

# NOTICE OF DECISION

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



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

## DECISION OF THE PLANNING ADMINISTRATOR

**SUBDIVISION TENTATIVE PLAN CASE NO.: SUB22-07**

**APPLICATION NO.: 22-114284-PLN**

**NOTICE OF DECISION DATE:** November 18, 2022

**SUMMARY:** A six-lot subdivision of approximately 1.52 acres, with associated site improvements.

**REQUEST** An application for a subdivision tentative plan to divide 1.52 acres into six lots ranging in size from approximately 6,966 square feet to 11,036 square feet. The subject property is zoned RS (Single Family Residential) and located at 4120 Kurth Street S (Marion County Assessor Map and Tax Lot Numbers: 083W09BB01600 and 00300).

**APPLICANT:** MMH, LLC (Charles Weathers, John Wulf)

**LOCATION:** 4120 Kurth St S, Salem OR 97302

**CRITERIA:** Salem Revised Code (SRC) Chapters 205.010(d) – Tentative Subdivision

**FINDINGS:** The findings are in the attached Decision dated November 18, 2022.

**DECISION:** The **Planning Administrator APPROVED** Subdivision Tentative Plan Case No. SUB22-07 subject to the following conditions of approval:

Conditions 2, 3, 8, 10, 11, 13, 15, and 17 shall be completed prior to final plat approval or may be delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B).

- Condition 1:** Provide an engineered stormwater design pursuant to SRC 71 and the PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 2:** Construct stormwater facilities pursuant to SRC 71 and the PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 3:** Upgrade the existing 4-inch main in Mesa Street S to a minimum 8-inch main from Camellia Drive S to the Mesa Street cul-de-sac.
- Condition 4:** Dedicate a 10-foot public utility easement along the street frontage of Kurth Street S, Browning Avenue S, and the Mesa Street S cul-de-sac.

- Condition 5:** All necessary (existing and proposed) access and utility easements shall be shown and recorded on the final plat.
- Condition 6:** Convey land for dedication of right-of-way along the entire frontage of Browning Avenue S to equal 30 feet from centerline.
- Condition 7:** Convey land for dedication of right-of-way along the entire frontage Kurth Street S to equal 30 feet from centerline.
- Condition 8:** Construct a half-street improvement along the frontage of Browning Avenue S to collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 9:** Prior to public construction plan approval or final plat approval, whichever comes first, the applicant shall identify the total number of dwelling units to be constructed within the subdivision.
- Condition 10:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to condition 9 will result in 20 or more new daily trips, with credits for prior use, if applicable, construct a half-street improvement along the frontage of Kurth Street S to collector street standards, including a property line sidewalk, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 11:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to condition 9 will result in less than 20 new daily trips, with credits for prior use, if applicable, Kurth Street S shall be widened to a minimum width of 20 feet along the frontage of the property in order to provide unobstructed emergency vehicle access and a 5-foot-wide property line sidewalk shall be provided.
- Condition 12:** Convey a minimum of 15 feet of land for dedication of right-of-way for a mid-block bike/pedestrian connection from the Mesa Street S cul-de-sac terminus to Kurth Street S.
- Condition 13:** Construct a mid-block bike/pedestrian connection from the Mesa Street S cul-de-sac terminus to Kurth Street S as shown on the applicant's tentative plan and in accordance with Public Works Design Standards.
- Condition 14:** Convey land for dedication of right-of-way for the extension of Mesa Street S within the subject property as shown on the applicant's tentative plan.
- Condition 15:** Construct the extension of the Mesa Street S cul-de-sac to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.
- Condition 16:** Obtain street tree removal permits, as necessary, pursuant to SRC Chapter 86.

**Condition 17:** Install street trees to the maximum extent feasible along the Kurth Street S, Browning Avenue S, and Mesa Street S frontages.

The rights granted by the attached decision must be exercised, or an extension granted, by December 6, 2024, or this approval shall be null and void.

Application Deemed Complete:	<u>September 22, 2022</u>
Notice of Decision Mailing Date:	<u>November 18, 2022</u>
Decision Effective Date:	<u>December 6, 2022</u>
State Mandate Date:	<u>January 20, 2023</u>

Case Manager: Bryce Bishop, [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net), 503-540-2399

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Monday, December 5, 2022. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 205. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

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

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

# BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

## DECISION

IN THE MATTER OF THE )  
TENTATIVE APPROVAL OF SUBDIVISION )  
NO. SUB22-07; 4120 KURTH STREET S )

FINDINGS AND ORDER

NOVEMBER 18, 2022

## REQUEST

An application for a subdivision tentative plan to divide 1.52 acres into six lots ranging in size from approximately 6,966 square feet to 11,036 square feet. The subject property is zoned RS (Single Family Residential) and located at 4120 Kurth Street S (Marion County Assessor Map and Tax Lot Numbers: 083W09BB01600 and 00300).

## PROCEDURAL FINDINGS

1. On July 11, 2022, an application for tentative subdivision plan was filed by Britany Randall, of BRAND Land Use, on behalf of the applicant and property owner, MMH LLC, proposing to divide property located at 4120 Kurth Street S into a 6-lot subdivision.
2. After additional requested information was provided by the applicant, the application was deemed complete for processing, and public notice sent pursuant to SRC requirements, on September 22, 2022. Notice of the proposed development was also subsequently posted on the property by the applicant pursuant to SRC requirements on September 23, 2022.

The state-mandated local decision deadline for the application is January 20, 2023.

## SUBSTANTIVE FINDINGS

### 1. Proposal

The proposal submitted by the applicant requests tentative subdivision plan approval to divide property totaling approximately 1.52-acres in size and located at 4120 Kurth Street S (**Attachment A**) into six lots ranging in size from approximately 6,966 square feet to 11,036 square feet.

The subject property abuts Browning Avenue S to the north, Kurth Street S to the west, and the dead-end terminus of Mesa Street S to the east. Vehicular access to the subdivision will be provided by Browning Avenue, Kurth Street, and an extension of Mesa Street, which is proposed to be completed with a cul-de-sac turnaround.

In order to provide required connectivity between Mesa Street and Kurth Street, a pedestrian connection is proposed to extend through the subdivision between Kurth Street and the terminus of Mesa Street. The pedestrian connection is proposed to meet connectivity requirements in-lieu of a full street extension of Mesa Street to Kurth Street.

### 2. Applicant's Plans and Statement.

Land use applications must include a statement addressing the applicable approval criteria and be supported by proof they conform to all applicable standards and criteria of the Salem

Revised Code. The plans submitted by the applicant depicting the proposed development, and in support of the proposal, are attached to this report as follows:

- Tentative Subdivision Plan: **Attachment B**
- Utility Plan: **Attachment C**

The written statement provided by the applicant addressing the applicable approval criteria associated with the proposal is included as **Attachment D**.

### 3. Summary of Record.

The following items are submitted to the record and are available upon request: 1) All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; 2) any materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public; and 3) all documents referenced in this report. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 22 114284.

### 4. Salem Area Comprehensive Plan (SACP)

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

Comprehensive Plan Map Designations of Surrounding Properties	
<b>North</b>	Across Browning Street S, Community Service Cemetery
<b>South</b>	Single Family Residential
<b>East</b>	Single Family Residential
<b>West</b>	Across Kurth Street S, Single Family Residential

#### Relationship to Urban Service Area

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

Pursuant to the urban growth management requirements contained under SRC Chapter 200 (Urban Growth Management), properties located inside the Urban Service Area are not required to obtain an Urban Growth Preliminary Declaration prior to development.

### 5. Zoning

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

Zoning of Surrounding Properties	
North	Across Browning Avenue S, PC (Public and Private Cemeteries)
South	RS (Single Family Residential)
East	RS (Single Family Residential)
West	Across Kurth Street S, RA (Residential Agriculture) and RS (Single Family Residential)

## 6. Public and Private Agency Review

- A. The City of Salem Building and Safety Division reviewed the proposal and identified no objections.
- B. The City of Salem Fire Department reviewed the proposal and indicated no objections. The Fire Department indicates that fire hydrants will be verified during review of the civil plans for the public infrastructure required to serve the subdivision.
- C. The City of Salem Public Works Department reviewed the proposal and provided comments pertaining to required City infrastructure needed to serve the proposed development. Comments from the Public Works Department are included as **Attachment E**.

## 7. Neighborhood Association and Public Comments

The subject property is located within the Sunnyslope Neighborhood Association and is located adjacent to the Southwest Association of Neighbors (SWAN) Neighborhood Association.

Applicant Neighborhood Association Contact. SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), the tentative subdivision application included in this proposed land use application request requires neighborhood association contact. On July 11, 2022, the applicant's representative contacted the chairs and land use chairs of both the Sunnyslope and SWAN neighborhood associations to provide details about the proposal.

### Neighborhood Association Comments

Notice of the application was provided to both the Sunnyslope and SWAN neighborhood associations pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. No comments were received from the Sunnyslope Neighborhood Association or the SWAN Neighborhood Association.

## Public Comments

In addition to providing notice to the neighborhood association, notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. Prior to the comment deadline three comments were received that are included as **Attachment F**.

One of the comments received indicated support for the proposal and indicated, in summary, that the proposed development is better than the apartment complex first proposed for the property and that adding single family homes will fit the neighborhood and existing infrastructure well.

**Staff Response:** Within the RS zone, pursuant to SRC 511.005(a), single family dwellings and middle housing (*townhouses, two family uses, three family uses, four family uses, and cottage clusters*) are allowed uses. The proposed subdivision has been reviewed for conformance with the applicable lot size and dimension requirements of the RS zone. Lots within the proposed subdivision may be developed for any use allowed within the zone so long as the minimum lot size and dimension requirements, and all other development standards (*e.g. setbacks, lot coverage, building height, etc.*), applicable to the specific use in the zone are met. Within the RS zone single family and two family uses are allowed on lots that are a minimum of 4,000 square feet in size, three family uses are allowed on lots that are a minimum of 5,000 square feet in size, and four family and cottage clusters are allowed on lots that are a minimum of 7,000 square feet in size.

One of the comments received indicated that they have no objections to the proposal as long as they do not lose a portion of their driveway, yard, or parking on the street.

**Staff Response:** The subdivision involves only the land included with the proposed development and associated improvements within the public right-of-way of the street frontages abutting the perimeter of the subject property.

The remaining comment received raised the following issues:

- A. Pedestrian safety. A comment received indicated, in summary, that for pedestrian safety sidewalks need to be installed because there are currently no sidewalks on Browning Avenue or Kurth Street.

**Staff Response:** As indicated in this decision, a half-street boundary street improvement is required along the property's Browning Avenue S frontage. Along Kurth Street S, the required street improvement will be dependent upon the number of dwelling units proposed to be developed in the subdivision and will require either a half-street boundary street improvement or a widening of Kurth Street, together with a sidewalk. The required street improvements will include the construction of sidewalks along Browning Avenue and Kurth Street for pedestrian safety in conformance to the applicable requirements of SRC Chapter 803.035(l) and the City's Transportation System Plan.

- B. Traffic safety. A comment received indicated that for traffic safety both Browning Avenue and Kurth Street need to be widened or on-street parking prevented due to the current narrow width of these streets.

**Staff Response:** Both Browning Avenue S and Kurth Street S are underimproved streets. The street improvements established in connection with the proposed subdivision are required to be commensurate with the transportation impacts of the development. As identified in this decision, a half-street boundary street improvement is required along the property's Browning Avenue frontage. Along Kurth Street, the required street improvement will be dependent upon the number of dwelling units proposed to be developed in the subdivision and will require either a full half-street boundary street improvement if the development will result in 20 or more new vehicle trips or a widening of Kurth street to a minimum width of 20 feet in order to provide unobstructed emergency vehicle access if the development will result in less than 20 new vehicle trips.

- C. Transit service. A comment received indicated, in summary, that Cherriots bus service needs to be brought back to the area so public transportation services are closer.

**Staff Response:** Decisions about the location of transit routes and the frequency of transit service are not governed by the City of Salem. Instead, transit service throughout the community is governed by a separate agency, the Salem Area Mass Transit District. The nearest transit service available to the area is provided by Cherriots Route 18, with the nearest transit stop located approximately 0.63 miles away on Liberty Road S. Additional information about transit service in Salem can be found on the Cherriots website at <https://www.cherriots.org/>

#### Homeowners Association

The subject property is not located within a Homeowners Association.

### **8. TENTATIVE SUBDIVISION PLAN APPROVAL CRITERIA**

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

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

- (A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage and designation of front and rear lot lines.***
- (B) City infrastructure standards.***
- (C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.***

**Finding:** The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The subject property is zoned RS (Single Family Residential). The proposed tentative subdivision plan, as conditioned, complies with the



applicable standards of the RS zone and all other applicable provisions of the UDC, as required by this approval criterion, as follows:

**SRC Chapter 205 (Land Division and Reconfiguration)**

The intent of SRC Chapter 205 is to provide for orderly land development through the application of appropriate standards and regulations. The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. The applicant has met all application submittal requirements necessary for adequate review of the proposed subdivision.

