

Revisions to the Agenda

City Council

Monday, February 26, 2018

6:00 PM

Council Chambers

6. c. [18-77](#)

Hearings Officer Decision - Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 - Approved - Dan Clem for Union Gospel Mission of Salem - 700-800 Blocks of Commercial Street NE - A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter.

Ward(s): 1
Councilor(s): Kaser
Neighborhood(s): CAN-DO

Add - Added Supplemental Report (Version 2) and Written Testimony.

6. i. [18-100](#)

Planning Administrator Decision - Amendment to Urban Growth Preliminary Declaration and Modification of the Tentative Subdivision Plan Approval for Case No. UGA07-05MOD1 and SUB08-04MOD1 - Garrett H. Berndt and Alice Berndt - 6617 Devon Avenue SE - A consolidated application to modify the urban growth preliminary declaration and subdivision approvals granted for the 38-lot Oak Ridge Estates subdivision.

Ward(s): 4
Councilor(s): McCoid
Neighborhood(s): South Gateway

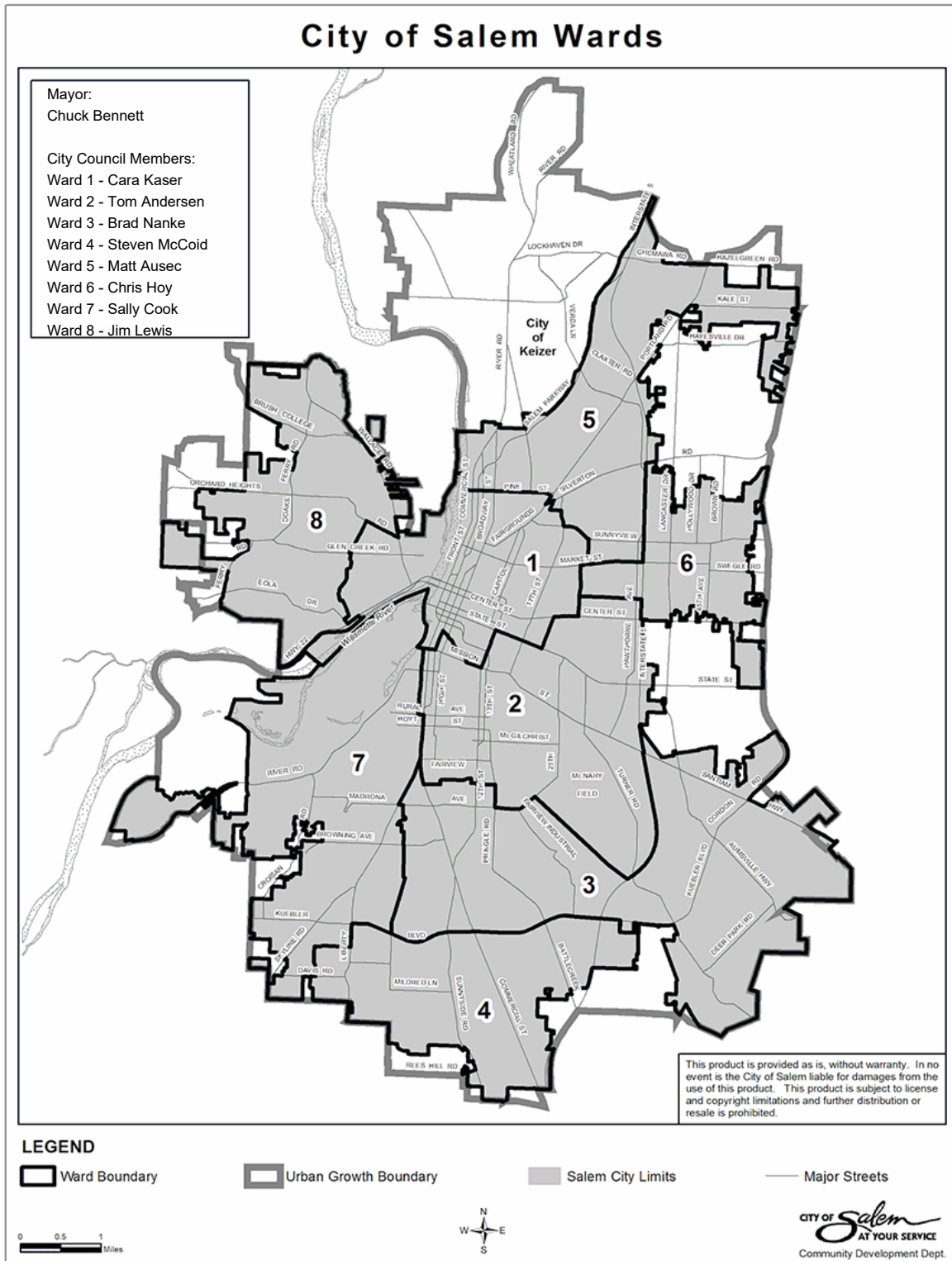
Add - Added Report.

7.1 a. [18-85](#)

Petitioner-Initiated Annexation of Territory Located at 5500 Block of Skyline Road S 97306 (Annexation Case No. C-723)

Ward(s): 7
Councilor(s): Cook
Neighborhood(s): Sunnyslope

Revised - Revised Ward, Councilor and Neighborhood information.





CITY OF SALEM

555 Liberty St SE
Salem, OR 97301

Staff Report

File #: 18-77

Version: 2

Date: 2/26/2018

Item #: 6. c.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Norman Wright, Community Development Director

SUBJECT:

Hearings Officer Decision - Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 - Approved - Dan Clem for Union Gospel Mission of Salem - 700-800 Blocks of Commercial Street NE - A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter.

Ward(s): 1
Councilor(s): Kaser
Neighborhood(s): CAN-DO

RECOMMENDATION:

Information Only.

On February 23, 2018, an appeal was received on this case (Attachment 2). The appeal will be heard by the City Council.

Bryce Bishop
Planner II

Attachments:

1. Land Use Decision CU-ZC17-14
2. Appeal Letter CU-ZC17-14

02/23/2018

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

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE / QUASI-JUDICIAL ZONE CHANGE CASE NO. CU-ZC17-14

APPLICATION NO. : 17-122248-ZO & 17-122249-ZO

NOTICE OF DECISION DATE: FEBRUARY 9, 2018

SUMMARY: A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter.

REQUEST: A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter from its current downtown location at 345 Commercial Street NE to a proposed new location on property located in the 700 to 800 blocks of Commercial Street NE.

The application includes the following:

- 1) A Conditional Use Permit to allow the relocation the UGM's existing Non-Profit Shelter with an expanded capacity to serve approximately 300 persons; and
- 2) A Zone Change to change the zoning of the property from CO (Commercial Office) with Riverfront Overlay to CB (Central Business District) with Riverfront Overlay in order to establish the existing UGM retail store located at the northern end of the property as a permitted conforming use rather than an existing non-conforming use.

The subject property totals approximately 2.3 acres in size, is currently zoned CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, & 1900).

APPLICANT: Dan Clem for Union Gospel Mission of Salem

LOCATION: 700-800 Blocks of Commercial Street NE / 97301

CRITERIA: Conditional Use: SRC Chapter 240.005(d)
Quasi-Judicial Zone Change: SRC Chapter 265.005(e)(1)

FINDINGS: The findings are in the attached Order dated February 9, 2018.

DECISION: The Hearings Officer **APPROVED** Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 subject to the following conditions of approval:

Condition 1: As a condition of the future development of the property, the applicant shall either reorient the development so that the primary customer entrance and outside storage and waiting areas are accessed from and oriented towards Commercial Street NE, rather than the alley, or shall install video surveillance

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



cameras and appropriate signage that capture video of the entire surface of the alleyway from Division to D Street NE. Video files shall be continuously stored on site for no less than 14 days. Camera and sign locations shall be determined at the time of site plan review and design review.

Condition 2: As a condition of the future development of the property, appropriate signage directing patrons to the outside waiting areas on the property and discouraging loitering or obstructing the public sidewalk shall be installed on the property. Signage shall be at locations and in a form determined at the time of site plan review and design review.

Condition 3: As a condition of the future development of the property, a State Highway Approach/access permit shall be obtained for each proposed driveway connection onto Commercial Street NE.

Condition 4: A pedestrian connection shall be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street. If the only means of connecting to a public sidewalk within an abutting street is via the existing alley, the pedestrian connection shall be visually contrasted from the alley either by a change in material or a grade separation above the alley in a manner that will not impede vehicular access to the alley.

Condition 5: Any outside storage areas, including outside storage areas for personal belongings, shall be screened by a minimum 6-foot-tall sight-obscuring fence, wall, or hedge.

The rights granted by the attached decision for Conditional Use Case No. CU-ZC17-14 must be exercised, or an extension granted, by **February 27, 2020** or this approval shall be null and void.

Application Deemed Complete:	<u>November 21, 2017</u>
Public Hearing Date:	<u>December 20, 2017</u>
Notice of Decision Mailing Date:	<u>February 9, 2018</u>
Decision Effective Date:	<u>February 27, 2018</u>
State Mandate Date:	<u>April 20, 2018</u>

Case Manager: Bryce Bishop, bbishop@cityofsalem.net; 503.540.2399

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., February 26, 2018**. Any person who presented evidence or testimony at the hearing may appeal the decision. 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) 240 and 265. The appeal must be filed in duplicate with the City of Salem Planning Division. 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 Salem City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

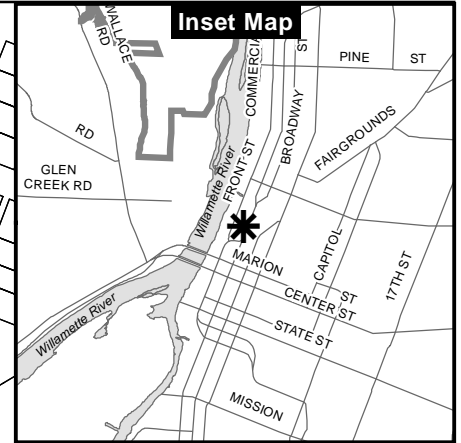
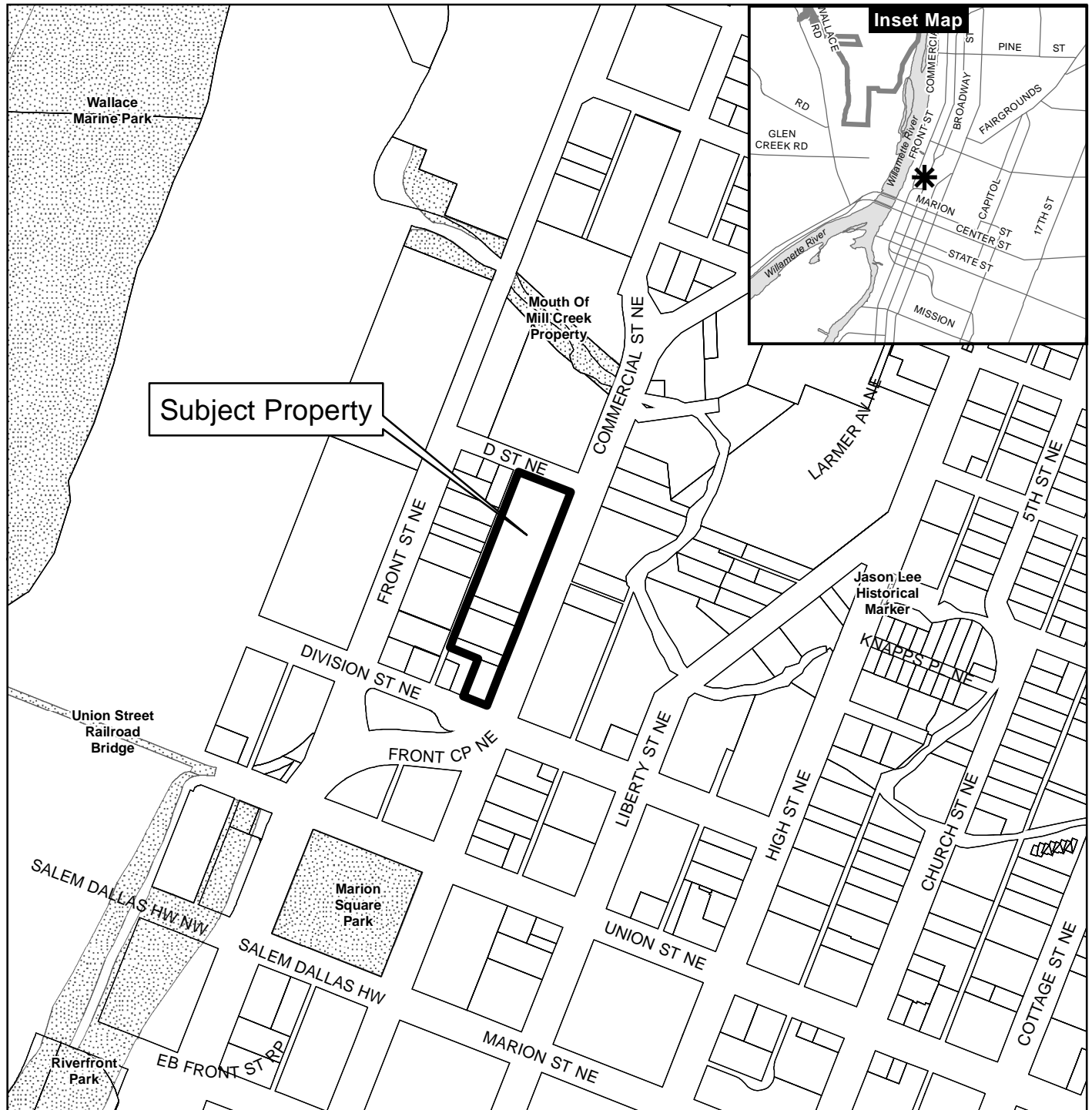
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

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Vicinity Map

700 to 800 Blocks of Commercial Street NE



Legend

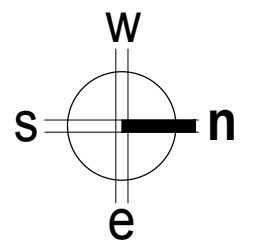
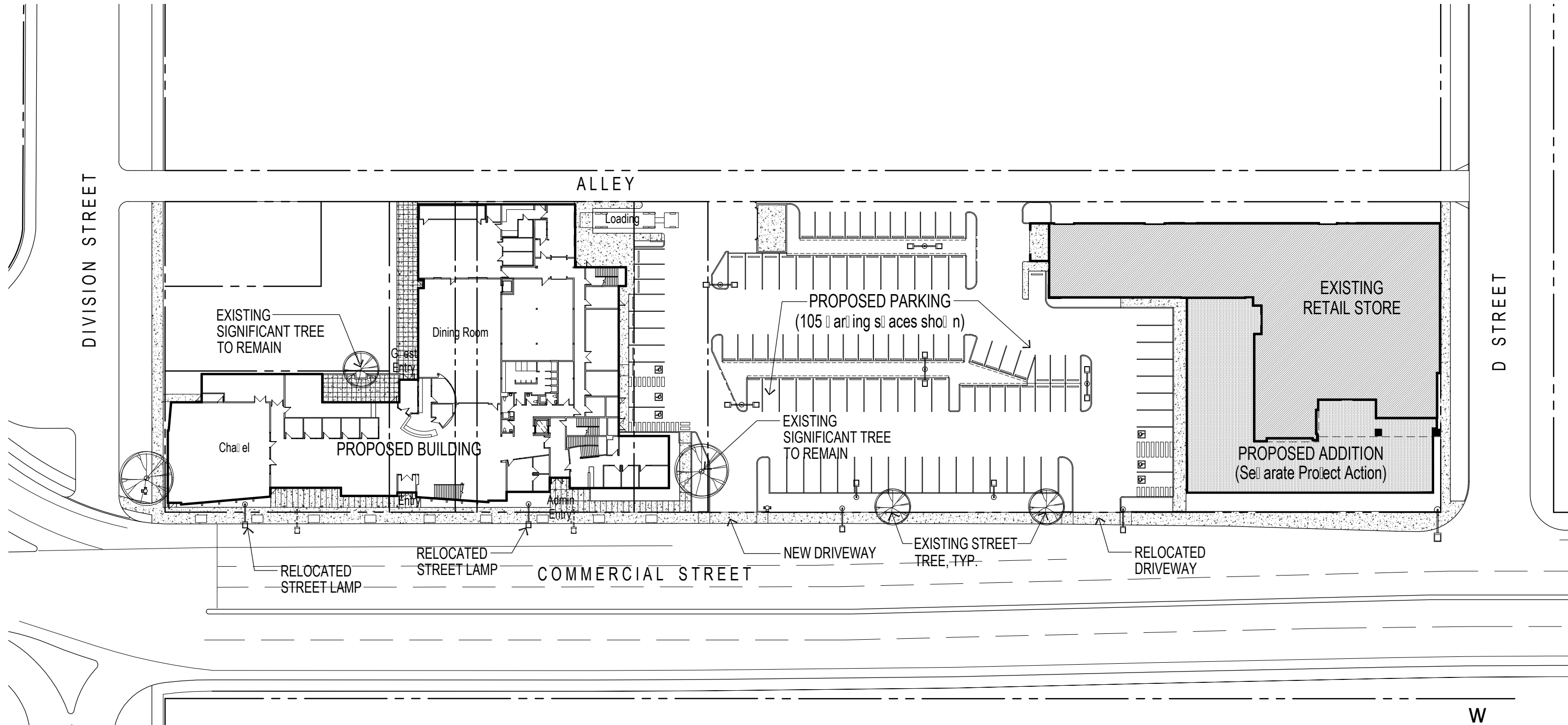
- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

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CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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**CITY OF SALEM
BEFORE THE HEARING OFFICER**

A CONSOLIDATED APPLICATION FOR A
CONDITIONAL USE PERMIT AND ZONE
CHANGE FOR THE PROPOSED RELOCATION
OF THE UNION GOSPEL MISSION (UGM) OF
SALEM'S MEN'S SHELTER FROM ITS
CURRENT DOWNTOWN LOCATION AT 345
COMMERCIAL STREET NE TO A PROPOSED
NEW LOCATION ON PROPERTY LOCATED
IN THE 700 TO 800 BLOCKS OF
COMMERCIAL STREET NE.

CU-ZC17-14

FINDINGS OF FACT, CONCLUSIONS, AND
DECISION

DATE AND PLACE OF HEARINGS:

Wednesday December 20, 2017, Salem City Council Chambers, Room 240,
Civic Center, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

Staff: Bryce Bishop, Planner II

Neighborhood Association: None

Proponents: Dan Clem, Union Gospel Mission of Salem,
Applicant; Jeff Tross, Tross Consulting Inc.,
Agent for Applicant, and Alan Mela

Opponents: David Glennie and Rick Yurk

Written Testimony:

Proponents:

- 12/18/17 – Email, Alan Mela
- 12/19/17- Letter, Jeff Harmon
- 12/27/17 – Email re: relationship of the
proposal to the Riverfront Downtown Urban
Plan and North Downtown Housing Study,
Kristin Retherford

- 1/4/18 – Letter in support, Mid-Willamette Valley Community Action Agency, Inc.
- 1/4/18 – Letter, Diane Jones-Musial
- 1/4/18- Letter, Nancy DeSouza
- 1/5/18 – Letter, Rosanne O'Connor
- 1/5/18 – Letter, Susann Kaltwasser
- 1/5/18 - Letter, Laura M. Adams
- 1/5/18 – Letter, Larry Nasset
- 1/5/18- Letter, Delana Beaton, HomeBase Shelters of Salem
- 1/5/18- Revised Applicant's Statement, Union Gospel Mission of Salem
- 1/22/18 – Response Letter (Final Argument), Mark Shipman, attorney for Union Gospel Mission

Opposition:

- 12/20/17- letter, David Glennie
- 12/20/17- Letter, Rick Yurk, business owner, BAM Agency
- 1/3/18- Letter- John Gall, property owner, 110 & 170 Division St.
- 1/4/18 – Letter- James Schaff, business owner, McNary Square Partners
- 1/4/18- Letter, Don Kerzel, Cascade Computer Maintenance, Inc.
- 1/4/18- letter with photos & DVD, William Glennie
- 1/5/18 – Letter, Terence Blackburn, NW Remarketing, Inc.
- 1/5/18-- Binder: Rebuttal Argument and Evidence of David Glennie, 31 exhibits, Phil Grillo, attorney for David Glennie (Binder CD/Audio)

SUMMARY OF THE APPLICATION AND HEARINGS INTRODUCTION AND GENERAL COMMENTS

Because this case involves a proposal for a large homeless shelter, the testimony and documents provided by the parties includes a considerable amount of information reflecting different perspectives and philosophies about how to address homelessness. The common theme for testimony in support and in opposition to this application is that homelessness is a problem that includes a number of related economic, behavioral, social, medical, and psychological causes and effects that defy easy solutions. There really is no dispute that the property and livability of third parties are impacted by improper, sometimes criminal behavior that accompanies people who do not have adequate housing. This is well documented in the record for this case. People who do not have adequate housing may suffer not just from the lack of housing but also from the same improper, and sometimes criminal behavior. This introduction is intended to serve as a reminder and explanation that the proposed zone change and conditional use approval is not a policy decision. Some factors brought up in testimony, such as the motivations for the parties taking the positions that they do, or the finances of the applicant are not relevant to this land use decision. Similarly, testimony about the amount of investment or the value of assets a party holds is not relevant and doesn't add credibility or persuasiveness to testimony. Instead, land use decisions like these are made by considering an application against the relevant criteria set out in the governing land use documents. The scope of that decision and the authority of the Hearing Officer is limited to those considerations. Where specific arguments or concerns about the application complying with the review criteria for the application are raised in the testimony, comments and documents provided in this case, they are addressed in the decision below. The Hearing Officer takes the evidence and arguments about the need for the services, the relative desirability of one method of providing services over another, and the concerns about improper behavior and its impact on neighboring properties only in the context of the approval criteria.

BACKGROUND

The City of Salem held a duly authorized and noticed public Hearing on December 20, 2017, for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter from its current downtown location at 345 Commercial Street NE to a proposed new location on property located in the 700 to 800 blocks of Commercial Street NE.

The Hearing Officer notes that Mr. Glennie raised concerns about the notice for the hearing, specifically that it did not appear on a particular page on the City's website. The Hearing Officer notes the additional information

provided by staff regarding the SRC requirements for notice and agrees that it does not require posting notice on the website page referenced by Mr. Glennie. In any event, leaving the record open for an extended period of time provided the parties with ample time to respond to the application and staff report and to rebut those responses.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan map designates the subject property as “River-Oriented Mixed Use.” The Salem Area Comprehensive Plan (SACP) describes the intent of the River-Oriented Mixed Use designation as providing for, “a combination of urban uses which take advantage of the scenic, natural, and recreational qualities of the riverfront and to provide opportunities for the residents in the community to have both visual and physical access to the riverfront while allowing for the continuation of existing industries.”

The River-Oriented Mixed Use designation may be implemented by several base zones, including CB (Central Business District), CO (Commercial Office), RH (Multiple Family High-Rise Residential), and SWMU (South Waterfront Mixed-Use). The River-Oriented Mixed Use designation may also be implemented by the Riverfront Overlay Zone which applies to specific identified properties in proximity to the Willamette River and generally located north of Division Street NE, south of Hood Street, and west of Commercial Street NE.

Because the subject property is designated River-Oriented Mixed Use on the Comprehensive Plan map and located within the Riverfront Overlay Zone, the proposed zone change from CO to CB does not require a concurrent comprehensive plan change, as the River-Oriented Mixed Use Plan designation can be implemented by the CB zone.

The Comprehensive Plan designations of surrounding properties include:

Surrounding SACP Plan Map Designations	
North	Across D Street NE - “River-Oriented Mixed Use”
South	Across Division Street NE - “River-Oriented Mixed Use”

East	Across Commercial Street NE - "Central Business District"
West	"River-Oriented Mixed Use"

2. Zoning

The subject property is currently zoned CO (Commercial Office) and is located within the Riverfront Overlay Zone. The zoning of surrounding properties is as follows:

Zoning of Surrounding Properties	
North	Across D Street NE - CB (Central Business District) with Riverfront Overlay Zone
South	CO (Commercial Office) with Riverfront Overlay Zone
	Across Division Street NE - CO (Commercial Office) with Riverfront Overlay Zone
East	Across Commercial Street NE - CB (Central Business District) with General Retail/Office Overlay Zone
West	CO (Commercial Office) with Riverfront Overlay Zone

3. Existing Site Conditions

The site consists of five different properties (Marion County Assessor Map & Tax Lot Numbers (073W22AC03300 and 073W22DB01600, 1700, 1800, & 1900) totaling approximately 2.3 acres in size. Existing improvements on the site include five buildings and paved off-street parking areas to serve them.

A. Circulation & Access:

The subject property has frontage on Division Street NE at its southern boundary, D Street NE at its northern boundary, and Commercial Street NE at its eastern boundary. An existing alley also runs the entire length of the property along its western boundary.

The section of Commercial Street abutting the subject property is designated as a parkway in the City's Transportation System Plan (TSP) and is under the jurisdiction of the Oregon Department of Transportation (ODOT). The current right-of-way width of Commercial Street adjacent to the subject property is approximately 99 feet, which is less than the minimum required width of 120 feet. At the time of site plan review approval for the future development of the subject property, right-of-way dedication and improvement of the street frontage

of the subject property, including provision of the required bike lane, planting strip, and property line sidewalks, will be required.

The sections of D Street and Division Street which abut the subject property are designated as local streets in the City's TSP. The right-of-way widths of these streets currently conform to the minimum required right-of-way width. Any additional required street improvements for these streets will be addressed at the time of Site Plan Review approval for the future development of the property.

Primary vehicular access to the subject property is provided via five existing driveways onto Commercial Street NE. Vehicular access is also available from the alley along the property's western boundary. The applicant's proposed preliminary site plan for the future development of the property shows a proposed reduction in the number of driveways onto Commercial Street NE from five to two. No driveway access is proposed onto Division Street or D Street and alley access will be maintained.

As previously discussed, because Commercial Street NE is under the jurisdiction of the Oregon Department of Transportation, proposed vehicular access onto Commercial Street will require approval by ODOT.

B. Natural Features:

Trees: The City's tree preservation ordinance (SRC Chapter 808) protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet. The tree preservation ordinance defines "tree" as, "any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves."

As shown on the applicant's existing conditions plan, which was included as attachment D in the staff report, there are trees existing on the subject property. Any removal of trees from the property to accommodate the future development of the site must comply with the requirements of the City's tree preservation ordinance (SRC Chapter 808).

Wetlands: Grading and construction activities within jurisdictional waters of the state are regulated by the Oregon Department of State Lands (DSL) and U.S. Army Corps of Engineers. State and federal wetlands laws are also administered by DSL and the Army Corps of Engineers, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

According to the Salem-Keizer Local Wetlands Inventory (LWI), the subject property does not contain any mapped wetlands or waterways. The subject property also does not contain any hydric or wetlands-type soils. As such, no impacts to wetlands or required mitigation measures are required in conjunction with the future development of the subject property.

Landslide Hazards: The topography of the subject property is flat. According to the City's adopted landslide hazard susceptibility maps, the subject property does not contain any areas of mapped landslide hazard susceptibility points. Pursuant to the City's landslide hazard ordinance (SRC Chapter 810), a geologic assessment is therefore not required in conjunction with the future development of the subject property.

4. Neighborhood Association Comments

The subject property is located within the boundaries of the Central Area Neighborhood Development Organization (CANDO) neighborhood association. As of the close of the record, no written comments were received from the neighborhood association.

5. Public Comments

All property owners within 250 feet of the subject property were mailed notice of the proposal. Notice of public hearing was also posted on the subject property. As of the date of completion of the staff report, no written comments were received from surrounding property owners or members of the public. At the hearing, Alan Mela spoke in support, David Glennie and Rick Yurk spoke in opposition. Mr. Glennie presented a letter from his attorney, Phil Grillo, asking for additional time to review and respond to the application. While the record was open, additional written comments were provided by staff, by the applicant and parties in support of the application and by parties opposing the application, as set out above.

6. City Department Comments

- A. The Building and Safety Division reviewed the proposal and indicated no comments.
- B. The Fire Department reviewed the proposal and provided comments indicating they have no objections to the conditional use permit or zone change requests and that Fire Department related issues including, but not limited to, fire department access and water supply will be required to be addressed at the time of building permit review.

- C. The Public Works Department reviewed the proposal and provided comments regarding improvements required to serve the site in conformance with the applicable requirements of the SRC. Comments from the Public Works Department are included as Attachment G in the staff report.

As indicated above, the right-of-way of Commercial Street NE abutting the property is currently less than the minimum required 120-foot width. At the time of site plan review approval for the future development of the subject property, right-of-way dedication and improvement of the street frontage of the subject property, including provision of the required bike lane, planting strip, and property line sidewalks, will be required.

7. Public Agency & Private Service Provider Comments

Notice of the proposal was provided to public agencies and to public & private service providers. As of the date of completing the decision, the following comments were received:

- A. Portland General Electric (PGE) reviewed the proposal and provided comments indicating that development cost will be per current tariff and service requirements and that a 10-foot-wide public utility easement (PUE) is required on all front street lots.
- B. The Oregon Department of Transportation (ODOT) reviewed the proposal and provided comments that are included as attachment H in the staff report. In summary, ODOT indicates that the site contains five private driveway connections to Salem Highway No. 72, State Route OR-22/Commercial Street NE. ODOT indicates that as a land use matter they do not object to the applicant's proposal and that they concur with the proposed reduction of number of driveways from five to two. ODOT indicates they currently have no access permit records on file for any of the existing driveway connections onto OR-22/Commercial Street and therefore the two proposed driveways to serve the future development of the property will require an access permit. In order to ensure that access to the site meets State requirements, ODOT recommends that a condition of approval be placed on the decision requiring the applicant to submit an *Application for State Highway Approach* (access permit application) for each of the proposed driveway connections. ODOT indicates that approval of the application will require highway frontage improvements.

ODOT also indicates that if the applicant or their contractor is required to occupy state highway right-of-way to relocate or reconstruct facilities, a *Permit to Occupy or Perform Operations Upon a State Highway* will also be necessary.

8. Applicant Submittal Information

Land use applications must include a written 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 written statement provided by the applicant addressing the applicable application approval criteria is included as Attachment E to the staff report. The Hearing Officer notes that the staff utilized the information from the applicant's written statement to help evaluate the proposal and formulate the facts and findings within the staff report.

FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR QUASI-JUDICIAL ZONE CHANGE

9. QUASI-JUDICIAL ZONE CHANGE APPROVAL CRITERIA

The Hearing Officer notes that testimony, evidence and arguments in opposition and support of the application are largely focused on the component of the application seeking approval of the proposed conditional use, rather than component applying for the underlying CB zone, which arguably is only required to permit the current retail operation to continue as a permitted use, rather than as a pre-existing non-confirming use, which cannot be expanded. In the end, the Hearing Officer concludes that the proposed zone change meets the applicable criteria, and approves the proposed zone change. This part of the approval does not resolve the questions regarding the proposed conditional use.

