



NOTICE OF DECISION

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503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

SUBDIVISION TENTATIVE PLAN / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ25-02

APPLICATION NO.: 25-103980-PLN

NOTICE OF DECISION DATE: May 1, 2025

REQUEST: A subdivision tentative plan to divide three lots totaling 0.72-acres in size into a five lots ranging from approximately 4,948 to 9,673 square feet in size, three of which will be flag lots. The consolidated application includes one Class 2 Adjustment to exceed the maximum number of units served by a flag lot accessway from four to six. The subject properties are zoned RS (Single Family Residential) and located at 4208 and 4258 Market Street NE (Marion County Tax Lot and Assessor Map Numbers 072W19AC / 400; 500; 600).

APPLICANT: Gerardo Maldonado, LEI Engineering & Surveying of Oregon LLC (Jamie Van Agtmael, Greg Zartman)

LOCATION: 4208 and 4258 Market St NE, Salem OR 97301

CRITERIA: Salem Revised Code (SRC) Chapters 205.010(d) – Subdivision Tentative Plan; 250.005(d) – Class 2 Adjustment

FINDINGS: The findings are in the attached Decision dated May 1, 2025.

DECISION: The **Planning Administrator APPROVED** Subdivision Tentative Plan and Class 2 Adjustment Case No. SUB-ADJ25-02 subject to the following conditions of approval:

- Condition 1:** The front lot lines of Lots 2 and 3 shall be the north property line abutting Market Street NE. Future buildings shall be developed such that the front façade is oriented toward Market Street NE and addressed off Market Street NE.
- Condition 2:** Prior to final plat, revise the tentative subdivision plan so that the front lot line of Lot 5 is a direct continuation of the property line separating Lot 5 from Lot 3.
- Condition 3:** Prior to final plat approval, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 4:** Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

- Condition 5:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve each lot.
- Condition 6:** 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 each lot.
- Condition 7:** Prior to final plat approval 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 each lot.
- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 9:** With the final plat, the applicant shall record a Shared Stormwater System Agreement which is in compliance with SRC 802.040.
- Condition 10:** On the final plat, provide a 10-foot-wide public utility easement along the frontage of Market Street NE and Tierra Drive NE.
- Condition 11:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), permanently close the two unused driveway approaches onto Market Street NE and replace with curb and sidewalk, as shown on the applicant's plans.
- Condition 12:** Lots 2, 3, and 5 shall only have vehicular access from the flag lot accessway onto Tierra Drive NE.

The rights granted by the attached decision must be exercised, or an extension granted, by May 17, 2027, or this approval shall be null and void.

Application Deemed Complete:	<u>March 26, 2025</u>
Notice of Decision Mailing Date:	<u>May 1, 2025</u>
Decision Effective Date:	<u>May 17, 2025</u>
State Mandate Date:	<u>July 24, 2025</u>

Case Manager: Peter Domine, 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, no later than 5:00 p.m., Friday, May 16, 2025. 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 Chapters 205 and 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

IN THE MATTER OF THE APPROVAL)	FINDINGS AND ORDER
OF TENTATIVE SUBDIVISION AND)	
CLASS 2 ADJUSTMENT)	
CASE NO. SUB-ADJ25-02;)	
4208 and 4258 MARKET ST NE)	MAY 1, 2025

Summary: A subdivision to create five new lots, including three flag lots.

Request: A subdivision tentative plan to divide three lots totaling 0.72-acres in size into five lots ranging from approximately 4,948 to 9,673 square feet in size, three of which will be flag lots. The consolidated application includes one Class 2 Adjustment to exceed the maximum number of units served by a flag lot accessway from four to six. The subject properties are zoned RS (Single Family Residential) and located at 4208 and 4258 Market Street NE (Marion County Tax Lot and Assessor Map Numbers 072W19AC / 400; 500; 600)

A vicinity map of the subject properties is included as **Attachment A**.

PROCEDURAL FINDINGS

1. On February 18, 2025, a consolidated application for a Tentative Subdivision and Class 2 Adjustment was filed by Gerardo Maldonado, of LEI Engineering and Land Surveying, LLC, on behalf of the property owner, Trung Diep Chom of Chom General Construction, LLC, proposing to three lots located between 4208 and 4258 Market Street NE, into five new lots.
2. After additional requested information was requested and provided by the applicant, on March 26, 2025, the applications were deemed complete for processing. Public notice of the proposal was subsequently sent, pursuant to SRC requirements, on March 26, 2025. A revised notice was sent April 7, 2025. SRC 300.520(b) requires the applicant for a tentative subdivision to provide a posted notice on the subject property no earlier than 14 and no later than ten days prior to the end of the comment period. The required posted notice was provided on April 7, 2025, in compliance with the requirements of Chapter 300.
3. The state-mandated local decision deadline for the application is July 24, 2025.

SUBSTANTIVE FINDINGS

1. Proposal

The proposal includes a tentative subdivision plan approval to divide three abutting properties totaling approximately 0.82 acres in size and located between 4208 and 4258 Market Street NE (**Attachment A**) into a total of five lots ranging from approximately 4,948 to 9,673 square feet in size, one of which will be a flag lot. The proposed subdivision will create one flag lot which will take access from a proposed flag lot accessway onto Tierra Drive NE. Four of the lots will be interior lots with frontage along Market Street NE, but two of which will take

vehicular access from the flag lot accessway onto Tierra Drive NE. Two of the lots fronting Market Street NE contain existing single-family dwellings, and the other three new lots are proposed to be developed with duplexes which will take access from the flag lot accessway. In addition to the proposed tentative subdivision, the application also includes one request for a Class 2 Adjustment to exceed the maximum number of dwelling units served by the flag lot accessway from four to six for the proposed three duplexes.

2. Applicant's Plans and Statement

Land use applications must include a statement addressing the applicable approval criteria and be supported by proof they conform to all applicable standards and criteria of the Salem Revised Code. The plans submitted by the applicant depicting the proposed development, and are included as **Attachment B**. The applicant's written statement is included in the record, as indicated below.

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) any 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: 25 103980.