**SRC Chapter 511 (RS Zone)**

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

▪ ***Lot Standards:***

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

<b>RS Zone Single Family &amp; Middle Housing Lot Standards</b>		
<b>Lot Area</b>	Min. 4,000 sq. ft.	Applicable to single family and two family uses.
	Min. 5,000 sq. ft.	Applicable to three family uses.
	Min. 7,000 sq. ft.	Applicable to four family uses and cottage clusters.
<b>Lot Width</b>	Min. 40 ft.	
<b>Lot Depth</b>	Min. 70 ft.	Applicable to single family and two family
	Min. 80 ft.	Applicable to three family uses, four family uses, and cottage clusters.
	Min. 120 ft.	Applicable to double frontage lots ( <i>lots with front and rear lots lines abutting a street</i> ).
	Max. 300% of average lot width	
<b>Street Frontage</b>	Min. 40 ft.	
	Min. 30 ft.	Applicable to lots fronting on the turnaround of a cul-de-sac street or the outside curve of a curved street having a radius of 200 feet or less and a direction change of 60 degrees or more. In no case shall the lot width be less than 40

RS Zone Single Family & Middle Housing Lot Standards		
		ft. at the front building setback line.

As shown on the tentative subdivision plan (**Attachment B**), the lot sizes of the proposed six lots within the subdivision range from approximately 6,966 square feet to 11,036 square feet; therefore, exceeding the minimum lot area standards of the RS zone. All of the proposed lots within the subdivision also similarly exceed the lot dimension and street frontage standards of the RS zone. The lots within the subdivision therefore conform to the applicable lot standards of the RS zone and are of sufficient size and dimension to permit future development of uses allowed within the zone.

▪ **Setbacks:**

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

RS Zone Setbacks		
<b>Abutting Street</b>	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial <sup>(1)</sup> streets.
<b>Interior Side</b>	Min. 5 ft.	
<b>Interior Rear</b>	Min. 14 ft.	Applicable to any portion of a building not more than one-story in height.
	Min. 20 ft.	Applicable to any portion of a building greater than one-story in height.
<b>Notes</b>		
(1) Both Browning Avenue S and Kurth Street S are designated as collector streets under the City's TSP. As such a minimum 20-foot setback is required along this street.		

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

The setback requirements of the RS zone apply to future development on each of the individual proposed lots. Because the proposal includes only the subdivision of the land to create lots, and no buildings or specific development is proposed for any of the lots at this time, the setback requirements are generally not applicable. Future development of the proposed lots will be reviewed for conformance with setback requirements at the time of building permit.

**City Infrastructure Standards (SRC Chapters 71, 802, and 803)**

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

A summary of the existing and required City infrastructure improvements are as follows:

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

The Public Works Department indicates that existing stormwater facilities in the area include a 12-inch main located in Kurth Street S, a 24-inch main located in Browning Street S, a 10-inch main located in Mesa Street S, and an 18-inch main located along the eastern property line which travels from Browning Avenue S to the southern property line of the subject property in an easement.

To demonstrate the proposed lots can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities.

In order to ensure the proposed development can be served by storm water facilities in compliance with SRC Chapter 71 and the PWDS, the following conditions of approval shall apply:

- Condition 1:** Provide an engineered stormwater design pursuant to SRC 71 and the PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 2:** Construct stormwater facilities pursuant to SRC 71 and the PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

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

SRC Chapter 802 (Public Improvements): SRC 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS). Specifications for required public

improvements are summarized in the comments provided by the Public Works Department **(Attachment E)**.

In summary, the Public Works Department indicates that water, sewer, and stormwater infrastructure is available within surrounding streets/areas and is available to serve the proposed development.

The Public Works Department indicates that the subject property is currently served by the following existing water and sewer facilities:

- Water:* The subject property is located within the S-3 water service level. A 6-inch and 12-inch water main is located in Kurth Street S; a 12-inch water main is located in Browning Avenue S; and a 4-inch water main is located in Mesa Street S.
- Sewer:* An 8-inch sewer main is located in Kurth Street S; an 8-inch sewer main is located in Browning Avenue S; an 8-inch sewer main is located in Mesa Street S; and an 8-inch sewer main is located along the eastern property line which travels from Browning Avenue S to the southern property line of the subject property in an easement.

In order to ensure that required City infrastructure is provided to serve the proposed subdivision in conformance with the requirements of SRC Chapter 802, the following conditions of approval shall apply:

- Condition 3:** Upgrade the existing 4-inch main in Mesa Street S to a minimum 8-inch main from Camellia Drive S to the Mesa Street cul-de-sac.
- Condition 4:** Dedicate a 10-foot public utility easement along the street frontage of Kurth Street S, Browning Avenue S, and the Mesa Street S cul-de-sac.
- Condition 5:** All necessary (existing and proposed) access and utility easements shall be shown and recorded on the final plat.

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

**SRC Chapter 803 (Street and Right-of-Way Improvements):** The subject property has frontage on Browning Street S and Kurth Street S; Mesa Street S, an existing dead-end street, extends to the eastern boundary of the subject property.

Both Browning Avenue and Kurth Street are designed as collector streets under the City's Transportation System Plan (TSP). The standard for this classification of street is a 34-foot-wide improvement within a 60-foot-wide right-of-way. The Public Works Department indicates that Browning Avenue currently has an approximate 20-foot-wide improvement within a 40-foot-wide right-of-way abutting the subject property and that Kurth Street has an approximate 17-foot-wide improvement within a 50-foot-wide right-of-way abutting the subject property.

Mesa Street is designated as a local street under the City's TSP. The standard for this classification of street is a 30-foot-wide improvement within a 60-foot-wide right-of-way. The

Public Works Department indicates that Mesa Street currently has an approximate 20-foot-wide improvement within a 60-foot-wide right-of-way abutting the subject property.

SRC 803.040 establishes requirements for the improvement of boundary streets on the perimeter of development proposals. Pursuant to SRC 804.040(a)(1), dedication of right-of-way for, and construction or improvement of, boundary streets of up to one-half of the right-of-way and improvement width specified in SRC 803.025 shall be required as a condition of approval for subdivisions. In addition, SRC 803.040(d)(6) provides that boundary street improvements are not required for the construction or enlargement of any building or structure that will generate less than 20 new vehicle trips per day according to the Institute of Transportation Engineers' Trip Generation Manual.

As indicated in the comments from the Works Department, the existing right-of-way and improvements widths of both Browning Avenue and Kurth Street do not currently conform to the minimum required right-of-way and improvement widths established under the City's TSP and SRC 803.025 for collector streets.

As identified on the tentative subdivision plan submitted by the applicant, additional required public street right-of-way is proposed to be dedicated along Browning Avenue and the street is proposed to be widened with a half-street improvement together with landscape strip and sidewalk.

Along Kurth Street, the applicant is proposing required right-of-way dedication, street widening, and an access path along the Kurth Street property frontage. However, because the proposed improvement of Kurth Street does not meet the requirements of SRC Chapter 803 and the City's Street Design standards for a collector street, the applicant has requested approval of an alternative street standard, pursuant to SRC 803.065. The applicant indicates that the alternative street standard is being requested because of the existing topography and placement of utilities within the existing right-of-way.

In order to ensure that Browning Avenue and Kurth Street are improved in conformance with the boundary street requirements of SRC 803.040, the following conditions of approval shall apply:

- Condition 6:** Convey land for dedication of right-of-way along the entire frontage of Browning Avenue S to equal 30 feet from centerline.
- Condition 7:** Convey land for dedication of right-of-way along the entire frontage Kurth Street S to equal 30 feet from centerline.
- Condition 8:** Construct a half-street improvement along the frontage of Browning Avenue S to collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 9:** Prior to public construction plan approval or final plat approval, whichever comes first, the applicant shall identify the total number of dwelling units to be constructed within the subdivision.

**Condition 10:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to condition 9 will result in 20 or more new daily trips, with credits for prior use, if applicable, construct a half-street improvement along the frontage of Kurth Street S to collector street standards, including a property line sidewalk, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

**Condition 11:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to condition 9 will result in less than 20 new daily trips, with credits for prior use, if applicable, Kurth Street S shall be widened to a minimum width of 20 feet along the frontage of the property in order to provide unobstructed emergency vehicle access and a 5-foot-wide property line sidewalk shall be provided.

The above required right-of-way dedications and boundary street improvements are proportional to the potential traffic impact associated with the development and necessary to ensure safe and convenient vehicular, pedestrian, and bicycle traffic as required under SRC Chapter 803 and the applicable subdivision approval criteria under 205.010(d)(5) & (6).

The number of average daily vehicle trips that can be anticipated to be generated by the proposed subdivision have the potential to exceed the number of average daily vehicle trips generated by the previous use of the property. Specifically, the previous use of the property was an approximate 17,937 square-foot nursing care facility. Based on the Institute of Transportation Engineers' (ITE) Trip Generation Manual, a nursing care facility can be expected to generate 6.75 average daily trips per 1,000 square feet of building area. The prior 17,937 square-foot nursing care facility therefore had an average daily trip generation of 121.1 or 121 trips.

Within the RS (Single Family Residential) zone, both single family dwellings and middle housing are allowed uses. Per SRC Chapter 111 (Definitions), middle housing includes townhouses, two family uses, three family uses, four family uses, and cottage clusters. Within the RS zone the minimum lot size for detached single family dwellings and two family uses is 4,000 square feet; the minimum lots size for three family uses is 5,000 square feet; and the minimum lot size for four family uses is 7,000 square feet. The lots included within the proposed subdivision range in size from approximately 6,966 square feet to 11,036 square feet. Based on the number and size of the lots proposed, up to 23 dwellings units (*in the form of four units per lot on five of the proposed lots and 3 units on one of the proposed lots*) would be allowed in the subdivision. According to the ITE Trip Generation Manual, a fourplex can be expected to generate 6.74 average daily vehicle trips per dwelling unit. The 23 dwelling units that could be allowed in the subdivision would therefore result in an average daily trip generation of 155.02 or 155 trips, which is 34 more average daily trips than the previous use of the property. Because SRC 803.040(a)(1) requires boundary street improvements for subdivisions and because the number of new average daily vehicle trips generated by the proposed subdivision could exceed the number of new trips that would otherwise be exempt from triggering boundary street improvements under SRC 803.040(d)(6), the conditions of approval requiring identification of the total number of dwelling units proposed within the subdivision prior public construction plan approval and construction of an improvement along Kurth Street commensurate to the corresponding number of vehicle trips generated by the

development and its associated traffic impact are warranted and necessary to ensure that the subdivision conforms to the requirements of SRC Chapter 803 and the City's Transportation System Plan.

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

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

In this case, because the subject property is located at the corner of two underimproved collector streets and there are no unusual topographic or physical conditions associated with the site, proportional boundary street improvements as identified in this decision for both Browning Avenue and Kurth Street are necessary to provide for safe and convenient vehicular, pedestrian, and bicycle access. The alternative street standard proposed by the applicant along Kurth Street would result in a widening of the street by approximately 9 feet. The widening would result in an overall paved width of approximately 25 feet which would accommodate 20 feet for vehicle access together with a 5-foot-wide paved pedestrian access path. The 5-foot-wide paved pedestrian access path would abut and be located parallel to Kurth Street with no vertical or horizontal separation from the vehicle travel lanes of the street for pedestrian safety. Because Kurth is designated as a collector street under the City's TSP that is intended to convey a greater volume of vehicle traffic than a local street, increased consideration for pedestrian safety must be provided for this street. As such, Conditions 10 and 11 of this decision require property a line sidewalk to be constructed along Kurth Street in order to provide a horizontal separation for safety between the auto travel lanes of the street and the pedestrians on the sidewalk. The proposed paved pedestrian path abutting and parallel to Kurth Street does not provide such safety measures and an alternative street standard in this case is therefore not warranted.

As indicated in the comments from the Works Department, Mesa Street is currently an underimproved dead-end street within a 60-foot-wide right-of-way that extends to the eastern boundary of the subject property. A turnaround was originally not provided at the end of Mesa Street because the street was intended for future extension to Kurth Street. As shown the tentative subdivision plan submitted by the applicant, Mesa Street is not proposed to be extended to Kurth Street. Instead, a public pedestrian connection is proposed to be provided through the subdivision in-lieu of a street connection in order to provide for pedestrian access and connectivity between Mesa Street and Kurth Street.

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

result in a street network that is no more beneficial to vehicular, pedestrian, or bicycle traffic than the proposed street network.

In this case, as indicated in the written statement provided by the applicant, the block length along Kurth Street between Browning Avenue to the north of the proposed development and Warren Street to the south of the development is approximately 785 feet, which exceeds the maximum 600-foot street spacing interval. If Mesa Street were to be extended through the subject property to connect to Kurth Street, the street spacing and connectivity requirements of SRC Chapter 803 could be met but because of the irregular shape of the property and its location in an area surrounded by existing developed lots, any extension of Mesa Street through the site would result in a proposed lot on the south side of the extended Mesa Street that would likely not be able to meet minimum required lot dimension standards and the street connection would not provide any greater benefit for vehicular traffic than that already provided by the existing street network.