Salem Revised Code (SRC) 265.005(e)(1) sets forth the following criteria that must be met before approval can be granted to an application for a quasi-judicial zone change. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Quasi-Judicial Zone Change application, or for the issuance of certain conditions to ensure the criteria are met.

(A) The zone change is justified based on the existence of one or more of the following:

- (i) A mistake in the application of a land use designation to the property;***
- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the zone would be compatible with the vicinity's development pattern;***
or
- (iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally***

or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

The Hearing Officer notes that there is no evidence in the record to indicate a mistake was made in the application of the existing CO zone, so SRC 265.005 (e)(1)(A)(i) is not applicable to this proposal. The Hearing Officer notes that while some of the discussion in the staff report and the applicant's narrative could provide an argument demonstrating that there has been a change in the economic or demographic character of the vicinity, that argument was not developed, so the Hearing Officer assumes SRC 265.005(e)(1)(A)(ii) is not applicable to this proposal, either. The Hearing Officer notes that the staff report and written statement provided by the applicant indicate that the proposed zone change from CO to CB is appropriate because the proposed CB zone is equally or better suited for the property than is the existing CO zone.

The Hearing Officer notes that the UGM property has included a mix of retail and offices uses since before the Riverfront Overlay Zone and CO zone were initially applied to the property. Applying the CO zone made the existing UGM retail outlet a pre-existing non-conforming use and that non-conforming status limits the opportunities for improvement, expansion, or change of the existing operation. The physical characteristics of the property are appropriate for the proposed CB zone, as the property is located along Commercial Street, just north of the downtown core, and no physical obstacles or obstructions on the property or nearby prevent its use by activities that are allowed in the CB zone.

Reviewing factors that weighing in favor of determining that the proposed zone is logical with the surrounding uses, the Hearing Officer notes that the CB zone is consistent with intent of the River-Oriented Mixed Use Comprehensive Plan designation and provides for activities that are appropriate for the central area of the city. The Hearing Officer notes that the CB zoning already exists to the south, north and east, and that changing the zone on the property from CO to CB will not create an island of CB surrounded by property with zones that are not compatible with the uses permitted in the CB and CO zones. The location of the subject property-- directly adjacent to the north of the downtown, but also south of Mill Creek-- is a logical extension of the City's CB zoning and is consistent with the CB zoning of property located to the north of the subject property across D Street and to the east of the subject property across Commercial Street. The Hearing Officer notes that the property immediately abutting the subject site to the south, also on the east side of the alley, owned by Mr. Yurk, could weigh against finding that the proposed zone change is logical with the surrounding uses, if the uses allowed outright in the CB zone were not as compatible and consistent with those allowed outright in the CO zone as they are. As both zones implement the

Riverfront Oriented Mixed Use Comp Plan designation, and as there is considerable overlap in the allowed uses, the Hearing Officer finds that it is "logical" for the CO and CB zones to adjoin each other for purposes of the requirements of the criterion. The Hearing Officer agrees that the variety of uses allowed in the CB zone, together with the additional development standards and design review requirements of the Riverfront Overlay zone, will promote a land use and development pattern that is in keeping with the intent of the River-Oriented Mixed Use comprehensive plan designation and will also allow for the existing UGM retail store to become a permitted conforming use rather than an existing non-conforming use with limits on its ability to be expanded, altered, or rebuilt if destroyed.

The Hearing Officer finds that because the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses, the proposed zone is equally or better suited for the property than the existing zone, and this criterion is satisfied.

(B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.

The Hearing Officer notes that the written statement provided by the applicant, and the staff report, indicates that the proposal was initiated by the Union Gospel Mission, which owns the subject site. The Hearing Officer finds that the proposal is not a City-initiated zone change and therefore concludes that this criterion does not apply to this proposal.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

The Hearing Officer notes that the subject property is designated River-Oriented Mixed Use on the Salem Area Comprehensive Plan Map. Because of the property's mixed-use comprehensive plan designation, the Mixed-Use Development goals and policies contained in section IV.F of the Salem Area Comprehensive Plan (SACP) are applicable to the proposal.

For the reasons that follow, the Hearing Officer finds that the requested zone change from CO (Commercial Office) to CB (Central Business District) complies with the applicable provisions of the Salem Area Comprehensive Plan.

▪ **Mixed-Use Development Goal (SACP Section IV.F):**

To provide a mixture of complimentary land uses that may include housing, retail, offices, services, industrial, and civic uses, to create economic and social vitality.

The Hearing Officer notes that the applicant's written statement indicates that the City has determined this area is appropriate for a mix of uses, and the combination of the existing overlay zone, the comprehensive plan designation and the existing uses support that statement. The site is currently zoned CO, but it is also the location of a long-standing (non-conforming) retail store. The proposed CB zone implements the River-Oriented Mixed Use Comp Plan designation, and provides for retail uses. The CB zone will convert the existing store from a non-conforming use to a permitted use. In addition, the Riverfront Overlay Zone preserves the uses in the underlying base zone. The existing CO zone, and the proposed CB zone, both allow non-profit shelters as conditional uses. The zone change does not affect use of the site for a shelter of some size. The CB zone provides for a complimentary mix of land uses within the area, including service and civic uses, as anticipated by the Plan designation. For these reasons, the proposal is consistent with this Goal.

The Hearing Officer notes the findings included in the applicant's written statement. With a few exceptions, permitted uses in the Riverfront Overlay Zone are based on the permitted uses in the underlying base zone. While the CO zone currently allows for some limited non-office uses, the CB zone permits a much wider range of retail sales, eating and drinking establishments, and personal services.

The Hearing Officer notes that the CB zone permits the "combination of urban uses" referred to in the SACP description for the River-Oriented Mixed Uses designation. While the proposed zone change from CO to CB does not affect the allowance of UGM's proposed relocated men's shelter at this location, it does allow UGM's existing retail store to become a conforming permitted use in the CB zone rather than a non-conforming use otherwise permitted under the existing CO zone.

The land uses in the surrounding area currently include a mixture of commercial service businesses, retail, office, and industrial. The City will also be establishing a new police facility directly across Commercial Street from the subject property. The proposed zone change to CB expands the variety of uses that would be allowed on the subject property, which the Hearing Officer finds is consistent with providing a mixture of uses existing in the area and the mixed-use development goal. The Hearing Officer finds that the proposed zone change complies with this provision of the comprehensive plan.

▪ **Mixed-Use Development Policy No. 1 (Development)(SACP Section IV.F.1):**

Encourage use of land by facilitating compact, high density development and minimizing the amount of land that is needed to accommodate automobile parking.

The Hearing Officer notes that the applicant's written statement indicates that the proposal represents the efficient use of land for compact, high-density development by providing for the continued operation and future expansion of the existing retail store, and a shelter with greatly expanded capacity in a building that will include emergency housing, rehabilitation and training services, and administrative offices.

The Hearing Officer notes the applicant's written statement argues that the proposed zone change will facilitate more intense use of an already-developed property by allowing the expansion of the retail store consistent with the development standards and design review requirements of the Riverfront Overlay Zone, which would result in a more compact and urban form consistent with this comprehensive plan policy and that the proposed zone also facilitates the more efficient use of the UGM's property by allowing them to locate their proposed new shelter and retail store on the same development site, where parking between the two uses can be shared. The Hearing Office agrees that the proposed development would result in an overall more intensive use of the site than at present. The Hearing Officer notes that the proposed zone change permits, but does not itself require these features, and takes this discussion by the staff and applicant as illustrating the kind of compact, high-density development that is allowed under the proposed zone. Accordingly, the zone change facilitates this type of development. The Hearing Officer finds that the proposed zone change complies with this provision of the comprehensive plan.

▪ **Mixed-Use Development Policy No. 2 (Development)(SACP Section IV.F.2):**

Encourage development that preserves open space.

The Hearing Officer notes and appreciates the requirements for landscaping required by the development standards, and agrees that the proposed zone change facilitates a more intensive re-development of this property, which is located near the downtown core of the City. The Hearing Officer notes the argument that this allows the more efficient use of land, and in turn reduces the amount of open space that might otherwise be developed elsewhere to accommodate the proposed uses. The Hearing Officer could not readily find substantial evidence in the record establishing that there is open space or undeveloped land appropriately designated by the SACP or appropriately zoned for the proposed uses, and therefore finds that this

argument is too speculative to adopt. But the Hearing Officer finds that the criterion requires the zone change to be consistent with the applicable policies from the SACP, not every policy. The Hearing Officer finds that this policy is not particularly applicable to redevelopment of already developed property in the urban core, except to the extent that it prevents development in open space elsewhere.

▪ **Mixed-Use Development Policy No. 3 (Priorities for Mobility and Access)(SACP Section IV.F.3):**

Facilitate development (land use mix, density, connectivity, design, and orientation) that reduces the need for, and frequency of, SOV trips and supports public transit, where appropriate.

The Hearing Officer notes that the applicant indicates that the UGM shelter serves a predominantly non-driving population. The provision of on-site services, and location in proximity to the downtown core area, reduces the need for SOV trips. The Hearing Officer finds these factors are consistent with this policy. The Hearing Officer affirms the findings included in the applicant's written statement. The location of the subject property in proximity to the downtown core area ensures better access to transit and other needed services. The proposed zone change to CB also allows for the existing retail store to become a conforming permitted use in the zone. This in turn allows for the proposed relocated shelter and expanded retail store to be located on the same development site, which encourages less SOV trips by making it more likely that at least some staff who have responsibilities at the shelter and the store do not have to leave the property to travel to another location by car. The proposed zone change conforms to this provision of the comprehensive plan.

▪ **Mixed-Use Development Policy No. 4 (Priorities for Mobility and Access)(SACP Section IV.F.4):**

Reinforce streets as public places that encourage pedestrian and bicycle travel.

The Hearing Officer notes that the written statement provided by the applicant indicates that by creating and maintaining a support service destination in proximity to downtown and the public open spaces in the area, with access along the major streets including Commercial Street and Front Street, the proposal will encourage the use of the street for pedestrian and bicycle travel and thereby reinforce streets as a public place, as directed by this policy.

The Hearing Officer affirms the following from the applicant's written statement: The subject property is located in proximity to the downtown core of the City and is served by an existing street network where pedestrian and bicycle facilities are provided. As discussed in the staff report and earlier in this decision,

the right-of-way width of Commercial Street abutting the property does not currently conform to the 120 feet minimum required right-of-way width for a parkway street under the City's Transportation System Plan (TSP). As such, additional right-of-way dedication and street improvements will be required as provided in the TSP along the frontage of Commercial Street in conjunction with the future redevelopment of the property. Improvement of Commercial Street to the applicable TSP standards will ensure the public street right-of-way is developed in a manner so as to reinforce it as a public place for pedestrian and bicycle travel.

In addition, because the subject property is located within the Riverfront Overlay Zone, the future redevelopment of the property will be required to comply with the design review standards and guidelines of the overlay zone which generally require buildings to be constructed in close proximity to the public street right-of-way with canopies over the sidewalk for weather protection and transparent windows along the ground floor street facing facades to promote an active and inviting pedestrian environment. The Hearing Officer concludes that because requirements to comply with the TSP and design review standards apply to any development on the property, the proposed zone change conforms to this provision of the comprehensive plan.

- **Mixed-Use Development Policy No. 5 (Priorities for Mobility and Access)(SACP Section IV.F.5):**

Provide roadway and pedestrian connections to residential areas.

The Hearing Officer notes that the subject site is connected to Commercial Street, Division Street and D Street and that D Street and Division Street connect to Front Street. The street and sidewalk systems ultimately connect to residential areas. The Hearing Officer concludes that connections to residential areas are already provided, although these connections are not specifically provided by the proposed development. The Hearing Officer finds the proposed zoning change conforms to this provision of the comprehensive plan.

- **Mixed-Use Development Policy No. 6 (Design)(SACP Section IV.F.6):**

Develop commercial and residential areas that are safe, comfortable, and attractive to pedestrians.

The Hearing Officer notes the property is located within the Riverfront Overlay Zone, and that the design review standards and guidelines included in the overlay zone establish requirements to promote a safe, comfortable, and attractive urban environment that is inviting to pedestrians. As development is required to conform to these design review requirements, at the time of future redevelopment of the property the overlay will ensure that development is

consistent with this comprehensive plan policy. Accordingly, the Hearing Officer finds that the proposed zone change conforms to this provision of the comprehensive plan.

▪ **Mixed-Use Development Policy No. 7 (Design)(SACP Section IV.F.7):**

Provide flexibility in the siting and design of new developments, facilities, and redevelopment to respond to changes in the marketplace and infrastructure systems.

The Hearing Officer notes that by changing the zoning of the property from CO to CB the existing UGM retail store will become a conforming permitted use rather than a non-conforming use. As a conforming use, the proposed zone change will facilitate investments to improve and expand the existing store, as shown on the applicant's preliminary site plan. In addition, the wider range of potential uses for the subject property under the proposed CB zone affords the property owner greater flexibility in adapting to changing conditions over time. The Hearing Officer finds that the proposed zone change conforms to this provision of the comprehensive plan.

▪ **Mixed-Use Development Policy No. 8 (Design)(SACP Section IV.F.8):**

Provide appropriate transitions between mixed-use areas and adjacent single-use neighborhoods.

The Hearing Officer notes that the subject property is located within an area characterized by a wide variety of land uses including office, retail, commercial services, and industrial. Both the River-Oriented Mixed Use comprehensive plan designation and the Riverfront Overlay Zone that apply to the subject property and the surrounding area are intended to promote mixed-use rather than single use neighborhoods. The proposed zone change is consistent with the existing and planned mixed-use character of the neighborhood, and is not situated in an area of transition between mixed-use areas and single-use neighborhoods. The Hearing Officer finds that the proposed zone change conforms to this provision of the comprehensive plan, as no appropriate transitions need to be provided in this location.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

The Hearing Officer notes that the City's adopted Comprehensive Plan implements the Statewide Planning Goals and applicable administrative rules, and the Comprehensive Plan is acknowledged by the Department of Land Conservation and Development as complying with the Statewide Planning Goals.

The proposed zone change does not require a corresponding change to the Salem Area Comprehensive Plan Map designation for the property and the proposed zone change conforms to the applicable goals and policies of the Salem Area Comprehensive Plan, as identified in the findings included within this decision. Accordingly, the Hearing Officer finds the proposed zone change also complies with the Statewide Planning Goals and applicable administrative rules adopted by the Department; therefore the proposed zone change satisfies this approval criterion.

(E) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

The Hearing Officer finds that the proposed zone change is from CO to CB, both of which implement the River-Oriented Mixed Use designation on the Salem Area Comprehensive Plan map. The River-Oriented Mixed Use designation is not an industrial, commercial, or employment designation. The proposed zone change from CO to CB also does not require a comprehensive plan change from an industrial, commercial, or employment designation. This criterion is therefore not applicable to the proposed zone change.

(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

The Hearing Officer finds that Pursuant to Oregon Administrative Rule (OAR) 660-012-0060(9), the proposed zone change from CO to CB is exempt from the Transportation Planning Rule determination of significant affect because the current CO zone and the proposed CB zone both implement the River Oriented-Mixed Use comprehensive plan designation. As such, a change to the City's Comprehensive Plan map is not required. Because both the CO and CB zones implement the property's current River-Oriented Mixed Use Comprehensive Plan designation, the City's acknowledged Transportation System Plan (TSP) already anticipates the levels of traffic from development of the property under either the existing CO zone or the proposed CB zone. This criterion is satisfied.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

The Hearing Officer notes that, as indicated in the comments provided by the Public Works Department, water, sewer, and stormwater infrastructure are available within surrounding streets/areas and appear to be adequate to serve existing and future tenants and development in the proposed CB zone. Site specific infrastructure requirements will need to be addressed during the site plan review approval process for the future redevelopment of the property. The Hearing Officer finds this criterion is satisfied.

FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR CONDITIONAL USE PERMIT

10. CONDITIONAL USE PERMIT APPROVAL CRITERIA

The Salem Revised Code (SRC) 240.005(d) sets forth the following criteria (shown in ***bold italic***) that must be met before approval can be granted to an application for a Conditional Use Permit. These criteria are followed by analysis and findings evaluating the proposal's conformance with the criteria. The Hearing Officer notes that the public testimony at the hearing and the written comments provided during the period the record remained open are almost entirely focused on the conditional use permit component of this application. For the reasons that follow, the Hearing Officer finds that with conditions, the proposal satisfies the criteria and therefore conditionally approves the application.

(1) The proposed use is allowed as a conditional use in the zone.

The Hearing Officer notes that much of the testimony, argument, additional testimony from staff and rebuttal is devoted to concerns about whether the proposed conditional use satisfies this criterion. The subject UGM property is within the Riverfront Overlay Zone. Defining an Additional Conditional Use, the Riverfront Overlay zone includes the following language found in SRC 617.015(c), Table 617-2:

"Relocation of an existing Non-Profit Shelter from the CB zone serving more than 75 people, provided the shelter continually existed in the CB zone as of September 1, 1993."

The applicant, staff, and testimony in support of the application state that the UGM shelter falls within this definition because it is an existing non-profit shelter that is currently in the CB zone, and the UGM shelter has been at its current location continuously since 1953. They propose to expand the shelter so that it

will serve more than 75 people. They reason that because the proposed use is allowed as a Conditional Use in the Overlay Zone, this criterion is satisfied.

The Hearing Officer notes that in opposition, Mr. Grillo raises several questions about whether the proposed use is allowed as a conditional use in the zone, arguing that there is insufficient evidence in the record that the UGM shelter has been continuously operating since 1993, that the language allowing the relocation of a shelter within the CB zone does not anticipate expansion, and that there must be some limit on the capacity of shelters allowed under this provision.

The Hearing Officer notes that the text allowing the extends to a very limited number of uses—only those shelters that exist in the CB zone, that serve more than 75 people, and that continually existed in the CB zone as of September 1, 1993. The Hearing Officer is satisfied that the current UGM shelter exists and is in the CB zone. Although Mr. Grillo notes there are not substantiating documents in the record, the Hearings Office is satisfied that the applicant's statement that the shelter has been in the same location since 1953 is sufficient evidence that the proposed use satisfies this standard. If there were contrary evidence, the Hearing Officer might agree that documents substantiating that statement would be required, but the Hearing Officer will otherwise take the applicant's statement about the applicant's property and operations at face value.

Regarding the proposed expansion of the shelter operation, the Hearing Officer notes that the CB zone allows, as conditional uses, relocated non-profit shelters serving more than 75 people, but the text for the CB zone expressly prohibits any increase in bed capacity. SRC 524.005, Table 524-1. The Riverfront Overlay Zone language from SRC 617.015(c), Table 617-2 does not include the express prohibition on an increase in bed capacity. As the language in the CB zone demonstrates the City Council clearly knows how to prohibit an increase in bed capacity when it intends to do so, the Hearing Officer concludes that the City Council meant for relocated shelters that fall within the additional conditional use from the Riverfront Overlay Zone to be able to increase bed capacity. Similarly, the Hearing Officer notes that there is no particular upper limit on such an expansion, assuming that the proposal can comply with the land use criteria and design standards. Where the City Council wanted to impose limits on the number of people for a shelter, for 5 or fewer persons, 10 or fewer persons, or 6 to 75 persons, the Council has done so in the SRC. The Council clearly knows how to set maximum limits on the number of people served in shelters, and when the SRC text does not include an upper limit, the Hearing Officer concludes that the Council did not intend to set one. Mr. Grillo also raises concerns that the CANDO Neighborhood Plan, Riverfront Redevelopment project area of the RDURP¹ and

¹ The Hearings Officer is not convinced that urban renewal plans are incorporated into the land use regulations in a manner that permits their consideration in interpreting land use decisions. If

the Comprehensive Plan all should inform the interpretation of the language in the CB and RO zones in a manner that expansion of a relocating shelter would not be allowed. The Hearing Officer is convinced that the City Council weighed the policies in the Comprehensive Plan in drafting the language at issue and concluded that in the balance, the language properly implements the Comprehensive Plan.

The Hearing Officer concludes that under the plain language of the SRC, given that the site of the UGM's existing shelter at 345 Commercial Street NE is zoned CB and that the shelter has operated at that location continuously since 1953, if the shelter relocates from the CB zone at its current location to its new proposed location on property within the Riverfront Overlay Zone, that zone allows the relocated shelter as a conditional use and allows the shelter to increase the number of persons served. Accordingly, the Hearing Officer finds that the proposed relocated shelter conforms to this approval criterion.

(2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The Hearing Officer notes that Mr. Grillo raises a concern that staff and the applicant erred by not considering the entire CANDO neighborhood to be the "immediate neighborhood" for purposes of this criterion. The Hearing Officer understands Mr. Grillo to argue that because the SRC contains definitions for "vicinity" "adjacent" and "neighborhood", statements by the staff and applicant that discuss or evaluate the "immediate vicinity" or "adjacent uses" should have properly considered all of the CANDO neighborhood. The Hearing Officer is not convinced by this argument. Accepting Mr. Grillo's approach would require the Hearing Officer to give no meaning to the word "immediate" in applying this criterion. Turning to the SRC for guidance, the Hearing Officer notes that according to SRC 111.001:

"Unless the context otherwise specifically requires, terms used in the UDC shall have the meanings set forth in this chapter; provided, however:

(a) Where chapter specific definitions are included in another chapter of the UDC, those definitions are the controlling definitions; and

(b) Where a term is not defined within the UDC, the term shall have its ordinary accepted meaning within the context in which it is used.

Webster's Third New Int'l Dictionary (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings."

consideration of the urban renewal plan is relevant, the Hearings Officer would refer to the December 27, 2017 email from Kristen Retherford to Dan Clem, which the Hearings Officer sees as incorporating shelters as a housing option encouraged by the plan.

Webster's, in turn, provides the following as the most relevant definition for "immediate."

"4 : characterized by contiguity: existing without intervening space or substance (bring the chemicals into [immediate] contact very cautiously); *broadly*: being near at hand; not too far or distant (hid the money in the [immediate] neighborhood)"

The Hearing Officer concludes that an "immediate neighborhood", read in the context in the SRC, does have the same meaning as "immediate vicinity" and would include adjacent uses. The Hearing Officer concludes that the "immediate neighborhood" in this case is much smaller than the CANDO neighborhood. The Hearing Officer agrees with the staff analysis and accordingly adopts it as reviewing the immediate neighborhood for this proposal.

Mr. Grillo also argues that the reasonably likely adverse impacts of the use on the immediate neighborhood cannot be minimized through the imposition of conditions. The Hearing Officer is not convinced. This argument seems to be based on the notion that minimizing adverse impacts requires eliminating or prevent those adverse impacts entirely. But "minimize" means "to reduce or keep to a minimum". The Hearing Officer finds that the reasonably likely adverse impacts on the immediate neighborhood can be minimized through conditions of approval.

This is not to say that the Hearing Officer discounts the reasonably likely adverse impacts of the proposed UGM shelter. Opponents provided a number of photographs and video, along with written testimony that documents the adverse impacts on property and businesses resulting from improper and sometimes illegal behavior. The Hearing Officer acknowledges that much of this behavior is simply intolerable. But the Hearing Officer notes that the adverse impacts at the current UGM shelter location may be due to the deficiencies of that location—the size, the lack of available space for the people waiting to be served—and perhaps also give some feel for the scope of the homeless problems and the need for treatment, training and other services, as well as the expansion of the shelter itself. The Hearing Officer concludes that adequate housing, treatment, and other services for the homeless would best minimize the adverse impacts that are possible to minimize.

The Hearing Officer finds that the written statement provided by the applicant indicates that the site for the UGM shelter was chosen due to the lack of potentially incompatible uses in the immediate vicinity, and the expectation of minimal adverse impacts. The immediate neighborhood currently includes commercial/service and industrial uses, and a grocery store. There are no adjacent residential uses. The property is along a major street corridor and multiple modes of transportation are available. In the near future, the new Police

facility will be located directly across Commercial Street. The Hearing Officer notes that the location of the new Police facility itself, in proximity to the proposed shelter will minimize some of the adverse impacts of the proposal, although, as discussed below, the Hearing Officer shares some concern that the benefits of the proximity of the shelter to the police facility is somewhat compromised by orienting the proposed development towards the alley. The applicant's rationale leaves the Hearing Officer balancing the benefits of avoiding some adverse impacts to the public street and sidewalk system on Commercial, by possibly adding to the adverse impacts to the other properties served by and along the alley. The Hearing Officer believes this adverse impact can be minimized by the imposition of the following condition:

Condition 1: As a condition of the future development of the property, the applicant shall either reorient the development so that the primary customer entrance and outside storage and waiting areas are accessed from and oriented towards Commercial Street NE, rather than the alley, or shall install video surveillance cameras and appropriate signage that capture video of the entire surface of the alleyway from Division to D Street NE. Video files shall be continuously stored on site for no less than 14 days. Camera and sign locations shall be determined at the time of site plan review and design review.

The Hearing Officer notes that the applicant has indicated that major noise impacts in the area are from vehicle traffic on Commercial and Front Streets, and the rail line along Front Street. Activities associated with the shelter will occur within the building. There will be no exterior noise impacts created by these activities. The potential for adverse impact from noise from activities at the shelter is minimal. Similarly, the types of activities and services provided at the shelter will not create odors to the surrounding area.

The applicant explains that traffic will be associated with employees, and customers of the retail store as at present. Few clients have motor vehicles. Delivery trucks will access the building. These traffic impacts will be typical of existing traffic in this industrial and commercial area, and along a major street route that serves as a link between the central city, the Willamette River bridges, and the Salem Parkway.

The applicant indicates that the shelter will occupy a newly designed and built structure that will replace the old buildings presently on the property. The new building will be characteristic of the downtown core in scale and appearance, and be in keeping with the extension of the core area to the north. The building design will be required to follow the development standards that

apply to the location. As a result, the visual impact of the location will improve from the present.

The applicant explains that the facility will be likely to attract a large amount of pedestrian traffic and that measures should be taken to discourage loitering on or obstructing the public sidewalk. No other adverse impacts that require conditions appear to be reasonably likely. To minimize loitering on or obstructing the public sidewalk, the following condition shall be imposed:

Condition 2: As a condition of the future development of the property, appropriate signage directing patrons to the outside waiting areas on the property and discouraging loitering or obstructing the public sidewalk shall be installed on the property. Signage shall be at locations and in a form determined at the time of site plan review and design review.

Concerning vehicle transportation impacts, the proposed shelter will not result in adverse traffic impacts on streets within the area because, as the applicant indicates in their written statement, few clients have motor vehicles and the amount of vehicle traffic generated from employees, customers of the retail store, and deliveries will be typical of the other existing uses in the area. As previously discussed in this decision, because Commercial Street is also a State highway, comments from ODOT were received regarding proposed driveway access to the property. In order to ensure safe driveway access to the site that meets ODOT requirements, the following condition shall be imposed:

Condition 3: As a condition of the future development of the property, a State Highway Approach/access permit shall be obtained for each proposed driveway connection onto Commercial Street NE.

Regarding pedestrian and bicycle traffic, the proposed shelter will generate increased amounts pedestrian and bicycle activity in the area. The increased pedestrian and bicycle activity will be accommodated by provision of required sidewalk and bike lane improvements along Commercial Street, as required under the City's Transportation System Plan for this classification of street, with the proposed redevelopment of the site. In order to minimize the potential of the public sidewalks being obstructed due to loitering, the proposed preliminary shelter design locates the main guest entry into the shelter, along with an adjacent plaza area, on the west side of the building facing the alley. The rear guest entry is reached via a pedestrian connection which leads to the alley, but does not connect to any other pedestrian route with a sidewalk. In order to ensure that safe and convenient pedestrian access is provided for the proposed guests of the facility, the following condition shall be imposed:

Condition 4: A pedestrian connection shall be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street. If the only means of connecting to a public sidewalk within an abutting street is via the existing alley, the pedestrian connection shall be visually contrasted from the alley either by a change in material or a grade separation above the alley in a manner that will not impede vehicular access to the alley.

In regard to potential visual impacts, the subject property is located within the Riverfront Overlay Zone which includes design review requirements intended to promote a vibrant and pedestrian oriented mixed-use residential and commercial district. In order to achieve this, the design review requirements generally require buildings to be brought up to the street with minimized setbacks; transparent ground floor windows facing the street; weather protection in form of canopies over sidewalks; and off-street parking and loading areas that are setback from the street and located to the rear or side of buildings. At the time of future redevelopment of the property, Site Plan Review, per SRC Chapter 220, and Design Review, per SRC Chapter 225, will be required. At that time the proposed development will be reviewed for conformance with the applicable development standards and design review requirements.

While the Riverfront Overlay Zone establishes several design review requirements to promote the desired urban form in this area, it does not, however, establish screening requirements for outdoor storage areas. Due to the nature of the proposed use, it is likely that an area for storage of personal belongings will be needed. The storage area could be within a building or outside on the site. It is unclear from the proposed preliminary site plan whether such an area(s) is proposed, but in order to reduce the potential visual impact of any outside storages area(s), if any will be provided, to the immediate neighborhood, the following condition shall be imposed:

Condition 5: Any outside storage areas, including outside storage areas for personal belongings, shall be screened by a minimum 6-foot-tall sight-obscuring fence, wall, or hedge.

As identified in the applicant's written statement and discussed in the associated findings in response to this approval criterion, the reasonably likely adverse impacts of the proposed relocated shelter on the immediate neighborhood are minimized though its proposed location, the conditions of approval, and conformance with the applicable development standards and design review requirements of the Salem Revised Code at the time of future redevelopment of the property. The Hearing Officer finds the criterion is satisfied.

(3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

The Hearing Officer finds that the written statement provided by the applicant indicates that the immediate neighborhood consists of commercial/service and industrial uses, and a grocery store. The site is along a major street corridor, and close to an active rail line. There are no residential uses in the immediate vicinity. In the near future the new Salem Police facility will be located directly across Commercial Street.

The proposed use is in keeping with the intent of the Riverfront Overlay and mixed use concepts, as it provides a civic service in the area close to the city center and along major transportation routes. The site is accessible for pedestrians and bicycle traffic. The vehicular traffic impact will be low, as few clients have motor vehicles. Based on the operation and characteristics of the use, it will be reasonably compatible with surrounding properties, and minimize impacts on the livability and development of the surrounding properties, consistent with this criterion.

The Hearing Officer notes that the proposed shelter will be located in an area within proximity to the downtown where access to other social service providers in the community can still be maintained. It will be located in an area with a mixture of office, commercial, and industrial uses rather than residential uses. It will also be located across Commercial Street from the City's future police facility which will have the potential effect of deterring undesired activity that would impact surrounding properties. The proposed facility will also be required to conform with the applicable development standards and design review requirements of the SRC that are intended to promote compatibility between adjacent uses and development. The Hearing Officer notes the concerns about impacts on the other properties along the alley. With the conditions above, the Hearing Officer finds that the proposal satisfies this criterion.