4. Existing Conditions

Salem Area Comprehensive Plan (SACP) Designation

The subject property is located inside the Salem Urban Growth Boundary and the corporate city limits. The subject property is designated "Single Family Residential" on the Salem Area Comprehensive Plan (SACP) Map. The comprehensive plan map designations of surrounding properties are as follows:

Comprehensive Plan Map Designations of Surrounding Properties	
North	Across Market Street NE, Single Family Residential
South	Single Family Residential
East	Single Family Residential
West	Across Tierra Drive NE, Single Family Residential

Zoning and Surrounding Land Use

The subject property is zoned RS (Single Family Residential). The zoning of surrounding properties is as follows:

Zoning of Surrounding Properties

North	Across Market Street NE, RA (Residential Agriculture)
South	RS (Single Family Residential)
East	RS (Single Family Residential)
West	Across Tierra Drive NE, RS (Single Family Residential)

Relationship to Urban Service Area

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

Streets			
Street Name	Right-of-way Width	Improvement Width	
Market Street NE (Minor Arterial)	Standard:	72-feet	46-feet
	Existing Condition:	78-feet	56-feet
Tierra Drive NE (Local)	Standard:	60-feet	30-feet
	Existing Condition:	60-feet	34-feet
Deer Park Drive SE (Collector)	Standard:	60-feet	34-feet
	Existing Condition:	60-feet	20-feet

The existing conditions of public utilities to serve the subject properties are described in the following table.

Utilities	
Type	Existing Conditions
Water	Water Service Level:
	A 12-inch water main is located in Market Street NE.
	A 10-inch water main is located in Tierra Drive NE.
Sanitary Sewer	A 6-inch sanitary sewer main is located in Market Street NE.
	A 8-inch sanitary sewer main is located in Tierra Drive NE.
Storm Drainage	A 12-inch storm main is located in Market Street NE.
	A 10-inch storm main is located in Tierra Drive NE.
Parks	The proposed development is served by Weathers Street Park located one-third of a mile south of the subject property.

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. The subject property lies within the City's Urban Service Area; therefore, an Urban Growth Preliminary Declaration is not required for the proposed development.

5. City Department Comments

Building and Safety Division: Reviewed the proposal and indicated no concerns. New dwelling units on the lots will be reviewed at time of building permit submittal.

Fire Department: Reviewed the proposal and indicated no concerns.

Development Services Division: Reviewed the proposal and provided comments pertaining to required City infrastructure needed to serve the proposed development. Comments from the Development Services Division are included as **Attachment C**.

6. Public and Private Agency Comments

Salem Keizer Public Schools: Reviewed the proposal and provided a memo dated April 3, 2025, which is included in the record and accessible as indicated above. In summary, the memo indicates the proposed subdivision is served by Swegle Elementary School, Waldo Middle School, and McKay High School. The memo indicates there is adequate school capacity for the new residences, and that Swegle and McKay are within the walk zone, and Waldo is eligible for school transportation.

Portland General Electric: PGE reviewed the proposal and provided comments regarding the provision of electric utilities, which are available in the record. The applicant is advised to contact PGE prior to submission of building permits.

7. Neighborhood Association and Public Comments

The subject property is located within the East Lancaster Neighborhood Association (ELNA).

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), the tentative subdivision application included in this proposed land use application request requires neighborhood association contact. The applicant's representative contacted ELNA on January 24, 2025, to provide details about the proposed land use application, in conformance with the requirements of SRC 300.310.

Neighborhood Association Comments: Notice of the application was provided to ELNA pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. Comments were received from ELNA during the comment period; a response to comments are included in the Public Comments section below.

Public Comments: In addition to providing notice to the neighborhood association, notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property.

Comments were received from ELNA and four members of the public during the public comment period indicating the following questions and concerns:

- 1) *Comments from ELNA expressed concerns for the driveway access proposed to serve three lots with duplexes, for a total of six dwelling units.*

Staff Response: The subdivision tentative plan will reconfigure three existing lots to five lots. The subdivision tentative plan has frontage along Market Street NE, which is classified as a Minor Arterial Street, and Tierra Drive NE, which is classified as a Local Street in the Salem Transportation System Plan (TSP). The applicant proposes to serve three of the proposed lots by a flag lot accessway that provides access onto Tierra Drive NE, the lower classification of street abutting the property. The proposed driveway approach serving the flag lot accessway onto Tierra Drive NE is 22 feet, which is more than the minimum required for single-family to four-family uses. The proposed flag lot accessway is also 25-feet in width with a paved width of 22 feet, which is the minimum driveway width required to serve three or more parking spaces. As proposed, the driveway provides for adequate two-way circulation for the proposed three lots and six dwelling units.

- 2) *Comments from ELNA expressed concern for the spacing of the driveway approach to the intersection of Market Street NE and Tierra Drive NE. Comments received from the public also indicate concern for congestion and traffic safety at the intersection.*

Staff Response: The applicant proposes two new driveway approaches onto Tierra Drive NE, which is classified as a Local Street. One of the driveway approaches will serve the existing dwelling on proposed Lot 1, which currently has access onto Market Street, which will be closed. The other approach will serve the proposed flag lot accessway for Lots 2, 3, and 5. The driveway approaches are 130-feet and 150-feet from the intersection of Market Street and Tierra Drive. According to SRC Chapter 804.030, there are no driveway approach spacing standards onto Local streets and there are no required distances from adjacent intersections. The driveway approaches are located as far from the intersection with Market Street as possible, while remaining on the subject property. Additionally, pursuant to SRC 804.035(c)(2), for a corner lot that abuts a Local Street, access onto a Minor Arterial Street, Market Street NE, is required to take access from the lower classified street, Tierra Drive NE. As addressed in Section 8 of this decision, the proposed driveway approaches meet the applicable standards.

The tentative subdivision plan will reconfigure two existing lots into 5 lots, three of which are proposed to have duplexes. Development of six additional dwelling units on the subject property would generate 43 Average Daily Trips (ADTs), which is not a significant addition to the transportation system. The streets abutting the subject property meets the minimum standards for their classification according to the Salem Transportation System Plan. The existing streets surround the development are adequate to serve the development proposed.

- 3) *ELNA requested that a “No Parking” zone be established 100 feet from the intersection of Tierra Drive NE and Market Street NE.*

Staff Response: The Public Works Design Standards require “No Parking” within 50 feet of a stop sign, which there is at the intersection of Market Street NE and Tierra Drive NE. Measured from the 50 feet from the stop sign, the proposed driveway approach for Lot 1 is approximately 21 feet away, which would only provide enough area for one on-street parking space along the east side of Tierra Drive abutting the property. Any future violation of parking within 50 feet of a stop sign is a compliance matter and should be addressed by City of Salem Parking Enforcement.

- 4) *Comments received expressed concerns for how the development would impact the water table and stormwater drainage.*

Staff Response: The proposed development requires the use of Green Stormwater Infrastructure, according to SRC Chapter 71. The applicant proposes an infiltration planter on the private property to treat and detain stormwater generated by the development, as required by SRC Chapter 71 and the Public Works Design Standards. The Public Works Design Standards require detention of stormwater to predevelopment conditions and various storm events. The stormwater facility will drain to the public storm system in Market Street NE. The proposed development will not negatively impact the drainage system. There are no standards in the Salem Revise Code that specifically regulate impacts to the “water table.”

