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments:

- A. Vicinity Map
- B. Applicant's Tentative Partition Plan
- C. City of Salem Development Services Memo

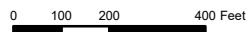
# Vicinity Map

## 2886, 2888, 2890 Brooks Avenue NE



**Legend**

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

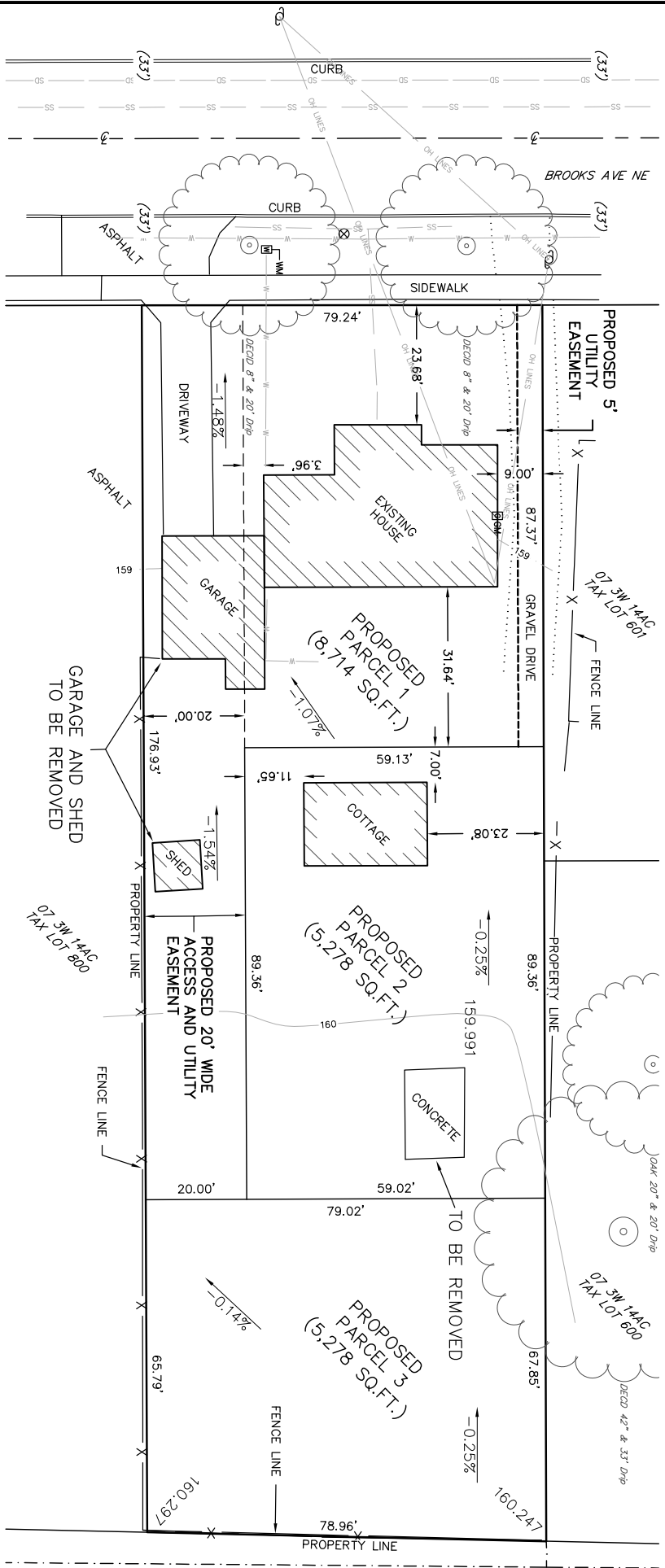


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# PROPOSED LAND PARTITION (OPTION 2)

## 2886 BROOKS AVE NE



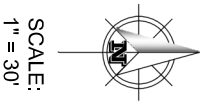
**OWNER**  
 STEVEN JASPERSON & PHIL L. LEU  
 170 W ELLENDALE DR #103 B 119  
 DALLAS, OR 97338