DECISION

The Hearing Officer **APPROVES** the request for the proposed Conditional Use Permit and Quasi-Judicial Zone Change for the property located in the 700 to 800 Blocks of Commercial Street NE (Marion County Assessor Map and Tax Lot Number(s): 073W22AC03300 and 073W22DB01600, 1700, 1800, & 1900), subject to the following conditions:

Condition 1: As a condition of the future development of the property, the applicant shall either reorient the development so that the primary customer

entrance and outside storage and waiting areas are accessed from and oriented towards Commercial Street NE, rather than the alley, or shall install video surveillance cameras and appropriate signage that capture video of the entire surface of the alleyway from Division to D Street NE. Video files shall be continuously stored on site for no less than 14 days. Camera and sign locations shall be determined at the time of site plan review and design review.

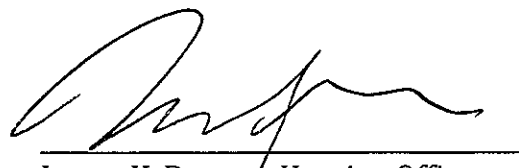
Condition 2: As a condition of the future development of the property, appropriate signage directing patrons to the outside waiting areas on the property and discouraging loitering or obstructing the public sidewalk shall be installed on the property. Signage shall be at locations and in a form determined at the time of site plan review and design review.

Condition 3: As a condition of the future development of the property, a State Highway Approach/access permit shall be obtained for each proposed driveway connection onto Commercial Street NE.

Condition 4: A pedestrian connection shall be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street. If the only means of connecting to a public sidewalk within an abutting street is via the existing alley, the pedestrian connection shall be visually contrasted from the alley either by a change in material or a grade separation above the alley in a manner that will not impede vehicular access to the alley.

Condition 5: Any outside storage areas, including outside storage areas for personal belongings, shall be screened by a minimum 6-foot-tall sight-obscuring fence, wall, or hedge.

DATED: February 9, 2018

A handwritten signature in black ink, appearing to read 'James K. Brewer', written over a horizontal line.

James K. Brewer, Hearing Officer



LAND USE APPEAL APPLICATION

FEB 23 2018

1. GENERAL DATA REQUIRED [to be completed by the appellant]

COMMUNITY DEVELOPMENT

Case No. CU-ZC 17-14

February 9, 2018

Case # Being Appealed

Decision Date

700-800 Blocks of Commercial Street NE, 97301

Address of Subject Property

David Glennie, 445 Myers Street SE, Salem, OR 97302

Appellants Mailing Address with zip code

dave@telosdevelopment.com

503-371-8014

Appellant's E-mail Address

Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

Phillip E. Grillo, Davis Wright Tremaine LLP

1300 SW 5th Ave, Suite 2400, Portland, OR 97201

Name

Mailing Address with ZIP Code

philgrillo@dwt.com

503-778-5284

E-Mail Address

Day-time Phone / Cell Phone

2. SIGNATURES OF ALL APPELLANTS

Signature:

Date: 2/22/18

Printed Name:

David Glennie

Signature:

Date:

Printed Name:

3. REASON FOR APPEAL Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY

Received By:

AP

Date:

2/23/2018

Receipt No:

17-122248-20

Appeal Deadline:

FEB 27, 2018

Case Manager:

BRYCE BAXTER

February 22, 2018

Mayor Bennett and City Council
City of Salem
c/o Community Development Department
555 Liberty Street SE, Room 305
Salem, OR 97301

Re: Appeal of the Hearing Officer's February 9, 2018 decision in
Case No. CU-ZC 17-14 (Union Gospel Mission)

Dear Mayor Bennett and City Council Members:

I represent Mr. David Glennie in the above-captioned matter. Mr. Glennie has standing to appeal the hearing officer's decision in this case pursuant to SRC 300.1010, because he testified orally and in writing during the proceedings below.

As required in the Land Use Appeal Application (attached) I am providing a brief summary of the reasons for Mr. Glennie's appeal of the hearing officer's decision:

1. The hearing officer's decision violates SRC 240.005 (d)(1) because the proposed use is not allowed as a conditional use in the zone.
2. The hearing officer's decision violates SRC 240.005 (d)(2) because the reasonably likely adverse impacts of the proposed use on the immediate neighborhood cannot be minimized through the imposition of conditions.
3. The hearing officer's decision violates SRC 240.005 (d)(3) because the proposed use will not be reasonably compatible with and will not have minimal impacts on the livability or appropriate development of surrounding property.

Pursuant to the city's currently adopted fee schedule, a check in the amount of \$268.00 is included with this appeal. Please notify me when the appeal is scheduled with the City Council.

Respectfully Submitted,

Davis Wright Tremaine LLP


Phil Grillo

cc: David Glennie

4835-7050-3518v.1 0085607-000004

Page
Break



Staff Report

File #: 18-100

Version: 1

Date: 2/26/2018

Item #: 6. i.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

Planning Administrator Decision - Amendment to Urban Growth Preliminary Declaration and Modification of the Tentative Subdivision Plan Approval for Case No. UGA07-05MOD1 and SUB08-04MOD1 - Garrett H. Berndt and Alice Berndt - 6617 Devon Avenue SE - A consolidated application to modify the urban growth preliminary declaration and subdivision approvals granted for the 38-lot Oak Ridge Estates subdivision.

Ward(s): 4

Councilor(s): McCoid

Neighborhood(s): South Gateway

RECOMMENDATION:

Information Only.

Bryce Bishop
Planner II

Attachments:

1. Land Use Decision UGA07-05MOD1 & SUB08-04MOD1

02/23/2018

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

DECISION OF THE PLANNING ADMINISTRATOR

AMENDMENT TO URBAN GROWTH PRELIMINARY DECLARATION AND MODIFICATION OF THE TENTATIVE SUBDIVISION PLAN APPROVAL FOR CASE NO. UGA07-05MOD1 AND SUB08-04MOD1

APPLICATION NO. : 17-111078-LD & 17-111074-LD

NOTICE OF DECISION DATE: FEBRUARY 23, 2018

REQUEST: A consolidated application to modify approvals granted for the 38-lot Oak Ridge Estates subdivision, containing the following requests:

- 1) To amend a previously approved Urban Growth Preliminary Declaration, UGA Case No. 07-05, to modify conditions related to the dedication of right-of-way and construction of a segment of Lone Oak Road SE.
- 2) To modify a previously approved tentative subdivision plan, Case No. SUB08-04 ("Oak Ridge Estates"), to modify conditions related to the construction of a segment of Lone Oak Road SE.

The subject property is approximately 9.95 acres in size, zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor Map and Tax Lot Number 083W22C00200).

APPLICANT: Garrett H. Berndt and Alice Berndt

LOCATION: 6617 Devon Avenue SE / 97306

CRITERIA: Amendment to UGA Preliminary Declaration - SRC 200.030
Modification of Tentative Subdivision Approval – SRC 205.070(d)

FINDINGS: The findings are in the attached Staff Report dated February 23, 2018.

DECISION: The Planning Administrator **APPROVED** the requested amendment of the urban growth preliminary declaration and modification of the tentative subdivision plan subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings adopted in the approval of tentative subdivision plan SUB08-04 and urban growth preliminary declaration UGA07-05.

- A. Urban Growth Preliminary Declaration Case No. UGA07-05 is approved subject to following conditions of approval as amended by this decision:

Linking Street Requirements

Condition A.1: ~~Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet (SRC 66.140(a)(4); SRC 63.237).~~

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005

CITY OF Salem
AT YOUR SERVICE

~~**Condition A.2:** Along the City-approved Lone Oak Road SE alignment, the applicant shall construct a full-street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225(a); PWDS Streets 2.21).~~

Condition A.1: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
- OR-
- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

Boundary Street Requirements

Condition B.1: Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required.

Storm Drainage Requirements

~~**Condition C.1:** The applicant shall be required to design and construct a complete storm-drainage system at the time of development. The applicant shall provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC 63.195). The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).~~

Condition C.1: Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71.

Water Service Requirements

Condition D.1: The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC ~~66.120~~200.070).

- a) Construct the Champion Hill Reservoir (S-3) and the Water System Master Plan piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.

Sanitary Sewer Requirements

Condition E.1: The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC ~~66.110~~200.060).

- a) The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.

B. Tentative Subdivision Plan Case No. 08-04 is approved subject to the followings conditions of approval as amended by this decision:

Condition 1: Comply with the conditions of amended UGA Preliminary Declaration UGA07-05MOD1.

Condition 2: Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.

Condition 3: Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.

~~**Condition 4:** Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.~~

Condition 4: Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71.

Condition 5: ~~Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.~~

Condition 6: ~~Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.~~

Condition 5: Prior to final subdivision plat approval either:

a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;

-OR-

b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and

b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and

b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original tentative subdivision plan to Rees Hill Road SE; and

b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fees to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

Condition 76: A street connection shall be provided to the abutting property to the south in an alignment approved by the Public Works Director.

Condition 87: Pave the flag lot accessway serving proposed Lots 26 and 27 to a minimum width of 15 feet. "No Parking" signs shall be posted on the flag lot accessways and the addresses for each of the proposed flag lots shall be posted at the street entrance to the flag lot accessway. Reciprocal and irrevocable access rights for all lots using the accessway shall be included on the final plat and deeds for the individual lots.

Condition 98: All necessary access and utility easements shall be shown on the plat as determined by the Public Works Director.

Condition 109: Obtain demolition permits and remove the existing buildings from the property.

The rights granted by the attached decision must be exercised, or an extension granted, as follows or this approval shall be null and void:

Modification of Urban Growth Area Preliminary Declaration	<u>March 13, 2020</u>
Amendment of Tentative Subdivision Plan Approval	<u>March 13, 2020</u>

Application Deemed Complete:	<u>June 1, 2017</u>
Notice of Decision Mailing Date:	<u>February 23, 2018</u>
Decision Effective Date:	<u>March 13, 2018</u>
State Mandate Date:	<u>March 19, 2018</u>

Case Manager: Bryce Bishop, bbishop@cityofsalem.net, 503.540.2399

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., March 12, 2018.** 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) 200 and 205. The appeal must be filed in duplicate with the City of Salem Planning Division. 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 City Council will review the appeal at a public hearing. After the hearing, the City Council 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 at the Planning Division office, 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
(CASE NO.: UGA07-05MOD1 & SUB08-04MOD1)**

*Si necesita ayuda para comprender esta información, por favor llame 503-588-6173
<http://www.cityofsalem.net/planning>*

IN THE MATTER OF THE)	FINDINGS AND ORDER
AMENDMENT OF URBAN GROWTH)	
PRELIMINARY DECLARATION AND)	
SUBDIVISION MODIFICATION CASE NO.)	
UGA07-05MOD1 & SUB08-04MOD1;)	
6617 DEVON AVENUE SE)	FEBRUARY 23, 2018

REQUEST

A consolidated application to modify approvals granted for the 38-lot Oak Ridge Estates subdivision, containing the following requests:

- 1) To amend a previously approved Urban Growth Preliminary Declaration, UGA Case No. 07-05, to modify conditions related to the dedication of right-of-way and construction of a segment of Lone Oak Road SE.
- 2) To modify a previously approved tentative subdivision plan, Case No. SUB08-04 ("Oak Ridge Estates"), to modify conditions related to the construction of a segment of Lone Oak Road SE.

The subject property is approximately 9.95 acres in size, zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor Map and Tax Lot Number 083W22C00200).

DECISION

The requested amendment of the urban growth preliminary declaration and modification of the tentative subdivision plan are hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings adopted in the approval of tentative subdivision plan SUB08-04 and urban growth preliminary declaration UGA07-05.

- A. Urban Growth Preliminary Declaration Case No. UGA07-05 is approved subject to following conditions of approval as amended by this decision:

Linking Street Requirements

Condition A.1: ~~Along the City approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right of way to provide 60 feet (SRC 66.237).~~

~~**Condition A.2:** Along the City-approved Lone Oak Road SE alignment, the applicant shall construct a full street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225(a); PWDS Streets 2.21).~~

Condition A.1: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
-OR-
- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

Boundary Street Requirements

Condition B.1: Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required.

Storm Drainage Requirements

~~**Condition C.1:** The applicant shall be required to design and construct a complete storm drainage system at the time of development. The applicant shall provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC~~

~~63.195). The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).~~

Condition C.1: Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71.

Water Service Requirements

Condition D.1: The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC ~~66.120~~200.070).

- a) Construct the Champion Hill Reservoir (S-3) and the Water System Master Plan piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.

Sanitary Sewer Requirements

Condition E.1: The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC ~~66.110~~200.060).

- a) The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.

B. Tentative Subdivision Plan Case No. 08-04 is approved subject to the followings conditions of approval as amended by this decision:

Condition 1: Comply with the conditions of amended UGA Preliminary Declaration UGA07-05MOD1.

Condition 2: Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.

Condition 3: Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.

~~**Condition 4:** Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.~~

Condition 4: Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71.

Condition 5: ~~Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.~~

Condition 6: ~~Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.~~

Condition 5: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
-OR-
- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fees to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

Condition 76: A street connection shall be provided to the abutting property to the south in an alignment approved by the Public Works Director.

Condition 87: Pave the flag lot accessway serving proposed Lots 26 and 27 to a minimum width of 15 feet. "No Parking" signs shall be posted on the flag lot accessways and the addresses for each of the proposed flag lots shall be posted at the street entrance to the flag lot accessway. Reciprocal and

irrevocable access rights for all lots using the accessway shall be included on the final plat and deeds for the individual lots.

Condition 98: All necessary access and utility easements shall be shown on the plat as determined by the Public Works Director.

Condition 109: Obtain demolition permits and remove the existing buildings from the property.

PROCEDURAL FINDINGS

BACKGROUND

On April 7, 2017, an application was filed by Mark Shipman, of Saalfeld Griggs PC, on behalf of the applicants and property owners, Garrett and Alice Berndt, to modify the approval of Tentative Subdivision Plan Case No. SUB08-04 and corresponding Urban Growth Area Development Permit Preliminary Declaration Case No. UGA07-05. The Urban Growth Preliminary Declaration, which was originally approved in 2007, and the subsequent Tentative Subdivision Plan, which was originally approved in 2008, identified specific public facilities required by the City's Urban Growth Management Program to develop their 9.95 acre property located at 6617 Devon Avenue SE and approved its division into 38 individual lots ranging in size from approximately 7,500 to 13,789 square feet in size.

Due to the state of the economy subsequent to the approval of the subdivision in 2008, the applicant has been unable to commence with development of the subdivision. In order to maintain a valid decision, the applicant has requested four two-year extensions to the expiration period of the tentative subdivision approval. The first 2-year extension requested by the applicant was approved in 2010. Three additional two-year extensions were subsequently requested and approved in 2012, 2014, and 2016. Under the most current extension approval for the subdivision, the decision is valid until September 15, 2018. Pursuant to SRC 200.025(g), the approval of a preliminary declaration remains valid as long as the subdivision the urban growth preliminary declaration is issued in connection with remains valid. Because the tentative subdivision approval is still valid, the corresponding urban growth preliminary declaration for the property is also still valid.

As originally approved, the tentative subdivision plan divides the subject property into 38 lots and both the UGA preliminary declaration and subdivision approvals included conditions requiring construction of necessary public facilities to serve the development. In order to meet the linking street requirements of Chapter 200 (Urban Growth Management) and to ensure adequate street access to the property, the urban growth preliminary declaration decision included the following conditions of approval relating to linking streets:

- **Condition A.1:** Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet.

Condition A.2: Along the City-approved Lone Oak Road SE alignment, the applicant shall construct a full street improvement to the satisfaction of the Public Works Director. These improvements shall include street lights and sidewalks.

The subdivision decision also included a condition of approval relating to the construction of Lone Oak Road. The condition required the following:

- **Condition 5:** Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.

In order to complete the construction of Lone Oak Road SE from the intersection of Muirfield Avenue SE, a bridge spanning Jory Creek and approximately 2,500 feet of collector street improvements are required. The cost of the bridge and street improvement have been contributing factors to the difficulty of complying within the conditions of approval and completing the proposed 38-lot subdivision.

In order to alleviate this requirement, the applicant submitted the proposed modification to the subdivision and UGA preliminary declaration approvals to allow for payment of a proportional fee towards the estimated cost of building Lone Road and the bridge in-lieu of constructing the improvements.

On August 11, 2017, the applicant also submitted an application to the City to form a reimbursement district, as allowed under SRC 200.310, for construction of the Lone Oak improvements. The reimbursement district includes completion of the construction of Lone Oak Road SE from not only Muirfield Avenue SE south to the subject property, but also from the subject property south to Rees Hill Road.

The inclusion of the improvements of Lone Oak Road from the subject property south to Rees Hill Road are included in the reimbursement district in order to supplement the construction of the improvements of Lone Oak Road to the north to Muirfield Avenue and provide an alternative means of complying with linking street, connectivity, and emergency access requirements prior to the northern section of Lone Oak Road and the bridge being completed.

SUBSTANTIVE FINDINGS

1. Proposal

The subject property is located at 6617 Devon Avenue SE (**Attachment A**). On June 13, 2007, a preliminary declaration for Urban Growth Area Development Permit No. UGA07-05 (**Attachment B**) was approved identifying the public facilities required under the City's Urban Growth Management Program to develop the subject property. On September 15, 2008, tentative approval was granted for the Oak Ridge Estates subdivision (Subdivision Case No. SUB08-04) (**Attachment C**) to subdivide the 9.95 acre property into 38 lots ranging in size from approximately 7,500 to 13,789 square feet with a concurrent variance to allow street grades greater than 12 percent.

The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created lots at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final subdivision plat.

The requested modification seeks to amend previously approved Urban Growth Preliminary Declaration Case No. UGA07-05 and tentative subdivision plan Case No. SUB08-04 ("Oak Ridge Estates") by modifying conditions related to the dedication of right-of-way for, and construction of, Lone Oak Road SE.

The requested modification does not, however, propose any changes to the approved layout of the subdivision or the number or configuration of the proposed lots. The location of the proposed internal streets within the subdivision, as well as points of access to the existing street network, will remain the same.

2. Neighborhood Association Comments

The subject property is located within the South Gateway Neighborhood Association. Notice of the proposed UGA preliminary declaration amendment and subdivision modification was provided to the neighborhood association. No comments were received.

3. Public Comments

Notice of the proposed UGA preliminary declaration amendment and subdivision modification was also provided to property owners within 250 feet of the subject property on June 8, 2017. One area property owner provided comments in response to the notice indicating, in summary, that the written narrative provided by the applicant refers to a connection between Lone Oak Road and Sahalee Court, but the street is actually Sahalee Drive SE. The comment also questions when the bridge over Jory Creek will be constructed because the proposed subdivision will add 38 additional residences to the one access street to the area, Devon Avenue. The comment explains that there are too many homes for a single access for fire, police, and emergency vehicles.

Response: The comment received is correct that the name of the street to which Lone Oak Road connects is Sahalee Drive SE rather than Sahalee Court SE.

In regards to the construction of the bridge over Jory Creek, the completion of Lone Oak Road from the subject property to Muirfield Avenue to the north, and a single point of street access being allowed to serve not only the existing lots in the area, but also the 38 additional lots proposed within this subdivision, construction of the bridge is the most significant barrier to the completion of Lone Oak Road from the subject property to Muirfield Avenue. As the applicant indicates in their written statement, the requirements for the design of the bridge have changed since the original approval and the costs associated with its construction have increased. In order to allow for the subdivision to go forward, the applicant has proposed a modification to the original conditions of approval associated with the development. The requested modification would allow for the payment of a proportional

fee towards the estimated cost of building Lone Oak Road and the bridge in-lieu of constructing the improvements.

The original urban growth preliminary declaration approval for the development included conditions requiring dedication of right-of-way for the extension of Lone Oak Road and the construction of a full street improvement within the dedicated right-of-way in order to complete the required connection.

In order to ensure the proposed modification to the urban growth preliminary declaration satisfies the applicable approval criteria under SRC 200.030 and the subdivision will be adequately served by streets and include more than one point of street access, the proposed urban growth preliminary declaration amendment and subdivision modification are being approved with conditions requiring the development to:

- a) Pay a proportional amount toward the construction of Lone Oak Road, including the bridge over Jory Creek, by paying the Lone Oak Reimbursement District fee established pursuant to City Council Resolution No. 2018-08;
- b) Acquire land for dedication of right-of-way for Lone Oak Road from its existing terminus at Sahalee Drive SE to Rees Hill Road;
- c) Construct Lone Oak Road with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- d) Construct Lone Oak Road with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE.

The above conditions ensure the development will contribute funds towards the completion of Lone Oak Road between Muirfield Avenue SE and August Drive SE and that linking street requirements, as required under SRC 200.055, will be met by requiring the applicant to acquire right-of-way and construct Lone Oak Road from Sahalee Drive to Rees Hill Road.

The requirement to construct Lone Oak Road from Sahalee Drive to Rees Hill Road will also provide for a second point of street access to the subdivision which will improve access to the development and the surrounding area, help alleviate traffic on Devon Avenue and Sahalee Drive, and provide for an additional means of emergency vehicle access until such time the section of Lone Oak Road between Muirfield Avenue and August Drive, including the bridge over Jory Creek, is completed and a third point of access to the area is provided.

4. City Department Comments

- A. The Salem Fire Department reviewed the proposal and indicated that fire hydrants are required prior to construction and that all buildings are required to be equipped with automatic fire sprinklers in accordance with NFPA 13D due to a single point of access

to the subdivision. The Fire Department explains that sprinklers are required until such time as the Lone Oak Bridge and street are installed and in service.

Response: As is identified in this decision, the applicant will be required to acquire right-of-way and construct Lone Oak Road from Sahalee Drive south to Rees Hill Road. Construction of this section of Lone Oak Road is required as a condition of subdivision plat approval. With the construction of this section of Lone Oak Road, two points of Fire Department access will be available to serve the development in the interim before the bridge and northern section of Lone Oak Road between Muirfield Avenue and Augusta Street are completed. The first point of access to the subdivision will be from the east via Sunnyside Road, Rees Hill Road, Devon Avenue, Sahalee Drive, and the existing improved section of Lone Oak Road. The second point of access to the subdivision will be from the west via Liberty Road, Rees Hill Road, and the extended section of Lone Oak Road.

- B. The Public Works Department reviewed the proposal and provided comments regarding street and City utility improvements required to serve the development in conformance with the Salem Revised Code. Comments from the Public Works Department are included as **Attachment D**.

5. Urban Growth Preliminary Declaration Amendment Approval Criteria.

SRC 200.030(d) sets forth the following criteria that must be met before approval can be granted to an amendment of an Urban Growth Preliminary Declaration. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed amendment for conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the amendment, or for the issuance of certain conditions to ensure the criteria are met.

- A. ***SRC 200.030(d)(1): A change in the circumstances has occurred which has the effect of making the list of required public facilities inappropriate or inadequate.***

Finding: As indicated in the written statement provided by the applicant (**Attachment E**), a change in circumstances has occurred since the original urban growth preliminary declaration approval. The primary change has been an increase in the costs associated with the construction of the bridge over Jory Creek and completion of the extension of Lone Oak Road from Muirfield Avenue to its existing terminus north of Augusta Street. Past estimates had the cost of construction of the improvement in the range of \$1,800,000.00. Current estimates, however, indicate the bridge and roadway improvements will cost \$7,500,000.00. The increase in construction cost by nearly \$5.7 million makes it difficult for a single development of 38 single family lots to cover this construction cost and has resulted in a situation where the costs associated with the improvement are no longer proportional to the impact of the subdivision and are therefore inappropriate as provided under this approval criterion.

Because the condition of approval from the original urban growth preliminary declaration decision requiring the construction of Lone Oak Road from Muirfield Avenue to Sahalee

Drive and the bridge over Jory Creek is no longer proportional to the impacts of the proposed subdivision, a modification to the conditions to allow the development to pay a proportional share of the cost of construction of the improvements is warranted and satisfies this approval criterion.

- B. SRC 200.030(d)(2): *The proposed amendment does not simply reduce the developer's costs by shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased.***

Finding: SRC 200.055 requires developments to be linked to an adequate street by the shortest pre-planned routes available. An adequate street is defined under SRC 200.055(b) as, "the nearest point on a collector or arterial street which has, at a minimum, a 34-foot-wide turnpike improvement within a 60-foot-wide right-of-way." In order to meet linking street requirements, the original urban growth preliminary declaration and subdivision approvals required right-of-way dedication and construction of Lone Oak Road from the west line of the subject property to Muirfield Avenue SE.

Due to the costs of constructing Lone Oak Road and the bridge over Jory Creek, the applicants submitted an application to amend Urban Growth Preliminary Declaration Case No. UGA07-05 and modify the approval of Tentative Subdivision Case No. SUB08-04. The proposed amendment and modification seek approval to modify the conditions of approval of the urban growth preliminary declaration and subdivision to allow payment of a fee to cover a proportional share of the costs to construct Lone Oak Road and the bridge over Jory Creek rather than constructing them.

In addition to the urban growth preliminary declaration amendment and subdivision modification, the applicant also applied to the City to establish a reimbursement district, as allowed under SRC 200.310, in order to provide a funding mechanism to pay for the costs of construction of the bridge and the improvement of Lone Oak Road. The purpose of a reimbursement district is to allow a developer who constructs a public improvement to recoup some portion of the cost of construction of the public improvement from neighboring properties that are benefited by the improvements.

On January 22, 2018, the City Council approved the formation of the Lone Oak Reimbursement District. The reimbursable public improvements included within the district include not only the construction of Lone Oak Road from Muirfield Avenue to Sahalee Drive, including construction of the bridge over Jory Creek, but also the construction of Lone Oak Road from Sahalee Drive to Rees Hill Road.

Because the subject property is located within the boundaries of the approved reimbursement district, the proposed subdivision will be required to pay a reimbursement fee of \$9,854.00 per lot which ensures the development will contribute its proportional share of the costs of the Lone Oak Road and bridge improvements.

SRC 200.030(d)(2) provides that a proposed amendment to an urban growth preliminary declaration cannot be approved if it simply reduces the developer's costs by

shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased.

In order to ensure the proposed amendment to the urban growth preliminary declaration satisfies this approval criterion and the subdivision will be adequately served by streets and include more than one point of street access, Condition A.1 and Condition A.2 of the original urban growth preliminary declaration relating to linking streets shall be deleted and replaced with the following new amended condition:

Condition A.1: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
- OR-
- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

The above new amended condition ensures the development will be required to either complete the northern section of Lone Oak Road from Muirfield Avenue to its existing terminus north of Augusta Street as originally approved or construct an alternative section of Lone Oak Road from Sahalee Drive to Rees Hill Road in order to meet linking street and safe and adequate street access and connectivity requirements while also ensuring the development will pay its proportional share of the costs of constructing Lone Oak Road and the bridge rather than simply reducing those costs or shifting them to another developer or the public.

The new amended condition also provides an increased public benefit to the area by allowing for utilization of the funding mechanism established through the reimbursement district to facilitate construction of the bridge and completion of Lone Oak Road, while also requiring a second point of street access to the subdivision and surrounding area to be provided, which will improve street connectivity and access, help alleviate traffic on Devon Avenue and Sahalee Drive, and provide for a required secondary means of Fire Department and emergency vehicle access until such time the northern section of Lone Oak Road between Muirfield Avenue and Augusta Drive is completed and a third point of access to the area is provided.

C. SRC 200.030(d)(3): *The change does not result in a development that does not otherwise meet all requirements of this chapter.*

Finding: The proposed amendment, as conditioned, will not result in a development that will not otherwise meet all of the requirements of SRC Chapter 200 (Urban Growth Management). As provided in this decision, new amended Condition A.1 requires either:

- Construction of Lone Oak Road SE from Muirfield Avenue SE to its existing terminus north of Augusta Street SE; or
- Dedication of right-of-way for, and construction of, Lone Oak Road from its existing terminus near Sahalee Drive SE to Rees Hill Road SE and payment of the Lone Oak Road Reimbursement Fee, to contribute toward the costs of construction of the entire length of Lone Oak Road from Muirfield Avenue to Rees Hill Road.

The new amended Condition A.1 requiring the applicant to either construct the northern section of Lone Oak Road from Muirfield Avenue to its existing terminus north of Augusta Street, as required under the original urban growth preliminary declaration and subdivision decisions, or alternatively construct the southern section of Lone Oak Road from its existing terminus near Sahalee Drive to Rees Hill Road, together with payment of the reimbursement fee to contribute to the costs of construction of the entire length of Lone Oak Road from Muirfield Avenue to Rees Hill Road, ensures that the linking street requirements of SRC 200.055 will continue to be met.

In January 2014, a new SRC Chapter 71 was implemented, relating to stormwater facilities. Condition C1 is being amended in accordance with the requirements of SRC Chapter 71 to provide greater specificity and clarity that was lacking in the original Condition C1. No other modifications to the conditions of the original urban growth preliminary declaration are proposed; therefore all other applicable requirements of SRC Chapter 200 will also be met. The proposed amendment, as conditioned, meets this approval criterion.

6. Tentative Subdivision Plan Modification Approval Criteria.

SRC 205.070(d) sets forth the following criteria that must be met before approval can be granted to a modification of a tentative subdivision plan approval. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings

evaluating the proposed modification for conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the modification, or for the issuance of certain conditions to ensure the criteria are met.

A. SRC 205.070(d)(1): *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*

Finding: The original decision for Tentative Subdivision Plan Case No. SUB-08-04 included two conditions of approval, Condition 5 and Condition 6, requiring the applicant to complete the construction of Lone Oak Road to the intersection of Muirfield Avenue to the north as well as to construct that portion of Lone Oak Road from its existing terminus at Sahalee Drive to the western boundary of the subject property.

These conditions were established in order to ensure the proposed subdivision satisfied the applicable subdivision approval criteria and that that street access and connectivity requirements were met. As indicated in the original subdivision approval, the subject property's only access to the public street network is from Sunnyside Road SE via Rees Hill Road, Devon Avenue, and Sahalee Drive, which is a private street within the Creekside Planned Unit Development (PUD). This route alone is not conducive to providing a safe and efficient transportation system, especially with respect to fire and life safety, given its single point of access and that one of the streets that must be utilized to gain access to the property is a private street within a development the subject property is not a part of.

Under the proposed subdivision modification the applicant has requested to eliminate the condition of approval requiring completion of the section of Lone Oak Road from Muirfield Avenue to the existing terminus of Lone Oak Road north of Augusta Street. Instead of constructing this portion of Lone Oak Road, the applicant has proposed to pay a proportional fee towards the completion of this required improvement.

Elimination of the condition of approval requiring the construction of Lone Oak Road between Muirfield Avenue and Augusta Street would result in only one street connection being provided to the subdivision, linking street requirements would not be met, the subdivision would not have an adequate connection to the public street network, Fire Department requirements requiring two points of access to serve the subdivision would not be met, and the decision would be substantially inconsistent with the original conditions of approval.

In order to ensure the proposed modification remains substantially consistent with the original conditions of approval as required by this criterion and the proposed subdivision will be served by a safe and adequate streets, Condition 5 and Condition 6 of the original tentative subdivision approval shall be deleted and replaced with the following new amended condition:

Condition 5: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
- OR-
- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE.