In order to meet connectivity requirements and complete the construction of Mesa Street as required under SRC Chapter 803, the proposed subdivision provides a cul-de-sac turnaround at the terminus of Mesa Street in conformance with SRC 803.035(f) and extends a public pedestrian/bicycle connection from Mesa Street to Kurth Street. The proposed cul-de-sac turnaround at the end of Mesa Street and the pedestrian/bicycle connection through the property to Kurth Street, in-lieu of the provision of a full street extension, conform to the street spacing and connectivity requirements of SRC 803.030 and SRC 803.035(a) due to the limitations imposed by the existing physical configuration of the property in relation to surrounding development and because the proposed street improvement and corresponding pedestrian/bicycle connection to Kurth Street will result in a street network that is equally beneficial to vehicular, pedestrian, and bicycle traffic than had a full extension of Mesa Street been provided. In order to ensure the proposed subdivision meets the street spacing and connectivity requirements of SRC Chapter 803, the following condition of approval shall apply:

- Condition 12:** Convey a minimum of 15 feet of land for dedication of right-of-way for a mid-block bike/pedestrian connection from the Mesa Street S cul-de-sac terminus to Kurth Street S.
- Condition 13:** Construct a mid-block bike/pedestrian connection from the Mesa Street S cul-de-sac terminus to Kurth Street S as shown on the applicant's tentative plan and in accordance with Public Works Design Standards.

Because Mesa Street is not proposed to be extended to Kurth Street, the street must be developed as a cul-de-sac street with a turnaround at its terminus rather than a dead-end street. As shown on the tentative subdivision plan, the proposed subdivision includes a new cul-de-sac turnaround at the terminus of Mesa Street. The proposed cul-de-sac turnaround conforms to the minimum required right-of-way and improvement widths established under SRC 803.025 and the overall length of the cul-de-sac street does not exceed the maximum allowed lengths prescribed under SRC 803.035(f)(1) & (2).

In order to ensure that Mesa Street is improved in conformance with the requirements of SRC 803.035(f), the following conditions of approval shall apply:



- Condition 14:** Convey land for dedication of right-of-way for the extension of Mesa Street S within the subject property as shown on the applicant's tentative plan.
- Condition 15:** Construct the extension of the Mesa Street S cul-de-sac to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.

As conditioned, the proposed subdivision meets the requirements of SRC Chapter 803.

**SRC Chapter 808 (Preservation of Trees and Vegetation)**

SRC Chapter 808 (Preservation of Trees and Vegetation) requires tree conservation plans in conjunction with development proposals involving the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters. The tree preservation ordinance defines "tree" as, "any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves."

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

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

The applicant submitted a tree conservation plan in conjunction with the proposed subdivision identifying a total of 11 trees on the property, one of which is a significant Douglas fir. There are no heritage trees or riparian corridor trees and vegetation on the property.

Of the 11 total trees existing on the property, the proposed tree conservation plan identifies 4 trees (*36.4 percent*) for preservation and 7 trees (*63.6 percent*) for removal. The significant Douglas fir located on proposed Lot 1 is identified for removal due to its location in the right-of-way of Browning Avenue after required right-of-way is dedicated and the street is widened in order to accommodate the proposed subdivision. The required widening of Browning Avenue will result in approximately 46 percent of the critical root zone of the tree being impacted by grading and paving, and the critical root zone of the tree will be further additionally impacted with the construction of the sidewalk along the street and subsequent construction on the adjacent lot.

The proposed tree conservation plan exceeds the minimum preservation requirements of SRC Chapter 808 and the one significant tree on the property proposed for removal is necessary due to its location in the alignment of the street and sidewalk improvements associated with Browning Avenue. The tree conservation plan is being reviewed by staff and, if approved, will

be binding on the lots until final occupancy. Any proposed future changes to the approved tree conservation plan will require approval of a separate tree conservation plan adjustment.

**SRC Chapter 86 (Trees on City Owned Property)**

In addition to the trees located on the subject property, there are also trees located within the existing right-of-way of Mesa Street on the east side of the property. Because these trees are located in the existing public street right-of-way they are not subject to the requirements of SRC Chapter 808 but are instead subject to the requirements of SRC Chapter 86 (Trees on City Owned Property).

Because the proposed subdivision includes an extension of Mesa Street into the subject property with a cul-de-sac turnaround, the trees within the existing street right-of-way at the end of the street will need to be removed to accommodate the proposed extension. Removal of trees from within the existing right-of-way requires a separate removal permit under SRC Chapter 86.

In addition to establishing the permit review process for removal of trees within the public street right-of-way, SRC Chapter 86 also establishes requirements for the planting to street trees. Pursuant to SRC 803.035(k), development adjacent to public streets shall provide street trees that meet the standards and specifications set forth in SRC Chapter 86.

In order to ensure that any tree required to be removed from the existing public street right-of-way is removed in accordance with the requirements of SRC Chapter 86 and that Browning Avenue, Kurth Street, and Mesa Street include street trees as required under SRC 803.035(k) and SRC Chapter 86, the following conditions of approval shall apply:

**Condition 16:** Obtain street tree removal permits, as necessary, pursuant to SRC Chapter 86.

**Condition 17:** Install street trees to the maximum extent feasible along the Kurth Street S, Browning Avenue S, and Mesa Street S frontages.

**SRC Chapter 809 (Wetlands)**

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

The Salem-Keizer Local Wetland Inventory (LWI) does not identify any mapped wetlands or waterways on the subject property. As proposed, the tentative subdivision plan conforms to the applicable requirements of SRC Chapter 809.

**SRC Chapter 810 (Landslide Hazards)**

The City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, the subject property does not include any areas of mapped landslide hazard susceptibility. Pursuant to SRC Chapter 810, a geologic assessment is therefore not required for development of the subject property.

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

**Finding:** The proposed subdivision divides the entire 1.52-acre property into six lots with no remainder and the proposed lots within the subdivision are of sufficient size and dimension to permit development of uses allowed within the zone without impeding the future use or development of the property.

The proposed subdivision similarly does not impede the use or development of adjacent land. As shown on the tentative subdivision plan, the proposed subdivision includes an extension of Mesa Street S into the subject property with a cul-de-sac turnaround. The cul-de-sac not only provides a turnaround for Mesa Street in conformance with the requirements of SRC Chapter 803 but also provides vehicular access to proposed Lots 5 and 6, and a second point of vehicular access to the abutting property to the northeast should that property be divided at some point in the future. This approval criterion is met.

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

**Finding:** The Public Works Department reviewed the proposal and determined that water, sewer, and storm infrastructure are available and appear to be adequate to serve the lots within the proposed subdivision subject to the conditions of approval established in this decision. This approval criterion is met.

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

**Finding:** The subject property is located adjacent to Browning Avenue S and Kurth Street S; Mesa Street S, a dead-end street, extends to the eastern boundary of the subject property. Both Browning Avenue and Kurth Street are designated as collector streets under the City's Transportation System Plan (TSP) and Mesa Street is designated as a local street.

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

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

**Finding:** Access to the proposed subdivision will be provided by the network of existing public streets that surround the property. Due to size of the property and its location in a developed area surrounded by existing streets, the ability to extend new streets through the property is limited and instead the lots within the subdivision will be served by existing streets on the perimeter of the site. As identified in the conditions of approval, boundary street improvements will be required along the property's Browning Avenue and Kurth Street frontages, and Mesa Street will be required to be improved with a cul-de-sac turnaround per SRC 803.035(f). These required improvements will ensure that the street system adjacent to the subdivision will provide for the safe, orderly, and efficient circulation of traffic to and from the subdivision. This approval criterion is met.

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

**Finding:** The subject property is located within one-half of Sunnyslope Park, Fircrest Park, and shopping areas on Liberty Road S. The nearest transit service available to the site is provided by Cherrits Route 18, with the nearest transit stop located approximately 0.63 miles away on Liberty Road S.

The proposed subdivision is accessed by two existing collector streets (Browning Avenue and Kurth Street) and a local street (Mesa Street). These streets, and other existing streets in the area, are currently underimproved and in most cases do not have sidewalks. As identified by the conditions of approval, boundary street improvements will be required along the property's street frontages that will include sidewalk and bike lane improvements. In addition, a mid-block pedestrian/bicycle connection between the proposed cul-de-sac on Mesa Street and Kurth Street will also be provided. These street improvements will ensure compliance with SRC Chapter 803 and the City's Transportation System Plan (TSP) and that the proposed subdivision will provide safe and convenient bicycle and pedestrian access for the street frontages it is required to improve. This approval criterion is met.

***SRC 205.010(d)(7): The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved traffic impact analysis, where applicable.***

**Finding:** The Public Works Department reviewed the proposal and determined the proposed six-lot subdivision will generate less than 1,000 average daily vehicle trips onto the collector street system. Because the number of trips estimated to be generated by the proposed subdivision fall below the minimum threshold to require a transportation impact analysis (TIA), a TIA is not required in conjunction with the proposed subdivision and this approval criterion is therefore not applicable.

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

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

As described in findings above, the lot and street configuration established by the proposed subdivision meet applicable development standards; and the configuration of the proposed lots makes logical use of the developable land. No existing conditions of topography or vegetation have been identified on the site which would necessitate further adjustments during future development of the property. The proposed layout allows for reasonable development of all lots within the subdivision without any anticipated variances from the UDC. This approval criterion is met.

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

**Finding:** As explained in the findings establishing conformance with SRC 205.010(d)(8) above, the tentative subdivision plan configures lots and streets to allow residential development of the site while minimizing disruptions to topography and vegetation. The proposed lots are also of sufficient size and dimension to permit future development of uses allowed within the zone. This approval criterion is met.

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

**Finding:** The subject property lies within the City's Urban Service Area. Pursuant to the urban growth management requirements contained under SRC Chapter 200 (Urban Growth Management), properties located inside the Urban Service Area are not required to obtain an Urban Growth Preliminary Declaration. This approval criterion is therefore not applicable to the proposed development.

## **9. Conclusion**

Based upon review of SRC 205.010, the findings contained under Section 8 above, and the comments described, the Tentative Subdivision Plan complies with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

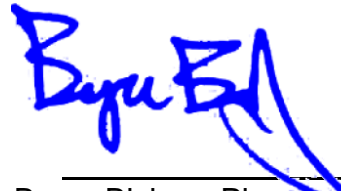
## **IT IS HEREBY ORDERED**

That Tentative Subdivision Plan Case No. SUB22-07, for property located at 4120 Kurth Street S is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

Conditions 2, 3, 8, 10, 11, 13, 15, and 17 shall be completed prior to final plat approval or may be delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B).

- Condition 1:** Provide an engineered stormwater design pursuant to SRC 71 and the PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 2:** Construct stormwater facilities pursuant to SRC 71 and the PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- Condition 3:** Upgrade the existing 4-inch main in Mesa Street S to a minimum 8-inch main from Camellia Drive S to the Mesa Street cul-de-sac.
- Condition 4:** Dedicate a 10-foot public utility easement along the street frontage of Kurth Street S, Browning Avenue S, and the Mesa Street S cul-de-sac.
- Condition 5:** All necessary (existing and proposed) access and utility easements shall be shown and recorded on the final plat.
- Condition 6:** Convey land for dedication of right-of-way along the entire frontage of Browning Avenue S to equal 30 feet from centerline.
- Condition 7:** Convey land for dedication of right-of-way along the entire frontage Kurth Street S to equal 30 feet from centerline.
- Condition 8:** Construct a half-street improvement along the frontage of Browning Avenue S to collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 9:** Prior to public construction plan approval or final plat approval, whichever comes first, the applicant shall identify the total number of dwelling units to be constructed within the subdivision.
- Condition 10:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to condition 9 will result in 20 or more new daily trips, with credits for prior use, if applicable, construct a half-street improvement along the frontage of Kurth Street S to collector street standards, including a property line sidewalk, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- Condition 11:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to condition 9 will result in less than 20 new daily trips, with credits for prior use, if applicable, Kurth Street S shall be widened to a minimum width of 20 feet along the frontage of the property in order to provide unobstructed emergency vehicle access and a 5-foot-wide property line sidewalk shall be provided.

- Condition 12:** Convey a minimum of 15 feet of land for dedication of right-of-way for a mid-block bike/pedestrian connection from the Mesa Street S cul-de-sac terminus to Kurth Street S.
- Condition 13:** Construct a mid-block bike/pedestrian connection from the Mesa Street S cul-de-sac terminus to Kurth Street S as shown on the applicant's tentative plan and in accordance with Public Works Design Standards.
- Condition 14:** Convey land for dedication of right-of-way for the extension of Mesa Street S within the subject property as shown on the applicant's tentative plan.
- Condition 15:** Construct the extension of the Mesa Street S cul-de-sac to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.
- Condition 16:** Obtain street tree removal permits, as necessary, pursuant to SRC Chapter 86.
- Condition 17:** Install street trees to the maximum extent feasible along the Kurth Street S, Browning Avenue S, and Mesa Street S frontages.