- 5) *Comments from ELNA express concerns for pedestrian safety along the proposed stormwater swale and question who will maintain the stormwater facility.*

Staff Response: The proposed development requires the use of Green Stormwater Infrastructure, according to SRC Chapter 71. The applicant proposes an infiltration planter on the private property to treat and detain stormwater generated by the development, as required by SRC Chapter 71 and the Public Works Design Standards. The applicant’s preliminary plans show the stormwater swale will be approximately five feet in depth below the existing grade. Fall protection is regulated by the Building Code and may be required based on final design of the facility. The facility is located on private property and will be maintained by the homeowners, as specified in a Shared Stormwater Facility Agreement, required as a condition of approval.

- 6) *Comments received express objections to the requested Adjustment to increase the number of units served by the flag lot accessway.*

Staff Response: Staff findings for the requested Adjustment to increase the number of units served by the flag lot accessway are included in Section 9 of this decision.

- 7) *ELNA expressed concerns that the minimal setbacks proposed do not provide sufficient space for children to play. Similarly, neighboring property owners expressed concerns for the setbacks of Lot 5 and the flag lot accessway, specifically.*

Staff Response: As addressed in the lot standards section for the underlying zone in Section 8 of this decision, the proposed lots meet the minimum dimensions for width and depth, which will provide adequate space for future development of residential buildings to meet the applicable setbacks of the zone. Future development of residential dwellings is limited to a Lot Coverage of 60 percent and minimum setbacks will be required in order to provide adequate open space, including areas such as front and rear yards. Regarding the flag lot, Lot 5, as

addressed in the lot standards in Section 8, the front lot line will be the west line, thus the south property line will be an interior side lot line. The development standards of the RS zone require a minimum building setback of five feet from an interior property line, regardless of how other adjacent lots or existing buildings are oriented in relation to it. There are no lot standards that would prevent the side of one lot from abutting the rear of another lot. Any future development for residential buildings will be reviewed at time of building permit submittal to ensure conformance with the development standards of the zone. Additionally, there are no setback requirements for the flag lot accessway from the property lines along the south of the accessway. The 25-foot-wide accessway abuts the property line; however, the proposed paved driveway within the accessway is setback three feet from the property line, providing some buffer between the paved driveway and the abutting properties.

- 8) *ELNA expressed concerns that the development will not allow for delivery, garbage, or other service vehicles to access the lots, and things such as the placement of garbage cans on the street curbs will create vision clearance hazards for pedestrians.*

Staff Response: The development site is a corner lot with frontage along two streets, Market Street NE and Tierra Drive NE. Proposed Lots 2, 3, and 5 will only take vehicular access from the proposed flag lot accessway; however, as addressed in the lot standards section of this decision, only Lot 5 is a flag lot. Lots 2 and 3 have frontage along Market Street, and there are no applicable development standards that would restrict the use of Market Street NE for activities such as the placement of garbage bins for collection or for the receiving of deliveries and services.

- 9) *ELNA commented that a small multifamily development with a designated off-street parking lot would be preferable to the proposed three duplexes.*

Staff Response: The subject properties are zoned RS (Single Family Residential); per SRC 511.005, multifamily uses, which are classified as having five or more residential dwelling units on an individual lot, are not a permitted use in the RS zone, except for cottage clusters, subject to the special use provisions of SRC 700. The proposed two-family uses (e.g., duplexes) are permitted uses within the RS zone and the proposed lots meet the minimum dimensions to be developed for such uses.

- 10) *Comments indicated concerns regarding the effects of construction of the flag lot accessway on the large trees abutting the neighboring property to the south.*

Staff Response: As addressed in Section 8 of this decision, the proposed subdivision is required to be approved of a Tree Conservation Plan for the removal and preservation of trees prior to development. The applicant has submitted and been approved of a Tree Conservation Plan, land use Case TCP25-04, which proposes the removal of the large trees abutting the neighboring properties to the south.

- 11) *Comments indicated concerns that the proposed lots will not provide adequate off-street parking.*

Staff Response: There are no minimum off-street parking requirements within the City of Salem. The proposed lots meet the minimum dimensions of the underlying zone to be developed with single or two-family uses. Any future development for residential buildings will

be reviewed at time of building permit submittal to ensure conformance with the development standards of the zone, including any proposed off-street parking.

- 12) *Comments indicated concerns about the effects of the proposed subdivision and duplex units on property values to abutting properties. The concerns also relate to increase noise and proximity of more residents, and whether the units will be renter-occupied or not.*

Staff Response: Effects on property values is not a criterion under the Salem Revised Code for granting or denying a tentative subdivision approval. The proposed lots meet the minimum lot dimensions to accommodate future dwellings for single or two-family uses; whether they are to be owned or rented is also not an approval criterion. The proposed two-family uses are consistent with the "Single Family Residential" Comprehensive Plan Map designation and are permitted uses in the RS (Single-Family Residential) zone. The development is consistent with surrounding uses. Noise disturbances are prohibited by SRC 93. The subject property is located within an already developed area within the corporate limits of the City of Salem, and no evidence has been provided that would indicate that perceived noise impacts from future residents would exceed that of similar development or existing uses in the area. Any future concerns relating to potential noise or other nuisances should be addressed to the City of Salem Code Compliance Division.

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

8. Analysis of Tentative Subdivision Plan Approval Criteria

SRC Chapter 205.010(d) sets forth the following criteria that must be met before approval can be granted to a tentative subdivision plan. The following subsections are organized with approval criteria followed by findings of fact evaluating the proposal for conformance with the criteria. Lack of compliance with the following approval criteria is grounds for denial of the tentative plan or for the issuance of conditions of approval to satisfy the criteria.

SRC 205.010(d)(1): The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC.

Finding: 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 subject property is zoned RS (Single Family Residential).

The proposed tentative subdivision plan, as conditioned, complies with the applicable standards of the RS zone and all other applicable provisions of the UDC, as required by this approval criterion, as follows.

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 subdivision process reviews development for compliance with City standards and requirements contained in the UDC,

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).

SRC Chapter 511 – RS (Single Family Residential) Zone

The subject property is zoned RS (Single Family Residential). Development within the RS zone must meet the applicable standards included under SRC Chapter 511. The standards of the RS zone that are applicable to the proposed subdivision are as follows.

SRC 511.010(a) – Land Divisions in the RS Zone

When land is subdivided in the RS zone that is at least ten acres in size, includes or abuts an existing or planned collector or minor arterial street, and is located more than one-quarter mile from all commercial, mixed-use, and neighborhood hub zones; neighborhood hub uses shall be allowed on at least two of the lots that are created, provided all of the following standards are met:

1. The lots shall be contiguous. For the purposes of this standard, any lots that are only separated by right-of-way may be considered contiguous.
2. At least one of the lots shall be located on an existing or planned collector or minor arterial street.