The new amended Condition 5 requiring the applicant to either construct the northern section of Lone Oak Road from Muirfield Avenue to its existing terminus north of Augusta Street, as required under the original subdivision approval, or alternatively construct the southern section of Lone Oak Road from its existing terminus near Sahalee Drive to Rees Hill Road, together with payment of the reimbursement fee to contribute to the costs of construction of the entire length of Lone Oak Road from Muirfield Avenue to Rees Hill Road, ensures that the subdivision meets street access requirements and the modified decision is substantially consistent with the original conditions of approval.

In January 2014, a new SRC Chapter 71 was implemented, relating to stormwater facilities. Condition 4 is being amended in accordance with the requirements of SRC Chapter 71 to provide greater specificity and clarity that was lacking in the original Condition 4. No other modifications to the conditions of the original tentative subdivision approval are proposed. The proposed modification, as conditioned, meets this approval criterion.

B. SRC 205.070(d)(2): *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

Finding: The proposed modification to the subdivision, as conditioned, will not result in significant changes to the physical appearance of the development, the use of the site, and impacts on surrounding properties.

Though an amendment to the original urban growth preliminary declaration and a modification to the original tentative subdivision plan approval have been requested by the applicant, neither the urban growth preliminary declaration amendment nor the tentative subdivision plan modification propose to change the configuration or number of approved lots, the layout of the internal streets, or the uses that will be allowed within the subdivision. Because lot configuration, street layout, and uses allowed within the subdivision will not be changed by the proposed modification, it will not result in any significant changes to the physical appearance of the development or use of the site in conformance with this approval criterion.

In regards to impacts on surrounding properties, the proposed urban growth preliminary declaration amendment and subdivision modification allow for off-site street improvements required in connection with the subdivision to be changed. The original approvals required linking street and adequate and safe street access and connectivity requirements to be met through the off-site improvement of Lone Oak Road from Muirfield Avenue to the west line of the subject property. The proposed modification, however, provides a new alternative option to meet linking street and adequate and safe street access and connectivity requirements by instead allowing for the construction of the section of Lone Oak Road from Sahalee Drive SE to Rees Hill Road SE and payment of a reimbursement fee towards the costs of the construction of the entire length of Lone Oak Road from Muirfield Avenue to Rees Hill Road.

Though a different section of Lone Oak Road is allowed to be constructed under this modification decision in order to fulfill linking street and adequate and safe street access and connectivity requirements, it will not result in a significant change in impacts on surrounding properties. Instead, the alternative street connection of Lone Oak Road from Sahalee Drive to Rees Hill Road will allow for a second point of vehicle access to the subdivision and the surrounding area to be constructed prior to the section of Lone Oak Road from Muirfield Avenue to north of Augusta Street being completed. This connection will improve vehicular and emergency vehicle access to the area, help improve safety and emergency response, and benefit rather than impact surrounding properties. This criterion is met.

7. Effect on Expiration Period of Original Approval:

Subdivision Case No. SUB08-04 was originally approved on September 15, 2008 and set to expire within two years on September 15, 2010. Because a final plat for the subdivision has not been able to be completed, the applicant has requested and received approval of, pursuant to SRC 300.850, four two-year extensions to the expiration period of the tentative

subdivision plan approval extending it the maximum period of 10 years to September 15, 2018.

Pursuant to SRC 205.070(e), when a subdivision decision is modified, the effect of the modification upon the expiration period of the original approval, if any, shall be established in the modification decision. Consistent with the two-year initial deadline established under SRC 300.850 for recording the final plat for a tentative subdivision plan, the expiration date of the modified subdivision is hereby extended by two years to September 15, 2020. In recognition of potential limiting conditions of the market and the complexity associated with acquiring right-of-way and completing the required off-site street improvements, the applicant is permitted to apply for up to four further extensions of the expiration period, in two year increments, with the final extension expiring no later than September 15, 2028.

Pursuant to SRC 200.025(g)(1), a preliminary declaration issued in connection with a subdivision remains valid so long as the subdivision the preliminary declaration is issued in connection with remains valid. Because the tentative plan approval of the subdivision still remains valid, the decision on the amendment to the urban growth preliminary declaration will also remain valid for the duration of the subdivision modification and any subsequent extensions.

IT IS HEREBY ORDERED

The requested urban growth preliminary declaration amendment and subdivision tentative plan modification for property approximately 9.95 acres in size, zoned RA (Residential Agriculture), and located at 6617 Devon Avenue SE (Marion County Assessor Map and Tax Lot Number 083W22C00200) are hereby **APPROVED** as follows subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings adopted in the approval of tentative subdivision plan SUB08-04 and UGA07-05.

A. Urban Growth Preliminary Declaration Case No. UGA07-05 is approved subject to following conditions of approval as amended by this decision:

Linking Street Requirements

~~**Condition A.1:** Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet (SRC 66.140(a)(4); SRC 63.237).~~

~~**Condition A.2:** Along the City-approved Lone Oak Road Se alignment, the applicant shall construct a full street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225(a); PWDS Streets 2.21).~~

Condition A.1: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;

-OR-

- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

Boundary Street Requirements

Condition B.1: Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required.

Storm Drainage Requirements

~~**Condition C.1:** The applicant shall be required to design and construct a complete storm drainage system at the time of development. The applicant shall provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC 63.195). The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).~~

Condition C.1: Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71.

Water Service Requirements

Condition D.1: The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 66.120200.070).

- b) Construct the Champion Hill Reservoir (S-3) and the Water System Master Plan piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.

Sanitary Sewer Requirements

Condition E.1: The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 66.110200.060).

- b) The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.

B. Tentative Subdivision Plan Case No. 08-04 is approved subject to the followings conditions of approval as amended by this decision:

Condition 1: Comply with the conditions of amended UGA Preliminary Declaration UGA07-05MOD1.

Condition 2: Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.

Condition 3: Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.

~~**Condition 4:** Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.~~

~~**Condition 4:** Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71.~~

~~**Condition 5:** Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.~~

~~**Condition 6:** Construct a 34-foot wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.~~

Condition 5: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
-OR-
- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan ; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE).

- Condition 76:** A street connection shall be provided to the abutting property to the south in an alignment approved by the Public Works Director.
- Condition 87:** Pave the flag lot accessway serving proposed Lots 26 and 27 to a minimum width of 15 feet. "No Parking" signs shall be posted on the flag lot accessway and the addresses for each of the proposed flag lots shall be posted at the street entrance to the flag lot accessway. Reciprocal and irrevocable access rights for all lots using the accessway shall be included on the final plat and deeds for the individual lots.
- Condition 98:** All necessary access and utility easements shall be shown on the plat as determined by the Public Works Director.
- Condition 109:** Obtain demolition permits and remove the existing buildings from the property.



Bryce Bishop, Planner II
Planning Administrator Designee

Attachments: A. Vicinity Map
B. Decision Approving Urban Growth Preliminary Declaration UGA07-05
C. Decision Approving Tentative Subdivision Plan SUB08-04
D. Public Works Department Comments
E. Applicant's Written Statement

cc: Alan Kessler, GIS

Application Deemed Complete:	<u>July 5, 2017</u>
Notice of Decision Mailing Date:	<u>August 23, 2017</u>
Decision Effective Date:	<u>September 8, 2017</u>
State Mandated Decision Date:	<u>November 9, 2017</u>

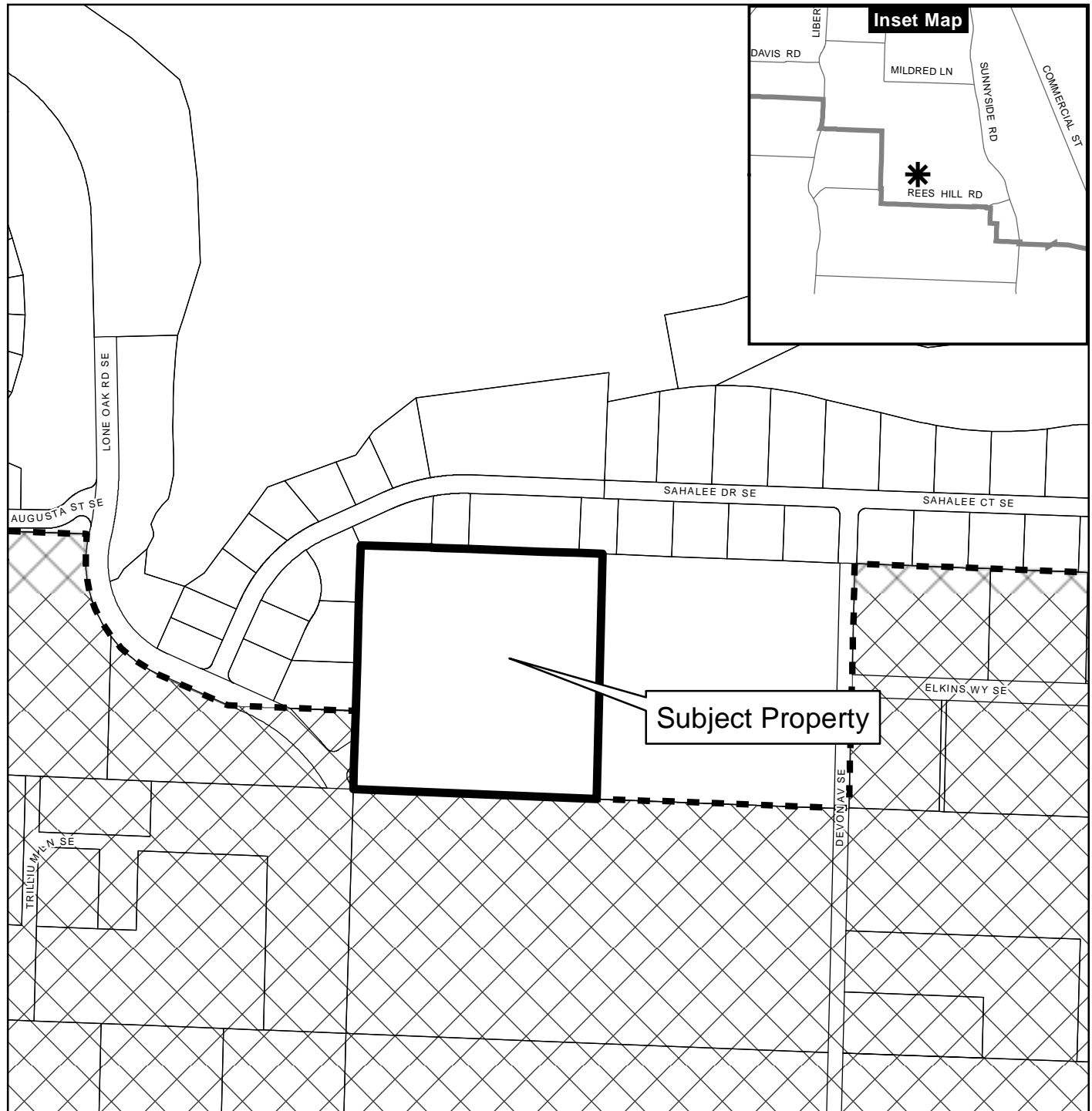
The rights granted by the attached decision must be exercised, or an extension granted, as follows or this approval shall be null and void:

Modification of Urban Growth Area Preliminary Declaration	<u>March 13, 2020</u>
Amendment of Tentative Subdivision Plan Approval	<u>March 13, 2020</u>

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., March 12, 2018.** 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) 200 and 205. The appeal must be filed in duplicate with the City of Salem Planning Division. 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 City Council will review the appeal at a public hearing. After the hearing, the City Council 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 at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

Vicinity Map 6617 Devon Avenue SE



Legend

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

Parks

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Community Development Dept.

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UGA DEVELOPMENT REVIEW COMMITTEE

PLANNING DIVISION
555 LIBERTY ST. SE/ROOM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



ISSUE: Preliminary Declaration for Urban Growth Area Development Permit No. 07-5

DATE OF DECISION: June 13, 2007

APPLICANT: Garret and Alice Berndt

PURPOSE OF REQUEST:

To determine the public facilities required by the Urban Growth Management Program to develop approximately 9.95 acres, zoned RA (Residential Agriculture) and located inside the City of Salem outside the USA (Urban Service Area) and located at 6617 Devon Avenue SE.

ACTION:

The following is a Preliminary Declaration of the facility improvements required to obtain an Urban Growth Area (UGA) Development Permit for the subject property. The Preliminary Declaration is subject to the terms of Salem Revised Code (SRC) Chapter 66, the Salem Transportation System Plan (STSP), the City of Salem Stormwater Management Master Plan, City of Salem Water System Master Plan, Salem Wastewater Management Master Plan, Public Works Design Standards, Comprehensive Parks System Master Plan, and conditioned on the provision of the public facilities as listed below.

This Preliminary Declaration for a UGA permit addresses only those facility requirements necessary to link the development to adequate facilities and boundary requirements abutting the property (SRC 66.140). All internal facility improvement requirements will be addressed at the time of development of the property. Salem Revised Code (SRC) Chapter 66 "Urban Growth Management" sets forth the City's authority for imposing linking and boundary facility improvement requirements.

The Facts and Findings of the Departments of Public Works and Community Services are attached as Exhibits 1 and 2. The applicant has the responsibility to provide the following facilities pursuant to the requirements of the UGA Development Permit and according to SRC Chapter 66:

A. Linking Street Requirements

1. Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet (SRC 66.140(a)(4); SRC 63.237).
2. Along the city approved Lone Oak Road SE alignment, the applicant shall construct a full street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225; SRC 63.235). These improvements shall include streetlights and sidewalks (SRC 63.225(a); PWDS Streets 2.21).

B. Boundary Street Requirements

1. Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required.

C. Storm Drainage Requirements

1. The applicant shall be required to design and construct a complete storm drainage system at the time of development. The applicant shall provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC 63.195). The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).

D. Water Service Requirements

1. The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 66.120).
 - a. Construct the Champion Hill Reservoir (S-3) and the Water System Master Plan piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.

E. Sanitary Sewer Requirements

1. The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 66.110).
 - a. The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.

F. Parks Requirements

Based on the policies of the Comprehensive Park System Master Plan, the provisions of SRC 66.125, and the finding, no neighborhood park land, access route, or other park linkages are required as a part of this UGA Development Permit Application.

Date of Preliminary Declaration: June 13, 2007

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, not later than **June 28, 2007, 5:00 p.m.** The appeal must state where the decision failed to conform to the provisions of the Urban Growth Management Ordinance (SRC Chapter 66). The appeal must be filed in duplicate with the City of Salem Planning Division. 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 Salem City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

This Preliminary Declaration will expire on June 13, 2009

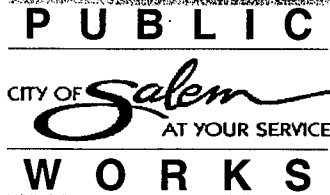
Attachments:	Exhibit 1:	Facts and Findings of the Department of Public Works
	Exhibit 2:	Facts and Findings of the Department of Community Services
	Exhibit 3:	Vicinity Map

Prepared by Jennifer Brown, Assistant Planner

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RECEIVED

APR 25 2007



TO: Jennifer Brown, Assistant Planner
Department of Community Development

FROM: Tony C. Martin, P.E., Senior Development Services Engineer
Public Works Department

DATE: April 24, 2007

SUBJECT: **PUBLIC WORKS RECOMMENDATIONS**
UGA NO. 07- 5 PRELIMINARY DECLARATION
6617 DEVON AVENUE SE
RESIDENTIAL DEVELOPMENT

PROPOSAL

To determine the public facilities required by the Urban Growth Management Program to develop a residential subdivision on approximately 9.95 acres in a RA (Residential Agricultural) zone at 6617 Devon Avenue SE.

RECOMMENDED CONDITIONS

1. Linking Street - Construct a linking street connection from the west line of the subject property to the nearest adequate facility along the Lone Oak Road SE alignment as approved by the Public Works Director.
2. Linking Storm - Submit an engineered drainage study and capacity calculations from the proposed development to the approved points of disposal, and construct the necessary improvements to provide adequate capacity as specified in the Stormwater Management Design Standards.
3. Linking Water - Link the proposed development to adequate facilities by the construction of the Champion Hill Reservoir (S-3) and the *Water System Master Plan* piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.
4. Linking Sewer - Construct a Master Plan sewer line to the end of the Lone Oak Road SE improvements as approved by the Director of Public Works.

EXHIBIT 1

UGA INFRASTRUCTURE DETAIL

Urban Growth Area Development (UGA) Permit

The subject property is located outside of the Urban Service Area (USA), or inside the USA in an area without required facilities. An Urban Growth Area Development (UGA) Permit is required (SRC 66.050). A UGA permit requires an applicant to provide linking and boundary facilities to their property under the standards and requirements of SRC Chapter 66.

CURSORY REVIEW OF DEVELOPMENT REQUIREMENTS

Streets

1. Linking Streets - The subject property is not currently linked to an adequate linking street. An adequate linking street is defined as: (1) The nearest point on a street that has a minimum 34-foot improvement within a 60-foot-wide right-of-way (collectors or arterials); or (2) a street which has a minimum 30-foot-wide improvement within a 60-foot-wide right-of-way (local) (SRC 66.100(b)).
 - a. Lone Oak Road SE Extension - The applicant shall be required to provide a linking street connection from the west line of the subject property to the nearest adequate facility as approved by the Public Works Director.
 - i. Existing Conditions - Lone Oak Road SE is an under improved boundary street identified in the Salem TSP as a north/south collector street. Lone Oak Road SE is being built within phases to the north as part of the Creekside Development. There is a street section that will need to be constructed from Sahalee Drive SE to the west line of the subject property.
 - ii. Standard - This street is designated as **collector** street in the *Salem Transportation System Plan*. The linking street standard for this street is a 34-foot turnpike improvement within a 60-foot-wide right-of-way (SRC 66.100(b)).
 - iii. Improvement Requirements

Dedication - Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet (SRC 66.140(a)(4); SRC 63.237).

Improvements - Along the City-approved Lone Oak Road SE alignment, the applicant shall construct a full-street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225; SRC 63.235). These improvements shall include streetlights and sidewalks (SRC 63.225(a); PWDS Streets 2.21).

2. Boundary Streets - All streets abutting the property boundaries shall be designed to the greater of the standards of SRC 63.225 and SRC 63.235 and the standards of linking streets in SRC 66.100(c). There was a 25-foot right-of-way section of Devon Avenue SE along the north line of the subject property. Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required. The internal streets shall provide the connection to Lone Oak Road SE from the subject property.
3. Right-of-Way Acquisition - Right-of-way required for boundary and linking street improvements is the obligation of the applicant. If the applicant is unable to obtain the required right-of-way after good faith attempts, they shall prepare the legal descriptions thereof and transmit them to the City Attorney, who shall proceed to acquire them through exercise of the City's power of eminent domain as though the public improvements were to be funded by the City. All costs incurred as a part of this procedure shall be paid by the applicant (SRC 66.090). All rights-of-way, easements, and titles to property acquired by the developer shall be deeded or dedicated, free of all liens and encumbrances, to the City prior to commencement of any construction of required facilities (SRC 66.090).
4. Rees Hill Road SE and Devon Avenue SE are under the jurisdiction of Marion County. Marion County has requested improvements to Rees Hill Road SE if alternate routes for construction traffic are not available. Applicant shall coordinate with Marion County regarding the use and any improvements to Rees Hill Road SE and Devon Avenue SE.

Traffic

Transportation Impact Analysis (TIA) - As a requirement of development, the applicant may be required to provide a Transportation Impact Analysis (TIA) to identify the impacts of this proposed development on the public transportation system in the area, and construct any necessary mitigation measures identified in that report (OAR 660-12-0000 et seq.; PWDS Bulletin No. 19). The City Traffic Engineer will determine the need for a TIA based on the development proposed for the site, and review and approve the TIA for conformance with City Standards. Construction plans for the development will not be reviewed without an approved TIA or a waiver from the City Traffic Engineer. Pending completion of the TIA, the applicant is advised that the following are minimum requirements.

Storm Drainage

1. Existing Conditions
 - a. The subject property is located within the Battle Creek Drainage Basin. The drainage from this site will go to Battle Creek.
 - b. The Champion Drainage Swale is just to the west of the subject property. This swale will be affected by the proposed construction of the Lone Oak Road SE alignment.
2. Linking Storm Facilities - The applicant shall be required to design and construct a complete storm drainage system at the time of development. The applicant shall

provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC 63.195) The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).

Water

1. Existing Conditions

- a. The subject property is located within the S-3 water service level.
- b. There is a 10-inch S-3 public water line in Sahalee Court S. The S-3 water system is currently at or near capacity and is not adequate to serve this site.

2. Linking Water Facilities - The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 66.120).

- a. Construct the Champion Hill Reservoir (S-3) and the *Water System Master Plan* piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.

3. Any existing unused wells shall be abandoned to meet the requirements of the Oregon State Board of Water Resources.

Sanitary Sewer

1. Existing Sewer

- a. There is a 12-inch public sanitary sewer line is located within the Creekside Golf Course.
- b. There is an 8-inch public sanitary sewer line in Sahalee Court S.
- c. There is an 8-inch public line under construction in Lone Oak Road SE that terminates just past Sahalee Drive SE.

2. Linking Sewer Facilities - The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 66.110).

- a. The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.

3. Any existing septic tank systems shall be abandoned (SRC 73.110).

Prepared by: Leta Gay Snyder, Development & Inspection Specialist
Public Works Department

MEMORANDUM

TO: Jennifer Brown, Assistant Planner, Dept. of Community Development
THROUGH: Thom Kaffun, Parks Project Section Manager, Dept. of Community Services
FROM: Lisa Tyler, Landscape Architect, Dept. of Community Services
DATE: 5 June 2007
SUBJECT: UGA Development Permit Application No. 07-05
6617 Devon Avenue SE

ISSUE: What park facilities would be required by Chapter 66, the Urban Growth Management Program, to develop the subject property?

FACTS AND FINDINGS:

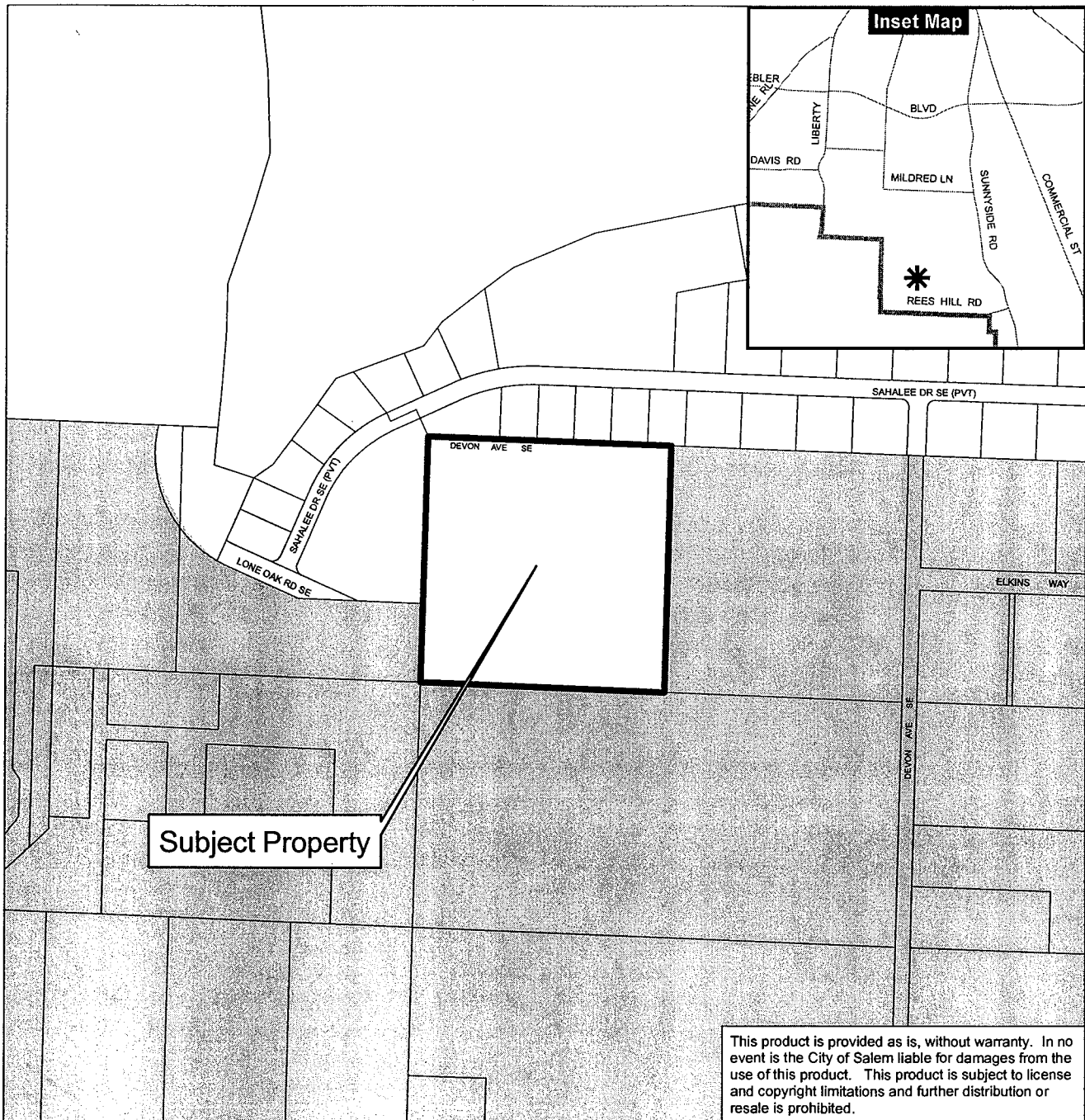
1. The approximately 9.95 acre subject property is located outside the Urban Service Area (USA). Because the development is proposed before becoming part of the USA, an Urban Growth Area Development Permit is required and must conform to the requirements of the Urban Growth Management Plan, SRC Chapter 66. This means that certain public facilities may be required. Park requirements are based on policies in the adopted Comprehensive Park System Master Plan (CPSMP).
2. SRC 66.125, Standards for Park Sites, stipulates that the Development Review Committee shall require that an Urban Growth Area (UGA) Development Permit applicant reserve property necessary for an adequate neighborhood park, access to park sites, recreation route or similar uninterrupted linkage based upon the CPSMP.
3. Neighborhood park locations are based on average service areas having a radius of 1/3 mile, a middle distance used to implement the 1/4 to 1/2 mile service area radius required in the CPSMP.
4. The subject property is zoned Residential Agriculture (RA).
5. Policy states that to determine if a property is served it should be within 1/2 mile of a neighborhood park. The 1/2 mile distance is measured from the nearest point on the park property to the farthest point on the subject property. The farthest point on the property is approximately 4025 feet (0.76 mile) from Lone Oak Reservoir Park, an undeveloped neighborhood park. The subject property is not within the service area of a neighborhood park.
6. A series of detailed park land siting criteria, known as "administrative procedures," are used to assist in determining the location of the neighborhood Preferred Park Area and also generally described in the CPSMP as policy 1.7, which delineates "preferred" neighborhood park locations. The site selection criteria states: "Site selection criteria shall be used to evaluate and select new park and recreation sites. These criteria should address the following issues: 1. Central location; 2. Neighborhood access; 3. Location of complimentary public facilities (e.g. schools); 4. Population distribution within the service area; 5. Available sites; 6. Land acquisition costs 7. Location of other park and recreation facilities in adjoining service areas; and 8. Unique features and/or natural assets.
7. A response to each of the park siting criteria is as follows:
 1. *Central location:* The 9.95 acre subject property is partially wooded with some outbuildings on the property. The property is located in the area south of the Creekside Golf Course and residential development.

2. *Neighborhood access:* The subject property is in an area of underdeveloped properties. The majority of the properties are outside the Salem City Limits. The area to the northeast is developed into 1/2 acre residential lots and a multi-family condominium. Until new roads are developed in the area there is not good pedestrian access.
3. *Location of complimentary public facilities (e.g. schools):* The closest elementary school is Rosedale Elementary (Outside the UGB) and Sumpter Elementary. (Both over 1 mile) The closest Middle school is Crossler, located approximately 1.3 miles to the northwest. Sprague High School is approximately 2 miles to the northwest.
4. *Population distribution within the service area:* Residential development exists mainly to the to the north and east.
5. *Available sites:* Vacant, undeveloped, and/or underdeveloped land is available in the area. At this time opportunities for purchase have not been identified.
6. *Land acquisition costs:* The subject property and surrounding properties are underdeveloped and zoned for residential development. The county zoning for the area is Urban Transition (UT-10). The property costs would reflect residential development potential. The properties outside the City Limits may appraise at a lower cost.
7. *Location of other park and recreation facilities in adjoining service area:* Rees Park a 1 acre developed neighborhood park is located to the east across Sunnyside Road; 3 acres of undeveloped park land is located to the northeast on Wiltsey Road and approximately 12 acres of undeveloped park land is located to the northwest at the Lone Oak Water Reservoir.
8. *Unique features and/or natural assets.* No know unique features or natural assets. The property contains mature trees and has an average 12% slope.
8. The Park System Master Plan does indicate the need for two neighborhood parks within 1/2 mile of the subject property. There is approximately 223 acres, within the UGB, outside of any park service area. There are approximately 330 acres bounded by Sunnyside Road, Creek Side Golf Course, and the UGB that would be served by park(s) in this area. Approximately 10.7 acres would serve the 330 acres of unserved or under served area between Sunnyside Road and the Urban Growth Boundary.
9. Conclusion: The subject property is not served by park land. The property is in the preferred park service area, especially if it is determined that a single neighborhood park could service the unserved areas. Due to the property having average slopes of 12% and the availability of land with less slopes, Staff has determined that park land will not be required as part of this UGA permit. Access will be reviewed during application for subdivision.

RECOMMENDATION:

1. Based on the policies of the Comprehensive Park System Master Plan, the provisions of SRC 66.125, and the findings above, no neighborhood park land, access route, or other park linkages are required as a part of this UGA Development Permit Application.

Vicinity Map 6617 Devon Avenue SE



Legend

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

0 100 200 400 Feet



EXHIBIT 3

SUBDIVISION REVIEW COMMITTEE

PLANNING DIVISION
555 LIBERTY ST. SE/ROOM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



ISSUE: Subdivision No. 08-4 – Oak Ridge Estates

DATE OF DECISION: September 15, 2008

APPLICANT: Garrett & Alice Berndt

PURPOSE OF REQUEST:

To subdivide approximately 9.95 acres into 38 lots ranging in size from approximately 7,500 square feet to approximately 13,789 square feet; with a concurrent variance request to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b). The subject property is zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor's Map and Tax Lot Number: 083W22C/200).

ACTION: IT IS HEREBY ORDERED

That Subdivision Plat No. 08-4 to subdivide approximately 9.95 acres into 38 lots ranging in size from approximately 7,500 square feet to approximately 13,789 square feet; with a concurrent variance request to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b); for property zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor's Map and Tax Lot Number: 083W22C/200) shall be GRANTED subject to the identified conditions of approval listed below prior to final plat approval unless otherwise indicated:

- Condition 1:** Comply with the conditions of UGA Preliminary Declaration 07-5.
- Condition 2:** Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Condition 3:** Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Condition 4:** Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.
- Condition 5:** Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.
- Condition 6:** Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.
- Condition 7:** A street connection shall be provided to the abutting property to the south in an alignment approved by the Public Works Director.
- Condition 8:** Pave the flag lot accessway serving proposed Lots 26 and 27 to a minimum width of 15 feet. "No Parking" signs shall be posted on the flag lot accessway and the addresses for each of the proposed flag lots shall be posted at the street entrance to the flag lot accessway. Reciprocal and irrevocable access rights for all lots using the accessway shall be included on the final plat and deeds for the individual lots.
- Condition 9:** All necessary access and utility easements shall be shown on the plat as determined by the Public Works Director.