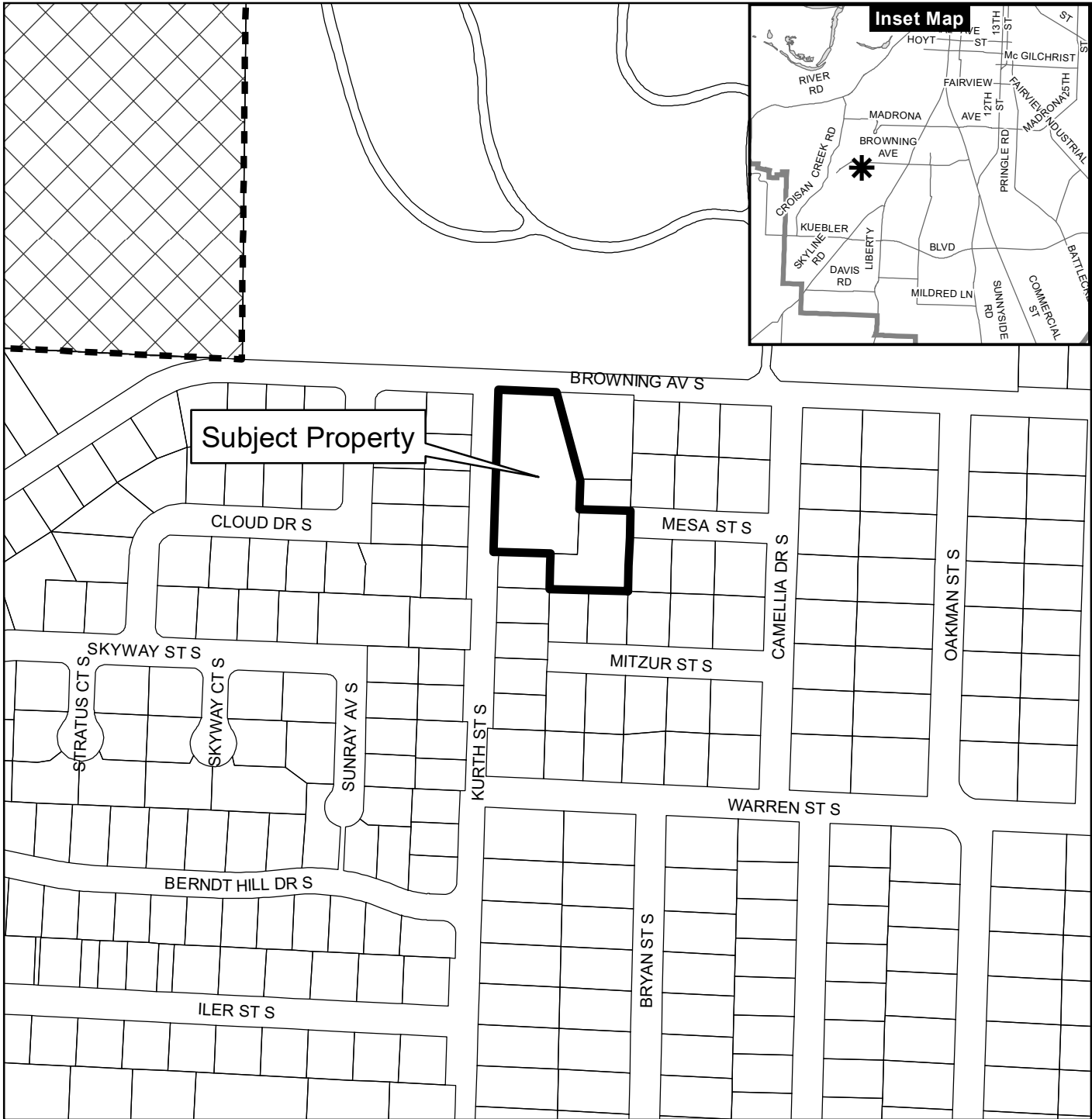


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Bryce Bishop, Planner III, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

- Attachments:
- A. Vicinity Map
  - B. Applicant's Tentative Subdivision Plan
  - C. Applicant's Utility Plan
  - D. Applicant's Written Statement
  - E. Public Works Department Comments
  - F. Public Comments

# Vicinity Map 4120 Kurth Street S



**Legend**

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

Parks

CITY OF *Salem*  
AT YOUR SERVICE  
Community Development Dept.

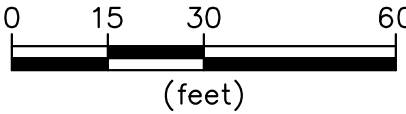
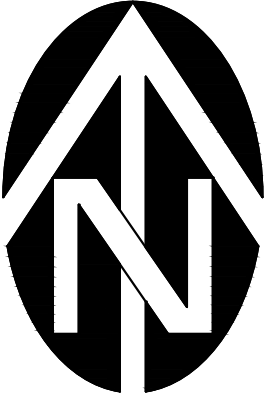
This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet





# Attachment B

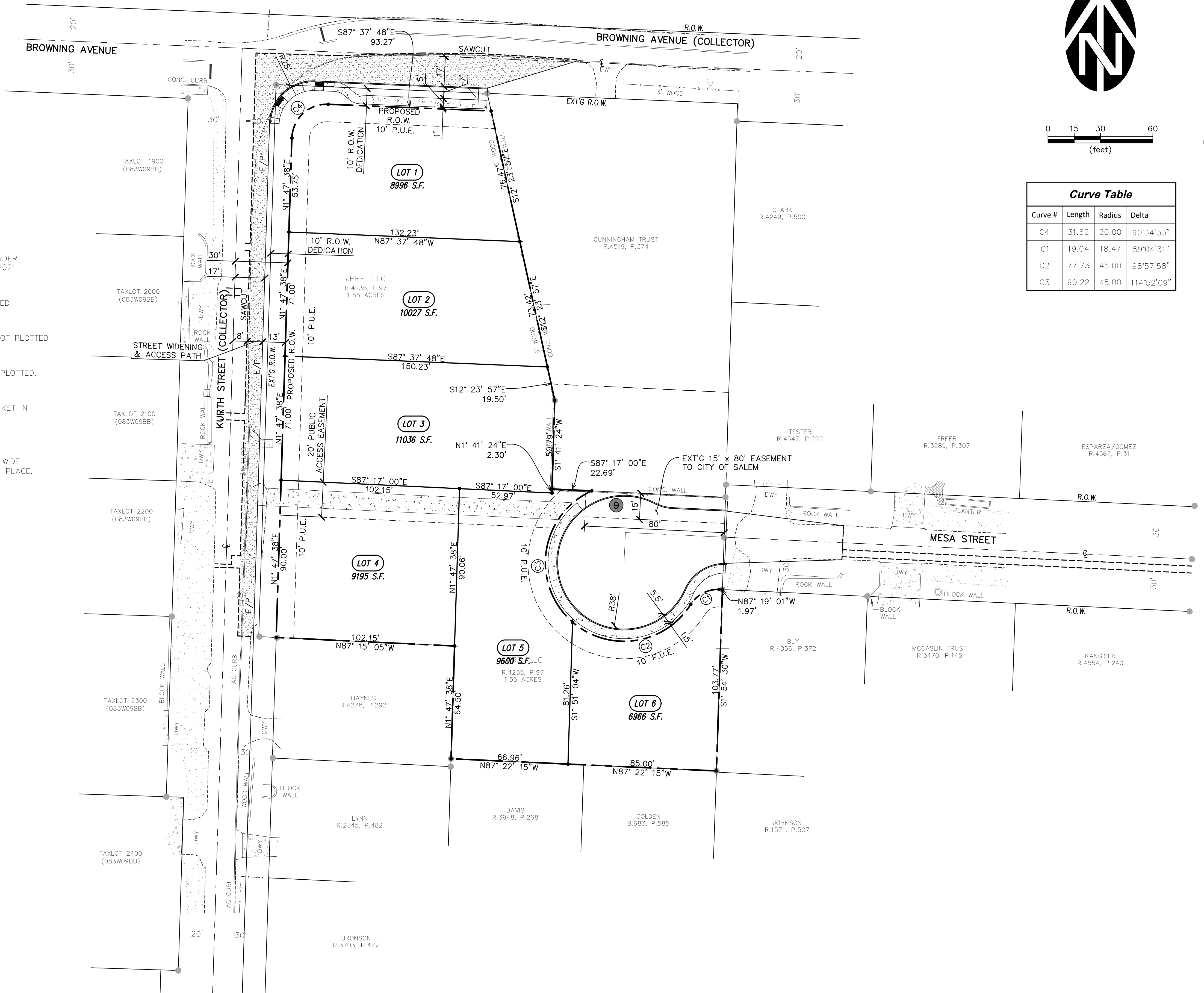


Curve #	Length	Radius	Delta
C4	31.62	20.00	90°34'33"
C1	19.04	18.47	59°04'31"
C2	77.73	45.00	98°57'58"
C3	90.22	45.00	114°52'09"

## EASEMENTS PER PRELIMINARY TITLE REPORT

ALL EASEMENTS SHOWN ARE PER PRELIMINARY TITLE REPORT ORDER NO. 60222112663 WITH AN EFFECTIVE DATE OF NOVEMBER 29, 2021.

- 9 RECORDING NO: BOOK 600, PAGE 647  
GRANTED TO: CITY OF SALEM  
NOTE: A 15x80 FOOT STRIP WEST OF MESA STREET. PLOTTED.
- 10 RECORDING NO: BOOK 600, PAGE 649  
GRANTED TO: CITY OF SALEM  
NOTE: A 10x20 FOOT STRIP ON NEIGHBORING PROPERTY. NOT PLOTTED.
- 11 RECORDING NO: BOOK 602, PAGE 216  
GRANTED TO: CITY OF SALEM  
NOTE: A 10 FOOT STRIP ON NEIGHBORING PROPERTY. NOT PLOTTED.
- 12 RECORDING NO: REEL 2978, PAGE 32  
GRANTED TO: COMCAST OF OREGON, INC.  
NOTE: FOR FACILITIES SERVING SUBJECT PROPERTY. BLANKET IN NATURE. SEE DOCUMENT FOR DETAILS. NOT PLOTTED.  
**(NOT APPLICABLE — SITE NOT SERVICED BY COMCAST)**
- 13 RECORDING NO: REEL 3470, PAGE 304  
GRANTED TO: COMCAST OF OREGON, INC.  
NOTE: FOR BROADBAND COMMUNICATION SYSTEM. 10 FOOT WIDE STRIPS CENTERED ON EACH PART OF COMCAST'S WIRING IN PLACE. SEE DOCUMENT FOR DETAILS. NOT PLOTTED.  
**(NOT APPLICABLE — SITE NOT SERVICED BY COMCAST)**



CHARLES WEATHERS  
KURTH STREET SUBDIVISION

# PRELIMINARY SUBDIVISION PLAN

DRAWING  
C-5

JOB NUMBER  
3362.0000

WESTECH ENGINEERING, INC.  
CONSULTING ENGINEERS AND PLANNERS

# LE

5841 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302  
Phone: (503) 585-2474 Fax: (503) 585-3986  
E-mail: [westech@westech-eng.com](mailto:westech@westech-eng.com)



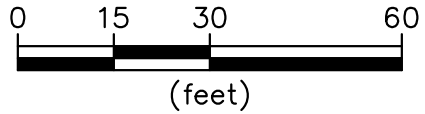
**REVIEW**

RENEWALS: 6/30/2024

VERIFY SCALE  
BAR IS ONE INCH ON  
ORIGINAL DRAWING

DSN.	JW
DRN.	RS
CKD.	JW

DATE: 08/2022	REVISIONS
---------------	-----------



VERIFY SCALE BAR IS ONE INCH ON GRAPHICAL DRAWING 0 1"									
IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY									
DSN:	JW								
DRN:	RS								
CKD:	JW								
NO.	1								
DATE									
DESCRIPTION REVISIONS									
DATE: 04/2022									



**WE**

**WESTECH ENGINEERING, INC.**  
CONSULTING ENGINEERS AND PLANNERS

3841 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302  
Phone: (503) 585-2474 Fax: (503) 585-3986  
E-mail: [westech@westech-eng.com](mailto:westech@westech-eng.com)

CHARLES WEATHERS  
KURTH STREET SUBDIVISION  
OVERALL UTILITY PLAN

DRAWING  
C-4

JOB NUMBER  
3362.0000

# Tentative Subdivision Plan and Tree Conservation Plan

Submittal Date: July 11, 2022

Submitted To: City of Salem Planning

Project Location: Lot numbers 083W09BB01600 and  
083W09BB00300  
Salem, OR

Applicant(s): MMH LLC | Charles Weathers  
orreoproperties@gmail.com

Applicant's Representative: Britany Randall of BRAND Land Use  
Britany@brandlanduse.com