Finding: The proposed land to be subdivided is not ten acres in size; therefore, this section is not applicable.

SRC 511.010(b) – Lot Standards

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

RS Zone Residential Use Lot Standards		
Lot Area	Min. 1,500 sq. ft.	Applicable to townhouses
	Min. 4,000 sq. ft.	Applicable to all other single family
	Min. 4,000 sq. ft.	Applicable to two family uses
	Min. 5,000 sq. ft.	Applicable to three family uses
	Min. 7,000 sq. ft.	Applicable to four family uses and cottage clusters
Lot Width	Min. 20 ft.	Applicable to townhouses

RS Zone Residential Use Lot Standards		
Lot Depth	Min. 40 ft.	Applicable to all other uses
	Min. 70 ft.	Applicable to single family and two family
	Min. 80 ft.	Applicable to three family uses, four family uses, and cottage clusters.
	Min. 120 ft.	Applicable to double frontage lots (<i>lots with front and rear lots lines abutting a street</i>).
	Max. 300% of average lot width	
Street Frontage	Min. 20 ft.	Applicable to townhouses
	Min. 40 ft.	Applicable to all other uses
	Min. 30 ft.	Applicable to lots fronting on the turnaround of a cul-de-sac street or the outside curve of a curved street having a radius of 200 feet or less and a direction change of 60 degrees or more. In no case shall the lot width be less than 40 ft. at the front building setback line.

Finding: As shown on the tentative subdivision plan, the lot sizes of the proposed five lots for residential development exceed the minimum 4,000 square feet for single and two-family uses. Each of the proposed lots has a minimum width of 40 feet or greater and depth of 70 feet or greater. Proposed Lot 1 is a corner lot with more than 40 feet of frontage on both Market Street NE and Tierra Drive NE; proposed Lots 2, 3, and 4 are interior lots with more than 40 feet of frontage on Market Street NE; and proposed Lot 5 is a flag lot with access to Tierra Drive NE via a flag lot accessway. While proposed Lots 2 and 3 have frontage along Market Street NE, they will take vehicular access from the proposed flag lot accessway from Tierra Drive NE, for a total of three lots served by the flag lot accessway. Each of the proposed lots within the subdivision are in compliance with the minimum lot area, lot dimension, and street frontage standards of the RS zone and are of sufficient size and dimension to permit future development of uses allowed within the zone. Any future buildings on the lots will be reviewed at time of building permit submittal.

SRC 511.010(d) – Setbacks

Setbacks for buildings and accessory structures within the RS zone are established under SRC 511.010(d), Table 511-3. A summary of the required setbacks for residential within the RS zone is provided in the table below.

RS Zone Setbacks		
Abutting Street	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
Interior Front	Min. 12 ft.	
Interior Side	Min. 5 ft.	Applicable to new buildings, other than zero side yard dwellings and townhouses.
Interior Rear	Min. 14 ft.	Applicable to any portion of a building not more than one-story in height.

RS Zone Setbacks		
	Min. 20 ft.	Applicable to any portion of a building greater than one-story in height.

Finding: The setback requirements of the RS zone apply to future development on each of the individual proposed lots. Because the proposal includes only the subdivision of the land to create lots, and no buildings or specific development is proposed for any of the lots at this time, the setback requirements are not generally reviewed at this time. The proposed plan indicates that the lot dimensions and minimum setbacks for future development of single and two-family uses can be met. Any future development of the proposed lots will be reviewed for conformance with setback requirements at the time of building permit submittal.

SRC Chapter 800 – General Development Standards

▪ *Designation of Lot Lines*

SRC 800.020(a), (b), & (c)

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.

Finding: For lots that have frontage on a street, other than corner lots and double frontage lots, the front lot line shall be the property line abutting the street. Proposed Lot 1 is a corner lot, with frontage on Market Street NE and Tierra Drive NE. The lot dimensions and existing dwelling on the lot are such that the property line abutting Market Street NE is the front lot line. Proposed Lots 2, 3 and 4 are interior lots with frontage on Market Street NE. While proposed Lots 2 and 3 will take vehicle access from the shared flag lot accessway to the south, the front lot line for Lots 2 and 3 shall be the property line abutting Market Street NE. Future residential buildings on Lots 2 and 3 shall be oriented and addressed such that the front façade faces Market Street NE, including other applicable standards for front yards and fencing.

Condition 1: The front lot lines of Lots 2 and 3 shall be the north property line abutting Market Street NE. Future buildings shall be developed such that the front façade is oriented toward Market Street NE and addressed off Market Street NE.

For flag lots, the front property 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. Proposed Lot 5 is a flag lot; the front lot line shall be the western property line which separates the lot from Lot 3.

▪ *Flag Lots*

SRC 800.025(a) – *Lot area*

The lot area of a flag lot shall conform to the lot area standards of the UDC. Lot area shall be calculated exclusive of the flag lot accessway.

Finding: Proposed Lot 5 is designated as a flag lot. Exclusive of the flag lot accessway, the lot is approximately 4,948 square feet in size, more than the minimum required in the underlying zone. This standard is met.

SRC 800.025(b) – Lot dimensions

The lot dimensions of a flag lot shall conform to the lot area standards of the UDC. Lot area shall be calculated exclusive of the flag lot accessway.

Finding: Lot 5 as proposed on the tentative plan includes a 13-foot extension toward the west where it abuts the terminus of the flag lot accessway. This area of the lot conflicts with the access of Lot 3 onto the flag lot accessway. To ensure this area can be used for access for both Lots 3 and 5, prior to final plat, the applicant shall revise the plan to include this area within the flag lot accessway, bringing the front lot line of Lot 5 in line with the west property line between it and Lot 3.

Condition 2: Prior to final plat, revise the tentative subdivision plan so that the front lot line of Lot 5 is a direct continuation of the property line separating Lot 5 from Lot 3.

As measured from here, the lot is approximately 79 feet deep and 58 feet wide. The proposed lot meets the minimum dimensions of the underlying zone. This standard is met.

SRC 800.025(c) – Flag Lot Accessways

Establishes standards for flag lots and the flag lot accessways that serve them, and SRC 800.025(c), Table 800-1 limits the maximum length and width for a flag lot accessway based on the number of units to be served by the accessway.

Finding: The proposal includes one flag lot, Lot 5, with one duplex proposed to be served by the flag lot accessway. The site plan indicates an accessway approximately 150 feet long and 25 feet wide, with 22 feet of paved width. As conditioned above, prior to final plat, the tentative subdivision plan shall be revised so that the accessway is extended 13 feet to meet the front property line of Lot 5. As measured from here, the flag lot accessway will be 163 feet. While only Lot 5 is a flag lot, the accessway is proposed to serve Lots 2 and 3, which are also proposed to be developed with duplexes, for a total of six units. The flag lot accessway is within the maximum 400-foot length of serving three to four units.