Condition 10: Obtain demolition permits and remove the existing buildings from the property.

Application Filing Date: June 16, 2008
State Mandated Decision Date: October 14, 2008
Decision Date: September 15, 2008

Decision Issued According to Salem Revised Code 63.046 and 63.332.

The Findings and Order of the Subdivision Review Committee for Subdivision 08-4, dated **September 15, 2008**, are hereby adopted as part of this decision, and by this reference, incorporated herein. This tentative decision is valid and remains in effect for a period of two years. Under SRC 63.049, this tentative decision is void after two years if not finalized. To finalize the subdivision the applicants must complete the conditions listed above and prepare a final plat for review and approval by the City of Salem, per SRC 63.052, before recordation. Approval of a final plat does not relieve the applicants from complying with other applicable provisions of the Salem Revised Code or the Oregon Revised Statutes that may govern development of this property.

This decision is final unless written appeal from an aggrieved party is received by the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, Oregon 97301, no later than **September 30, 2008, at 5:00 p.m.** The appeal must state where the decision failed to conform to the provisions of the subdivision ordinance (SRC Chapter 63). The appeal must be filed in duplicate with the City of Salem Planning Division. 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, Planning Commission may amend, rescind, or affirm the action, or refer the matter to the staff for additional information.

A copy of the findings and conclusions for this decision may be obtained by calling the Salem Planning Division at (503)588-6173, or writing to the following address: Salem Planning Division; Room 305, Civic Center; 555 Liberty Street SE; Salem, Oregon 97301.

Case Planner: Bryce Bishop, Interim Senior Planner, Ext. 7599, or at bbishop@cityofsalem.net

**BEFORE THE SUBDIVISION REVIEW COMMITTEE
OF THE CITY OF SALEM
(TENTATIVE SUBDIVISION PLAT NO. 08-4)**

**IN THE MATTER OF
TENTATIVE SUBDIVISION
PLAT APPLICATION NO. 08-4;
6617 DEVON AVENUE SE**

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)
)
)

FINDINGS AND ORDER

PROCEDURAL FINDINGS

1. On February 22, 2007, the subject property was annexed into the City of Salem (Annexation Case No. C-608) after approval by the voters during the November 7, 2006, general election.

Subsequent to being annexed into the City, an Urban Growth Area (UGA) Development permit was filed and approved for the subject property. The approved UGA permit (Case No. UGA07-5) identifies the public facilities required to serve the subject property and its future development pursuant to the requirements of the City's Urban Growth Management Program, codified under SRC Chapter 66.
2. On June 16, 2008, an application to subdivide the subject property was submitted to the Community Development Department by Multi/Tech Engineering on behalf of the applicant and property owners Garret and Alice Berndt c/o Bruce Thorn.
3. On August 5, 2008, notice of filing of the proposed subdivision was sent to all property owners located within 250 feet of the subject property and to the South Gateway Neighborhood Association.

Public notice of the subdivision review conference to consider the proposed subdivision was also posted on the property by the applicant's representative pursuant to Salem Revised Code (SRC) requirements on August 14, 2008.
4. On August 26, 2008, a subdivision review conference was held to discuss the application and receive testimony from interested parties.

SUBSTANTIVE FINDINGS

1. Request

To subdivide approximately 9.95 acres into 38 lots ranging in size from approximately 7,500 square feet to approximately 13,789 square feet; with a concurrent variance request to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b). The subject property is zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor's Map and Tax Lot Number: 083W22C/200).

A vicinity map of the subject property is made a part of this report as Attachment 1.

2. Salem Area Comprehensive Plan (SACP)

Land Use Plan Map: The subject property is designated as "Developing Residential" on the Salem Area Comprehensive Plan (SACP) Map.

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

Growth Management: The subject property is located outside of the City's Urban Service Area. Pursuant to the requirements of the Urban Growth Management Program (SRC Chapter 66), an Urban Growth Area (UGA) Development Permit is required prior to development of property that is located outside the boundaries of the Urban Service Area.

Because the subject property is located outside the boundaries of the Urban Service Area a UGA permit is required. On June 13, 2007, a Preliminary Declaration for UGA permit No. 07-5 was approved for the subject property (Attachment 2) identifying the public facility improvements required to be provided with the development of the subject property. Development of the proposed subdivision must conform to the requirements of UGA permit No. 07-5.

3. Surrounding Zoning and Land Uses

The subject property is zoned RA (Residential Agriculture). Zoning and uses of surrounding properties include:

North: RS (Single Family Residential) / single family dwellings
East: Marion County UT-10 (Urban Transition) / single family dwelling
South: Marion County UT-10 (Urban Transition) / single family dwelling
West: RS (Single Family Residential); proposed subdivision &
Marion County UT-10 (Urban Transition) / undeveloped

4. Existing Site Conditions

The subject property contains structures that are proposed for removal.

Trees: There are trees present on the subject property. Pursuant to the requirements of the City's Tree Preservation Ordinance, SRC Chapter 68.100(a), a tree conservation plan is required in conjunction with any development proposal for the creation of lots or parcels to be used for the construction of single family dwelling units or duplex dwelling units if the development proposal will result in the removal of trees. A tree conservation plan was submitted by the applicant (Case No. TCP 08-8) in conjunction with the subdivision application as required under SRC Chapter 68.

The tree conservation plan submitted by the applicant identifies a total of 203 trees on the subject property with a diameter-at-breast height (dbh) of 10 inches or greater. Of the 203 total trees present, 152 trees are proposed for removal and 51 (or 25.12 percent of the trees on the property) are proposed for preservation.

Of the total trees present on the property, the tree conservation plan identifies 19 "significant" Oregon White Oak trees with a diameter-at-breast-height (dbh) of 24 inches or greater. The tree conservation plan identifies 13 of the 19 significant oaks for removal and 6 for preservation. However, in review of the proposed tree conservation plan it appears that 3 of the 13 significant oaks designated for removal can reasonably be saved based on their location on the property relative to the likely building setbacks for the homes to be constructed on the proposed lots. Preservation of these three additional significant oak trees brings the total number of significant trees preserved within the development to 9 and the number to be removed down to 10.

Under the City's tree preservation ordinance, tree conservation plans are required to preserve all heritage trees, significant trees, trees and native vegetation in riparian corridors, and a minimum of 25 percent of the remaining existing trees on the property. If less than 25 percent of the existing trees are proposed for preservation and significant trees and native vegetation in riparian corridors are proposed for removal, the applicant must show that only those trees reasonably necessary to accommodate the development shall be designated for removal and that there are no reasonable design alternatives that would enable reservation of such trees.

The subject property contains no heritage trees. The significant trees located on the property that have been designated for removal are necessary based upon their location on the site and a lack of reasonable design alternatives that would enable their retention. There is no riparian corridor present on the property.

Of the total trees on the property with a dbh of 10 inches or greater, the tree conservation plan identifies more than 25 percent for preservation, therefore exceeding the minimum preservation requirements of SRC Chapter 68.

Wetlands: Designated wetlands are under the purview of the U.S. Army Corps of Engineers, with regulatory authority in Oregon delegated to the Oregon Department of State Lands (DSL). The City of Salem uses an adopted "Local Wetland Inventory" (LWI) in order to determine the locations of potential

or existing wetlands. According to the Salem-Keizer LWI the subject property does not contain mapped wetlands or waterways.

Landslide Susceptibility: The City's Landslide Hazard ordinance (SRC Chapter 69 - Landslide Hazards) sets forth applicable development and mitigation requirements if landslide hazards are present on a property. This is done primarily through establishing the sum of landslide hazard points (a combination of the mapped landslide hazard susceptibility points for property and those points associated with the type of proposed development) in order to determine what mitigation, if any, is required to ensure safe and healthful development.

The topography of the subject property generally slopes upward from the northwest to the southeast. According to the City's adopted landslide hazard susceptibility maps the subject property is mapped with areas of 2 landslide hazard points. There are 3 activity points associated with subdivisions. The cumulative total of 5 points indicates a moderate landslide hazard susceptibility risk and, therefore, pursuant to SRC Chapter 69 a geologic assessment is required for the development of the property.

The applicant submitted the required geologic assessment in conjunction with the subdivision application. The geologic assessment was reviewed by the City's Public Works Department for conformance with the requirements of SRC Chapter 69.

5. Site Analysis and Lot Layout

The applicant's tentative subdivision proposal results in a total of 38 lots ranging in size from approximately 7,500 square feet to approximately 13,789 square feet (Attachment 3). Two of the proposed lots within the development (Lots 26 and 27) are proposed as flag lots which do not have street frontage. The remainder of the lots have frontage on a public street.

The minimum lot size and dimension standards for subdivisions are established under SRC Chapter 63 (Subdivisions) and within the zoning district the property is located. For flag lots, the minimum standards apply exclusive of the proposed accessway and turnaround serving the lots.

The subject property is currently zoned RA (Residential Agriculture). However, SRC Chapter 113.160 (*Newly Developed Areas in an RA District*) provides that any land within an RA zone district that is subject to a subdivision approval shall automatically be re-classified to an RS zone district on the date the subdivision plat is recorded with the county clerk.

Because the property is zoned RA and the property is proposed to be subdivided the provisions of SRC 113.160 apply and the zoning of the property will automatically be changed to RS upon the date of recording the approved subdivision plat with the county clerk. Because the zoning of the property will be changed to RS with the recording of the plat the following analysis of the subdivision for conformance with the requirements of the subdivision and zoning codes will be based upon the property being rezoned to RS (Single Family Residential).

The following minimum standards apply to the proposed development:

Lot Area: SRC Chapters 63.145(c) and SRC 146.070(a) require a minimum lot area of 4,000 square feet. For flag lots in subdivisions, SRC Chapter 63.295(c) requires a minimum lot area of 4,000 square feet, exclusive of the accessway serving the lots.

The proposed areas of the lots within the subdivision, excluding the two proposed flag lots, range from approximately 7,500 square feet to approximately 13,789 square feet. The net areas of both proposed flag lots within the subdivision exclusive of the proposed flag lot accessway equal approximately 11,077 square feet. All of the proposed lots within the subdivision exceed minimum lot area requirements.

Lot Dimensions: SRC Chapters 63.145(a) & (b) and SRC 146.070(b) require a minimum lot width of 40 feet and a minimum lot depth of 70 feet.

For flag lots in subdivisions, SRC Chapter 63.295(b) requires a minimum lot width of 40 feet and a minimum lot depth of 70 feet, exclusive of the accessway serving the lots. All of the proposed lots within the subdivision satisfy minimum lot width and depth requirements.

SRC Chapter 63.145(b) and SRC 146.070(b) also establish a maximum lot depth requirement of 300 percent of the average lot width. All of the proposed lots within the subdivision comply with maximum lot depth requirements.

Street Frontage: SRC Chapter 63.145(d) establishes a minimum frontage requirement of 40 feet for lots adjacent to streets. All of the proposed lots satisfy the minimum 40-foot frontage requirement with the exception of the proposed flag lots (Lots 26 and 27) which are not required to have street frontage if a flag lot accessway is provided to the lots pursuant to the requirements of SRC Chapter 63, Table 63-1.

Maximum Number of Flag Lots: SRC Chapter 63.295(a) establishes a maximum limitation on the total number of flag lots allowed within a subdivision. Under this requirement, no more than 15 percent of the lots within a subdivision can be developed as flag lots without street frontage. The proposed subdivision includes a total of 38 lots. Pursuant to the requirements of SRC 63.295(a), a maximum of six flag lots would be allowed. The proposed subdivision includes a total of two flag lots and therefore complies with this standard.

Front Lot Line Designation: SRC Chapter 63.145(e) establishes front lot line designation requirements for corner lots, double frontage lots, flag lots, and all other lots.

For corner lots, the front lot line shall be the property line that has frontage on a street designated by the building permit applicant and approved by the Planning Administrator (SRC 63.145(e)(1)). Corner lots are lots located at the intersection of two streets.

For flag lots, the front lot line shall be that outside property line that is an extension of the accessway or the line separating the flag portion of the lot or parcel from the lot or parcel 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 for the parcel line shall be set forth in the conditions of approval, which shall be recorded on deeds conveying the lots (SRC 63.145(e)(3)). Within the proposed subdivision, Lots 26 and 27 are designated as flag lots. The front lot line designation for proposed Lots 26 and 27 shall be as required under SRC 63.145(e)(3).

For lots that have frontage on a public street, other than corner lots, the front lot line shall be the property line that has frontage on the public street (SRC 63.145(e)(4)).

Setback Requirements: For development within an RS (Single Family Residential) zone, SRC Chapter 146 establishes the following setback standards:

**Front Yards and
Yards Adjacent Streets:**

-Minimum 12 feet (*Min. 20 feet when adjacent to a street designated 'Collector', 'Arterial', or 'Parkway'*); and

-Minimum 20 feet for garages

Rear Yards:

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

-Minimum 20 feet (*for any portion of a main building greater than one-story in height*)

Interior Side Yards:

Minimum 5 feet

Setback requirements for the lots within the proposed subdivision will be reviewed for compliance with all applicable code requirements at the time of application for building permits on the individual lots.

Garages and Setbacks:

The RS (Single Family Residential) zone under SRC Chapter 146.130 establishes requirements for the provision of garages for single family dwellings and the setbacks for those garages. SRC 146.130 specifically requires that:

Each dwelling constructed after February 8, 2006, within an RS district shall have, at the time of original construction, a garage that is constructed of like materials and color as the dwelling, and that may be attached or detached from the dwelling.

Setback requirements to the required garages are included under SRC Chapter 146.130(c), which establishes the following:

Garages for single family dwellings, or garages or carports for manufactured homes on individual lots, having a vehicle entrance facing a street or accessway shall be set back at least 20 feet from one of the following lines, whichever is closest to the proposed entrance of the garage or carport:

- (1) The right-of-way line, property line abutting an accessway, or most interior access easement line;
- (2) The outside curblin; or
- (3) The edge of the sidewalk furthest from the street.

Because the future dwellings to be constructed within the proposed subdivision will be constructed after February 8, 2006, they will be required to have a garage meeting the setback requirements described above.

6. Transportation Facilities

Street standards for subdivisions are set forth in SRC 63.225, SRC 63.235, the Salem Area Transportation System Plan (STSP), and Public Works Design Standards. Adequate street system access for all lots must be provided and sufficient boundary and connecting streets must be provided or improved, if they are existing, in order to provide sufficient multi-modal transportation connectivity.

Access and Circulation: Principal access to the development is proposed via an internal street system that loops through the development and connects to Lone Oak Road SE. The proposed development also extends a street to the eastern boundary of the subject property for future extension into the neighboring property to the east when that property develops.

The applicant has requested a concurrent variance with the subdivision to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b). Staff's analysis of the requested variance for conformance with the variance approval criteria of SRC 63.332 is included within section 11 of this report.

Two of the lots within the subdivision (Lots 26 and 27) are proposed flag lots that will be accessed from a private flag lot accessway off the proposed internal street. SRC Chapter 63, Table 63-1, establishes the following development standards for flag lot accessways:

Accessways Serving 1 to 2 Lots:

- | | |
|------------------------|--|
| -Overall Width: | Min. 20 ft. |
| -Paved Width: | Min. 15 ft. |
| -Length: | Max. 150 ft. |
| -Turnaround: | Turnaround required for accessways greater than 150 ft. in length. |
| -Parking: | Not allowed in accessway. |

The applicant's proposed flag lot accessway serving Lots 26 and 27 is comprised of a 30-foot overall width. The overall length of the accessway is approximately 120 feet. The proposed width and length of the flag lot accessway conform to standards for accessways serving 1 to 2 lots. Because the accessway length does not exceed 150 feet a turnaround is not required.

The proposed flag lot accessway will be required to be paved to a minimum width of 15 feet. The accessway must conform to the requirements of SRC 63, Table 63-1.

7. Neighborhood Association and Citizen Comments

Notice of the subdivision review conference was provided to the neighborhood association and to all property owners within 250 feet of the subject property. In addition, notice of the subdivision review conference was also posted on the subject property pursuant to SRC requirements.

- A. The subject property is located within the boundaries of the South Gateway Neighborhood Association. No comments were received from the neighborhood association on the proposed development
- B. Prior to the subdivision review conference no comments had been submitted from area property owners on the proposed development. At the subdivision review conference testimony was provided from area property owners concerning, in summary, the following issues:

- **Construction of the Extension of Lone Oak Road SE:** At the subdivision review conference the question was posed whether Lone Oak Road would be extended to provide access to the proposed development. Concern was raised that if Lone Oak Road is not constructed the only means to access the development is via County Roads and the private streets of the Creekside subdivision.

Staff Response: The Urban Growth Area Development Permit previously approved for the subject property (Case No. UGA07-5), Attachment 2 requires the applicant to construct a full street improvement, including streetlights and sidewalks, along the City approved alignment of Lone Oak Road SE. The requirement to construct this linking street is further reiterated in the conditions of approval for the proposed subdivision as recommended by the Public Works Department. The Public Works Department recommends that as a condition of final subdivision plat approval that the applicant shall be required to complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.

Requiring the construction of Lone Oak Road SE prior to subdivision plat approval ensures conformance with the requirements of the Preliminary Declaration for UGA Permit No. 07-5. It also ensures that the road will be in place prior to the construction of any homes on the proposed lots.

- **Traffic Issues at Intersections of Creekside Drive and Lone Oak Road and Sunnyside Road and Rees Hill Road:** At the subdivision review conference concern was expressed regarding traffic safety issues at the intersections of Creekside Drive and Lone Oak Road, and Sunnyside Road and Rees Hill Road. Specifically, at the intersection of Creekside Drive and Lone Oak Road, concern was expressed that cars currently pass quickly through this uncontrolled intersection posing a safety concern. The question was posed whether this intersection could be turned into a four-way stop.

The traffic concern expressed pertaining to the intersection of Sunnyside Road and Rees Hill Road involved the vision obstruction created by the Qwest utility boxes within the right-of-way of Sunnyside Road. It was explained that the vision obstruction created by the utility boxes coupled with the speed at which vehicles are traveling down Sunnyside Road creates a potentially hazardous situation that needs to be addressed.

Staff Response: As part of the subdivision application, the applicant submitted a trip generation estimate (TGE) form to determine the estimated average daily traffic increase resulting from the proposed development. The TGE submitted indicates that the proposed 38-lot subdivision will generate approximately 364 new average daily vehicle trips.

In order for a Transportation Impact Analysis to be required to assess the impact of the proposed development on the surrounding transportation system, a proposed development must generate 200 or more average daily vehicle trips onto a 'local' street and 1,000 or more average daily vehicle trips onto a 'collector' street. The proposed development will access Lone Oak Road SE which is designated as a 'Collector' street within the Salem Transportation System Plan (STSP). The estimated 364 average daily trips generated by the proposed development do not trigger the requirement for a Transportation Impact Analysis to identify offsite traffic mitigation requirements and therefore requiring a four-way

stop. The removal of vision obstructions at intersections outside of the proposed subdivision cannot be established as conditions of approval for the proposed development.

However, in order to address these identified concerns it is recommended that the City's Traffic Engineer be contacted to determine what appropriate measures can be taken to address these traffic safety issues.

- **Future Connection of Proposed Red Oak Avenue to Devon Avenue SE:** At the subdivision review conference concern was expressed over the location of the future connection of proposed Red Oak Avenue to Devon Avenue SE. The concern was raised in specific regards to whether the street would come out onto Devon Avenue in front of the existing property located at 6608 Devon Avenue SE or would it align with the intersection of Devon Avenue SE and Elkins Way SE?

Staff Response: The proposed subdivision extends Red Oak Avenue to the eastern boundary of the subject property to satisfy street connectivity requirements contained within the Salem Revised Code. SRC Chapter 63.225(p) requires applicants to provide for the extension of local streets to adjoining major undeveloped properties for the eventual connection with the existing street system. Connections to existing or planned streets and major undeveloped properties along the perimeter of a property are required to be provided generally at no greater than 600-foot intervals. Provisions for street connectivity ensure that there are multiple means to access a property and that vehicular traffic can be more easily dispersed throughout the area rather than being focused on one or two individual streets.

The property located directly to the east of the subject property is currently located outside of the Salem City limits. The extension of the Red Oak Avenue to this property is necessary to ensure that when the property is annexed into the City in the future it can be able to be served by this street. When the property is annexed and the owners of the property wish to subdivide it into individual lots they will have to submit a subdivision plan to the City for review and approval. During the review process the street system within the subdivision will be reviewed and the public will be afforded an opportunity to comment on the proposal.

How Red Oak Avenue will be extended through this property and where it will connect to Devon Avenue will be influenced by the topography of the site, the layout of the lots within the subdivision, and the need to provide for an orderly network of streets. This generally means that streets should intersect with other streets at intersections and therefore it would generally be desirable for Red Oak Avenue to intersect with Devon Avenue at the intersection of Devon Avenue and Elkins Way.

8. City Department Comments

- A. The Police Department and the Building and Safety Division reviewed the proposal and indicated that they have no comments.
- B. The City's Urban Forester reviewed the proposal and indicated that he has no comments.
- C. The Public Works Department - Construction Inspection/Survey Section commented that a field survey and subdivision plat are required pursuant to Oregon Revised Statutes and the Salem Revised Code and that a subdivision plat name certificate from the Marion County Surveyor must be submitted.
- D. The Fire Department reviewed the proposal and provided comments indicating that they do not have specific concerns with the proposed subdivision but do have concerns how this area is generally developing. The Fire Department indicates, in summary, that they are concerned about a lack of alternative street access points in this area and how it can have an effect on emergency response times. They explain that bridge and street improvements to Lone Oak Road will help to eliminate the current dead-end street system serving the area.

Staff Response: As a condition of subdivision plat approval the construction of Lone Oak Road SE to serve the subject property will be required. In addition, in order to satisfy the street connectivity requirements of the subdivision ordinance, Red Oak Avenue within the subdivision shall be extended to the property's eastern line. As a condition of plat approval the applicant will also be required to reconfigure the tentative subdivision plan to provide for a street connection to the south. The construction of Lone Oak Road and the provision for additional points of street connectivity to adjacent undeveloped properties will improve access to the area and the circulation of streets.

E. The Public Works Department - Development Services Section reviewed the proposal and provided comments pertaining to required street improvements and requirements for the provision of storm drainage, water, and sanitary sewer services. Comments from the Development Services Section are included as Attachment 4. In summary, it is recommended that the applicant, as a condition of plat approval, shall be required to:

- Comply with the conditions of UGA Preliminary Declaration 07-5.
- Modify the tentative plan to show a street connection to the property to the south in an alignment approved by the Public Works Director.
- Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.
- Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.
- Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.

9. Public Agency Comments

A. The Salem-Keizer School District reviewed the proposal and provided comments that are included as Attachment 5. In summary, the School District indicates that the subject property is served by Sumpter Elementary School, Judson Middle School, and Sprague High School. Students are eligible for transportation to the elementary, middle, and high schools. The school district estimates that the proposed development will result in the addition of approximately 22 students for grades K through 12 with an estimated 9 students over enrollment capacity.

The school district explains that enrollment at Sprague High School is estimated to be at 101 to 103 percent of capacity when the estimated cumulative impact of 2007-2008 land use actions are considered. Enrollment at Judson Middle School is estimated to be at 107 to 108 percent of capacity when the estimated cumulative impact of 2007-2008 land use actions are considered. Enrollment at Sumpter Elementary School is estimated to be at 132 to 137 percent of capacity when the estimated cumulative impact of 2007-2008 land use actions are considered.

The school district also indicates that the developer should provide paved walking routes to allow pedestrian and bicycle access to schools from all residences within the new development and should provide all improvements required by the City of Salem where new transportation

routes are established or existing transportation routes change, such as school flashers, crosswalks, and signage.

The District would also like to see paved walking route(s) to allow pedestrian and bicycle access from the subject property to schools.

Staff Response: Sidewalks will be required on both sides of the internal streets proposed within the subdivision. Through the provision of sidewalks within the development paved walking routes will be provided to facilitate pedestrian access from the subject property to schools.

According to the Public Works Department, marked crosswalks and school flashers are traffic control devices governed by the Manual on Uniform Traffic Control Devices as well as City policies and must meet warrants to be installed. A development may be required to install flashers and crosswalks if they are located within 700 feet of a school and the school district determines the location is a "safe route to school." The School District may want to work with the City Traffic Engineer on these issues.

- B. The Mid-Willamette Valley Council of Governments reviewed the proposal and commented that street names should be verified by the Public Works Department and approved by the street name coordination team.
- C. The Marion County Public Works Department provided comments on the proposed subdivision that are included as Attachment 6. In summary, the County expresses concern that the subject property is currently served by County Roads as the only means to access the site. The County explains that Rees Hill Road has previously sustained significant damage from traffic related to construction within the City. The County also expresses concern that Devon Avenue is the sole access to an increasing number of residences and that the number of residences will exceed the number that can safely be served by one access if this, or any other subdivision, is approved. The County explains that the ability for emergency response vehicles to respond to an incident could be severely compromised if only one access is provided.

In order to address this concern the County recommends that a condition of approval be placed upon the subdivision requiring that an alternate connection to a public City Street be completed prior to any construction of the proposed development. The completion of Lone Oak Road from the development to Muirfield Street SE is an acceptable alternate connection. All construction traffic, including that required to construct the alternate connection and infrastructure related improvements, shall be required to use the alternate connection.

The County explains that if the City elects not to include the above referenced condition as a requirement for the proposed development, then the development should be conditioned so that it is the responsibility of the developer to preserve and protect the current PCI rating and structural integrity of County Roads in the area to the satisfaction of Marion County Public Works through all phases of development. Failure to preserve and protect the road may result in the developer being responsible for replacing or reconstructing the damaged road at the developer's expense.

Staff Response: Under the requirements of the City's Urban Growth Management Program (SRC Chapter 66), specifically SRC 66.100(a), developments must be linked to adequate public streets or streets. An adequate street is defined under SRC Chapter 66 as the nearest point on a collector or arterial street which has, at a minimum, a 34-foot-wide turnpike improvement within a 60-foot-wide right-of-way.

As previously discussed in this report the subject property is currently located outside of the City's Urban Service Area. As such, based on the requirements of SRC Chapter 66, an Urban Growth Area Development Permit Preliminary Declaration was required for development of the subject property. That UGA Permit Preliminary Declaration was approved (UGA No. 07-5). In that decision the applicant is required to construct a full street improvement of Lone Oak Road. This requirement is also required as a condition of approval of the proposed subdivision.

The Salem Revised Code (SRC) allows requiring off-site improvements as condition of plat approval, but not prior to any construction activity. The SRC also does not allow the City to require improvements outside the corporate limits.

The applicant will be required to construct Lone Oak Road prior to subdivision plat approval and before any single family dwellings can be constructed within the proposed subdivision. Construction of Lone Oak Road will provide a more direct alternative means of access to the proposed development and help to relieve the impact of traffic generated from development within the City, on County Roads.

10. Private Service Provider Comments

Northwest Natural reviewed the proposal and indicated that an extension of the main line will be needed.

11. Variance Criteria

The applicant has requested that consideration be given to a concurrent variance request from the provisions of SRC Chapter 63. The applicant requests a variance from the requirements of SRC 63.225(b) which limits street grades to a maximum of 12 percent without a variance.

A copy of the tentative subdivision plan showing the locations of the proposed streets where street grades may need to exceed 12 percent is included as Attachment 3.

The following is an analysis of the variance request. Each of the following approval criteria contained within SRC Chapter 63.332(a)(1-4) must be found to exist in order for the variance to be granted.

- (1) **There are special conditions inherent in the property (such as topography, location, configuration, physical difficulties in providing municipal services, relationship to existing or planned streets and highways, soil conditions, vegetation, etc.) which would make strict compliance with a requirement of SRC 63.115 to 63.295 an unreasonable hardship, deprive the property of a valuable natural resource, or have an adverse effect on the public health, safety, and welfare;**

Applicant's Response: The applicant's representative indicates that the elevations of the subject property are shown on the tentative site plan and are inherent conditions of the subject property. Most of the underdeveloped south Salem area consists of hills, rolling terrain, or areas of steeper terrain. The subject property is typical in terms of the hilliness of the south Salem area and is a factor in the development of the subject property. The design and location of internal streets have to consider the natural terrain. The tentative site plan illustrates the areas that may exceed the finished street grade of 12 percent. The remainder of the streets within the subject property will meet the street grade standard.

There is some limitation with respect to the location of the subject property and the need to design the streets and lots that contribute to the need to consider a variance to street grades. The street connections into the subject property are limited to the extension of Lone Oak Road. Design and development of the streets within the subject property have to take into consideration the Salem Transportation System Plan (STSP) which controls access to the boundary streets, the underdeveloped land to the south and the existing and proposed development to the north and west. The proposed location of the internal streets has been designed to keep the cuts and fill to a minimum. This can only be achieved by granting the variance to allow portions of the street grade to exceed 12 percent. Failure to grant the variance will require street construction that will create excessive cuts and fill that will make driveway access to the adjoining lots difficult, expensive and increase safety hazards for access to the lots, or require that the streets be eliminated. Eliminating streets does not meet the City's other standards and policies for connectivity and accessibility.

Finding: Staff concurs with the statement provided by the applicant's representative. There are special conditions inherent within the property, as the applicant's representative identifies, that make strict compliance with the requirements of SRC 63.115 to 63.295 an unreasonable hardship. These special conditions include the topography of the site and the limited points of street access available to the subject property which forces the street leading into the

development to be located at the southwest corner of the property where slopes are greater. The requested variance conforms to this approval criterion.

- (2) **The variance is necessary for the proper development of the subdivision and the preservation of property rights and values;**

Applicant's Response: The applicant's representative indicates that the existing conditions of the site must be considered so that the subject property can be developed with a network of interconnecting streets in a rectangular grid pattern. The property to the west is being fully developed with adequate access to Sahalee Drive. Prior development has precluded the ability to extend a public street through the subject property to the north and west. The proposal does provide a stub street to the east for future development of the vacant lot to the east. Property to the south will have adequate access via the Lone Oak Road extension. The proposal does provide the site with adequate improved pedestrian and vehicle access throughout the subdivision and to Lone Oak Road to the west of the site. A stub street will also be provided along the east property line for future development of the property to the east, which is currently vacant. A stub to the south is not provided since Lone Oak Road extension will provide adequate access to the south.

Service to the interior of the property would be severely impacted by the loss of the streets and would likely not comply with the State's Land Use Goal 12 and the Transportation Planning Rule.

Finding: The layout of the proposed subdivision follows a regular rectangular layout. Only two of the lots within the subdivision are proposed as flag lots without street frontage. The requested variance to allow sections of the proposed internal streets to exceed the maximum street grade of 12 percent is necessary to minimize the amount of grading that will be required in connection with the development of the property and is necessary for the proper development of the subdivision and the preservation of property rights and values. The requested variance conforms to this approval criterion.