# BRAND

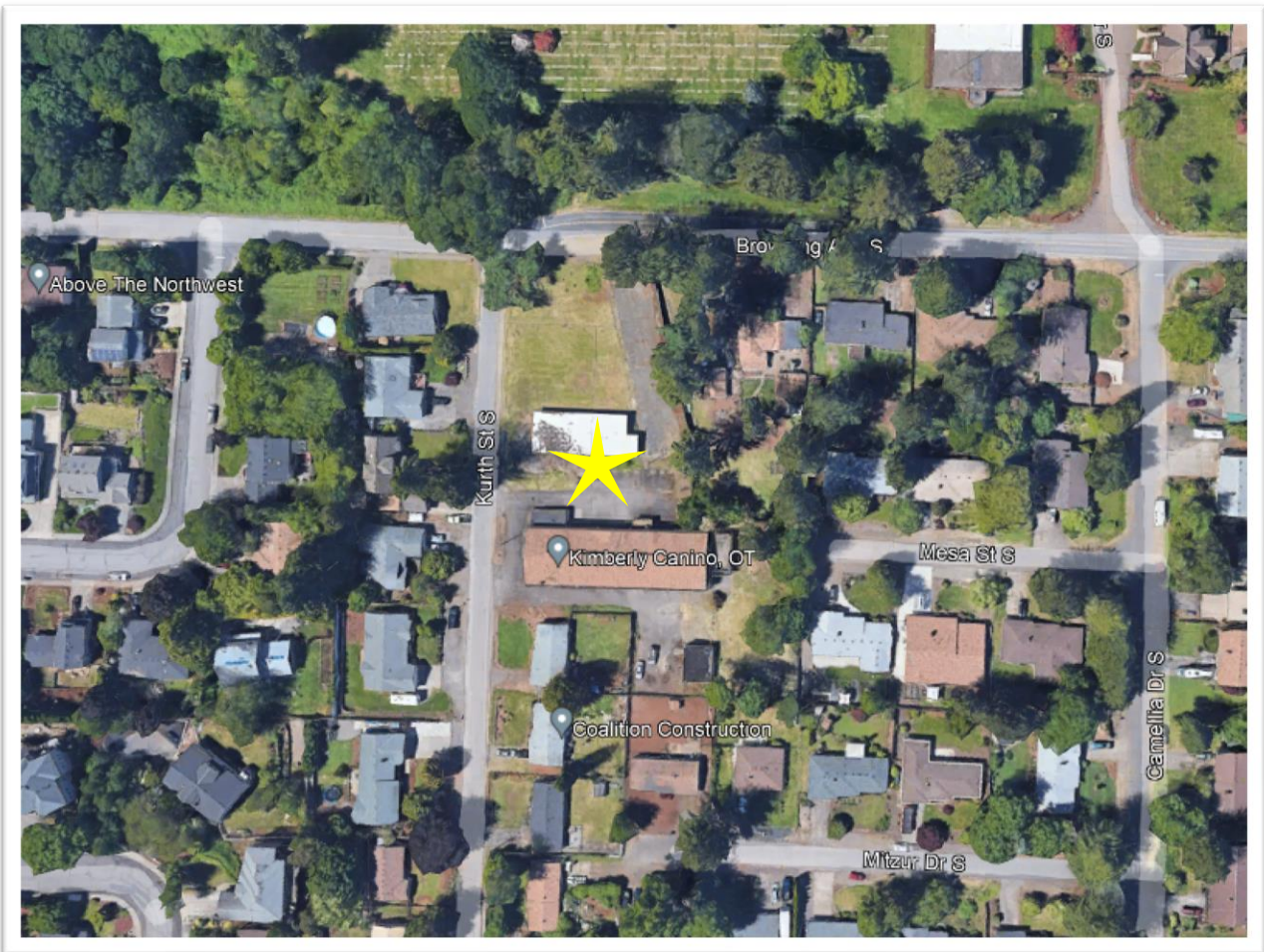
FEASABILITY | PLANNING | LAND USE  
BRANDLANDUSE.COM  
503.680.0949

## Table of Contents

Section 1: Property Background and Request .....	2
Section 2: Existing Conditions .....	3
Section 3: Applicable Zoning Codes .....	3
Section 4: Findings Applicable to Administrative Procedures .....	6
Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals .....	6
Section 5: Findings Applicable to Tentative Subdivision.....	30
Chapter 205 – Land Division and Reconfiguration.....	30
Chapter 511 – RS – Single Family Residential .....	37
Chapter 800 – General Development Standards.....	39
Chapter 802 – Public Improvements .....	42
Chapter 803 – Streets and Right-of-Way Improvements .....	43
Section 6: Findings Applicable to Tree Conservation Plan.....	59
Chapter 808 – Preservation of Trees and Vegetation .....	59
Section 7: Conclusion .....	67
Section 8: Exhibits .....	67
Exhibit A – Marion County Tax Map .....	68
Exhibit B – Deed .....	69
Exhibit C – Neighborhood Contact.....	70
Exhibit D – Proposed Plans .....	71



## Arial View of Subject Property and Existing Development



### Section 1: Property Background and Request

The applicant is presenting a consolidated application for a six-lot subdivision and tree conservation plan.

The subject property is located at the corner of Kurth Street S and Browning Avenue S, as shown on the arial image provided above. The properties can also be identified as Marion County Map and Tax Lot Numbers 083W09BB / 1600 and 083W09BB 300. As stated previously, the proposal is for a six-lot subdivision and includes some tree removal. A tree conservation plan has been provided with this submittal. A portion of the property has historically been used for a rehabilitation center. The existing structures on the site will be removed to prepare the site for the future development of single-family dwellings. The applicant has prepared this narrative to respond to each applicable criterion and has satisfied the burden of proof that the request is approvable.

## Section 2: Existing Conditions

The development site is approximately 1.52 acres in size total and is described as Marion County Map and Tax Lot Numbers 083W09BB / 1600 and 083W09BB 300, a Marion County Tax Map is included as Exhibit A.

The site is located within corporate city limits of the City of Salem. The Salem Area Comprehensive Plan (SACP) map designates the subject property as “Single Family”. Additionally, the property is located within the City’s Urban Service Area (USA) making an Urban Growth Area Development Permit unnecessary.

The Comprehensive Plan designations of surrounding properties include:

North: Across Browning Avenue S, CSC “Community Serviced Cemetery”

South: SF “Single Family”

East: SF “Single Family”

West: Across Kurth Street S, SF “Single Family”

The subject property is zoned RS (Single Family Residential). Surrounding properties are zoned as follows:

North: Across Browning Avenue S, PC (Public/Private Cemetery)

South: RS (Single Family Residential)

East: RS (Single Family Residential)

West: Across Kurth Street S, RA (Residential Agriculture)

## Section 3: Applicable Zoning Codes

### **Salem Revised Code Chapter 205 – Land Division and Reconfiguration**

*Section 205.010 – Subdivision Tentative Plan*

*Section 205.030 – Additional Submittal Requirements*

*Section 205.035 – Final Plat*

*Section 205.050 – Expedited Land Division*

### **Salem Revised Code Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals**

*Section 300.001 – Purpose*

*Section 300.010 – Scope and Applicability*

*Section 300.020 – General Rule*

*Section 300.100 – Procedure Types*

*Section 300.110 – Review Authorities*

*Section 300.120 – Procedures for Review of Multiple Applications*

*Section 300.200 – Initiation of Applications*

*Section 300.210 – Application Submittal*

*Section 300.220 – Completeness Review*

*Section 300.230 – Withdrawal of Application*

*Section 300.300 – Pre-application Conference*

*Section 300.310 – Neighborhood Association Contact*

*Section 300.500 – General Description*

*Section 300.510 – Type II Applications*

*Section 300.520 – Type II Procedure*

*Section 300.800 – Public Notice Compliance; Waiver of Notice*

*Section 300.810 – State Mandated Decision Date*

*Section 300.820 – Conditions of Approval*

*Section 300.830 – Amended Decisions*

*Section 300.840 – Issuance; Effective Date*

*Section 300.850 – Expiration and Extensions*

*Section 300.860 – Revocation of Approval*

## **Salem Revised Code Chapter 511 – RS – Single Family Residential**

*Section 511.001 – Purpose*

*Section 511.005 – Uses*

*Section 511.010 – Development Standards*

## **Salem Revised Code Chapter 800 – General Development Standards**

*Section 800.015 – Lot Standards, Generally*

*Section 800.020 – Designation of Lot Lines*

*Section 800.035 – Setbacks*

*Section 800.040 – Special Setbacks*

*Section 800.045 – Height*

## **Salem Revised Code Chapter 802 – Public Improvements**

*Section 802.001 – Purpose*

*Section 802.010 – Design Standards and Specifications*

*Section 802.015 – Development to be Served by City Utilities*

*Section 802.020 – Easements*

*Section 802.025 – Utilities to be Placed Underground*

## **Salem Revised Code Chapter 803 – Streets and Right-of-Way Improvements**

*Section 803.010 – Streets, Generally*

*Section 803.015 – Traffic Impact Analysis*

*Section 803.020 – Public and Private Streets*

*Section 803.025 – Right-of-Way and Pavement Widths*

*Section 803.030 – Street Spacing*

*Section 803.035 – Street Standards*

*Section 803.040 – Boundary Streets*

*Section 803.045 – Monuments*

*Section 803.050 – Public Accessways*

*Section 803.055 – Traffic Control, Parking Regulation, and Street Signs and Pavement Markings*

*Section 803.060 – Conveyance by Dedication*

*Section 803.065 – Alternative Street Standards*

*Section 803.070 – Deferral of Construction of Certain Improvements*

## **Salem Revised Code Chapter 808 – Preservation of Trees and Vegetation**



*Section 808.001 – Purpose*

*Section 808.015 – Significant Trees*

*Section 808.020 – Trees and Native Vegetation in Riparian Corridors*

*Section 808.025 – Trees on Lots or Parcels 20,000 Square Feet or Greater*

*Section 808.035 – Tree Conservation Plans*

*Section 808.046 – Protection Measures During Construction*

*Section 808.050 – Tree Planting Requirements*

## Section 4: Findings Applicable to Administrative Procedures

Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals

### Section 300.001 – Purpose

The purpose of this chapter is to establish uniform procedures for the review and processing of land use applications, and to establish procedures for legislative land use proposals. This chapter is intended to make the land use application review process clear and understandable for applicants; to facilitate timely review of land use applications by the City; and to enable the public to effectively participate in the local land use decision making process.

***Applicant's Findings:*** *The applicant understands the purpose of Chapter 300 and has provided findings in response to each applicable criterion to satisfy the burden of proof for approvability of the requested validation application.*

### Section 300.010 – Scope and Applicability

This chapter applies to all land use actions and all legislative land use proceedings under the UDC.

***Applicant's Findings:*** *The applicant understands the provisions of SRC Chapter 300 are applicable to the tentative subdivision plan and tree conservation plan being proposed.*

### Section 300.020 – General Rule

No person shall engage in or cause development, as defined under SRC chapter 111, to occur without first obtaining the necessary land use approvals required by, and according to the procedures in, this chapter.

***Applicant's Findings:*** *The applicant understands they may not proceed with any development prior to obtaining land use approval.*

## Section 300.100 – Procedure Types

- (a) Unless otherwise provided in the UDC, land use actions required under the UDC are classified as one of four procedure types set forth in Table 300-1. The procedure type governs the decision-making process for the specific land use application.

***Applicant's Findings:*** *The applicant understands Table 300-1 sets forth the four procedure types for land use actions within the City of Salem. The applications will be reviewed using Type II procedures. Type II applications are administrative, and the decision authority is the planning administrator. "Type II procedure is used when the standards and criteria require limited discretion or legal judgement in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed."*

- (b) The specific procedure type assigned to a land use application is specified in Table 300-2.

***Applicant's Findings:*** *This application is a consolidated request for a tentative subdivision plan and tree conservation plan. In accordance with Table 300-2, the consolidated submittal will be processed using Type II procedures.*

- (c) When the procedure type for a land use application is not identified in Table 300-2, specified elsewhere in the UDC, or otherwise required by law, the Planning Administrator shall determine the applicable procedure based on the guidelines in this subsection. Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

- (1) Type I procedures shall be used when the land use action will be based on standards and criteria that do not require interpretation or the exercise of policy or legal judgment.
- (2) Type II procedures shall be used when the land use action will be based on standards or criteria that require only limited discretion or legal judgment.
- (3) Type III procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment.
- (4) Type IV procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment, and where the land use application must first be referred to an advisory body for review and recommendation to the Council, which then makes the decision.

***Applicant's Findings:*** *The review type for the application submitted is identified in Table 300-2, this criterion is not applicable.*

- (d) Notwithstanding any other provision in this section, and upon payment of the applicable fee, an applicant may choose to process a land use application that would be a Type I procedure as a Type II or Type III procedure, or to process a land use application that would be a Type II procedure as a Type III procedure.

***Applicant's Findings:*** *The applicant is not choosing to process the application with a different procedure type. The application will be processed using Type II procedures as indicated in Table 300-2. This criterion is not applicable.*

#### Section 300.110 – Review Authorities

- (a) *Review authorities, generally.* Review authorities are those designated individuals or bodies that make recommendations or decisions regarding land use actions. The applicable Review Authorities for specific land use actions are identified under Table 300-2. The Review Authority shall review an application following the applicable procedure type for the application and according to the applicable approval standards and criteria.