SRC 800.025(c)(1) – Maximum development served by flag lot accessway

A maximum of four lots may be served by a flag lot accessway. For residential lots created after November 28, 2022, a maximum of four residential units may be served by the flag lot accessway.

Finding: The proposal includes three lots to be served by the flag lot accessway. Proposed Lots 2 and 3 have frontage along Market Street NE and are considered interior lots; however, they will take vehicular access from the flag lot accessway to their rear, which provides access to Tierra Drive NE. While Lot 5 is the only flag lot, Lots 2 and 3 are also proposed to be developed with duplexes, for a total of six units served by the flag lot accessway. The proposal exceeds the maximum number of dwelling units served by a flag lot accessway, for which the applicant has requested a Class 2 Adjustment to this standard, addressed in Section 9 of this decision.

SRC 800.025(d) – *Parking prohibited on flag lot accessways*

Parking shall be prohibited on flag lot accessways. No parking signs shall be posted and maintained on both sides of the accessway.

Finding: The site plan indicates “No Parking” signs will be installed along both sides of the accessway, meeting the standard. Signage will be reviewed at time of building permit.

SRC 800.025(e) – *Maximum percentage of flag lots within a subdivision*

Within a subdivision, up to 15 percent of the lots may be flag lots.

Finding: Per SRC 111, a *flag lot* is defined as a lot that is set back from the street at the rear or at the side of another lot, with vehicular access to the street provided by a flag lot accessway. The proposed five-lot subdivision is limited to one flag lot ($5 \times 0.15 = 0.75$, rounded up to 1 lot) and includes one flag lot, proposed Lot 5. The proposal meets the standard.

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 lots 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 3: Prior to final plat approval, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

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

SRC Chapter 802 – Public Improvements

SRC 802.015 requires development to be served by City utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS). Specifications for required public improvements are found in the comments provided by the Development Services Infrastructure memo (**Attachment C**) and included in the following analysis of the subdivision approval criteria.

Finding: Private water, sewer, and storm services shall be constructed to serve each lot. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval. 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. To ensure the lots are served by public utilities, as required by SRC Chapter 802, the following conditions shall apply.

Condition 5: Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve each lot.

Condition 6: 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 each lot.

Condition 7: Prior to final plat approval 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 each lot.

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

- ***Easements***

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

Finding: As shown on the applicant's plan, shared access easements are required and utility easements are required where services cross the new property lines. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

Condition 8: All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.

- ***Private stormwater, wastewater, and water systems***

SRC 802.040 allows private stormwater systems under certain circumstances.

Finding: As shown on the applicant's preliminary drainage plan, a common private stormwater system is proposed to serve the subdivision. According to SRC 802.040(c) if the private system serves multiple properties under separate ownership, an agreement between the property owners is required to ensure continued maintenance of the system. To ensure that the applicant shall be required to provide a Private Shared Stormwater Agreement that meets the standards of SRC 802.040, the following condition shall apply.

Condition 9: With the final plat, the applicant shall record a Shared Stormwater System Agreement which is in compliance with SRC 802.040.

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: The subject property abuts Market Street NE (Minor Arterial) along the northern property boundary and Tierra Drive NE (Local) along the western property boundary. The streets abutting the subject property meet the required right-of-way width and pavement improvement width for their classification according to the standards established in SRC 803.025; therefore, additional improvements along Market Street NE and Tierra Drive 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: Market Street NE and Tierra Drive NE are fully improved with curbline sidewalks. At time of Building Permit, street trees may be 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 Market Street NE and Tierra Drive NE.

Condition 10: On the final plat, provide a 10-foot-wide public utility easement along the frontage of Market Street NE and Tierra Drive NE.

(A) 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 804 – Driveway Approaches (if applicable)

SRC Chapter 804 establishes standards for driveway approaches to ensure safe and efficient access is provided from private property to the public way.

Finding: The development site is currently served by three driveway approaches onto Market Street NE. As shown on the applicant's plans, two of the three driveway approaches onto Market Street NE will be closed and two new approaches onto Tierra will be constructed to serve both Lot 1 and the flag lot accessway. Per SRC 803.035(c)(1) driveway approaches onto arterial roadways are only permitted to serve approved vehicle use areas. As the approaches are no longer proposed to serve a vehicle use area, the unused driveway approaches onto Market Street NE shall be closed and replaced with curb and sidewalk.

Condition 11: Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), permanently close the two unused driveway approaches onto Market Street NE and replace with curb and sidewalk, as shown on the applicant's plans.

SRC Chapter 805 – Vision Clearance (if applicable)

SRC Chapter 805 establishes vision clearance standards in order to ensure visibility for vehicular, bicycle, and pedestrian traffic at the intersections of streets, alleys, flag lot accessways, and driveways.

Finding: The proposal includes tentative subdivision for five lots and does not include the addition of structures on the site. The proposal does not create a vision clearance obstruction per SRC Chapter 805.

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: Per SRC 800.035, a tree conservation plan is required in conjunction with any development proposal for the creation of lots or parcels to be used for single to four-family uses and cottage clusters. The proposed subdivision is for five lots within an RS zone, proposed to be developed for residential uses. The applicant has submitted and been approved of a tree conservation plan, TCP25-04, in conjunction with this application.

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

Finding: The proposed subdivision will divide the entire 0.72-acre development site into five lots for residential development, three of which will be vacant and two of which will contain existing single-family dwellings. The proposed lots within the subdivision are of sufficient size and dimension to permit future development of uses allowed within the RS (Single Family Residential) zone, as provided in Chapter 511, without impeding the future use or development of the property.

The proposed subdivision similarly does not impede the use or development of adjacent land. Abutting the property to the north and west is public right-of-way, and abutting property to the east and south is developed with existing residential uses. As shown on the tentative plan, the subdivision provides for internal connectivity via a flag lot accessway. The properties adjacent to the subject property are served by existing access or capable of being served by public streets. The tentative subdivision does not impede future development on adjacent properties. This approval criterion is met.

SRC 205.010(d)(3): Development within the tentative subdivision plan can be 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 lots within the proposed subdivision, subject to the conditions of approval established in this decision. This approval criterion is met.

SRC 205.020(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.

Finding: As described in the findings above, the subject property is located adjacent to Market Street NE, a Minor Arterial Street, and Tierra Drive NE, a Local Street, under the City's Transportation System Plan (TSP). The existing condition of these streets meets the minimum standards for their classification according to the Salem TSP and SRC Chapter 803. This criterion is met.