- (3) **There are no reasonably practical means whereby the considerations found under (1) or (2) above can be satisfied without the granting of the variance; and**

Applicant's Response: The applicant's representative indicates that the existing original topographic features of the site cannot be changed except through excavation or other similar means. The configuration of the subject property is as shown on the tentative site plan. The location of the internal streets meets acceptable engineering practices and the locations of existing local and major and planned local streets. No other location or construction method can be envisioned for the site that would not require a variance to the maximum street grades.

The streets will be engineered and constructed to provide safety, access for all modes of transportation and access to all lots. Therefore, there is no other practical means available to the applicant for the design of the site other than requesting a variance to permit the finished street grade to exceed 12 percent but be less than 15 percent for the portions of the streets shown on the tentative plan.

The proposal helps to minimize grading and fill requirements on the subject property's steeper slopes. All streets will be improved to City standards with curbs, paving, and drainage facilities.

Finding: Staff concurs with the statement provided by the applicant's representative. Because of the topography inherent to the site street grades exceeding 12 percent are necessary, unless more extensive grading were conducted on the site. The requested variance conforms to this approval criterion.

- (4) **It is unlikely that the variance will have adverse effect on the public health, safety, and welfare, or on the comfort and convenience of owners and occupants of land within and surrounding the proposed subdivision or partition.**

Applicant's Response: The applicant's representative indicates that the location, width, and grade of the proposed streets have been carefully considered in relation to existing and

planned streets, topographical conditions, public convenience and safety, and the single-family residential use of the land to be served by these streets.

The variance is needed to access the site. The connections of the proposed street from Lone Oak Road and planned stub streets are necessary to provide alternate access routes into the development.

Vision clearance at street intersections, access to lots, maneuvering in and out of driveways, access for emergency service vehicles, buses and service vehicles are not hampered by the variance request. The paved traffic lanes are wide enough to accommodate two-way traffic.

The applicant cannot identify any adverse effects that will be created by granting the variance to increase street grades for the local streets. In fact, the construction of the new street system will provide needed alternate access points in and through the area now and in the future.

The proposal works to encourage site and building design that is consistent with the natural topography in order to minimize the cost of providing public infrastructure; provides for adequate access for emergency services; and otherwise protects the public health and safety.

Finding: Staff concurs with the applicant's representative. Approval of the variance to allow portions of the grades of the streets to exceed 12 percent will not have an adverse effect on the public health, safety, and welfare, or on the comfort or convenience of owners and occupants of land within and surrounding the proposed subdivision.

Fire Department access standards provide that fire apparatus access roadway grades shall not exceed 12 percent, except for short lengths not exceeding 15 percent. The Fire Department did not indicate any objections to the proposed street grades within the subdivision.

Comments provided from the City's Public Works Department stated that City of Salem Street Design Standards require residential streets to not exceed 12 percent and in no case shall exceed a 15 percent grade. The existing grade of the property is approximately 15 percent. To maintain a 12 percent grade would require a cut of approximately 6 feet in depth at the eastern property line and a fill of approximately 12 feet at the northeast corner of the proposed White Oak Loop SE.

Comments provided from the Public Works Department indicate that the City Fire Marshal and Public Works Director approve exceeding the 12 percent street grade standard for short distances to be reviewed and approved during the public construction plan review process.

The requested variance conforms to this approval criterion.

As is demonstrated in the Facts and Findings included within section 11 of this report, the requested variance to allow street grades exceeding 12 percent conforms to the variance approval criteria of SRC 63.332(a)(1-4).

12. Subdivision Approval Criteria

Salem Revised Code (SRC) Sections 63.046 and 63.051 set forth the criteria that must be met before approval can be granted to a subdivision request. This staff report addresses the approval criteria of SRC 63.046 (Decision of the Planning Administrator for a Subdivision) and evaluates the considerations of SRC 63.051 (Purpose of Tentative Plan Review; Requirements and Conditions).

The following subsections are organized with approval criteria shown in bold, followed by findings of fact upon which the Planning Administrator bases his decision. The requirements of SRC 63.051 are addressed within the specific findings which evaluate the proposal's conformance with the criteria of SRC 63.046. Lack of compliance with the following land division standards is grounds for denial of tentative plan approval, or for the issuance of certain conditions necessary to more fully satisfy such standards.

- A. SRC 63.046(b)(1): Approval of the tentative subdivision plan does not impede the future use of the remainder of the property under the same ownership, or adversely affect the**

safe and healthful development of the remainder or any adjoining land or access thereto:

The proposed subdivision divides the 9.95-acre property into 38 lots with no remainder. Existing single family homes abut the property on the north. A developing single family subdivision abuts the property on the west. Abutting properties to the east and south are located outside the City limits. Vehicular access to lots within the proposed subdivision is provided by an internal street that loops within the development. A street extension is provided to serve the abutting property to the east and an additional street extension will be required as a condition of approval to serve the abutting property to the south.

The lots within the proposed subdivision are of sufficient size and dimensions to permit the future development of one single family dwelling each, or development of other SRC Chapter 146 "permitted," "special," or "conditional" uses. There is no evidence that the subdivision, and subsequent development of the lots will adversely affect public services to any surrounding properties. Approval of the subdivision does not impede future use of the subject property or access to abutting properties. This criterion has been met.

B. SRC 63.046(b)(2): Provisions for water, sewer, streets, and storm drainage facilities comply with the city's public facility plan:

The Salem Public Works Department reviewed the proposal for compliance with the City's public facility plans pertaining to the provision of water, sewer, streets, and storm drainage facilities.

Previously approved Urban Growth Area Preliminary Declaration (UGA07-5)(Attachment 2) identifies a number of projects in the Transportation System Plan, Water System Plan, Wastewater Management Master Plan, and Storm water Master Plan needed to mitigate deficiencies in the streets, water, sewer, and storm drainage systems.

Currently this site's only access to a public street network is to Sunnyside Road SE via Sahalee Drive, a private street part of the Creekside subdivision, along Devon Avenue and Rees Hill Road. This route is not conducive to providing a safe and efficient transportation system especially with respect to fire and life safety, given its private street status; and this property is not part of the Creekside Planned Unit Development. The Salem Area Comprehensive Plan identifies a need for a "rapid and safe movement of fire, medical, and police vehicles" as part of the transportation system.

The nearest point of connection to the public owned transportation system that is not through a private street is at the intersection of Lone Oak Road SE and Muirfield Avenue SE.

In order to ensure that provision for water, sewer, streets, and storm drainage facilities to serve the proposed development comply with the City's public facility plans as is required by this approval criterion the following conditions of approval shall be established:

- Condition 1:** Comply with the conditions of UGA Preliminary Declaration 07-5.
- Condition 2:** Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Condition 3:** Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Condition 4:** Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.
- Condition 5:** Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.

Condition 6: Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.

Compliance with the required conditions of approval and development of the site in accordance with the specifications contained in the September 15, 2008, memo from the Public Works Department ensures that development of public facilities within the proposed subdivision will comply with the City's public facility plans as is required under this criterion.

C. 63.046(b)(3): The tentative subdivision plan complies with all applicable provisions of the Salem Revised Code, including the Salem zoning ordinance:

The Salem Revised Code (SRC), including the Salem Zoning Code, implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The proposed subdivision has been reviewed for compliance with all applicable SRC provisions and, as conditioned, is found to be in compliance with the relevant criteria.

SRC Chapter 63 (Subdivisions): The intent of the SRC Chapter 63 subdivision code is to provide for orderly development through the application of appropriate standards and regulations. The applicant met all application submittal requirements necessary for adequate review of the proposed land division. As conditioned, the subdivision conforms to SRC Chapter 63 land division standards as follows:

Lot Configuration: SRC Chapters 63.145(c) and 146.070(a) establish a minimum lot area of 4,000 square feet. SRC 63.145(a) and (b) require a minimum lot width of 40 feet for standard lots and 30 feet for lots on cul-de-sac turnarounds and a minimum average lot depth of 70 feet. The depth of a lot cannot exceed 300 percent of the average lot width.

The proposed subdivision results in the creation of 38 lots. The proposed lot sizes within the subdivision range from approximately 7,500 square feet to approximately 13,789 square feet in size. Each of the lots within the proposed subdivision exceeds minimum lot size and dimension requirements of the subdivision code and the RS zone.

Each of the lots will also be suitable for the general purpose for which they are intended to be used, such as future development of one single family dwelling each, or development of other SRC Chapter 146 "permitted," "special," or "conditional" uses. The lots appear to be of size and design as not to be detrimental to the health, safety, or sanitary needs of the existing and/or future residents of the lots created.

Street Connectivity: SRC Chapter 63.225(p) requires that applicants submitting preliminary development plans shall provide for local streets oriented to or connecting with existing or planned streets, existing or planned schools, parks, shopping areas, transit stops, and employment centers located within one-half mile of the development. Applicants shall also provide for extension of local streets to adjoining major undeveloped properties and eventual connection with the existing street system. Connections to existing or planned streets and undeveloped properties along the border of the parcel shall be provided at no greater than 600-foot intervals unless the planning administrator determines that one or more of the following conditions exist:

1. Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided; or
2. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
3. Streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

Provision of street connectivity to the north and west from the proposed development is precluded based on the presence of existing homes to the north and a proposed new subdivision to the east. A street extension is proposed from the subject property to the undeveloped property to the east thereby satisfying connectivity requirements. A street extension, however, has not been provided within the

subdivision to the major undeveloped property to the south. Provision of street connectivity to the south is not impracticable based upon topography or other physical site conditions. Provision of street connectivity to the south will help to improve vehicular circulation in the area. In order to ensure that the proposed subdivision conforms to the street connectivity requirements of SRC Chapter 63.225(p) the following condition of approval shall apply:

Condition 7: A street connection shall be provided to the abutting property to the south in an alignment approved by the Public Works Director.

SRC Chapter 63, Table 63-1, establishes the following development standards for flag lot accessways:

Accessways Serving 1 to 2 Lots:

-Overall Width:	Min. 20 ft.
-Paved Width:	Min. 15 ft.
-Length:	Max. 150 ft.
-Turnaround:	Turnaround required for accessways greater than 150 ft. in length.
-Parking:	Not allowed in accessway.

The applicant's proposed flag lot accessway serving Lots 26 and 27 is comprised of a 30-foot overall width. The overall length of the accessway is approximately 120 feet. The proposed width and length of the flag lot accessway conform to standards for accessways serving 1 to 2 lots. Because the accessway length does not exceed 150 feet a turnaround is not required.

The proposed flag lot accessway will be required to be paved to a minimum width of 15 feet. The accessway must conform to the requirements of SRC 63, Table 63-1.

In order to ensure conformance with the requirements of SRC Chapter 63 pertaining to flag lot accessway development standards, the following condition of approval shall apply:

Condition 8: Pave the flag lot accessway to a minimum width of 15 feet. "No Parking" signs shall be posted on the flag lot accessway and the addresses for each of the proposed flag lots shall be posted at the street entrance to the flag lot accessway. Reciprocal and irrevocable access rights for all lots using the accessway shall be included on the final plat and deeds for the individual lots.

Adequate Utilities: The subdivision, as conditioned, can be adequately served with water supply, sewage disposal, and storm drainage facilities, as detailed in the Public Works Memo incorporated herein as Attachment 4. The subdivision can also be served with other utilities appropriate to the nature of the development. Costs for the installation and extension of adequate utilities to serve the subject property, without impeding service to the surrounding area, is the responsibility of the developer. SRC Chapter 63.165 requires provision of public construction and maintenance easements for maintenance of all public utilities. In order to ensure conformance with this standard, the following condition of approval shall apply:

Condition 9: All necessary access and utility easements shall be shown on the plat as determined by the Public Works Director.

Hazards, Site Disruption, and Limitations to Development: The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site, in order that no additional variances from the Salem Zoning Code are required for development of the lots created, that buildings may be reasonably sited thereon, and the least disruption of the site, topography, and vegetation will result from reasonable development of the lots.

According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain mapped wetlands or waterways.

The topography of the subject property generally slopes upward from the northwest to the southeast. According to the City's adopted landslide hazard susceptibility maps the subject property is mapped with areas of 2 landslide hazard points. There are 3 activity points associated with subdivisions. The

cumulative total of 5 points indicates a moderate landslide hazard susceptibility risk and, therefore, pursuant to SRC Chapter 69 a geologic assessment is required for the development of the property.

The applicant submitted the required geologic assessment in conjunction with the subdivision application. The geologic assessment was reviewed by the City's Public Works Department for conformance with the requirements of SRC Chapter 69.

The City of Salem requires an erosion control permit for ground disturbance involving 25 cubic yards of material, 2,000 square feet of land, or on slopes 25 percent or greater. These requirements are applied at the time of development of the property. Therefore, there are no significant impacts anticipated related to sediment or erosion control.

SRC Chapter 64 (Comprehensive Planning): The subdivision, as conditioned, conforms to the Salem Area Wastewater Management Master Plan, the Stormwater Master Plan, the Water System Master Plan, and the Salem Transportation System Plan, adopted under SRC 64.230, as detailed in the findings of this report.

SRC Chapter 65 (Excavations and Fills): The provisions of SRC Chapter 65 insure that any excavation or fill adjacent to public right-of-way or within a public easement, designated waterway, or floodplain overlay zone creates no imminent danger to public safety or public facilities and does not create a public nuisance. SRC Chapter 65 also prohibits excavation or fill that causes surface drainage to flow over adjacent public or private property in a volume or location materially different from that which existed before the grading occurred. Development of the property is required to conform to the requirements of SRC Chapter 65. There is no evidence that the subject property cannot be developed consistent with the provisions of SRC Chapter 65.

SRC Chapter 66 (Urban Growth Management): The Urban Growth Management Program, detailed in SRC Chapter 66, requires that prior to subdivision of property outside of the Salem Urban Service Area (USA), an Urban Growth Area (UGA) Development Permit must be obtained. The subject property is located outside of the Urban Service Area, therefore, a UGA development permit was required for the proposed development. Development of the property must conform to the requirements of the Preliminary Declaration for UGA Development Permit No. 07-5 (Attachment 2).

SRC Chapter 68 (Preservation of Trees and Vegetation): A tree conservation plan was submitted by the applicant (Case No. TCP 08-8) in conjunction with the subdivision application as required under SRC Chapter 68.

The tree conservation plan submitted by the applicant identifies a total of 203 trees as being present on the subject property with a diameter-at-breast height (dbh) of 10 inches or greater. Of the 203 total trees present, 152 trees are proposed for removal and 51 (or 25.12 percent of the trees on the property) are proposed for preservation.

Of the total trees present on the property, the tree conservation plan identifies 19 "significant" Oregon White Oaks with a diameter-at-breast-height (dbh) of 24 inches or greater. The tree conservation plan identifies 13 of the 19 significant oaks for removal and 6 for preservation. However, in review of the proposed tree conservation plan it appears that 3 of the 13 significant oaks designated for removal can reasonably be saved based on their location on the property relative to the likely building setbacks for the homes to be constructed on the proposed lots. Preservation of these three additional significant oaks brings the total number of significant oaks preserved within the development to 9 and the number to be removed down to 10.

Under the City's tree preservation ordinance, tree conservation plans are required to preserve all heritage trees, significant trees, trees and native vegetation in riparian corridors, and a minimum of 25 percent of the remaining existing trees on the property. If less than 25 percent of the existing trees are proposed for preservation and significant trees and native vegetation in riparian corridors are proposed for removal, the applicant must show that only those trees reasonably necessary to accommodate the development shall be designated for removal and that there are no reasonable design alternatives that would enable reservation of such trees.

The subject property contains no heritage trees. The significant trees located on the property that have been designated for removal are necessary based upon their location on the site and a lack of reasonable design alternatives that would enable their retention. There is no riparian corridor present

on the property.

Of the total trees on the property with a dbh of 10-inches or greater, the tree conservation plan identifies more than 25 percent for preservation, therefore exceeding the minimum preservation requirements of SRC Chapter 68.

SRC Chapter 69 (Landslide Hazards): The proposed subdivision has been reviewed for conformance with the requirements of SRC Chapter 69 in order to assess whether the proposed activity will adversely affect the stability and landslide susceptibility of the area.

The topography of the subject property generally slopes upward from the northwest to the southeast. According to the City's adopted landslide hazard susceptibility maps the subject property is mapped with areas of 2 landslide hazard points. There are 3 activity points associated with subdivisions. The cumulative total of 5 points indicates a moderate landslide hazard susceptibility risk and, therefore, pursuant to SRC Chapter 69 a geologic assessment is required for the development of the property.

The applicant submitted the required geologic assessment in conjunction with the subdivision application. The geologic assessment was reviewed by the City's Public Works Department for conformance with the requirements of SRC Chapter 69.

SRC Chapter 132 (Landscaping): The provisions of SRC Chapter 132 require that all significant trees located within required yards (e.g., setback areas) be retained. If trees are removed from required yards, the removal is mitigated through replanting measures. This provision of the code is a standard requirement that is applied ministerially during the building permit review process, thus no additional conditions of approval are required to ensure compliance with SRC Chapter 132 requirements.

SRC Chapter 146 (Single Family Residential Zone): The subdivision code, SRC 63.145(i), requires that lots be suitable for the general purpose for which they are likely to be used. No lots can be of such a size or configuration that is detrimental to public health, safety, or welfare; or sanitary needs of users of the lot. The proposed lots are of sufficient size and dimensions to permit the future development of one single family dwelling each, or development of other SRC Chapter 146 "permitted," "special," or "conditional" uses.

Because there are existing structures on the site that will not conform to the standards of the zoning code, once the subdivision plat is recorded they must be removed. Therefore, the following condition of approval shall apply:

Condition 10: Obtain demolition permits and remove the existing buildings from the property.

Final review of site plans for individual dwellings to be constructed within the proposed subdivision is done as part of the building permit process where compliance with the requirements of the SRC Chapter 146 and all other applicable code requirements is determined. Construction plans for facilities within the development will be reviewed for compliance with conditions of approval and design standards.

D. 63.046(b)(4): The proposed subdivision provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

Transportation Planning Rule Review: Oregon Administrative Rule (OAR) 660-012-0055(4)(b) states:

Affected cities and counties that do not have acknowledged plans and land use regulations as provided in subsection (a) of this section, must apply relevant sections of this rule to land use decisions and limited land use decisions until land use regulations complying with this amended rule have been adopted.

The City of Salem has not adopted code amendments to fully comply with OAR 660-012-0045(3) or (4), the Oregon Transportation Planning Rule (TPR). The city is currently under periodic review for compliance with those sections of the TPR. Thus, the City of Salem must apply the relevant sections of OAR 660-012-0055(4)(b) to all land use and limited land use decisions. The TPR encourages a reduction in automobile trips by capitalizing on transit opportunities and by creating an environment that encourages people to walk. The proposed subdivision is a "limited land use decision" pursuant to

Oregon Revised Statutes (ORS) 197.015, and has therefore been reviewed for consistency with the State's TPR multi-modal connectivity requirements, and is consistent as follows:

- (a) Mass Transit: The nearest transit service available to the site is provided via Route 1, South Commercial, on Sunnyside Road SE.
- (b) Pedestrian Connectivity: In order to provide for pedestrian connectivity sidewalks will be required to be provided on both sides of the internal streets within the proposed subdivision. Construction of Lone Oak Road SE will also require the provision of sidewalks.

The subdivision, as proposed and conditioned, is served with adequate transportation infrastructure, and the street system adjacent to the subdivided property will conform to the Salem Transportation System Plan and the State Transportation Planning Rule, and provide for safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

13. Based upon the review of SRC 63.046(b) & SRC 63.332, the Findings set forth in Sections 11 and 12, and the comments and modifications described, the tentative plan complies with the applicable provisions of the Subdivision Code and the Salem zoning ordinance, and is in conformance with the purpose expressed in SRC 63.020 and the Salem Area Comprehensive Plan.

IT IS HEREBY ORDERED

That Subdivision Plat No. 08-4 to subdivide approximately 9.95 acres into 38 lots ranging in size from approximately 7,500 square feet to approximately 13,789 square feet; with a concurrent variance request to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b); for property zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor's Map and Tax Lot Number: 083W22C/200) shall be GRANTED subject to the identified conditions of approval listed below prior to final plat approval unless otherwise indicated:

- Condition 1:** Comply with the conditions of UGA Preliminary Declaration 07-5.
- Condition 2:** Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Condition 3:** Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
- Condition 4:** Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.
- Condition 5:** Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.
- Condition 6:** Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.
- Condition 7:** A street connection shall be provided to the abutting property to the south in an alignment approved by the Public Works Director.
- Condition 8:** Pave the flag lot accessway serving proposed Lots 26 and 27 to a minimum width of 15 feet. "No Parking" signs shall be posted on the flag lot accessway and the addresses for each of the proposed flag lots shall be posted at the street entrance to the flag lot accessway. Reciprocal and irrevocable access rights for all lots using the accessway shall be included on the final plat and deeds for the individual lots.
- Condition 9:** All necessary access and utility easements shall be shown on the plat as determined by the Public Works Director.

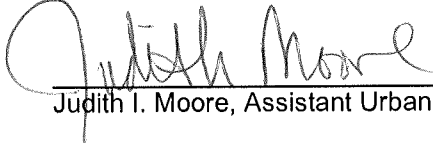
Condition 10: Obtain demolition permits and remove the existing buildings from the property.

This tentative decision is valid and remains in effect for a period of two years. Under SRC 63.049, this tentative decision is void after two years if not finalized. To finalize the subdivision the applicants must complete the conditions listed above and prepare a final plat for approval by the City of Salem, per SRC 63.052, before recordation. Approval of the final plat does not relieve the applicants complying with other applicable provisions of the Salem Revised Code or the Oregon Revised Statutes that may govern development of this property.

Decision issued according to Salem Revised Code 63.046 and 63.332.

Application Filing Date: June 16, 2008
State Mandated Decision Date: October 14, 2008
Decision Date: September 15, 2008

This decision is final unless written appeal from an aggrieved party is received by the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, OR 97301, not later than September 30, 2008, 5:00 p.m. The appeal must state where the decision failed to conform to the provisions of the subdivision ordinance (SRC Chapter 63). The appeal is to be filed in duplicate with the City of Salem Planning Division. The appeal fee is to be paid at the time of filing. The Salem 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.



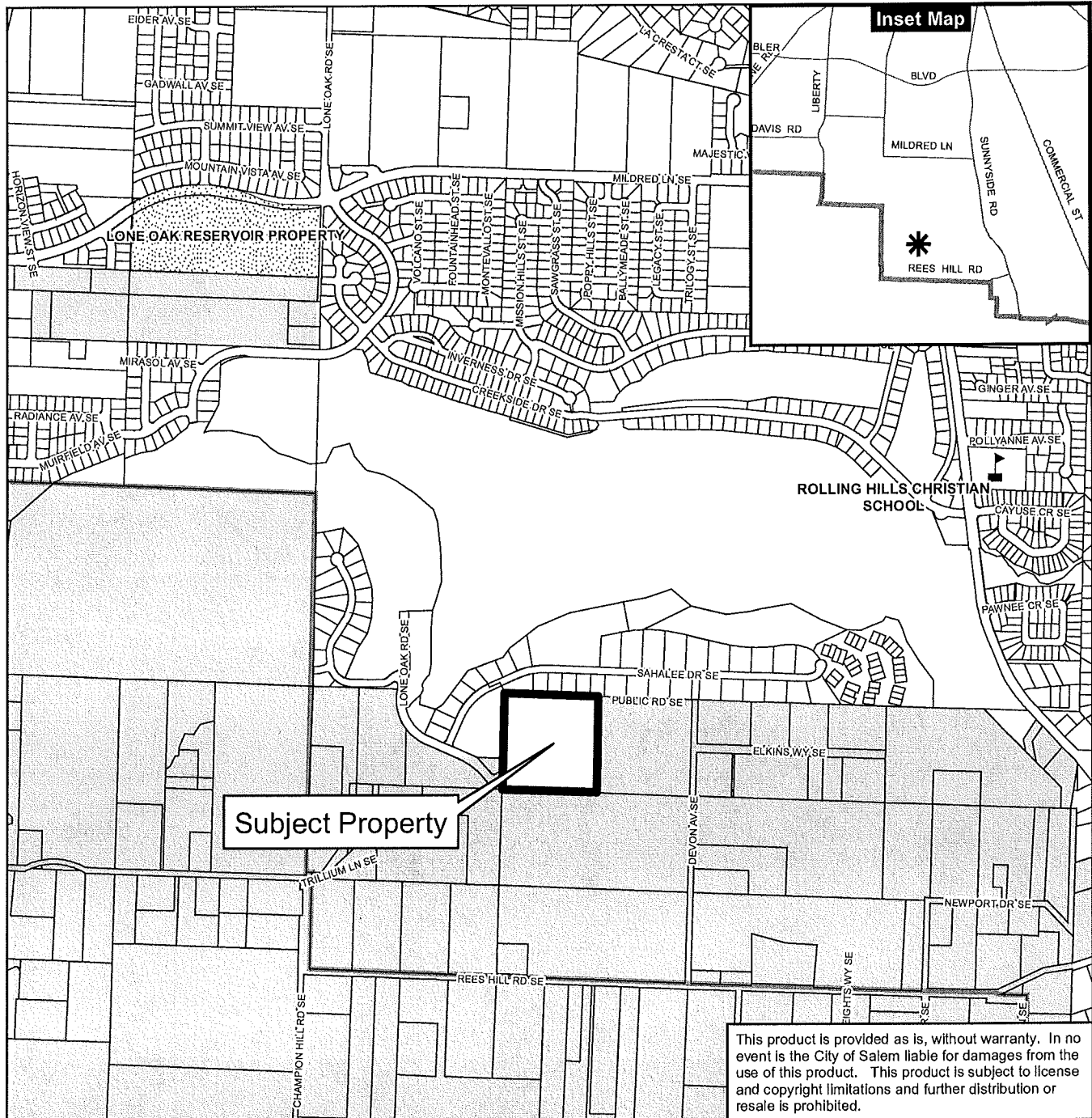
Judith I. Moore, Assistant Urban Planning Administrator

- Attachments:
1. Vicinity Map
 2. Preliminary Declaration for UGA Development Permit No. UGA07-5
 3. Applicant's Tentative Subdivision Plan
 4. Public Works Department Comments (Dated: September 15, 2008)
 5. Salem-Keizer School District Comments
 6. Comments from Marion County Public Works Department (Dated: August 25, 2008 & August 27, 2008)

Prepared by Bryce Bishop, Interim Senior Planner

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Vicinity Map 6617 Devon Avenue SE



Legend

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



0 100/200 400 Feet

CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept

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ATTACHMENT 1

UGA DEVELOPMENT REVIEW COMMITTEE

PLANNING DIVISION
555 LIBERTY ST. SE/ROOM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



ISSUE: Preliminary Declaration for Urban Growth Area Development Permit No. 07-5

DATE OF DECISION: June 13, 2007

APPLICANT: Garret and Alice Berndt

PURPOSE OF REQUEST:

To determine the public facilities required by the Urban Growth Management Program to develop approximately 9.95 acres, zoned RA (Residential Agriculture) and located inside the City of Salem outside the USA (Urban Service Area) and located at 6617 Devon Avenue SE.

ACTION:

The following is a Preliminary Declaration of the facility improvements required to obtain an Urban Growth Area (UGA) Development Permit for the subject property. The Preliminary Declaration is subject to the terms of Salem Revised Code (SRC) Chapter 66, the Salem Transportation System Plan (STSP), the City of Salem Stormwater Management Master Plan, City of Salem Water System Master Plan, Salem Wastewater Management Master Plan, Public Works Design Standards, Comprehensive Parks System Master Plan, and conditioned on the provision of the public facilities as listed below.

This Preliminary Declaration for a UGA permit addresses only those facility requirements necessary to link the development to adequate facilities and boundary requirements abutting the property (SRC 66.140). All internal facility improvement requirements will be addressed at the time of development of the property. Salem Revised Code (SRC) Chapter 66 "Urban Growth Management" sets forth the City's authority for imposing linking and boundary facility improvement requirements.

The Facts and Findings of the Departments of Public Works and Community Services are attached as Exhibits 1 and 2. The applicant has the responsibility to provide the following facilities pursuant to the requirements of the UGA Development Permit and according to SRC Chapter 66:

A. Linking Street Requirements

1. Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet (SRC 66.140(a)(4); SRC 63.237).
2. Along the city approved Lone Oak Road SE alignment, the applicant shall construct a full street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225; SRC 63.235). These improvements shall include streetlights and sidewalks (SRC 63.225(a); PWDS Streets 2.21).

B. Boundary Street Requirements

1. Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required.

C. Storm Drainage Requirements

1. The applicant shall be required to design and construct a complete storm drainage system at the time of development. The applicant shall provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC 63.195). The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).

ATTACHMENT 2

D. Water Service Requirements

1. The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 66.120).
 - a. Construct the Champion Hill Reservoir (S-3) and the Water System Master Plan piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.

E. Sanitary Sewer Requirements

1. The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 66.110).
 - a. The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.

F. Parks Requirements

Based on the policies of the Comprehensive Park System Master Plan, the provisions of SRC 66.125, and the finding, no neighborhood park land, access route, or other park linkages are required as a part of this UGA Development Permit Application.

Date of Preliminary Declaration: June 13, 2007

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, not later than **June 28, 2007, 5:00 p.m.** The appeal must state where the decision failed to conform to the provisions of the Urban Growth Management Ordinance (SRC Chapter 66). The appeal must be filed in duplicate with the City of Salem Planning Division. 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 Salem City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

This Preliminary Declaration will expire on June 13, 2009

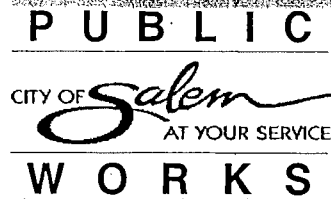
Attachments:	Exhibit 1:	Facts and Findings of the Department of Public Works
	Exhibit 2:	Facts and Findings of the Department of Community Services
	Exhibit 3:	Vicinity Map

Prepared by Jennifer Brown, Assistant Planner


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COMMUNITY
DEV. DEPT.
MEMO

TO: Jennifer Brown, Assistant Planner
Department of Community Development 

FROM: Tony C. Martin, P.E., Senior Development Services Engineer
Public Works Department

DATE: April 24, 2007

SUBJECT: **PUBLIC WORKS RECOMMENDATIONS**
UGA NO. 07- 5 PRELIMINARY DECLARATION
6617 DEVON AVENUE SE
RESIDENTIAL DEVELOPMENT

PROPOSAL

To determine the public facilities required by the Urban Growth Management Program to develop a residential subdivision on approximately 9.95 acres in a RA (Residential Agricultural) zone at 6617 Devon Avenue SE.