***Applicant's Findings:*** *The applicant understands the review authority in this case to be city staff as the consolidated application will be reviewed using the Type II process.*

- (b) *Review Authority hierarchy.* Review authorities are organized under the following hierarchy, from lowest to highest:
- (1) Staff, including, but not limited to, the Planning Administrator, Community Development Director, Public Works Director, and Building Official;
  - (2) Historic Landmarks Commission;
  - (3) Hearings Officer;
  - (4) Planning Commission;
  - (5) Council.

***Applicant's Findings:*** *The applicant understands the hierarchy of review authorities.*

- (c) *Historic Landmarks Commission jurisdiction over certain applications.* Notwithstanding any other provision of this section, the Historic Landmarks Commission shall have exclusive jurisdiction over those land use applications under SRC chapter 230 requiring Historic Landmarks Commission review.

***Applicant's Findings:*** *The subject property is not historic, and the Historic Landmarks Commission (HLC) does not have review authority in this case.*

#### Section 300.120 – Procedures for Review of Multiple Applications

When multiple land use actions are required or proposed by an applicant, the applications may be processed individually in sequence, concurrently, or through the consolidated procedure

provided in this section. The applicant shall elect how the land use applications are to be processed, except where a specific review process or sequence is otherwise required or where the land use applications are subject to the same procedure type and decided upon by the same Review Authority. When multiple land use applications are subject to the same procedure type and decided upon by the same Review Authority, the land use applications shall be consolidated.

***Applicant's Findings:*** *This application is for a consolidated review of a tentative subdivision plan and a tree conservation plan. The tree conservation plan, when processed alone, is processed using Type I procedures. However, the application is consolidated making the review procedures Type II.*

- (a) *Applications processed individually in sequence.* Multiple applications processed individually require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed sequentially, as follows:
  - (1) Applications with the highest numbered procedure type must be processed first;
  - (2) Notwithstanding any other provision in this subsection, where a particular sequence for the review of land use applications is established by another section of the UDC, the applications shall be processed in that sequence; and
  - (3) Notwithstanding any other provision in this subsection, where one land use application is dependent upon the approval of another land use application (e.g., conditional use permit is subject to prior approval of a zone change), the land use application upon which the other is dependent shall be processed first.

***Applicant's Findings:*** *The application is consolidated; this criterion is not applicable.*

- (b) *Applications processed concurrently.* Multiple applications processed concurrently require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed simultaneously.

***Applicant's Findings:*** *The application is consolidated; this criterion is not applicable.*

- (c) *Consolidated applications.* When multiple applications are consolidated, a single application is filed for all land use actions. The application shall be accompanied by the information and supporting documentation required for each individual land use action. Review of the application shall be according to the highest numbered procedure type required for any of the land use applications. The Review Authority shall be the highest applicable Review Authority under the highest numbered procedure type required for any of the land use applications. Notwithstanding the provisions of this subsection, where multiple applications that are proposed to be consolidated include an application

subject to review by the Historic Landmarks Commission, the application that is subject to Historic Landmarks Commission review shall be processed individually or concurrently.

***Applicant's Findings:*** As stated previously, this application is for a tentative subdivision plan and tree conservation plan under a consolidated review. In an effort to keep the record clear and demonstrate that the burden of proof has been met, the applicant is providing a narrative which is broken up into sections responding to applicable criteria for each of the applications under review.

#### Section 300.200 – Initiation of Applications

- (a) Type I, Type II, Type III, and Type IV land use applications may be submitted by one or more of the following persons:
  - (1) The owner of the subject property;
  - (2) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;
  - (3) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
  - (4) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by subsection (a)(1), (2) or (3) of this section and accompanied by proof of the agent's authority.

***Applicant's Findings:*** The applicant in this case is the owner of the subject property.

- (b) Type III applications may be initiated by the City where identified in the UDC for specific application type.

***Applicant's Findings:*** The application is Type II; this criterion is not applicable.

- (c) Type IV applications may be initiated by the City.

***Applicant's Findings:*** The application is Type II; this criterion is not applicable.

#### Section 300.210 – Application Submittal

- (a) Land use applications shall be submitted on forms prescribed by the Planning Administrator. A land use application shall not be accepted in partial submittals. All of the following must be submitted to initiate completeness review under SRC 300.220. All information supplied on the application form and accompanying the application shall be complete and correct as to the applicable facts.
  - (1) A completed application form. The application form shall contain, at a minimum, the following information:

- (A) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
- (B) The address or location of the subject property and its assessor's map and tax lot number;
- (C) The size of the subject property;
- (D) The comprehensive plan designation and zoning of the subject property;
- (E) The type of application(s);
- (F) A brief description of the proposal; and
- (G) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).

***Applicant's Findings:*** *The required forms and information has been included with this application submittal for review by city staff.*

- (2) Recorded deed/land sales contract with legal description;

***Applicant's Findings:*** *The recorded deed has been supplied along with this application submittal.*

- (3) Any information that would give rise to an actual or potential conflict of interest under state or local ethics laws for any member of a Review Authority that will or could make a decision on the application;

***Applicant's Findings:*** *The applicant sees no reason city staff would have a conflict of interest under any state or local ethics laws. This section is not applicable.*

- (4) Pre-application conference written summary, if a pre-application conference was required under SRC 300.310(a) and Table 300-2; or copy of the approved pre-application conference waiver, if such approval was granted pursuant to SRC 300.310(b);

***Applicant's Findings:*** *In accordance with Table 300-2, pre-application conferences are not required for a tentative subdivision plan or tree conservation plan. This criterion is not applicable.*

- (5) A statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact and who it was with (e.g., phone conversation with neighborhood

association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;

***Applicant's Findings:*** *In accordance with Table 300-2, contact with the neighborhood association is required for a tentative partition plan application. The letter sent to the neighborhood association is included as Exhibit C.*

- (6) For applications requiring neighborhood association contact under SRC 300.310, a copy of the required e-mail or letter to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent;

***Applicant's Findings:*** *A copy of the letter sent to the neighborhood association as well as a copy of the email, is included as Exhibit C.*

- (7) For applications requiring an open house under SRC 300.320:
  - (A) A copy of the sign-in sheet for the open house and a summary of the comments provided; or
  - (B) When a neighborhood association meeting has been substituted for a required open house, a summary of the comments provided at the neighborhood association meeting;

***Applicant's Findings:*** *Pursuant to SRC 300.320, an open house is not required for this submittal.*

- (8) A statement as to whether the Salem-Keizer Transit District was contacted in advance of filing the application; and if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact, who it was with, and the result;

***Applicant's Findings:*** *Salem-Keizer Transit District was not contacted in advance of filing the application.*

- (9) A written statement addressing each applicable approval criterion and standard;

***Applicant's Findings:*** *This narrative includes findings and responses to each applicable approval criterion and standard.*

- (10) For Type II, Type III, and applicant-initiated Type IV applications involving property subject to an active and duly incorporated Homeowner's Association (HOA) registered with the Oregon Secretary of State which includes an identified registered agent, the HOA name and mailing address for the registered agent.

***Applicant's Findings:*** *The subject property is not incorporated into an HOA that is registered with the Oregon Secretary of State. This section is not applicable.*

- (11) For applications for affordable multiple family housing where a 100-day state mandated decision date is sought, a draft copy of the covenant required under ORS 197.311 restricting the owner, and each successive owner, of the development or a residential unit within the development from selling or renting any of the identified affordable residential units as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

***Applicant's Findings:*** *This application is not for affordable multiple family housing. This section is not applicable.*

- (12) Any additional information required under the UDC for the specific land use action sought;

***Applicant's Findings:*** *The applicant believes no additional information will be required to be submitted and staff will be able to move forward and write a favorable decision.*

- (13) Any additional information, as determined by the Planning Administrator, that may be required by another provision, or for any other permit elsewhere, in the UDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

***Applicant's Findings:*** *The applicant believes no additional information will be required to be submitted and staff will be able to move forward and write a favorable decision.*

- (14) Payment of the applicable application fee(s) pursuant to SRC 110.090.

***Applicant's Findings:*** *Upon population of the applicable application fees, the applicant will pay them within 5 days. This criterion will be met.*

- (b) The Planning Administrator may waive any submittal requirement if the Planning Administrator determines that the specific requirement would not provide evidence needed to satisfy any of the applicable criteria.

***Applicant's Findings:*** *The applicant understands that the planning administrator has the authority to waive any submittal requirement. However, a thorough and complete application is being submitted to city staff for review and it is not anticipated any requirement will be waived.*

- (c) Each application, when received, shall be date-stamped with the date the application was received, and designated with a receipt number and a notation of the staff person who received the application.

***Applicant's Findings:*** *The applicant understands this requirement of city staff for processing applications.*



## Section 300.220 – Completeness Review

- (a) Except as otherwise provided under ORS 227.178, the Planning Administrator shall review an application for completeness within 30 days of its receipt.

***Applicant's Findings:*** *The applicant understands the 30-day completeness review rule pursuant to ORS 227.178. The applicant anticipates having satisfied all of the code requirements for the proposal.*

- (b) Determination of completeness shall be based upon the information required under SRC 300.210 and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

***Applicant's Findings:*** *The applicant understands the provisions for determining completeness of this application. The applicant believes this application is able to be deemed complete and a favorable decision will be rendered.*

- (c) If an application is determined to be complete, review of the application shall commence.

***Applicant's Findings:*** *The applicant anticipates the application submitted is complete and review of the application can proceed. However, it is understood staff will need a review period to examine the materials being submitted.*

- (d) If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete upon initial filing shall be deemed complete for purposes of this section upon receipt of:

- (1) All of the missing information;
- (2) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (3) Written notice from the applicant that none of the missing information will be provided.

***Applicant's Findings:*** *The applicant understands written notice of an incomplete application will be provided, if applicable. The applicant also understands the three actions they must take to satisfy completeness.*

- (e) If an application was complete at the time, it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.

***Applicant's Findings:*** *The applicant understands if there is a code amendment to the approval criteria during the review process of the application, the code in effect at the time the application was submitted will be used to determine approval.*

- (f) An application shall be deemed void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (d) of this section.

***Applicant's Findings:*** *The applicant understands if the 180-days is surpassed and completeness is not satisfied, the application will be void.*

### Section 300.300 – Pre-Application Conference

- (a) *Purpose.* Pre-application conferences are intended to familiarize applicants with the requirements of the UDC; to provide applicants with an opportunity to meet with city staff to discuss proposed projects in detail; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use process but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

***Applicant's Findings:*** *The applicant understands the purpose of pre-application conferences. A pre-application conference is not required for the applications under review in this submittal and the provisions of this section do not apply.*

### Section 300.310 – Neighborhood Association Contact

- (a) *Purpose.* The purpose of neighborhood association contact is to provide an opportunity for neighborhood associations to learn of upcoming land use applications involving land within or adjacent to their boundaries in advance of applications being submitted. This encourages dialogue and provides opportunities for feedback and resolution of potential issues prior to filing.

***Applicant's Findings:*** *The applicant understands the purpose of requiring neighborhood association contact.*

- (b) *Applicability.*
  - (1) Neighborhood association contact, as provided in this section, is required for those land use applications identified under Table 300-2 as requiring neighborhood association contact.

***Applicant's Findings:*** As mentioned previously, Table 300-2 requires neighborhood association contact for tentative subdivision plan applications. The applicant's representative prepared a letter and sent it to the chair and land use chair of the neighborhood associations. The letter was sent via email. The email and the letter is included in Exhibit C.

- (2) When multiple land use applications are consolidated into a single application and one or more of the applications involved include a requirement for neighborhood association contact and the other applications do not require neighborhood association contact, the entire consolidated application shall require neighborhood association contact.

***Applicant's Findings:*** The applicant understands because the application is consolidated, neighborhood association contact is required for the tree conservation plan. As demonstrated by the contact materials provided in Exhibit C, the applicant notified the chair and land use chair of all applications being requested. This criterion is met.

- (3) Nothing in this section shall be construed to preclude additional contact between an applicant and neighborhood association beyond the requirements of this section, or an applicant from contacting a neighborhood association where no neighborhood association contact is required.

***Applicant's Findings:*** The applicant understands nothing in this section shall preclude additional contact between the applicant and neighborhood association.

- (c) *Process.* Prior to submitting a land use application requiring neighborhood association contact, the applicant shall contact the City-recognized neighborhood association(s) whose boundaries include, or are adjacent to, the subject property via e-mail or mailed letter. The e-mail or mailed letter shall:

- (1) Be sent to the chair(s) and land use chair(s) of the applicable neighborhood association(s) prior to submitting the land use application; and
- (2) Contain the following information:
  - (A) The name, telephone number, and e-mail address of the applicant;
  - (B) The address of the subject property;
  - (C) A summary of the proposal;
  - (D) A conceptual site plan, if applicable, that includes the proposed development; and
  - (E) The date on which the e-mail or letter is being sent;

***Applicant's Findings:*** The city-recognized neighborhood association in this case is the Sunnyslope Neighborhood Association. The applicant emailed a letter with information relating to the proposal to both the chair and land use chair. The development site is adjacent to the

*SWAN Neighborhood Association, so the application also notified the chair and land use chair of that association. The letter included all of the required information listed above. This criterion is met.*

- (d) *Effect on subsequent land use application submittal.* A land use application requiring neighborhood association contact shall not be accepted, as provided under SRC 300.210, unless it is accompanied by a copy of the e-mail or letter that was sent to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent.