SRC 205.010(d)(5): The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved traffic impact analysis, where applicable.

Finding: The proposed five-lot subdivision generates less than 200 average daily vehicle trips to the local street system; therefore, a TIA is not required as part of the proposed subdivision submittal per SRC 803.015(b)(1). This criterion is not applicable.

SRC 205.010(d)(6): 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 inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required. This criterion is not applicable.

9. ANALYSIS OF CLASS 2 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 shown in ***bold italic***, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

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

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

Finding: The applicant is requesting one Class 2 Adjustment to exceed the maximum number of dwelling units to be served by the flag lot accessway from four units to six, per SRC 800.025(c)(1).

As defined in SRC Chapter 111, a flag lot is a lot that is set back from the street at the rear or at the side of another lot, with vehicular access to the street provided by a flag lot accessway. As addressed in the lot standards in Section 8, the proposed tentative subdivision results in the creation of a total of five lots, with Lot 5 being a flag lot. Lots 2 and 3 will be interior lots with frontage on Market Street NE but are proposed to have vehicular access from the shared flag lot accessway to Lot 5. Per the driveway approach development standards of SRC 804, new driveway accesses are limited onto an arterial street to reduce traffic flow and turning conflicts onto higher volume streets. Per SRC 804.035(c), no access shall be provided onto a major or minor arterial from single-to-four-family uses constructed as part of a subdivision or partition. Without access from the flag lot accessway, the two lots fronting Market Street NE would have no permitted vehicle access.

SRC 800.025(c) limits the number of dwelling units served by a flag lot accessway to four units. The purpose of the standard is generally to limit the shared use of a single point of access to a street and to ensure adequate emergency access. The applicant has proposed to develop Lots 2, 3 and 5 for two-family uses in the form of duplexes. Consistent with Oregon House Bill 2001 (2019), the Salem Revised Code treats two-to-four-family uses the same as single-family uses. The adoption of middle-housing standards into the development code were intended to increase housing diversity, supply, affordability, and choice for residents. The proposed two-family uses on Lots 2, 3, and 5 are consistent with the allowed uses and development standards of the underlying zone, but Lots 2 and 3 are limited due to the restricted vehicle access on both Market Street and the limited flag lot accessway. Given the restrictions onto Market Street and that single and two-family uses are treated the same, including the same development standards for lot size and dimensions, allowing two additional dwelling units to access the flag lot accessway will not be substantially any different than if the three flag lots included the maximum four units. Additionally, as previously conditioned, the

applicant is required to close two existing driveway approaches onto Market Street, further reducing the number of access and conflict points along the higher volume street. To ensure Lots 2, 3, and 5 only have vehicular access to the flag lot accessway, the following condition shall apply.

Condition 12: Lots 2, 3, and 5 shall only have vehicular access from the flag lot accessway onto Tierra Drive NE.

As proposed and conditioned, the proposal equally meets the intent of the standard, and this approval criterion is met.

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

Finding: The subject property is located within the RS (Single Family Residential) zone; the requested adjustment allows for the reasonable division and development of land. No further adjustments or variances to development standards, such as setbacks or lot coverage, are needed to further develop the subject property. The requested adjustment does not unreasonably impact the livability or appearance of existing or potential uses in the surrounding area and is therefore in compliance with this approval criterion.

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 adjustment has been requested, therefore this approval criterion is not applicable.

10. Conclusion

Based upon review of SRC 205.010(d) and 250.005(d)(2), the findings contained under Sections 8-9 above, and the comments described, the Tentative Subdivision and Class 2 Adjustment comply with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

IT IS HEREBY ORDERED

That Tentative Subdivision and Class 2 Adjustment Case No. SUB-ADJ25-02, for property located at the 4208 Market Street NE, is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, requirements of development, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

- Condition 1:** The front lot lines of Lots 2 and 3 shall be the north property line abutting Market Street NE. Future buildings shall be developed such that the front façade is oriented toward Market Street NE and addressed off Market Street NE.
- Condition 2:** Prior to final plat, revise the tentative subdivision plan so that the front lot line of Lot 5 is a direct continuation of the property line separating Lot 5 from Lot 3.

- Condition 3:** Prior to final plat approval, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 4:** Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 5:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve each lot.
- Condition 6:** 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 each lot.
- Condition 7:** Prior to final plat approval 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 each lot.
- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
- Condition 9:** With the final plat, the applicant shall record a Shared Stormwater System Agreement which is in compliance with SRC 802.040.
- Condition 10:** On the final plat, provide a 10-foot-wide public utility easement along the frontage of Market Street NE and Tierra Drive NE.
- Condition 11:** Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), permanently close the two unused driveway approaches onto Market Street NE and replace with curb and sidewalk, as shown on the applicant's plans.
- Condition 12:** Lots 2, 3, and 5 shall only have vehicular access from the flag lot accessway onto Tierra Drive NE.