RECOMMENDED CONDITIONS

1. Linking Street - Construct a linking street connection from the west line of the subject property to the nearest adequate facility along the Lone Oak Road SE alignment as approved by the Public Works Director.
2. Linking Storm - Submit an engineered drainage study and capacity calculations from the proposed development to the approved points of disposal, and construct the necessary improvements to provide adequate capacity as specified in the Stormwater Management Design Standards.
3. Linking Water - Link the proposed development to adequate facilities by the construction of the Champion Hill Reservoir (S-3) and the *Water System Master Plan* piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.
4. Linking Sewer - Construct a Master Plan sewer line to the end of the Lone Oak Road SE improvements as approved by the Director of Public Works.

EXHIBIT 1

UGA INFRASTRUCTURE DETAIL

Urban Growth Area Development (UGA) Permit

The subject property is located outside of the Urban Service Area (USA), or inside the USA in an area without required facilities. An Urban Growth Area Development (UGA) Permit is required (SRC 66.050). A UGA permit requires an applicant to provide linking and boundary facilities to their property under the standards and requirements of SRC Chapter 66.

CURSORY REVIEW OF DEVELOPMENT REQUIREMENTS

Streets

1. Linking Streets - The subject property is not currently linked to an adequate linking street. An adequate linking street is defined as: (1) The nearest point on a street that has a minimum 34-foot improvement within a 60-foot-wide right-of-way (collectors or arterials); or (2) a street which has a minimum 30-foot-wide improvement within a 60-foot-wide right-of-way (local) (SRC 66.100(b)).
 - a. Lone Oak Road SE Extension - The applicant shall be required to provide a linking street connection from the west line of the subject property to the nearest adequate facility as approved by the Public Works Director.
 - i. Existing Conditions - Lone Oak Road SE is an under improved boundary street identified in the Salem TSP as a north/south collector street. Lone Oak Road SE is being built within phases to the north as part of the Creekside Development. There is a street section that will need to be constructed from Sahalee Drive SE to the west line of the subject property.
 - ii. Standard - This street is designated as **collector** street in the *Salem Transportation System Plan*. The linking street standard for this street is a 34-foot turnpike improvement within a 60-foot-wide right-of-way (SRC 66.100(b)).
 - iii. Improvement Requirements

Dedication - Along the City-approved Lone Oak Road SE alignment, the applicant shall convey land for dedication of sufficient right-of-way to provide 60 feet (SRC 66.140(a)(4); SRC 63.237).

Improvements - Along the City-approved Lone Oak Road SE alignment, the applicant shall construct a full-street improvement to the satisfaction of the Public Works Director (SRC 66.100(c); SRC 63.225; SRC 63.235). These improvements shall include streetlights and sidewalks (SRC 63.225(a); PWDS Streets 2.21).

2. Boundary Streets - All streets abutting the property boundaries shall be designed to the greater of the standards of SRC 63.225 and SRC 63.235 and the standards of linking streets in SRC 66.100(c). There was a 25-foot right-of-way section of Devon Avenue SE along the north line of the subject property. Because there is no other right-of-way along the boundary of the property, no boundary street improvements are required. The internal streets shall provide the connection to Lone Oak Road SE from the subject property.
3. Right-of-Way Acquisition - Right-of-way required for boundary and linking street improvements is the obligation of the applicant. If the applicant is unable to obtain the required right-of-way after good faith attempts, they shall prepare the legal descriptions thereof and transmit them to the City Attorney, who shall proceed to acquire them through exercise of the City's power of eminent domain as though the public improvements were to be funded by the City. All costs incurred as a part of this procedure shall be paid by the applicant (SRC 66.090). All rights-of-way, easements, and titles to property acquired by the developer shall be deeded or dedicated, free of all liens and encumbrances, to the City prior to commencement of any construction of required facilities (SRC 66.090).
4. Rees Hill Road SE and Devon Avenue SE are under the jurisdiction of Marion County. Marion County has requested improvements to Rees Hill Road SE if alternate routes for construction traffic are not available. Applicant shall coordinate with Marion County regarding the use and any improvements to Rees Hill Road SE and Devon Avenue SE.

Traffic

Transportation Impact Analysis (TIA) - As a requirement of development, the applicant may be required to provide a Transportation Impact Analysis (TIA) to identify the impacts of this proposed development on the public transportation system in the area, and construct any necessary mitigation measures identified in that report (OAR 660-12-0000 et seq.; PWDS Bulletin No. 19). The City Traffic Engineer will determine the need for a TIA based on the development proposed for the site, and review and approve the TIA for conformance with City Standards. Construction plans for the development will not be reviewed without an approved TIA or a waiver from the City Traffic Engineer. Pending completion of the TIA, the applicant is advised that the following are minimum requirements.

Storm Drainage

1. Existing Conditions
 - a. The subject property is located within the Battle Creek Drainage Basin. The drainage from this site will go to Battle Creek.
 - b. The Champion Drainage Swale is just to the west of the subject property. This swale will be affected by the proposed construction of the Lone Oak Road SE alignment.
2. Linking Storm Facilities - The applicant shall be required to design and construct a complete storm drainage system at the time of development. The applicant shall

provide an analysis that includes capacity calculations, detention requirements, and evaluation of the connection to the approved point of disposal (SRC 63.195) The applicant shall link the onsite system to existing facilities that are defined as adequate under SRC 66.020(a).

Water

1. Existing Conditions
 - a. The subject property is located within the S-3 water service level.
 - b. There is a 10-inch S-3 public water line in Sahalee Court S. The S-3 water system is currently at or near capacity and is not adequate to serve this site.
2. Linking Water Facilities - The proposed development shall be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 66.120).
 - a. Construct the Champion Hill Reservoir (S-3) and the *Water System Master Plan* piping from the Reservoir to the subject property in an alignment approved by the Public Works Director.
3. Any existing unused wells shall be abandoned to meet the requirements of the Oregon State Board of Water Resources.

Sanitary Sewer

1. Existing Sewer
 - a. There is a 12-inch public sanitary sewer line is located within the Creekside Golf Course.
 - b. There is an 8-inch public sanitary sewer line in Sahalee Court S.
 - c. There is an 8-inch public line under construction in Lone Oak Road SE that terminates just past Sahalee Drive SE.
2. Linking Sewer Facilities - The proposed development shall be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 66.110).
 - a. The applicant shall construct a Master Plan sewer line to the end of the proposed Lone Oak Road SE improvements as approved by the Director of Public Works.
3. Any existing septic tank systems shall be abandoned (SRC 73.110).

Prepared by: Leta Gay Snyder, Development & Inspection Specialist
Public Works Department

MEMORANDUM

TO: Jennifer Brown, Assistant Planner, Dept. of Community Development
THROUGH: Thom Kaffun, Parks Project Section Manager, Dept. of Community Services
FROM: Lisa Tyler, Landscape Architect, Dept. of Community Services
DATE: 5 June 2007
SUBJECT: UGA Development Permit Application No. 07-05
6617 Devon Avenue SE

ISSUE: What park facilities would be required by Chapter 66, the Urban Growth Management Program, to develop the subject property?

FACTS AND FINDINGS:

1. The approximately 9.95 acre subject property is located outside the Urban Service Area (USA). Because the development is proposed before becoming part of the USA, an Urban Growth Area Development Permit is required and must conform to the requirements of the Urban Growth Management Plan, SRC Chapter 66. This means that certain public facilities may be required. Park requirements are based on policies in the adopted Comprehensive Park System Master Plan (CPSMP).
2. SRC 66.125, Standards for Park Sites, stipulates that the Development Review Committee shall require that an Urban Growth Area (UGA) Development Permit applicant reserve property necessary for an adequate neighborhood park, access to park sites, recreation route or similar uninterrupted linkage based upon the CPSMP.
3. Neighborhood park locations are based on average service areas having a radius of 1/3 mile, a middle distance used to implement the 1/4 to 1/2 mile service area radius required in the CPSMP.
4. The subject property is zoned Residential Agriculture (RA).
5. Policy states that to determine if a property is served it should be within 1/2 mile of a neighborhood park. The 1/2 mile distance is measured from the nearest point on the park property to the farthest point on the subject property. The farthest point on the property is approximately 4025 feet (0.76 mile) from Lone Oak Reservoir Park, an undeveloped neighborhood park. The subject property is not within the service area of a neighborhood park.
6. A series of detailed park land siting criteria, known as "administrative procedures," are used to assist in determining the location of the neighborhood Preferred Park Area and also generally described in the CPSMP as policy 1.7, which delineates "preferred" neighborhood park locations. The site selection criteria states: "Site selection criteria shall be used to evaluate and select new park and recreation sites. These criteria should address the following issues: 1. Central location; 2. Neighborhood access; 3. Location of complimentary public facilities (e.g. schools); 4. Population distribution within the service area; 5. Available sites; 6. Land acquisition costs 7. Location of other park and recreation facilities in adjoining service areas; and 8. Unique features and/or natural assets.
7. A response to each of the park siting criteria is as follows:
 1. *Central location:* The 9.95 acre subject property is partially wooded with some outbuildings on the property. The property is located in the area south of the Creekside Golf Course and residential development.

2. *Neighborhood access:* The subject property is in an area of underdeveloped properties. The majority of the properties are outside the Salem City Limits. The area to the northeast is developed into 1/2 acre residential lots and a multi-family condominium. Until new roads are developed in the area there is not good pedestrian access.

3. *Location of complimentary public facilities (e.g. schools):* The closest elementary school is Rosedale Elementary (Outside the UGB) and Sumpter Elementary. (Both over 1 mile) The closest Middle school is Crossler, located approximately 1.3 miles to the northwest. Sprague High School is approximately 2 miles to the northwest.

4. *Population distribution within the service area:* Residential development exists mainly to the north and east.

5. *Available sites:* Vacant, undeveloped, and/or underdeveloped land is available in the area. At this time opportunities for purchase have not been identified.

6. *Land acquisition costs:* The subject property and surrounding properties are underdeveloped and zoned for residential development. The county zoning for the area is Urban Transition (UT-10). The property costs would reflect residential development potential. The properties outside the City Limits may appraise at a lower cost.

7. *Location of other park and recreation facilities in adjoining service area:* Rees Park a 1 acre developed neighborhood park is located to the east across Sunnyside Road; 3 acres of undeveloped park land is located to the northeast on Wiltsey Road and approximately 12 acres of undeveloped park land is located to the northwest at the Lone Oak Water Reservoir.

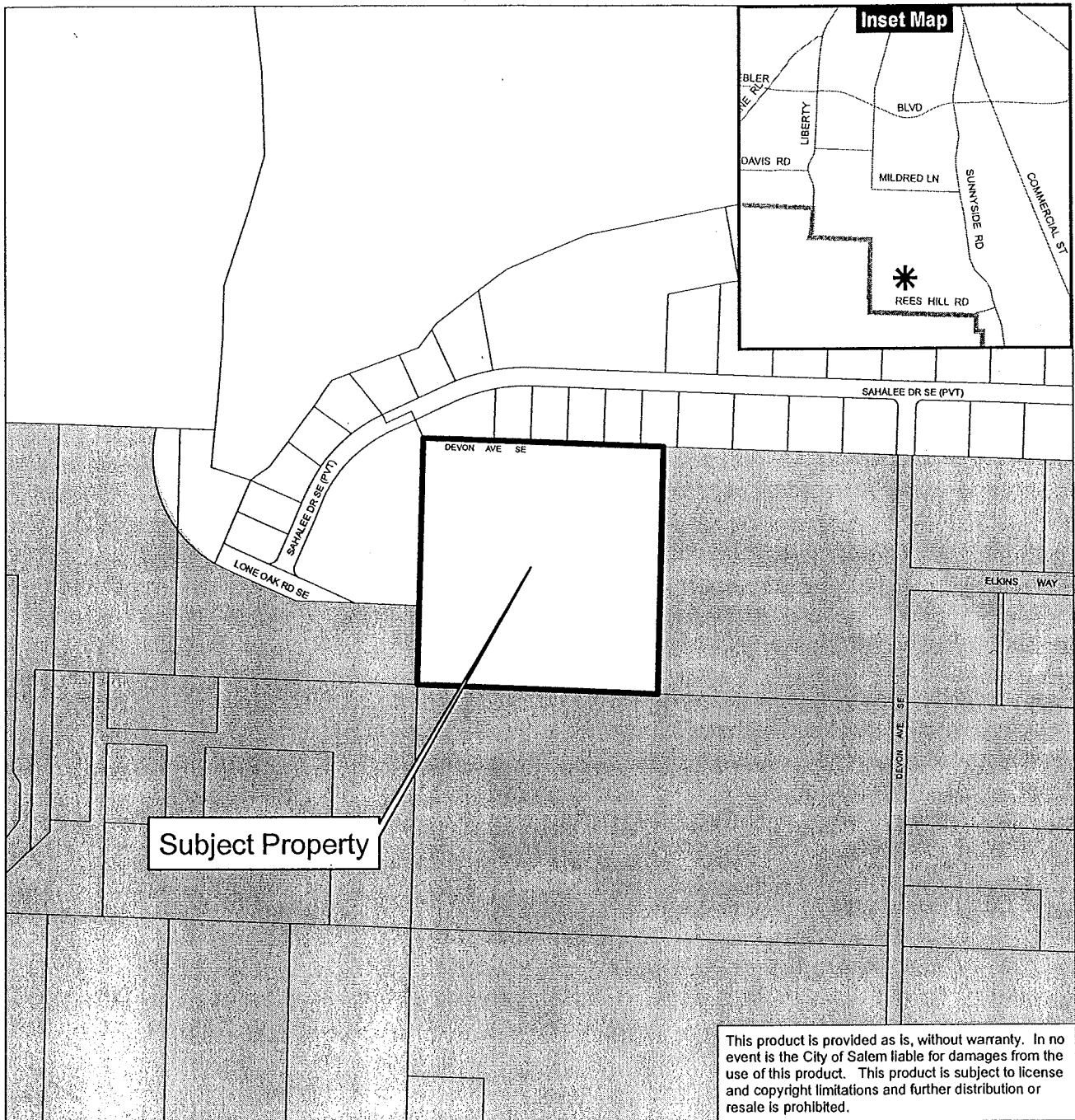
8. *Unique features and/or natural assets.* No know unique features or natural assets. The property contains mature trees and has an average 12% slope.

8. The Park System Master Plan does indicate the need for two neighborhood parks within 1/2 mile of the subject property. There is approximately 223 acres, within the UGB, outside of any park service area. There are approximately 330 acres bounded by Sunnyside Road, Creek Side Golf Course, and the UGB that would be served by park(s) in this area. Approximately 10.7 acres would serve the 330 acres of unserved or under served area between Sunnyside Road and the Urban Growth Boundary.
9. Conclusion: The subject property is not served by park land. The property is in the preferred park service area, especially if it is determined that a single neighborhood park could service the unserved areas. Due to the property having average slopes of 12% and the availability of land with less slopes, Staff has determined that park land will not be required as part of this UGA permit. Access will be reviewed during application for subdivision.

RECOMMENDATION:

1. Based on the policies of the Comprehensive Park System Master Plan, the provisions of SRC 66.125, and the findings above, no neighborhood park land, access route, or other park linkages are required as a part of this UGA Development Permit Application.

Vicinity Map 6617 Devon Avenue SE



Legend

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

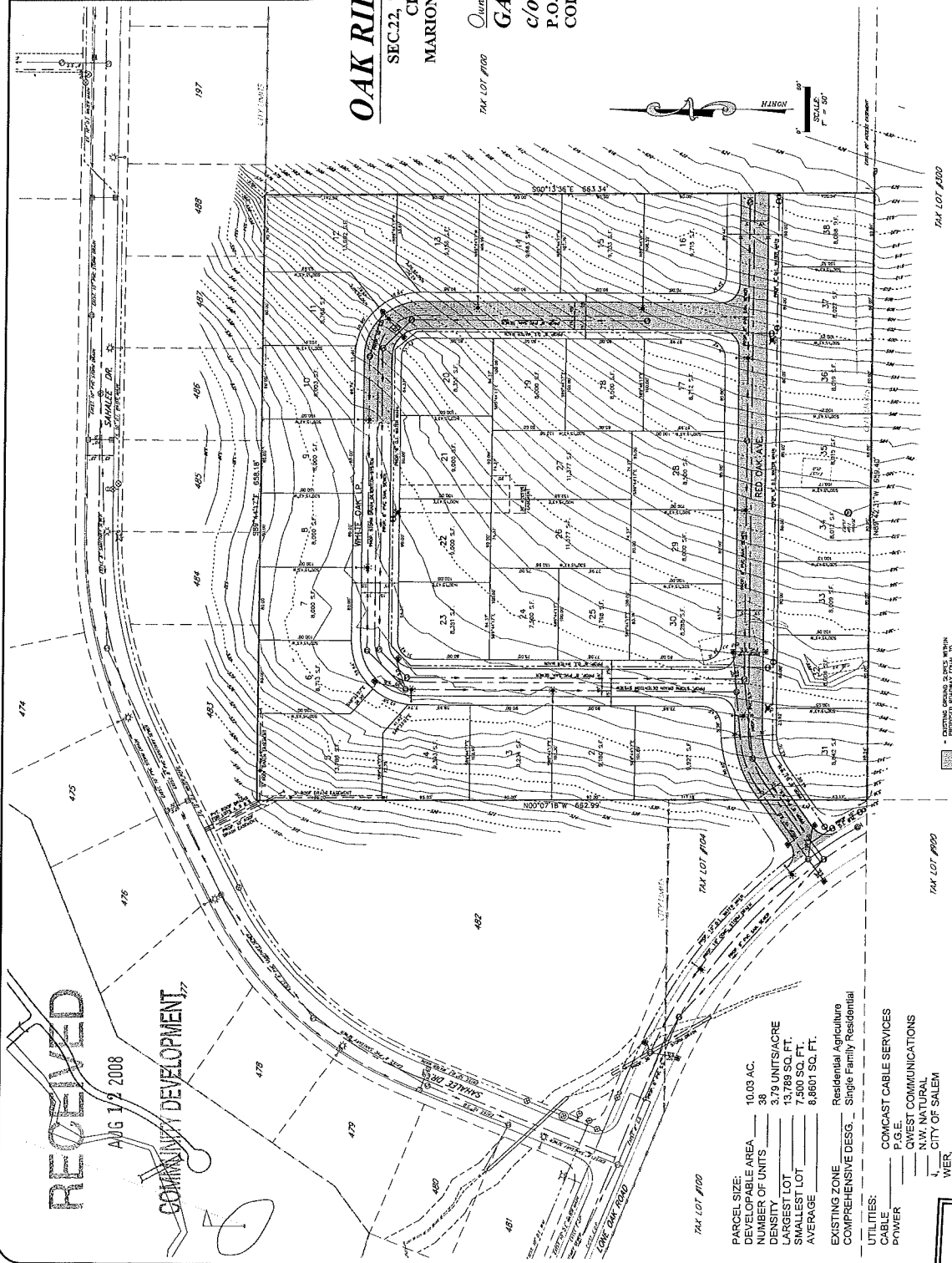
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RECEIVED

AUG 1/2 2008

COMMUNITY DEVELOPMENT



OAK RIDGE ESTATES

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

Owner / Developer:

GARRET & ALICE BERNDT
c/o BRUCE THORN
P.O. BOX 56
COLLEGE PLACE, WA 99324

TAX LOT #100

TAX LOT #100

PARCEL SIZE: 10.03 AC.
NUMBER OF UNITS: 379 UNITS/ACRE
DENSITY: 13,789 SQ. FT.
LARGEST LOT: 7,500 SQ. FT.
SMALLEST LOT: 8,800 SQ. FT.
AVERAGE: 8,800 SQ. FT.

EXISTING ZONE: Residential Agriculture
COMPREHENSIVE DESG.: Single Family Residential

UTILITIES:
CABLE: COMCAST CABLE SERVICES
POWER: P.G.E.
GUEST COMMUNICATIONS: CITY OF SALEM
WATER: CITY OF SALEM

TI / TECH

SEPPING SERVICES, INC.
1000 N.W. 2nd Ave., Suite 200
Fort Lauderdale, FL 33304
954.578.1234
www.seppings.com

UNLESS OTHERWISE NOTED FROM
THIS PLAN, ALL CONSTRUCTION
UNLESS SHOWN
APPROVED HERE



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

Design: D.A.S.
Check: D.A.S.
Date: 08/01/08
Scale: AS SHOWN
As-built:

OAK RIDGE ESTATES

PRELIMINARY
PLAN

Project Number
4984
Sheet Number
1 of 1



MEMO

TO: Bryce Bishop, Associate Planner
Department of Community Development

FROM: Tony C. Martin, P.E., Senior Development Engineer
Public Works Department

DATE: September 15, 2008

SUBJECT: **PUBLIC WORKS RECOMMENDATIONS**
SUBDIVISION NO. 08-04 (08-109838)
6617 DEVON AVENUE SE
38-LOT SUBDIVISION

RECEIVED

SEP 15 2008

COMMUNITY DEVELOPMENT

PROPOSAL:

To subdivide approximately 9.95 acres into 38 lots ranging in size from 7,500 to 13,789 square feet with a concurrent variance request to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b). The subject property is within an RA (Residential Agriculture) zone, located at 6617 Devon Avenue SE.

RECOMMENDED CONDITIONS OF PLAT APPROVAL:

1. Comply with the conditions of UGA Preliminary Declaration 07-5.
2. Modify the tentative plan to show a street connection to the property to the south in an alignment approved by the Public Works Director.
3. Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
4. Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.
5. Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.

6. Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.
7. Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.

PUBLIC WORKS DISCUSSION:

FACTS

Streets

Lone Oak Road SE is designated as a **collector** street in the Salem TSP. The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way. Lone Oak Road SE has a 34-foot-wide improvement within a 60-foot-wide right-of-way west of the subject property, but does not abut the subject property. The necessary right-of-way to make the connection exists westerly of the subject property.

Lone Oak Road SE does not make a complete connection to Mildred Lane SE and to the public transportation network. Currently, access to the site is from Sunnyside Road SE to Rees Hill Road SE (Marion County) along Devon Avenue NE (Marion County) over Sahalee Drive SE (Private Creekside) to Lone Oak Road SE.

Storm

Champion Swale runs to the northwest and is located approximately 250 feet west of this property. Champion Swale crosses Sahalee Drive SE in a 36-inch culvert. There is a 10-inch PVC public storm line in Sahalee Drive SE that connects into Champion Swale.

Water

There is a 10-inch S-3 public water line in Lone Oak Road SE that terminates just south of Sahalee Drive SE. The 10-inch S-3 waterline continues in Sahalee Drive SE to the east.

Sewer

There is an 8-inch public sanitary sewer line Lone Oak Road SE that terminates just south of Sahalee Drive SE.

CRITERIA

Salem Revised Code 63.046(b) and 63.051 indicate the criteria that must be found to exist before an affirmative decision may be made. These criteria and the corresponding findings are as follows:

SRC 63.046(b)(1): Approval does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto.

Findings:

The tentative plan shows the extension of public water, public sewer, and public storm drainage to serve this parcel and upstream properties. (SRC 63.175, SRC 63.185, SRC 63.195, SRC 63.237, PWDS Sewer 2.00, PWDS Water 2.00, PWDS Storm I.F)

The tentative plan does not show adequate street connectivity to the south as required in SRC 63.225(p).

Conditions:

1. *Modify the tentative plan to show a street connection to the property to the south in an alignment approved by the Public Works Director.*
2. *Construct a 10-inch S-3 water line in Lone Oak Road SE to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.*
3. *Construct a public sanitary sewer system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director.*
4. *Construct a complete storm drainage system in Lone Oak Road SE and within the subdivision to serve this development and to serve upstream properties in an alignment as approved by the Public Works Director. Provide an analysis that includes capacity calculations, detention requirements, pretreatment, and evaluation of the connection to the approved point of disposal.*

SRC 63.046(b)(2): Provisions for water, sewer, streets, and storm drainage facilities comply with the city's public facility plan.

Findings:

Previously approved Urban Growth Area Preliminary Declaration (UGA 07-5) identifies a number of projects in the *Transportation System Plan*, *Water System Master Plan*, *Wastewater Management Master Plan*, and *Stormwater Master Plan* needed to mitigate deficiencies in the streets, water, sewer, and storm drainage systems.

Currently, this site's only access to the public street network is to Sunnyside Road SE, via Sahalee Drive SE, a private street owned by Creekside, along Devon Avenue SE and Rees Hill Road SE.

This route is not conducive to providing a safe and efficient transportation system, especially with respect to fire-life-safety given the private street and this property is not part of the Creekside Planned Unit Development. The Salem Area Comprehensive Plan identifies the need for "rapid and safe movement of fire, medical, and police vehicles" as part of the transportation system.

The nearest point of connection to the publicly owned transportation system that is not through a private street is at the intersection of Lone Oak Road SE and Muirfield Avenue SE.

In a letter dated August 27, 2008, Marion County expressed concerns about the additional construction traffic on Devon Avenue SE and Rees Hill Road SE and the potential for significant damage to the pavement on the County transportation system. The County requested that the City of Salem either require the development to complete the construction of Lone Oak Road SE prior to any subdivision construction activity or require the developer to reconstruct County facilities if damaged.

Salem Revised Code (SRC) allows off-site improvements as a requirement of plat approval, not prior to any construction activity, and the SRC does not allow the City to require improvements outside the corporate limits.

Conditions:

1. *Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE.*
2. *Construct a 34-foot-wide street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.*

SRC 63.046(b)(3): The tentative plan complies with all applicable provisions of this Code, including the Salem zoning ordinance, except as may be waived by variance granted as provided in this chapter.

Findings:

Public Works staff has analyzed the proposed development for compliance with applicable provisions of SRC Chapters 63, 65, 66, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 80, and 140. Any code provisions found to be out of compliance will be addressed in the recommended conditions of development.

The applicant has requested a variance to the 12 percent street grade for the proposed internal street system. City of Salem Street Design Standards indicate that residential streets shall not exceed 12 percent and in no case shall exceed a 15 percent grade. The existing grade of the property is approximately 15 percent. To maintain a 12 percent grade would require a cut of approximately 6 feet in depth at the eastern property line and a fill of approximately 12 feet at the northeast corner of White Oak Loop SE. *The City Fire Marshal and Public Works Director approve exceeding the 12 percent street*

grade standard for short distances to be reviewed and approved during the public construction plan review process.

The tentative plan shows a 50-foot-wide right-of-way for White Oak Loop SE. The standard for local streets is a 60-foot-wide right-of-way, but this may be reduced to 50 feet when the existing cross slope is greater than 8 percent. The existing cross slope of the north-south portions of White Oak Loop SE varies between 9 and 12 percent. *The reduction in right-of-way width for White Oak Loop to 50 feet is approved.*

SRC 63.046(b)(4): The proposed subdivision provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

Findings:

All boundary and internal streets will be constructed at widths specified in the *Salem Transportation System Plan* to provide safe vehicular, bicycle, and pedestrian access within and abutting the subdivision.



DAVID FRIDENMAKER, Director
Planning and Real Property Services
3630 State Street • Salem, Oregon 97301
503-399-3290 • FAX: 503-375-7847

Sandy Husk, Superintendent

August 14, 2008

Bryce Bishop, Interim Senior Planner
Planning Division, City of Salem
555 Liberty Street SE, Room 305
Salem OR 97301

FAX No. 503-588-6005

RE: Land Use Activity
Salem, Subdivision No. 08-4, 6617 Devon Ave. SE

Below are the District's comments regarding the proposed land use activity identified above. If you have questions, please call at (503) 399-3290.

ELEMENTARY SCHOOL INFORMATION (GRADES K TO 5)

1. School Name: Sumpter Elementary School
2. Estimated change in student enrollment due to proposed development: 11
3. Current school capacity: 534
4. Estimate of school enrollment including new development: 562
5. Ratio of estimated school enrollment to total capacity including new development: 105%.
6. Walk Zone Review: Eligible for transportation to Elementary School.
7. Estimate of additional students due to previous 2007 land use applications: 141
8. Estimate of additional students due to previous 2008 land use applications: 30
9. Estimated cumulative impact of 2007-2008 land use actions on school capacity: 132 to 137% of capacity
10. Nearest AM Bus Stop Location: 6508 Devon Ave. SE, 0.06 miles
11. Nearest PM Bus Stop Location: 6508 Devon Ave. SE, 0.06 miles

MIDDLE SCHOOL INFORMATION (GRADES 6 TO 8)

1. School Name: Judson Middle School
2. Estimated change in student enrollment due to proposed development: 5
3. Current school capacity: 941
4. Estimate of school enrollment including new development: 912
5. Ratio of estimated school enrollment to total capacity including new development: 97%
6. Walk Zone Review: Eligible for transportation to Middle School.
7. Estimate of additional students due to previous 2007 land use applications: 91
8. Estimate of additional students due to previous 2008 land use applications: 14
9. Estimated cumulative impact of 2007-2008 land use actions on school capacity: 107 to 108% of capacity
10. Nearest AM Bus Stop Location: Rees Hill Rd. SE & Rainbow Dr. SE, 0.5 miles
11. Nearest PM Bus Stop Location: Rees Hill Rd. SE & Devon Ave. SE, 0.23 miles

HIGH SCHOOL INFORMATION (GRADES 9 TO 12)

1. School Name: Sprague High School
2. Estimated change in student enrollment due to proposed development: 6
3. Current school capacity: 1,935
4. Estimate of school enrollment including new development: 1,739
5. Ratio of estimated school enrollment to total capacity including new development: 90%
6. Walk Zone Review: Eligible for transportation to High School.
7. Estimate of additional students due to previous 2007 land use applications: 222
8. Estimate of additional students due to previous 2008 land use applications: 34
9. Estimated cumulative impact of 2007-2008 land use actions on school capacity: 101 to 103% of capacity
10. Nearest AM Bus Stop Location: 6581 Devon Ave. SE, 0.02 miles
11. Nearest PM Bus Stop Location: Rees Hill Rd. SE & Devon Ave. SE, 0.23 miles

ESTIMATE SUMMARY (GRADES K TO 12):

1. Total estimated change in student enrollment: 22
2. Total estimated student enrollment over capacity: 9
3. Estimated short-term cost to District for new facilities, beyond current facility capacity, due to change in student enrollment: \$ 143,334
4. Total estimated additional income to District for new facilities due to change in student enrollment: \$ 0

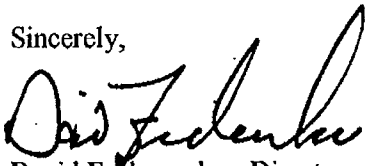
Developer should provide paved walk route(s) to allow pedestrian access and bicycle access to school(s) from all residences within the new development and should provide all improvements required by the City of Salem where new transportation routes are established or existing transportation routes change, such as school flashers, crosswalks, and signage. As per ORS 195.115, when the walk zone review indicates "eligible for transportation due to hazard" the District requests that the City initiate a planning process with the District to identify the barriers and hazards to children walking or bicycling to and from school, determine if the hazards can be eliminated by physical or policy changes and include the hazard elimination in the City's planning and budgeting process.

When new development location is eligible for transportation, developer should provide a safe pedestrian route to the nearest school bus stop. At large or remote developments, the developer should identify and provide new school bus stop locations acceptable to the School District.