***Applicant's Findings:*** *The applicant understands the city is unable to accept applications requiring neighborhood association contact prior to contact being made. However, the applicant has demonstrated satisfying this criterion prior to submittal.*

### Section 300.500 – General description

Type II applications are administrative in nature and involve land use actions governed by approval criteria and standards which require the exercise of limited discretion. Impacts on nearby properties associated with the land use action may require imposition of conditions of approval to minimize those impacts or to ensure compliance with the UDC. A Type II application is an administrative review process where the Review Authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type II process is illustrated in Figure 300-2.

### Section 300.510 – Type II Applications

The following land use actions are Type II applications:

- (a) Those identified in Table 300-2 as Type II applications;
- (b) Those identified in the UDC as Type II applications; or
- (c) Those identified by the Planning Administrator as Type II applications based upon the guidelines for classification of applications under SRC 300.100(c).

***Applicant's Findings:*** *The review type for the application submitted is identified in Table 300-2. Type II application procedures will be used to review the application package.*

### Section 300.520 – Type II Procedure

- (a) *Application requirements.*
  - (1) *Application form.* Type II applications shall be made on forms provided by the Planning Administrator.
  - (2) *Submittal requirements.* Type II applications shall include the information required under SRC 300.210.

***Applicant's Findings:*** *This submittal includes the required application forms provided by the city. Each submittal requirement is provided, and the applicant has demonstrated how the proposal meets each criterion.*

(b) *Public notice and comment.* Public notice is required for Type II applications. Public notice shall be by first class mail. Posted notice on the subject property is required for subdivisions, Class 2 wireless communications facilities siting, manufactured dwelling park permits, and Class 1 greenway development permits. All Type II applications include a comment period of 14 days from the date notice is mailed.

(1) *Mailed notice.* Mailed notice shall be provided as follows:

(A) The City shall mail notice of the application within ten days after the application is deemed complete. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice of the application shall be mailed to:

- (i) The applicant(s) and/or the applicant's authorized representative(s);
- (ii) The owner(s) or contract purchaser(s) of record of the subject property;
- (iii) The address of the subject property, based on the City's current addressing records;
- (iv) Any active and duly incorporated Homeowner's Association (HOA) involving the subject property that is registered with the Oregon Secretary of State and which includes an identified registered agent. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the registered agent of the HOA utilizing the contact information provided by the applicant;
- (v) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (vi) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (vii) Addresses, based on the City's current addressing records, within 250 feet of the subject property.
- (viii) The Salem Area Mass Transit District

- (ix) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
- (x) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City.

(C) Mailed notice shall include:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the land use action;
- (iii) The proposed site plan;
- (iv) The street address, or other easily understood geographical reference, for the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the approval criteria by name and code section;
- (vii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
- (viii) A brief summary of the decision making process for the application;
- (ix) The place, date, and time that written comments are due, and the person to whom the comments should be addressed;
- (x) A statement that comments received after the close of the public comment period will not be considered;
- (xi) A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and Review Authority to respond to the issue;

(xii) A statement that subsequent to the closing of the public comment period a decision will be issued and mailed to the applicant, property owner, everyone entitled to the initial notice of the application, anyone who submitted written comments on the application, and to any other persons otherwise legally entitled to notice of the decision; and

(xiii) The name and contact information for the staff case manager.

(2) *Posted notice.* Posted notice shall be provided, when required, as follows:

(A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14-day comment period. The notice shall remain in place through the end of the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file.

(B) Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.

(C) Posted notice shall be provided on signs as prescribed by the Planning Administrator.

(D) The applicant shall remove and return the signs within seven days after the end of the comment period.

***Applicant's Findings:*** *The applicant understands the noticing procedures required under this section. Posting notice on the subject property is required for the requested application and the procedures outlined above will be followed.*

(c) *Application review.* The Review Authority shall review the application, all written comments submitted during the public comment period, and the applicant's response to the comments, if any. Written comments received after the expiration of the public comment period shall not be considered by the Review Authority.

***Applicant's Findings:*** *The applicant's representative, BRAND Land Use, will respond to any written comments received during the comment period. No comments received after the close of the comment period should be included in the official record or responded to.*

- (d) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision of the Review Authority shall be a written order containing findings that explain the criteria and standards applicable to the decision, stating the facts relied upon in rendering the decision, and explaining the justification for the decision.

***Applicant's Findings:*** *The applicant understands the review authority's options to approve, conditionally approve, or deny the application. Based on the information submitted, it is anticipated the decision will be approved with minimal conditions.*

- (e) *Notice of decision.* Notice of the decision shall be mailed within five days after the decision is signed. An affidavit of mailing shall be prepared and made part of the file.

(1) Notice of the decision shall be mailed to:

- (A) The applicant(s) and/or authorized representative(s);
- (B) The owner(s) or contract purchaser(s) of record of the subject property;
- (C) The address of the subject property, based on the City's current addressing records;
- (D) Any active and duly incorporated Homeowner's Association (HOA) involving the subject property that is registered with the Oregon Secretary of State and which includes an identified registered agent. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the registered agent of the HOA utilizing the contact information provided by the applicant;
- (E) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (F) Any group or individual who submitted written comments during the comment period;
- (G) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (H) Addresses, based on the City's current addressing records, within 250 feet of the subject property;
- (I) The Salem Area Mass Transit District;
- (J) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any



governmental agency which submitted written comments during the comment period; and

- (K) Any community organizations, agencies, or individuals who have submitted written requests to the City for notice of the decision.

(2) Notice of the decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;
- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date and time by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- (G) A statement that all persons entitled to notice of the decision may appeal the decision; and
- (H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

***Applicant's Findings:*** *The applicant understands the procedures surrounding notice of decision.*

(f) *Appeal and review.*

- (1) Unless appealed pursuant to SRC 300.1010, or review is initiated by the Council pursuant to SRC 300.1050, the decision of the Review Authority on a Type II application shall be the final decision of the City.
- (2) Only the applicant, persons who provided comments during the public comment period, and persons entitled to notice of the decision have standing to appeal the decision.
- (3) The Review Authorities for appeals are identified under Table 300-2. The decision of the Review Authority on appeal, or, if review is initiated by the Council, the Council on review, shall be the final decision of the City.
- (4) *Exceptions.* Notwithstanding any other provision of this subsection:
  - (A) The decision on a Class 3 site plan review or modification of a Class 3 site plan review is not eligible for Council review unless

appealed. Upon receipt of an appeal of a decision on a Class 3 site plan review or modification of a Class 3 site plan review, notice of the appeal shall be provided to the Council at its next regular meeting. The Council may, pursuant to SRC 300.1050, assume jurisdiction for review pursuant to SRC 300.1040. If the Council does not assume jurisdiction, then the decision of the Review Authority on the appeal is the final decision of the City.

- (B) The decision on a Class 1 adjustment, modification of a Class 1 adjustment, Class 2 adjustment, modification of a Class 2 adjustment, Class 2 design review, modification of a Class 2 design review, Class 2 driveway approach permit, Class 2 minor historic design review, Class 2 temporary use permit, PUD final plan, modification of a PUD final plan, or sign adjustment is not subject to Council review.

(5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

***Applicant's Findings:*** *The applicant acknowledges and understands the rules surrounding and appeal and review of an appeal.*

- (g) *Expiration of approval.* Approval of a Type II application expires automatically as provided by SRC 300.850(a).

***Applicant's Findings:*** *The applicant has reviewed and understands the provisions surrounding expiration of approval. Additionally, the applicant understands that although the application is consolidated, each requested application will have its own expiration date.*

#### **Section 300.800 – Public Notice Compliance; Waiver of Notice**

Notice of land use approval under the procedures of this chapter shall be deemed to have been satisfied as follows:

- (a) *Compliance.* The requirements for notice shall be deemed satisfied for any person who, prior to the public hearing and in any manner, obtains actual knowledge of the date, time, place, and subject matter of the hearing. Requirements for the provision of mailed, posted or published public hearing notice shall be deemed satisfied as follows:
- (1) *Mailed notice.* Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was deposited in the mail.
  - (2) *Posted notice.* Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign

by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.

- (3) *Published notice.* Published notice shall be deemed to have been provided upon the date when the notice appears within a newspaper of general circulation within the City.

***Applicant's Findings:*** *The applicant understands the public notice requirements including mailed, posted, and published notice.*

- (b) *Waiver of notice.* The appearance or provision of testimony or comments on an application by any person subsequent to the initiation of the application or prior to the close of the record after a public hearing shall be deemed a waiver of such person to any claim of defect in the provision of notice.

***Applicant's Findings:*** *The applicant understands the provisions of waiver of notice in accordance with this section.*

#### Section 300.810 – State Mandated Decision Date

- (a) Except as otherwise provided in this section, the City shall take final action on land use applications subject to ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides written request or consent to an extension of such period pursuant to ORS 227.178(5).

***Applicant's Findings:*** *The applicant understands the city must take final action on land use actions subject to ORS 227.178, including the resolution of appeals, within 120 days after the application has been deemed complete. The applicant understands they have the right to grant an extension to the 120-day rule.*

- (b) The City shall take final action on an application for affordable multiple family housing, including resolution of all local appeals, within 100 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides a written request or consent to an extension pursuant to ORS 227.178(5).

***Applicant's Findings:*** *This application is not for affordable multiple family housing and therefore does not apply.*

#### Section 300.820 – Conditions of Approval

- (a) *Imposition of conditions, generally.* The Review Authority may impose conditions on land use actions to the extent allowed by law in order to protect the public and adjacent property owners from adverse impacts resulting from the proposed development, to fulfill an identified need for public services or infrastructure caused by or required for

the proposed development, or to ensure conformance with the applicable development standards and criteria in the UDC. A condition of approval shall be valid and enforceable from and after the date the decision becomes effective.

- (1) Conditions of approval should be stated in clear and unambiguous terms; be reasonably related to the public health, safety, and welfare; and be designed to reasonably effectuate the intended purpose.

***Applicant's Findings:*** *The applicant understands the review authority may impose conditions on the land use application included in this submittal, but the conditions of approval should be clear, unambiguous, and related to the public health, safety, and welfare and designed in a manner to effectuate the intended purpose.*

- (2) The Review Authority shall not impose any permanent condition which would limit use of the subject property to one particular owner, tenant, or business. Permanent conditions may limit the subject property as to use but shall not be so restrictive that other occupants who might devote the property to the same or substantially similar use would be unable to reasonably comply with the conditions.

***Applicant's Findings:*** *The applicant understands the limits imposed on permanent conditions.*

- (b) *Effect of conditions.* Conditions of approval shall be construed and enforced, in all respects, as provisions of the UDC relating to the use and development of land.

***Applicant's Findings:*** *The applicant understands the effect of conditions in accordance with this section.*

- (c) *Imposition of conditions on applications for housing developments.*

- (1) Except as otherwise provided in this subsection, the Review Authority may impose conditions on applications for housing developments. The Review Authority may not, however:

- (A) Impose a condition on an application for a housing development reducing its density if:

- (i) The density applied for is at or below the maximum density allowed; and
- (ii) At least 75 percent of the floor area applied for is reserved for housing.

- (B) Impose a condition on an application for a housing development reducing its height if:

- (i) The height applied for is at or below the maximum height allowed;

- (ii) At least 75 percent of the floor area applied for is reserved for housing; and
  - (iii) Reducing the height would have the effect of reducing the proposed density.
- (2) Notwithstanding paragraph (1) of this subsection, the Review Authority may impose a condition on an application for a housing development reducing its density or height if the reduction is necessary to resolve a health, safety, or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

***Applicant's Findings:*** *The application is for a six-lot subdivision for the future development of homes. The applicant understands the limitation on conditions for housing developments in accordance with this section.*

#### Section 300.830 – Amended Decisions

- (a) After notice of a decision on a land use action has been provided, an amended decision may be issued correcting typographical errors, rectifying inadvertent omissions, and/or making other minor changes that do not materially alter the decision if the amended decision is issued prior to the expiration of the appeal period of the original decision, but in no event beyond the state mandated decision date set forth under ORS 227.178 unless the applicant otherwise agrees to and requests an extension pursuant to ORS 227.178(5).

***Applicant's Findings:*** *The applicant understands an amended decision may be issued within the appeal period in accordance with the limitations listed in this section.*

- (b) Notice of an amended decision shall be given using the same mailing and distribution list as for the original notice of the decision.