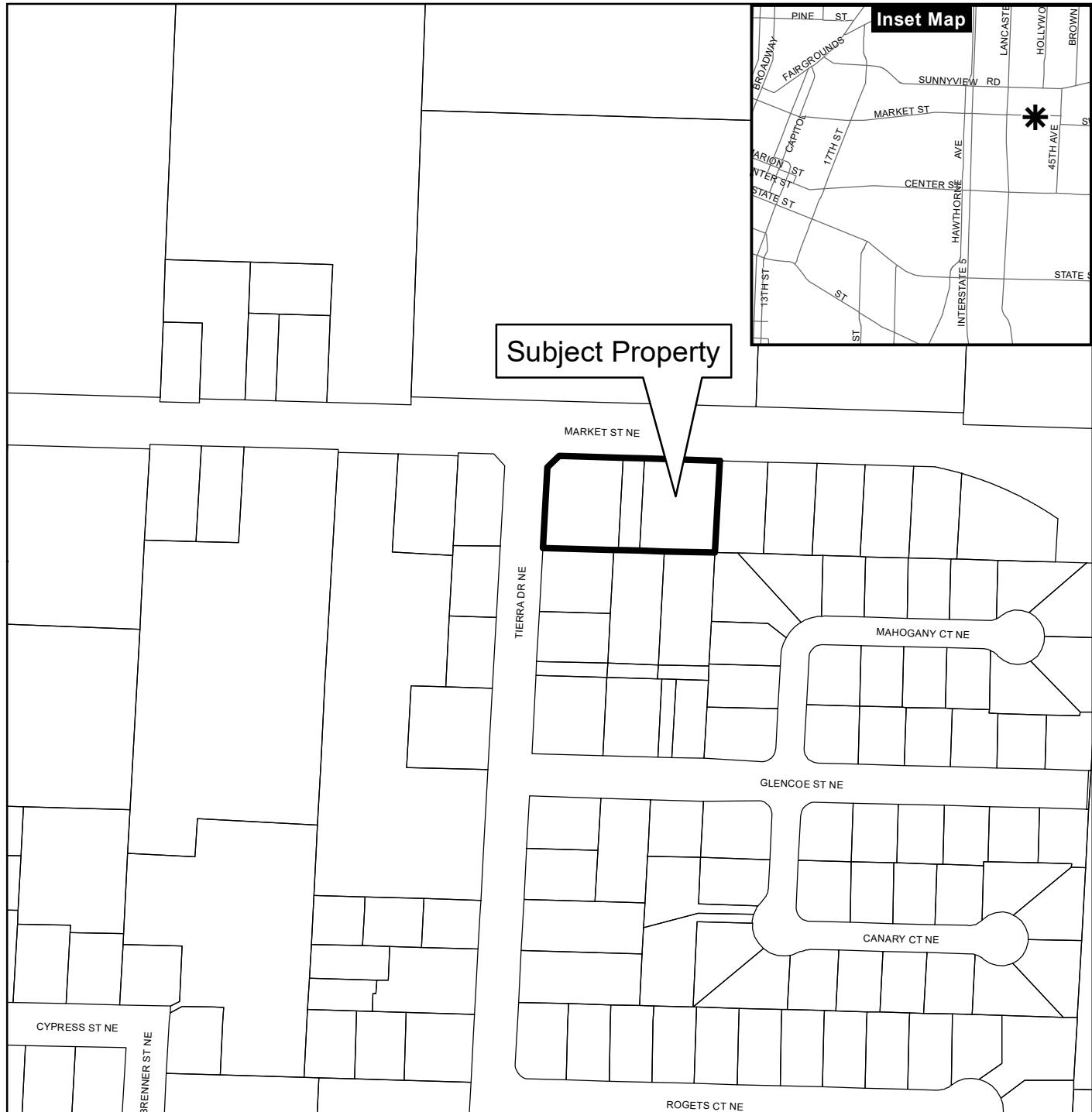


Peter Domine, Planner II, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

- Attachments: A. Vicinity Map
B. Applicant's Tentative Subdivision and Development Plans
C. Development Services Memo

Vicinity Map

4208 & 4258 Market Street NE



Legend

	Taxlots		Outside Salem City Limits		Parks
	Urban Growth Boundary		Historic District		
	City Limits		Schools		
	0	100	200	400 Feet	



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Community Planning and Development

A vertical scale bar on the left and a north arrow on the right. The scale bar has markings at 0, 20, and 40 feet. The north arrow points upwards and is labeled 'NORTH'.

CORNER OF MARKET AND TIERRA - SUBDIVISION TENTATIVE PLANNING

REAL PROPERTY IN THE NE 1/4 OF SECTION 19,
NSHIP 7 SOUTH, RANGE 2 WEST, WILLAMETTE MEF

MAKIN COUNTY, OREGON
PROPERTY OWNER: TRUNG V DIEU
DATE: OCTOBER 31, 2024

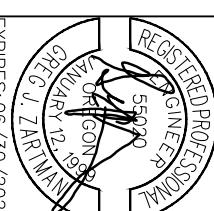
TAX MAP: 072W19AC
TAX LOT: 00300

4208 & 4258 MARKET ST NE

LEI ENGINEERING
& SURVEYING
OF OREGON

2564 19TH ST SE
Salem, Oregon 97302
(503) 399-3828
www.leengineering.com

SUBDIVISION TENTATIVE PLAN	
SCALE $1'' = 40'$	PROJECT NO. 14-116
TOTAL SHEETS 2	2





MEMO

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

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

DATE: April 29, 2025

SUBJECT: **Infrastructure Memo**
SUB-ADJ25-02 (25-103980-PLN)
4208 Market Street NE
5-Lot Subdivision

PROPOSAL

A subdivision tentative plan to divide three lots totaling 0.72-acres in size into a five lots ranging from approximately 4,948 to 9,673 square feet in size, three of which will be flag lots. The consolidated application includes one Class 2 Adjustment to exceed the maximum number of units served by a flag lot accessway from four to six. The subject properties are zoned RS (Single Family Residential) and located at 4208 and 4258 Market Street NE (Marion County Tax Lot and Assessor Map Numbers 072W19AC / 400; 500; 600).

RECOMMENDED CONDITIONS APPROVAL

1. Prior to final plat approval, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
2. Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
3. Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve each lot.
4. 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 each lot.

5. Prior to final plat approval 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 each lot.
6. All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
7. With the final plat, the applicant shall record a Shared Stormwater System Agreement which is in compliance with SRC 802.040.
8. On the final plat, provide a 10-foot-wide public utility easement along the frontage of Market Street NE and Tierra Drive NE.
9. Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), permanently close the two unused driveway approaches onto Market Street NE and replace with curb and sidewalk, as shown on the applicant's plans.

SUBDIVISION DECISION CRITERIA

The following Code references indicate 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 205.010(d)(1): The tentative subdivision complies with all standards of this Chapter and with all applicable provisions of the UDC.

City Platting Standards

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).*

City Utility Infrastructure Standards

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

Utilities & Parks	
Type	Existing Conditions
Water	Water Service Level: A 12-inch water main is located in Market Street NE.
	A 10-inch water main is located in Tierra Drive NE.
Sanitary Sewer	A 6-inch sanitary sewer main is located in Market Street NE.
	A 8-inch sanitary sewer main is located in Tierra Drive NE.
Storm Drainage	A 12-inch storm main is located in Market Street NE.
	A 10-inch storm main is located in Tierra Drive NE.
Parks	The proposed development is served by Weathers Street Park located one-third of a mile south of the subject property.

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 lots 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 approval, provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

Condition: Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

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).

Finding: Private water, sewer, and storm services shall be constructed to serve each lot. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B). All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval. 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. To ensure the lots are served by public utilities, as required by SRC Chapter 802, the following condition applies:

Condition: Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), obtain permits for installation of water services to serve each lot.

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 each lot.

Condition: Prior to final plat approval 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 each lot.

As conditioned, the proposed subdivision conforms to the public improvement standards

of SRC Chapter 802.

▪ ***Easements:***

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

Finding: As shown on the applicant's plan, shared access easements are required and utility easements are required where services cross the new property lines. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

Condition: All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.

▪ ***Private stormwater, wastewater, and water systems:***

SRC 802.040 allows private stormwater systems under certain circumstances.