**ZONING INFO**  
 SINGLE FAMILY RESIDENTIAL (RS)

**TAX LOT**  
 073W14AD 700

**TOTAL AREA**  
 19,270 SQAURE FEET

**SURVEYOR**  
 GREGORY L. WILSON  
 BARKER SURVEYING  
 3657 KASHMIR WAY SE  
 SALEM, OR 97317  
 503-588-8800  
 greg@barkerwilson.com



SUBJECT PROPERTY IS LOCATED  
 IN FEMA ZONE X (OUTSIDE 500-YEAR  
 FLOODPLAIN) PER FEMA #41047C0334H  
 DATED 01/02/2003

**BARKER SURVEYING**  
 3657 KASHMIR WAY SE  
 SALEM, OREGON 97317  
 PHONE (503) 588-8800  
 FAX (503) 365-2469  
 EMAIL: INFO@BARKERWILSON.COM

07 3W 14AD  
 TAX LOT 1600



# MEMO

**TO:** Peter Domine, Planner II  
Community Planning and Development Department

**FROM:** Laurel Christian, Infrastructure Planner III  
Community Planning and Development Department

**DATE:** September 27, 2024

**Infrastructure Memo**  
**Partition Plat No. PAR-ADJ24-11 (24-105587-PLN)**  
**2886 Brooks Avenue NE**  
**3 Parcel Partition**

## PROPOSAL

A consolidated Tentative Partition Plan to divide a property into three parcels, proposed Parcel 1 8,714 square feet in size and proposed Parcels 2 and 3 5,278 square feet in size, with one Class 2 Adjustment to exceed the maximum flag lot accessway from 150 feet to 177 feet. The subject property is 0.44-acres in size, zoned RS (Single Family Residential) and located at 2886, 2888, 2890 Brooks Avenue NE (Marion County Assessors Map and Tax Lot Number 073W14AC / 700).

## RECOMMENDED CONDITIONS OF APPROVAL

1. Prior to final plat, submit a tentative stormwater design to serve all proposed parcels in compliance with Public Works Design Standards. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces on all parcels.
2. Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve Parcel 2 and Parcel 3.
3. Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct sewer services in the public right-of-way to serve Parcel 2 and Parcel 3.
4. Prior to final plat or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), the applicant shall individually connect the existing building on proposed Parcel 2 to public water and sewer, as shown on the applicant's utility plan.

Code authority references are abbreviated in this document as follows: *Salem Revised Code* (SRC); *Public Works Design Standards* (PWDS); *Salem Transportation System Plan* (Salem TSP); and *Stormwater Management Plan* (SMP).

5. Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct stormwater facilities that are proposed in the public right-of-way to serve Parcels 1, 2, and 3.
6. Prior to final plat, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
7. Prior to final plat approval, provide a 10-foot-wide public utility easement along the frontage of Brooks Avenue NE on the final plat.
8. Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), the applicant shall permanently close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalks.
9. Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), reconstruct and widen the southern driveway approach to meet current Public Works Design Standards and meet the minimum width required to serve the flag lot accessway.

**EXISTING CONDITIONS – INFRASTRUCTURE**

The existing conditions of streets abutting the subject property are described in the following table:

| <b>Streets</b>                  |                     |                           |                          |
|---------------------------------|---------------------|---------------------------|--------------------------|
| <b>Street Name</b>              |                     | <b>Right-of-way Width</b> | <b>Improvement Width</b> |
| <b>Brooks Avenue NE (Local)</b> | Standard:           | 60-feet                   | 30-feet                  |
|                                 | Existing Condition: | 65-feet                   | 30-feet                  |

The existing conditions of public utilities available to serve the subject property are described in the following table:

| <b>Utilities</b>      |   |
|-----------------------|---|
| <b>Type</b>           | <b>Existing Conditions</b>                                    |
| <b>Water</b>          | Water Service Level:  |
|                       | A 6-inch water main is located in Brooks Avenue NE.           |
| <b>Sanitary Sewer</b> | An 8-inch sanitary sewer main is located in Brooks Avenue NE. |
| <b>Storm Drainage</b> | A 15-inch storm main is located in Brooks Avenue NE.          |

**DECISION CRITERIA**

SRC 205.005(d) indicates the criteria that must be found to exist before an affirmative decision may be made. The applicable criteria and the corresponding findings are as follows:

***SRC 205.005(d)(1): The tentative partition plan complies with the 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 205 – Land Division and Reconfiguration***

The intent of SRC Chapter 205 is to provide for orderly land development through the application of appropriate standards and regulations. The partition 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 parcels 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 partition plat.