ASSUMPTIONS:

1. When land use request is granted, 38 new residence(s) will be built.
2. Estimates are computed using the Student Rate per Dwelling Method described in the District's Facility Study for years 2001-2020.
3. If current capacity exists at the schools currently serving the parcel then an estimate of zero cost, or no significant impact, is made.
4. If current capacity does not exist at the schools currently serving the parcel then an estimate of cost for one-time capital improvements is made.
5. Income from the proposed land use for capital improvement is assumed to be zero since capital improvement funds come from voter approved bond measures that can be an unpredictable and irregular source of income.
6. Income from a State School Facilities grant may be available depending on state funding. The grant amount ranges from 0% to 8% of the construction cost. Since the funding is unpredictable, it has not been included as income. The current 2005-06 grant funding is estimated at 5.04%.
7. General Fund Budget Amount for the 2006-07 school year is \$7,811 per student (ADM). The State School Fund Revenue for 2006-07 is estimated to be \$6,983 per student (ADM). ADM is "Average daily membership" as defined in ORS 327.006 (3).

Sincerely,



David Fridenmaker, Director
Planning and Real Property Services

- c: Luis Caraballo, Director of Facilities
Kelly Carlisle, Director of Secondary Education
Melissa Cole, Director of Secondary Education
Ron Speck, Director of Elementary Education
Steve Larson, Director of Elementary Education
Mike Bednarek, Special Projects Coordinator
Oscar Vega, Risk Management Dept.
Michael Shields, Transportation Dept.



Marion County **OREGON**

PUBLIC WORKS

RECEIVED

AUG 28 2008

COMMUNITY DEVELOPMENT

August 25, 2008

BOARD OF COMMISSIONERS

Sam Brentano
Janet Carlson
Patti Milne

DIRECTOR

Willis G. Worcester, P.E.

Bryce Bishop
Planning Division, City of Salem
555 Liberty St. SE, Room 305
Salem, OR 97301

ADMINISTRATION

RE: Subdivision Review Conference No. 08-04 located at 6617 Devon Avenue SE

BUILDING INSPECTION

Dear Mr. Bishop:

DOG CONTROL

Thank you for the opportunity to comment on this case. We understand the applicant has inquired about developing a 38-lot subdivision located at 6617 Devon Avenue SE. Development of this property has the potential to generate a significant amount of traffic on County roads in the area.

EMERGENCY MANAGEMENT

ENGINEERING

ENVIRONMENTAL SERVICES

OPERATIONS

PARKS

PLANNING

SURVEY

Currently the only access to this site is via Rees Hill Road to Devon Avenue, then Sahalee Drive to Lone Oak Road. Devon Avenue and Rees Hill Road are County roads. The Salem Transportation System Plan shows a planned extension of Lone Oak Road SE to serve this area. Rees Hill Road has previously sustained significant damage from traffic related to construction within the City. Prior to approval of this subdivision, a direct connection to a public City street that does not rely on a County road connection shall be provided. It appears that completing the construction of Lone Oak Road SE from the development to Muirfield Avenue SE will accomplish this requirement. If this development is not conditioned on an alternate access being provided, then the County would object to the approval of this subdivision.

Devon Avenue is the sole access to an increasing number of residences. We are very concerned that the number of residences will exceed the number that can safely be served by one access if this, or any other subdivision, is approved. The ability for emergency response vehicles could be severely compromised if only one access is provided. We strongly recommend that no further development be allowed in this area until adequate alternate access is available.

If you have any questions please contact me at 503- 588-5036.

Sincerely,

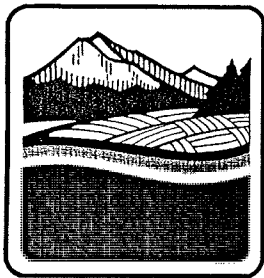
Karen Odenthal
Civil Engineer Associate

KO:nv

c: John Rasmussen

ATTACHMENT 6

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Marion County **OREGON**

PUBLIC WORKS

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SEP 02 2008

COMMUNITY DEVELOPMENT

August 27, 2008

**BOARD OF
COMMISSIONERS**

Sam Brentano
Janet Carlson
Patti Milne

DIRECTOR

Willis G. Worcester, P.E.

ADMINISTRATION

**BUILDING
INSPECTION**

DOG CONTROL

**EMERGENCY
MANAGEMENT**

ENGINEERING

**ENVIRONMENTAL
SERVICES**

OPERATIONS

PARKS

PLANNING

SURVEY

Bryce Bishop
Planning Division, City of Salem
555 Liberty St. SE, Room 305
Salem, OR 97301

RE: Subdivision Review Conference No. 08-04 located at 6617 Devon
Avenue SE

Dear Mr. Bishop:

Thank you for the opportunity to clarify comments made at the subdivision review conference on August 26, 2008 regarding this case. We want to reiterate our comments regarding the requirement for the Lone Oak Road connection and to clarify the discussion at the conference regarding the timing of that improvement.

Since the proposed development can currently only be accessed via private and County Roads, we are very concerned that construction traffic will impact County Roads in a negative manner. Rees Hill Road and Devon Avenue have previously sustained significant damage from development related construction traffic within the City. Completing the Lone Oak Road connection prior to *any* construction will diminish that concern. Therefore, we ask the City to add the following condition to the requirements imposed on this development:

1. An alternate connection to a public City Street shall be completed prior to any construction of the proposed development. The completion of Lone Oak Road from the development to Muirfield Street SE is an acceptable alternate connection. All construction traffic, including that required to construct the alternate connection and infrastructure related improvements, shall be required to use the alternate connection.

If the City elects not to include the previous condition as a requirement for the proposed development, then the following condition should be included:

2. It is the responsibility of the developer to preserve and protect the current PCI rating and the structural integrity of County Roads in the

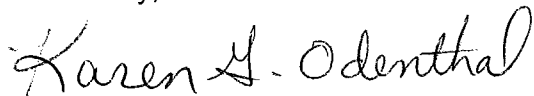
To Bryce Bishop, Planning Division, City of Salem
From Karen Odenthal, Civil Engineer Associate
RE: Subdivision Review Conference No. 08-04 located at 6617 Devon Avenue SE
August 27, 2008

Page 2

area to the satisfaction of Marion County Public Works throughout all phases of development. Failure to preserve and protect the road may result in the developer being responsible for replacing or reconstructing the damaged road at the developer's expense.

If you have any questions please contact me at 503-588-5036.

Sincerely,

A handwritten signature in cursive script that reads "Karen G. Odenthal".

Karen Odenthal
Civil Engineer Associate

KO:nv

c: John Rasmussen

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MEMO

TO: Bryce Bishop, Planner II
Community Development Department

FROM: Glenn J. Davis, PE, CFM, Chief Development Engineer
Public Works Department 

DATE: February 22, 2018

SUBJECT: **PUBLIC WORKS RECOMMENDATIONS**
UGA07-05MOD1 & SUB08-04MOD1 (17-111074 & 17-111078)
6617 DEVON STREET SE
MODIFICATION OF URBAN GROWTH PRELIMINARY DECLARATION
AND TENTATIVE SUBDIVISION

PROPOSAL

A consolidated application to modify previously granted approvals for the 38-lot Oak Ridge Estates subdivision, containing the following requests:

1. To amend a previously approved Urban Growth Preliminary Declaration, UGA Case No. 07-05, to modify conditions related to the dedication of right-of-way and construction of a segment of Lone Oak Road SE in the vicinity.
2. To modify a previously approved tentative subdivision plan, Case No. SUB08-04 ("Oak Ridge Estates"), to modify conditions related to the construction of a segment of Lone Oak Road SE in the vicinity.

The subject property is approximately 9.95 acres in size, zoned RA (Residential Agriculture) and located at 6617 Devon Avenue SE (Marion County Assessor Map and Tax Lot Number 083W22C00200).

RECOMMENDED MODIFICATIONS TO CONDITIONS OF APPROVAL

Modify the conditions of UGA07-05 as follows:

1. Condition A1 shall be amended to read:

"Condition A1: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;

-OR-

- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE)."

2. Condition A2 shall be deleted.

3. Condition C.1 shall be amended to read: "Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71."

Modify the conditions of SUB08-4 as follows:

- 1. Condition1 shall be amended to read: "Comply with the conditions of amended UGA Preliminary Declaration UGA07-05MOD1."
- 2. Condition 4 shall be amended to read: "Construct stormwater treatment and flow control facilities pursuant to SRC Chapter 71."
- 4. Condition 5 shall be amended to read:

"Condition 5: Prior to final subdivision plat approval either:

- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;

-OR-

- b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
- b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject property as shown on the original approved tentative subdivision plan; and
- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE)."

3. Condition 6 shall be deleted.

CRITERIA AND FINDINGS

UGA PRELIMINARY DECLARATION

SRC 200.030(d)(1)—An amendment to an Urban Growth Preliminary Declaration shall be granted if: (1) A change in the circumstances has occurred which has the effect of making the list of required public facilities inappropriate or inadequate.

Finding— As indicated in the written statement provided by the applicant, a change in circumstances has occurred since the original urban growth preliminary declaration approval. The primary change has been an increase in the costs associated with the construction of the bridge over Jory Creek and completion of the extension of Lone Oak Road SE from Muirfield Avenue SE to its existing terminus north of Augusta Street SE. Past estimates had the cost of construction of the improvement in the range of \$1,800,000.00. Current estimates, however, indicate the bridge and roadway improvements will cost \$7,500,000.00. The increase in construction cost by nearly \$5.7 million makes it difficult for a single development of 38 single family lots to cover this

construction cost and has resulted in a situation where the costs associated with the improvement are no longer proportional to the impact of the subdivision and are therefore inappropriate as provided under this approval criterion.

Because the condition of approval from the original urban growth preliminary declaration decision requiring the construction of Lone Oak Road from Muirfield Avenue SE to Sahalee Drive SE and the bridge over Jory Creek is no longer proportional to the impacts of the proposed subdivision, a modification to the conditions to allow the development to pay a proportional share of the cost of construction of the improvements is warranted and satisfies this approval criterion.

SRC 200.030(d)(2)—An amendment to an Urban Growth Preliminary Declaration shall be granted if... The proposed amendment does not simply reduce the developer's costs by shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased;

Finding—SRC 200.055 requires developments to be linked to an adequate street by the shortest pre-planned routes available. An adequate street is defined under SRC 200.055(b) as, "the nearest point on a Collector or Arterial street that has, at a minimum, a 34-foot-wide turnpike improvement within a 60-foot-wide right-of-way." In order to meet linking street requirements, the original urban growth preliminary declaration and subdivision approvals required right-of-way dedication and construction of Lone Oak Road SE from the west line of the subject property to Muirfield Avenue SE.

Due to the costs of constructing Lone Oak Road SE and the bridge over Jory Creek, the applicants submitted an application to amend Urban Growth Preliminary Declaration Case No. UGA07-05 and modify the approval of Tentative Subdivision Case No. SUB08-04. The proposed amendment and modification seek approval to modify the conditions of approval of the urban growth preliminary declaration and subdivision to allow payment of a fee to cover a proportional share of the costs to construct Lone Oak Road SE and the bridge over Jory Creek rather than constructing them.

In addition to the urban growth preliminary declaration amendment and subdivision modification, the applicant also applied to the City to establish a reimbursement district, as allowed under SRC 200.310, in order to provide a funding mechanism to pay for the costs of construction of the bridge and the improvement of Lone Oak Road SE. The purpose of a reimbursement district is to allow a developer who constructs a public improvement to recoup some portion of the cost of construction of the public improvement from neighboring properties that are benefited by the improvements.

On January 22, 2018, the City Council approved the formation of the Lone Oak Reimbursement District. The reimbursable public improvements included within the district includes not only the construction of Lone Oak Road SE from Muirfield Avenue SE to Sahalee Drive SE, including construction of the bridge over Jory Creek,

but also the construction of Lone Oak Road SE from Sahalee Drive SE to Rees Hill Road SE.

Because the subject property is located within the boundaries of the approved reimbursement district, the proposed subdivision will be required to pay a reimbursement fee of \$9,854.00 per lot which ensures the development will contribute its proportional share of the costs of the Lone Oak Road SE and bridge improvements.

SRC 200.030(d)(2) provides that a proposed amendment to an urban growth preliminary declaration cannot be approved if it simply reduces the developer's costs by shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased.

In order to ensure the proposed amendment to the urban growth preliminary declaration satisfies this approval criterion and the subdivision will be adequately served by streets and include more than one point of street access, Condition A.1 and Condition A.2 of the original urban growth preliminary declaration relating to linking streets shall be deleted and replaced with a new amended condition that ensures the development will be required to either complete the northern section of Lone Oak Road SE from Muirfield Avenue SE to its existing terminus north of Augusta Street SE as originally approved or construct an alternative section of Lone Oak Road SE from Sahalee Drive SE to Rees Hill Road SE in order to meet linking street and safe and adequate street access and connectivity requirements while also ensuring the development will pay its proportional share of the costs of constructing Lone Oak Road SE and the bridge rather than simply reducing those costs or shifting them to another developer or the public.

The new amended condition also provides an increased public benefit to the area by allowing for utilization of the funding mechanism established through the reimbursement district to facilitate construction of the bridge and completion of Lone Oak Road SE, while also requiring a second point of street access to the subdivision and surrounding area to be provided, which will improve street connectivity and access, help alleviate traffic on Devon Avenue SE and Sahalee Drive SE, and provide for a required secondary means of Fire Department and emergency vehicle access until such time the northern section of Lone Oak Road SE between Muirfield Avenue SE and Augusta Drive SE is completed and a third point of access to the area is provided.

SRC 200.030(d)(2)—An amendment to an Urban Growth Preliminary Declaration shall be granted if... (3) The change does not result in a development that does not otherwise meet all requirements of this chapter.

Finding—The proposed amendment, as conditioned, will not result in a development that will not otherwise meet all of the requirements of SRC Chapter 200 (Urban Growth Management). As provided in this decision, new amended Condition A.1 requires either:

- Construction of Lone Oak Road SE from Muirfield Avenue SE to its existing terminus north of Augusta Street SE; or
- Dedication of right-of-way for, and construction of, Lone Oak Road SE from its existing terminus near Sahalee Drive SE to Rees Hill Road SE and payment of the Lone Oak Road SE Reimbursement Fee, to contribute toward the costs of construction of the entire length of Lone Oak Road SE from Muirfield Avenue SE to Rees Hill Road SE.

The new amended Condition A.1 requiring the applicant to either construct the northern section of Lone Oak Road SE from Muirfield Avenue SE to its existing terminus north of Augusta Street SE, as required under the original urban growth preliminary declaration and subdivision decisions, or alternatively construct the southern section of Lone Oak Road SE from its existing terminus near Sahalee Drive SE to Rees Hill Road SE, together with payment of the reimbursement fee to contribute to the costs of construction of the entire length of Lone Oak Road SE from Muirfield Avenue SE to Rees Hill Road SE, ensures that the linking street requirements of SRC 200.055 will continue to be met.

In January 2014, a new SRC Chapter 71 was implemented, relating to stormwater facilities. Condition C1 is being amended in accordance with the requirements of SRC Chapter 71 to provide greater specificity and clarity that was lacking in the original Condition C1. No other modifications to the conditions of the original urban growth preliminary declaration are proposed; therefore all other applicable requirements of SRC Chapter 200 will also be met. The proposed amendment, as conditioned, meets this approval criterion.

TENTATIVE SUBDIVISION

A. SRC 205.070(d)(1): The proposed modification is not substantially inconsistent with the conditions of the original approval; and

Finding—The original decision for Tentative Subdivision Plan Case No. SUB-08-04 included two conditions of approval, Condition 5 and Condition 6, requiring the applicant to complete the construction of Lone Oak Road to the intersection of Muirfield Avenue to the north as well as to construct that portion of Lone Oak Road from its existing terminus at Sahalee Drive to the western boundary of the subject property.

These conditions were established in order to ensure the proposed subdivision satisfied the applicable subdivision approval criteria and that that street access and connectivity requirements were met. As indicated in the original subdivision approval, the subject property's only access to the public street network is from

Sunnyside Road SE via Rees Hill Road, Devon Avenue, and Sahalee Drive, which is a private street within the Creekside Planned Unit Development (PUD). This route alone is not conducive to providing a safe and efficient transportation system, especially with respect to fire and life safety, given its single point of access and that one of the streets that must be utilized to gain access to the property is a private street within a development the subject property is not a part of.

Under the proposed subdivision modification the applicant has requested to eliminate the condition of approval requiring completion of the section of Lone Oak Road from Muirfield Avenue to the existing terminus of Lone Oak Road north of Augusta Street. Instead of constructing this portion of Lone Oak Road, the applicant has proposed to pay a proportional fee towards the completion of this required improvement.

Elimination of the condition of approval requiring the construction of Lone Oak Road between Muirfield Avenue and Augusta Street would result in only one street connection being provided to the subdivision, linking street requirements would not be met, the subdivision would not have an adequate connection to the public street network, Fire Department requirements requiring two points of access to serve the subdivision would not be met, and the decision would be substantially inconsistent with the original conditions of approval.

In order to ensure the proposed modification remains substantially consistent with the original conditions of approval as required by this criterion and the proposed subdivision will be served by a safe and adequate streets, Condition 5 and Condition 6 of the original tentative subdivision approval shall be deleted and replaced with the following new amended condition:

- Condition 5: Prior to final subdivision plat approval either:
- a) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from Muirfield Avenue SE to its existing terminus north of Augusta Street SE;
 - OR-
 - b-1) Acquire and convey land for dedication of right-of-way to equal a width of 60 feet in an alignment approved by the Public Works Director as specified for the future collector street in the Salem Transportation System Plan from the existing terminus of Lone Oak Road at Sahalee Drive SE to Rees Hill Road SE; and
 - b-2) Construct Lone Oak Road SE with a minimum 34-foot-wide full collector street improvement from its existing terminus at Sahalee Drive SE to the southwest corner of the subject

property as shown on the original approved tentative subdivision plan; and

- b-3) Construct Lone Oak Road SE with a minimum 34-foot-wide linking street improvement from the southwest corner of the subject property as shown on the original approved tentative subdivision plan to Rees Hill Road SE; and
- b-4) Pay the applicable reimbursement fee as established in the Lone Oak Road Reimbursement District pursuant to Resolution 2018-08 to contribute the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE (In the event the Reimbursement District is terminated prior to final plat approval, the developer shall pay the reimbursement fee to the City as a fee in-lieu for the development's proportional share of the costs of the full collector street improvement of Lone Oak Road from Muirfield Avenue SE to Rees Hill Road SE.

The new amended Condition 5 requiring the applicant to either construct the northern section of Lone Oak Road from Muirfield Avenue to its existing terminus north of Augusta Street, as required under the original subdivision approval, or alternatively construct the southern section of Lone Oak Road from its existing terminus near Sahalee Drive to Rees Hill Road, together with payment of the reimbursement fee to contribute to the costs of construction of the entire length of Lone Oak Road from Muirfield Avenue to Rees Hill Road, ensures that the subdivision meets street access requirements and the modified decision is substantially consistent with the original conditions of approval.

In January 2014, a new SRC Chapter 71 was implemented, relating to stormwater facilities. Condition 4 is being amended in accordance with the requirements of SRC Chapter 71 to provide greater specificity and clarity that was lacking in the original Condition 4. No other modifications to the conditions of the original tentative subdivision approval are proposed. The proposed modification, as conditioned, meets this approval criterion.

B. SRC 205.070(d)(2): The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

Finding: The proposed modification to the subdivision, as conditioned, will not result in significant changes to the physical appearance of the development, the use of the site, and impacts on surrounding properties.

Though an amendment to the original urban growth preliminary declaration and a modification to the original tentative subdivision plan approval have been requested by the applicant, neither the urban growth preliminary declaration amendment nor the tentative subdivision plan modification propose to change the configuration or number of approved lots, the layout of the internal streets, or the uses that will be allowed within the subdivision. Because lot configuration, street layout, and uses allowed within the subdivision will not be changed by the proposed modification, it will not result in any significant changes to the physical appearance of the development or use of the site in conformance with this approval criterion.

In regards to impacts on surrounding properties, the proposed urban growth preliminary declaration amendment and subdivision modification allow for off-site street improvements required in connection with the subdivision to be changed. The original approvals required linking street and adequate and safe street access and connectivity requirements to be met through the off-site improvement of Lone Oak Road SE from Muirfield Avenue SE to the west line of the subject property. The proposed modification, however, provides a new alternative option to meet linking street and adequate and safe street access and connectivity requirements by instead allowing for the construction of the section of Lone Oak Road SE from Sahalee Drive SE to Rees Hill Road SE and payment of a reimbursement fee towards the costs of the construction of the entire length of Lone Oak Road SE from Muirfield Avenue SE to Rees Hill Road SE.

Though a different section of Lone Oak Road SE is allowed to be constructed under this modification decision in order to fulfill linking street and adequate and safe street access and connectivity requirements, it will not result in a significant change in impacts on surrounding properties. Instead, the alternative street connection of Lone Oak Road SE from Sahalee Drive SE to Rees Hill Road SE will allow for a second point of vehicle access to the subdivision and the surrounding area to be constructed prior to the section of Lone Oak Road SE from Muirfield Avenue SE to north of Augusta Street SE being completed. This connection will improve vehicular and emergency vehicle access to the area, help improve safety and emergency response, and benefit rather than impact surrounding properties. This criterion is met.

cc: File

**MODIFICATION OF APPROVAL (SUBDIVISION NO. 08-04) &
AMENDMENT (UGA NO. 07-05) REQUEST FOR OAK RIDGE ESTATES
WRITTEN STATEMENT/FACTS AND FINDINGS**

OWNER/APPLICANT:

Garrett & Alice Berndt
6989 Bates Road S
Salem, OR 97306

APPLICANT'S REPRESENTATIVE:

Mark Shipman, Attorney
Saalfeld Griggs PC
Park Place, Suite 200
250 Church Street SE
Salem, OR 97301
503-399-1070

**SUBJECT PROPERTY INFORMATION:**

The subject property is located at 6617 Devon Avenue, Marion County Assessor's Map Number 8-3W-22C, Tax Lot 200 (herein the "**Subject Property**"). Total acreage of the Subject Property is approximately 9.95 acres.

The City of Salem (herein the "**City**") has zoned the Subject Property as Residential Agriculture (RA).

PREVIOUS ACTIONS:

- In 2008, the Applicant sought and received approval for a tentative plan approval to subdivide the Subject Property into 38 lots; with a concurrent variance to allow street grades greater than 12 percent in Subdivision Application No. 08-04.
- Also, in 2008, the Applicant sought and received approval for a concurrent Preliminary Declaration for an Urban Growth Area Development Permit, No. 07-05, for the Subject Property.
- The Subdivision and Preliminary Declaration (UGA) Permit approvals have received appropriate extensions and are still valid.

BACKGROUND INFORMATION:

From 2006 to the present, there were two other applications in the immediate area where the City required the applicants to improve Lone Oak Road SE from the current improved portion, to Muirfield Avenue SE. (the "**Lone Oak Extension**"). During this same time period the housing market was subject

to a recession and economic downturn which affected the national and local housing markets to the extent that very few subdivisions were moving forward to plat stage, including the Applicants.

Fast forward to the present, the two other applications reached agreement with the City whereby on that property adjacent to the Lone Oak Extension, that applicant/owner was required to dedicate the entire Lone Oak right of way, and design the construction of the future road extension in exchange for 3 buildable lots. The remaining lots abutting the Lone Oak Extension are subject to a no-build restriction until either that applicant/owner builds the Lone Oak road and the bridge, or a third party does.

Under the second development, that applicant and the City reached an agreement whereby the future property owners would pay a fee in lieu in the amount of \$9,212.00 per lot at the time of obtaining building permits to go into a dedicated fund for the future improvement of the Lone Oak Extension.

Over the past several years, the City has anticipated that the cost of constructing the Lone Oak Extension (road and bridge) would be in the \$1,800,000.00 range. However, since the original bridge supports were constructed, the City has had internal discussions that they want a more substantial bridge (in excess of \$5,000,000.00) and feel that the only way to obtain this would be through the next transportation bond due to substantial changes in design and cost.

SUMMARY OF PROPOSAL:

The Applicant is seeking approval to amend their UGA approval, if necessary, and to modify the condition of approval #5 of Subdivision No. 08-04 to allow the payment of the fee in lieu of \$9,212.00 per lot instead of being required to construct the Lone Oak Extension.

The Applicant is under contract to sell the Subject Property to a developer who desires to complete the plat process to develop the Subject Property into 38 single family residential lots.

FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE CRITERIA FOR A MODIFICATION TO URBAN GROWTH PRELIMINARY DECLARATION No. 07-5

200.030. Amendment to Urban Growth Preliminary Declaration.

(d) Criteria.

An amendment to an Urban Growth Preliminary Declaration shall be granted if:

- (1) A change in the circumstances has occurred which has the effect of making the list of required public facilities inappropriate or inadequate.***
- (2) The proposed amendment does not simply reduce the developer's costs by shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased.***
- (3) The change does not result in a development that does not otherwise meet all requirements of this Chapter.***

Proposed Findings:

As identified in the Public Works Memorandum supporting the Declaration Decision, staff only required that the Applicant provide a linking street connection from the west line of the Subject Property to the nearest adequate linking facility. The applicant interprets this to be the intersection of Sahalee Ct. SE and Lone Oak Road SE. If staff concurs with this assessment, then no Amendment to the Declaration is needed, and the Applicant would request a refund of fees for the Amendment request.

However, if staff interprets the Declaration to mean that the Applicant is required to dedicate the right of way for the Lone Oak Extension on its property, and improve the Lone Oak Extension, then this amendment is necessary.

(1) A change of circumstances has occurred.

Since the original UGA decision was issued, a change of circumstance has occurred. The City has decided that the original bridge design, for the Lone Oak Extension, will not be sufficient and desires a different bridge style that will cost substantially more than the original bridge design. Also, there have been two other applications that have received relief from the requirement that they singularly install the Lone Oak Extension. The approach that staff has used with the Lone Oak Extension in the past has been one of systematic improvement. That is, as each development application in this region has been approved, systematic improvements have been made to the eventual improvement of the Lone Oak Extension. For example, the last phase of Creekside (Phase 14) required right of way dedication and complete engineering design of the Lone Oak Extension completed.

While there is still a need for a bridge, the Applicant never should have been required to build the entire Lone Oak Extension as this always has been a much larger regional public improvement requirement, than just a local transportation improvement requirement.

(2) The proposed amendment does not simply reduce the developer's costs.

The proposed Amendment does not simply reduce the developer's costs. The Developer will still be required to design, dedicate and improve that portion of Lone Oak abutting their property and extending down to the intersection of Sahalee Ct. SE and Lone Oak Road SE., plus they will be paying a fee-in-lieu of \$9,212.00 per lot that will go towards the eventual construction of the Lone Oak Extension.

(3) The change meets all other code requirements.

The proposed change will meet all other code requirements.

The proposal meets this criterion.

**FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE CRITERIA FOR A
MODIFICATION OF TENTATIVE SUBDIVISION PLAN No. 08-04**

SRC 205.070(c) Modification of Approval of Tentative Subdivision Plan.

(c) Criteria.

(1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and

(2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

Proposed Findings:

(1) The proposed modification is not substantially inconsistent with the original approval.

The proposed modification is not substantially inconsistent with the conditions of the original approval.

Condition 5: States "Complete the construction of Lone Oak Road SE to the intersection of Muirfield Avenue SE."

The Applicant is requesting modification of Condition #5 to not require the complete construction of the Lone Oak Extension. Rather, the applicant is seeking approval for a fee in lieu. The proposed modification is not substantially inconsistent in that a fee in lieu would be charged for each lot built within the proposed Oak Ridge Estates Subdivision contributing to the fund for the improvement of this regional facility improvement.

(2) The proposed modification will not result in significant changes the proposed development.

The proposed modification will not change the lot configuration, layout, look or feel of the proposed subdivision. The proposed modification will not change the lot configuration, layout, look or feel of the proposed subdivision. The proposed modification will not change the use of the site, or the impacts on surrounding properties.

The proposal meets this criterion.

**FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE CRITERIA FOR
A FEE-IN-LIEU AGREEMENT**

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

(1) The development approval only requires the construction of a portion of the public improvement, and additional portions are required to be constructed in order to have an operational, fully functioning public improvement;

(2) Construction of the additional portions of the public improvement will not or cannot occur simultaneously with the construction of the portion required as the condition of

development approval because funding for other portions is unavailable at the time the developer would construct the developer's portion of the public improvement; and

(3) Construction of only a portion of the public improvement would impeded the construction of the additional portions or otherwise affect the physical integrity of the public improvement at a future date.

Proposed Findings:

A fee-in-lieu of the Lone Oak Extension is warranted because the revised cost of the Jory Creek (bridge) crossing make the entire development of the street connection impossible, due to extensive cost and the fact that this project will need to be funded through the next streets and bridges bond, which has not be calendared.

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

Condition 5: Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.

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

CONCLUSION

Based on the findings contained in this request, Applicant has satisfactorily addressed the applicable criteria for granting approval of an application to amend the UGA Preliminary Declaration, modify the conditions of a tentative plan subdivision and meet the intent of a fee in lieu agreement.

Exhibit List:

Exhibit 1 Subdivision 08-04 Decision

Exhibit 2 UGA Preliminary Declaration Decision 07-05

Page
Break



Staff Report

File #: 18-85

Version: 1

Date: 2/26/2018

Item #: 7.1 a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

Petitioner-Initiated Annexation of Territory Located at 5500 Block of Skyline Road S 97306
(Annexation Case No. C-723)

Ward(s): 7

Councilor(s): Cook

Neighborhood(s): Sunnyslope

ISSUE:

Should City Council conduct first reading of Ordinance Bill No. 2-18 annexing, applying the City of Salem RA (Residential Agriculture) zone, and withdrawing from the Salem Suburban Rural Fire Protection District, for a 3.57-acre property located at the 5500 Block of Skyline Road S?

RECOMMENDATION:

Conduct first reading of Ordinance Bill No. 2-18 annexing, applying the City of Salem RA (Residential Agriculture) zone, and withdrawing from the Salem Suburban Rural Fire Protection District, for a 3.57-acre property located at 5500 Block of Skyline Road S.

SUMMARY AND BACKGROUND:

This is a petitioner-initiated annexation of a 3.57-acre territory located at the 5500 Block of Skyline Road S. A vicinity map is included as Attachment 1.

Council held a public hearing on the petition on February 12, 2018, and no testimony in opposition to the annexation was received. Council closed the public hearing, conducted deliberations, and adopted Order No. 2018-01-ANX. Staff mailed notice of the adoption of the order on February 13, 2018. No appeal has been filed.

FACTS AND FINDINGS:

On May 24, 2017, Gerald Horner submitted an application for annexation on behalf of the applicant,

Pacific National Development, Inc., and the petitioner and property owner, Robert M. Earle; Pacific National Development, Inc., paid the filing fee; and Robert M. Earle submitted a valid triple majority annexation petition.

The facts and findings supporting the annexation, zoning designation, and withdrawal from the district can be found in Ordinance No. 2-18 (Attachment 2).

Pamela Cole
Planner II

Attachments:

1. Vicinity Map
2. Ordinance No. 2-18
3. Exhibit A - Territory Legal Description and Map