Finding: As shown on the applicant's preliminary drainage plan, a common private stormwater system is proposed to serve the subdivision. According to SRC 802.040(c) if the private system serves multiple properties under separate ownership, an agreement between the property owners is required to ensure continued maintenance of the system. The applicant shall be required to provide a Private Shared Stormwater Agreement that meets the standards of SRC 802.040. The following condition applies:

Condition: With the final plat, the applicant shall record a Shared Stormwater System Agreement which is in compliance with SRC 802.040.

City Street and Right-of-way Standards

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

Streets			
Street Name		Right-of-way Width	Improvement Width
Market Street NE (Minor Arterial)	Standard:	72-feet	46-feet
	Existing Condition:	78-feet	56-feet
Tierra Drive NE (Local)	Standard:	60-feet	30-feet
	Existing Condition:	60-feet	34-feet

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 subdivision applications.

Finding: The subject property abuts Market Street NE (minor arterial) along the northern property boundary and Tierra Drive NE (local) along the western property boundary. The streets abutting the subject property meet the required right-of-way width and pavement improvement width for their classification according the standards established in SRC 803.025; therefore, additional improvements along Market Street NE and Tierra Drive 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: Market Street NE and Tierra Drive NE are fully improved with curbline sidewalks. At time of Building Permit, street trees may be 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 Market Street NE and Tierra Drive NE.

Condition: On the final plat, provide a 10-foot-wide public utility easement along the frontage of Market Street NE and Tierra Drive NE.

SRC Chapter 804 – Driveway Approaches

SRC 804 establishes standards for driveway approaches to ensure safe and efficient access is provided from private property to the public way.

Finding: The development site is currently served by three driveway approaches onto Market Street NE. As shown on the applicant's plans, two of the three driveway approaches onto Market Street NE will be closed and one new approach onto Tierra will be constructed to serve flag lot accessway. Per SRC 803.035(c)(1) driveway approaches onto arterial roadways are only permitted to serve approved vehicle use areas. As the approaches are no longer proposed to serve a vehicle use area, the unused driveway approaches onto Market Street NE shall be closed and replaced with curb and sidewalk.

Condition: Prior to final plat approval or delayed pursuant to improvement agreement per SRC 205.035(c)(7)(B), permanently close the two unused driveway approaches onto Market Street NE and replace with curb and sidewalk, as shown on the applicant's plans.

Natural Resources

SRC Chapter 601 – Floodplain

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

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

Finding: Properties adjacent to the subject property are served by existing access or capable of being served by public streets. The tentative subdivision does not impede future development on adjacent properties. This criterion is met.

SRC 205.010(d)(3): Development within the tentative subdivision plan can be 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 lots within the proposed partition, subject to the conditions of approval established in this decision. This approval criterion is met.

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 the findings above, the subject property is located adjacent to Market Street NE, a minor arterial street, and Tierra Drive NE, a local street under the City's Transportation System Plan (TSP). The existing condition of these streets meets the minimum standards for its classification according to the Salem TSP and SRC Chapter 803. This criterion is met.

SRC 205.010(d)(5): The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis (TIA), where applicable.

Finding: The proposed 5-lot subdivision generates less than 200 average daily vehicle trips to the local street system. Therefore, a TIA is not required as part of the proposed subdivision submittal per SRC 803.015(b)(1). This criterion is not applicable.

SRC 205.010(d)(6): 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 inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required. This criterion is not applicable.

RESPONSE TO COMMENTS

- 1. Driveway Access:** Comments from ELNA express concerns for the driveway access proposed to serve three lots with duplexes, with a total of six dwelling units.

Staff Response: The subdivision tentative plan will reconfigure three existing lots to five lots. The subdivision tentative plan has frontage along Market Street NE, a minor arterial street, and Tierra Drive NE, a local street. The applicant proposes to serve three of the proposed lots by a flaglot accessway that provides access onto Tierra Drive NE, the lower classification of street abutting the property. The proposed flaglot accessway is 25-feet in width and provides for adequate two-way

circulation for the development proposed. The proposed accessway is sufficient to provide access to three lots, with six total units, as proposed.

2. **Driveway Spacing:** Comments from ELNA express concerns for the spacing of the driveway approaches to the intersection of Market Street NE and Tierra Drive NE. Comments received from the public address congestion at the intersection and concerns of traffic safety.

Staff Response: The applicant proposes two new driveway approaches onto Tierra Drive NE, which is classified as a local street. The driveway approaches are 130-feet and 150-feet from the intersection of Market Street NE and Tierra Drive NE.

According to SRC Chapter 804, there are no driveway approach spacing standards onto Local streets. The driveway approaches are located as far from the intersection as possible, while remaining on the subject property. Additionally, access onto Market Street NE is restricted, due to its higher classification (minor arterial). Therefore, access onto Tierra Drive NE for the new dwellings is required. The proposed driveway approaches meet the standards for driveway approaches onto local streets according to SRC Chapter 804.030.

The tentative subdivision plan will reconfigure two existing lots into 5 lots, three of which are proposed to have duplexes. Development of six additional dwelling units on the subject property would generate 43 Average Daily Trips (ADTs), which is not a significant addition to the transportation system. The streets abutting the subject property meet the minimum standards for their classification according to the Salem Transportation System Plan. The existing streets surround the development are adequate to serve the development proposed.

3. **On-street Parking:** ELNA requests that a “no-parking” zone be established 100-feet from the intersection of Tierra Drive NE and Market Street NE.

Staff Response: The Public Works Design Standards require “no-parking” within 50-feet of a stop sign. These details are provided at time of construction plan review.

4. **Stormwater Management:** Comments received express concerns for how the development would impact the water table and stormwater drainage.

Staff Response: The proposed development requires the use of Green Stormwater Infrastructure, according to SRC Chapter 71. The applicant proposes a infiltration planter on the private property to treat and detain stormwater generated by the development, as required by SRC Chapter 71 and the Public Works Design Standards. The Public Works Design Standards require detention of stormwater to predevelopment conditions and various storm events. The stormwater facility will drain to the public storm system in Market Street NE. The proposed development will not negatively impact drainage system. There are no standards in the Salem Revise Code that specifically regulate impacts to the “water table”.

- 5. Drainage Bioswale:** Comments from ELNA express concerns for pedestrian safety along the proposed stormwater swale and question who will maintain the stormwater facility.

Staff Response: The proposed development requires the use of Green Stormwater Infrastructure, according to SRC Chapter 71. The applicant proposes a infiltration planter on the private property to treat and detain stormwater generated by the development, as required by SRC Chapter 71 and the Public Works Design Standards. The applicant's preliminary plans show the stormwater swale will be approximately 5-feet in depth below the existing grade. Fall protection is regulated by the Building Code and may be required based on final design of the facility. The facility is located on private property and will be maintained by the homeowners, as specified in a Shared Stormwater Facility Agreement, required as a condition of approval.

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cc: File