**Finding:** The applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes (ORS)* and SRC. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), 672.060(4), *Oregon Administrative Rules* 850-020-0015(4)&(10), 820-020-0020(2), and 820-020-0045(5).

### ***(B) City infrastructure standards***

The Development Services division reviewed the proposal for compliance with the City's public facility plans as they pertain to provision of water, sewer, and storm drainage facilities. While SRC Chapter 205 does not require submission of utility construction plans prior to tentative partition 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. A summary of the existing and required City infrastructure improvements are as follows:

### ***SRC Chapter 200 - Urban Growth Management***

SRC Chapter 200 (Urban Growth Management) requires issuance of an Urban Growth

Preliminary Declaration (UGA) prior to development of property located outside the City's Urban Service Area.

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required.

### ***SRC Chapter 71 – Stormwater***

The proposed development is subject to SRC Chapter 71 and the revised Public Works Design Standards (PWDS) as adopted in Administrative Rule 109, Division 004.

**Finding:** 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, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities. The stormwater systems shall be tentatively designed to accommodate the future impervious surfaces on all proposed parcels within the partition.

**Condition:** Prior to final plat, submit a tentative stormwater design to serve all proposed parcels in compliance with Public Works Design Standards. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces on all parcels.

### ***SRC 802 – Public Improvements***

#### **▪ *Development to be served by City utilities:***

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).

**Finding:** Public water, sanitary sewer, and stormwater infrastructure is available along the perimeter of the site and appears to be adequate to serve the property as shown on the applicant's preliminary utility plan. As specified in the conditions of approval, private water, sewer, and storm services shall be constructed to serve each lot as a condition of plat approval. This shall include the requirement to provide individual services for the single-family dwelling that is planned to remain on proposed Parcel 2 (labeled as "cottage" on the plans). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured prior to final plat approval except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). In order to ensure the parcels are served by public utilities, the following conditions apply:

**Condition:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve Parcel 2 and Parcel 3.

**Condition:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), construct sewer services in the public right-of-way to serve Parcel 2 and Parcel 3.

**Condition:** Prior to final plat or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), the applicant shall individually connect the existing building on proposed Parcel 2 to public water and sewer, as shown on the applicant's utility plan.

**Condition:** Prior to final plat or delayed pursuant to an improvement agreement, per SRC 205.035(c)(7)(B), construct stormwater facilities that are proposed in the public right-of-way to serve Parcels 1, 2, and 3.

▪ **Easements:**

SRC 802.020 requires the conveyance or dedication of easements for City utilities as a condition of development approval.

**Finding:** Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat. The applicant's tentative plan shows a proposed 20-foot-wide access and utility easement to serve Parcel 2 and 3.

**Condition:** Prior to final plat, all necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.

**SRC 803 – Street and Right-of-way Improvements**

▪ **Boundary Street Improvements**

Pursuant to SRC 803.025, except as otherwise provided in this chapter, right-of-way width and pavement width for streets and alleys shall conform to the standards set forth in Table 803-1 (Right-of-way Width) and Table 803-2 (Pavement Width). In addition, SRC 803.040 requires dedication of right-of-way for, and construction or improvement of, boundary streets up to one-half of the right-of-way and improvement width specified in SRC 803.025 as a condition of approval for partition applications.

**Finding:** Brooks Avenue NE abuts the subject property and is classified as a local street according to the Salem Transportation System Plan (TSP). Brooks Avenue NE meets the minimum right-of-way width and pavement width standards established in SRC 803.025; therefore, additional improvements along Brooks Avenue NE are not required.

▪ **Street Trees**

Pursuant to SRC 803.035(k) and SRC 86.015(e), anyone undertaking development

along public streets shall plant new street trees to the maximum extent feasible.

**Finding:** There are existing street trees within the right-of-way of Brooks Avenue NE along the property frontage. Additional street trees are not required.

▪ **Public Utility Easements**

SRC 803.035(n) requires dedication of a 10-foot Public Utility Easements (PUE) along all street rights-of-way.

**Finding:** As a condition of approval, the applicant shall dedicate a 10-foot-wide PUE along the street frontage of Brooks Avenue NE.

**Condition:** Prior to final plat approval, provide a 10-foot-wide public utility easement along the frontage of Brooks Avenue NE on the final plat.

**SRC 804 – Driveway Approaches**

Salem Revised Code Chapter 804 establishes requirements for driveway approaches in order to provide for safe and efficient access to public streets.

**Finding:** The subject property is currently served by two 10-foot-wide driveway approaches onto Brooks Avenue NE, one along the northern property boundary and one along the southern property boundary. The driveway approach along the northern property boundary does not serve an approved off-street parking or vehicle storage area, pursuant to SRC 806.025. Pursuant to SRC 804.030(b)(1) driveway approaches onto local and collector streets shall only provide access to a permitted parking or vehicular use area. In addition, SRC 804.050(b)(1) Table 804-1 requires a minimum 10-foot-wide width for driveway approaches. As a condition of approval, the applicant shall close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalk.

**Condition:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), the applicant shall permanently close the driveway approach along the northern property boundary and replace with curbs, a landscape strip, and sidewalks.

The driveway approach along the southern property boundary will serve the proposed flag lot accessway for proposed parcels 1, 2 and 3 of the partition. The existing approach is approximately 10-feet in width and not constructed to meet current *Public Works Design Standards*. Pursuant to SRC 800.025(c) Table 800-1, a flag lot accessway serving two units shall have a minimum 15-foot paved width; however, as a condition of approval the applicant is required to pave the flag lot to 20-feet in order to provide access to the three proposed parcels. As a condition of approval, the applicant shall reconstruct and widen the southern driveway approach to meet current *Public*

*Works Design Standards* and meet the minimum width required to serve the flag lot accessway.

**Condition:** Prior to final plat or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), reconstruct and widen the southern driveway approach to meet current Public Works Design Standards and meet the minimum width required to serve the flag lot accessway.

***(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 flow water discharges and to minimize danger to life and property.

**Finding:** The Floodplain Administrator 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:** According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas or hydric soils.

### ***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 no mapped landslide hazard areas on the subject property.

***SRC 205.005(d)(3)—Development within the tentative partition plan can be***



***adequately served by City infrastructure.***

**Findings—** The Development Services division reviewed the proposal and determined that water, sewer, and storm infrastructure are available and appear to be adequate to serve the parcels within the proposed partition, subject to the conditions of approval established in this decision. This approval criterion is met.

***SRC 205.005(d)(4): The street system in and adjacent to the tentative partition plan conforms to the Salem Transportation System Plan.***

**Finding –** As described in the findings above, the subject property is located adjacent to Brooks Avenue NE, which is classified as a local street under the City’s Transportation System Plan (TSP). The existing condition of Brooks Avenue NE street meets the minimum standards for its classification according to the Salem TSP and SRC Chapter 803. This criterion is met.

***SRC 205.005(d)(5): The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.***

**Finding:** Access to the proposed partition will be provided by the network of existing public streets that surround the property. The street system in and adjacent to the partition will provide for the safe, orderly, and efficient circulation of traffic to and from the partition. This criterion is met.

***SRC 205.005(d)(8)—When the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer:***

- (A)The property is zoned residential;***
- (B)The property has received a favorable site evaluation from the county sanitarian for the installation of an on-site sewage disposal system; and***
- (C)The proposed parcels are at least five acres in size and, except for flag lots, have no dimension that is less than 100 feet.***

**Finding:** The site is served by available public water and sewer; therefore, this criterion is not applicable.

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cc: File