***Applicant's Findings:*** *If an amended decision is issued, it is understood it will be distributed to the same interested parties the original decision was distributed to.*

- (c) A new appeal period equal to that of the original decision shall be provided from the date of mailing the amended decision.

***Applicant's Findings:*** *The applicant understands with an amended decision a new appeal period would be required.*

#### Section 300.840 – Issuance; Effective Date

- (a) Each decision shall be specific as to the approval granted and shall be subject to the standards and conditions set forth in UDC, including any variances or conditions authorized pursuant to the UDC.

***Applicant's Findings:*** *The applicant understands each application, when granted, is subject to their own conditions and standards listed within the UDC.*

- (b) Decisions on land use actions become effective on:
  - (1) The day the decision is issued, if no appeal is allowed;
  - (2) The later occurring of either:
    - (A) The day after the appeal period expires, if an appeal is allowed, but no notice of appeal is timely filed; or
    - (B) The day after the decision appears on the City Council agenda, if the decision is eligible for Council Review pursuant to SRC 300.1050, but Council Review is not initiated;
  - (3) The day the decision is issued by the final appeal body, if an appeal is allowed and notice of appeal is timely filed;
  - (4) The day the decision is issued by the Council, if the decision is eligible for Council Review and Council Review is initiated pursuant to SRC 300.1050; or
  - (5) The effective date of the ordinance, if the written decision is issued by ordinance.

***Applicant's Findings:*** *The applicant understands the provisions related to when the land use action becomes effective.*

#### Section 300.850 – Expiration and Extensions

- (a) *Approval expiration and termination.*
  - (1) Unless a different period of time is established in the UDC or in the decision, all approvals of land use actions shall expire automatically upon the dates set forth in Table 300-3 unless one of the following has occurred:
    - (A) Development has commenced in compliance with the land use approval;
    - (B) An extension has been granted pursuant to SRC 300.850(b); or
    - (C) The land use approval has been revoked as provided under SRC 300.860 or is otherwise invalidated by an administrative board or court of competent jurisdiction.
  - (2) Where the decision involves work for which a building permit is required, no exercise of the rights granted under the land use action shall be deemed to have commenced until a building permit has been issued. Unless otherwise extended, the approval of the land use action shall automatically expire if the approval has expired as set forth in Table 300-3, and all required building permits issued for the land use action have expired.

***Applicant's Findings:*** *In accordance with Table 300-3, the approvals will be valid for two years and can be extended four times for two years each, for a total of 10 years. The applicant understands the provisions surrounding expiration standards.*

(b) *Extensions.*

(1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended for the times set forth in Table 300-3 through filing an application for extension prior to the expiration date.

(2) *Classes.*

(A) *Class 1 extension.* A Class 1 extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application.

(B) *Class 2 extension.* A Class 2 extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.

(3) *Procedure type.*

(A) A Class 1 extension is processed as a Type I procedure under SRC chapter 300.

(B) A Class 2 extension is processed as a Type II procedure under SRC chapter 300.

(4) *Criteria.*

(A) A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.

(B) A Class 2 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval.

(5) *Appeal and review.*

(A) The decision on a Class 1 extension may not be appealed, and is not subject to Council review.

(B) The decision on a Class 2 extension may be appealed, and is subject to Council review pursuant to SRC 300.1050. The Review Authority for an appeal of a Class 2 extension shall be the Hearings Officer.

(6) While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken

subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.

- (7) The decision granting an extension shall revive all rights under the original approval as they existed prior to the expiration of the original approval period.

***Applicant's Findings:*** *As expressed previously under the administrative procedures, the applicant understands both the expiration and extension provisions for the application.*

#### Section 300.860 – Revocation of Approval

- (a) Unless otherwise provided under the UDC, the Director may revoke a permit or approval issued pursuant to the UDC when:

- (1) The permit or approval was issued on the basis erroneous or misleading information, or a material misrepresentation;
- (2) The development authorized under the permit or approval violates other applicable law;
- (3) The development violates the permit or approval, the UDC, or other applicable law;
- (4) The permittee failed to pay an administrative penalty for violations relating to the development authorized under the permit or approval;
- (5) The work is, or threatens to become, an imminent hazard to property or public safety; or
- (6) Prior to the development obtaining vested rights or nonconforming status, a change in the UDC, or the Salem Area Comprehensive Plan, has made the approved development unlawful or not permitted.

***Applicant's Findings:*** *The applicant understands the director may revoke a permit or approval if such instances as those listed above exist to warrant a revocation.*

- (b) Revocation of a permit or approval shall follow a Type I procedure.

***Applicant's Findings:*** *The applicant understood the revocation would follow a Type I procedure.*

- (c) Notice of revocation shall be given, in writing, to the applicant or the applicant's assigns or successors in interest, stating the grounds for revocation, the date upon which the revocation becomes effective, and the right to appeal.

***Applicant's Findings:*** *The applicant understands the notice procedure required in conjunction with a revocation.*

- (d) Any person entitled to notice under subsection (c) of this section may appeal the revocation to the Hearings Officer by filing written notice of appeal with the Planning Administrator within ten days of the date the notice of revocation was mailed.



***Applicant's Findings:*** *The applicant understands any person entitled to notice, as provided under subsection (c), would have the rights to appeal any revocation of decision within ten days of the date of mailing the notice.*

- (e) Revocation shall be effective immediately upon the mailing of notice. Unless otherwise provided in the notice, revocation terminates all rights to continue the use or development under the approval of the land use action. It is unlawful to continue any use or development for which approval has been revoked.

***Applicant's Findings:*** *The applicant understands the effective date of a revocation is immediately upon the mailing of notice and that the revocation terminates and rights to continue the use or development.*

- (f) Revocation of approval of a land use action on the basis of false, inaccurate, or incomplete statements of material fact in the application shall not bar, nor otherwise prejudice the right of the applicant to resubmit a new application containing accurate and complete statements of material fact. Revocation on any other grounds shall be treated as a basis for denial of the application on its merits and resubmission of application shall be made as provided in SRC 300.870.

***Applicant's Findings:*** *The applicant understands they may resubmit an application following a revocation with a revised set of information.*

- (g) Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

***Applicant's Findings:*** *The applicant understands the provisions of this section and that revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy in regard to applications involving false or inaccurate information.*

## Section 5: Findings Applicable to Tentative Subdivision

### Chapter 205 – Land Division and Reconfiguration

#### Section 205.010 – Subdivision Tentative Plan

- (a) ***Applicability.*** No land shall be divided into four or more lots within a calendar without receiving tentative subdivision plan approval as set forth in this section.

***Applicant's Findings:*** *The applicant is seeking approval of a tentative subdivision plan which will divide the subject property into six lots. The applicant understands a subdivision is required pursuant to the UDC and is submitting the required application and materials.*

- (b) ***Procedure type.*** A tentative subdivision plan is processed as a Type II procedure under SRC chapter 300.

***Applicant's Findings:*** The applicant understands the Type II procedures which are required for processing the tentative subdivision plan and other consolidated applications in this proposal.

- (c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative subdivision plan shall include the information required in SRC 205.030.

***Applicant's Findings:*** The applicant has provided each item required to accompany the application in accordance with this section and SRC Chapter 300.

- (d) *Criteria.* A tentative subdivision plan shall be approved if all of the following criteria are met:

- (1) The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to, the following:

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

***Applicant's Findings:*** The subject property is zoned RS (Single Family Residential) with a matching comprehensive plan designation of SF (Single Family). The proposed subdivision is subject to the provisions of SRC Chapter 511 for the RS zone. Within this section, the applicant has provided responses to all applicable standards including Chapters 511, 800, 802, 803, 805, 806, and 807. As demonstrated below, this criterion is met.

- (B) City infrastructure standards.

***Applicant's Findings:*** The Urban Growth Management Program, detailed in SRC Chapter 200, requires an Urban Growth Area (UGA) Development Permit to be obtained prior to development of property outside the Salem Urban Service Area. However, the subject property is located within the USA. Therefore, a UGA permit is not required, and the proposal conforms to the requirements of SRC Chapter 200.

The applicant provided an existing conditions plan and an overall utility plan with this application submittal. As shown on the plans provided in Exhibit D: utility infrastructure is present in Kurth Street S abutting the westerly portion of the development site, utility infrastructure is present in Browning Avenue S abutting the northerly portion of the development site, and utility infrastructure is present in Mesa Street S abutting the easterly portion of the development site. As detailed on the overall utility plan, the existing infrastructure has capacity to serve the newly proposed six lots which will support future single-family dwellings. SRC Chapter 205 does require the submission of utility construction plans at this phase of development, however the applicant's engineer has provided utility information to

*demonstrate services are available and will be extended in compliance with the Public Works Design Standards.*

*The applicant has provided responses to the provisions of SRC Chapter 802. Upon their review of the applicant's submittal, it is anticipated the Public Works Department will provide recommended conditions of approval to ensure the future development of infrastructure meets the public improvement requirements of SRC Chapter 802.*

*As demonstrated on the proposed plans provided with this application submittal, improvements to Browning Avenue S and Kurth Street along the development site frontage are proposed. Further in this narrative, the applicant demonstrates compliance with public improvement requirements. Mesa Street S will be extended to a cul-de-sac terminus at the east end of the site. To provide pedestrian connections from Mesa Street S to Kurth Street S, the applicant is proposing to plat Tract A which will be improved with a public sidewalk to ensure a complete pedestrian network is provided in the area. A TIA is not required for the proposal due to the limited number of trips generated onto the abutting Local and Collector streets.*

*As demonstrated by the findings included in this narrative and the plans attached, the proposal meets the city's infrastructure standards.*

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

***Applicant's Findings:*** *The applicant has provided full and complete findings to the applicable provisions of SRC Chapter 808 Preservation of Trees and Vegetation. Under the city's tree preservation ordinance, pursuant to SRC 808.035(a), tree conservation plans are required in conjunction with development proposals involving the creation of lots or parcels to be used for the construction of single family or duplex dwelling units, if the development proposal will result in the removal of trees. The applicant has provided a tree conservation plan included with this submittal demonstrating approximately 43 percent preservation of existing trees on site. Only trees falling within areas required for improvements and street extensions are proposed for removal.*

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

*The Salem-Keizer Local Wetland Inventory (LWI) does not identify wetlands and hydric soils on the proposed subdivision site. The tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.*

*City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the city's adopted landslide hazard susceptibility maps and SRC Chapter 810 Landslide Hazards, there are no areas of landslide susceptibility on the subject property. Therefore, the proposed subdivision is classified as low landslide risk and does not require a geologic assessment. The proposal meets the applicable provisions of SRC Chapter 810.*

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

***Applicant's Findings:*** *The tentative subdivision plan will complete development within the immediate area. The subject property has both undeveloped areas and areas occupied by main structures and accessory structures. The proposal includes demolition of existing structures on site and the division of the property into six lots. The future lots will be prepared for single-family dwellings matching the existing development of adjacent properties. As proposed, the tentative subdivision plan will not impede the future use or development of the property or adjacent land. The lots within the proposed subdivision are of sufficient size to permit the future development of permitted, special, or conditional uses within the RS zone. There is no evidence that the subdivision and development of lots would adversely impact public service to any of the surrounding properties. This criterion is met.*

- (3) Development within the tentative subdivision plan can be adequately served by city infrastructure.

***Applicant's Findings:*** *Water, sewer, and stormwater infrastructure are available along the perimeter of the site and appear to be adequate to serve the property as shown on the applicant's preliminary partition plan. The applicant understands, private water, sewer, and storm services shall be constructed to serve each lot as a condition of plat approval unless the applicant enters into an improvement agreement with the city. The applicant understands their development is subject to SRC Chapter 71. At the time of construction, the applicant will demonstrate the proposed lots can meet the PWDS by submitting a stormwater design prior to final plat approval. All public and private city infrastructure proposed to be located in the public right-of-way will be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval. Any easements needed to serve the proposed parcels with city infrastructure will be shown on the final plat in compliance with the provisions of the UDC. This criterion will be met.*

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

**Applicant's Findings:** *As discussed throughout this narrative, the applicant is proposing proportional dedication and frontage improvements along all portions of the proposed subdivision to serve all six proposed lots. On the applicant's tentative plan, an extension of Mesa Street S proposed to be constructed to Local street standards with a new terminus into a cul-de-sac. The configuration does not meet maximum spacing standards of 600 feet along Kurth Street S between intersections of Kurth and Browning and Kurth and Warren. In lieu of providing a through street, the applicant has requested an alternative street standard. The tentative plan shows mid-block pedestrian connections between lots 3, 4, and 5.*

*Pursuant to SRC 803.065(a), the director may authorize the use of one or more alternate street standards: (1) where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable; and (3) where topography or other conditions make the construction that conforms to the standards impossible or undesirable. In this case, a through street connection of Mesa to Kurth would result in a remnant property that does not meet the depth and width standards of the RS zone. As proposed, the applicant is resolving the bicycle and pedestrian connection issue from Mesa to Kurth while still serving all six lots and creating new properties which conform to the lot standards of the zone.*

*This criterion is met.*

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

**Applicant's Findings:** *As discussed throughout this narrative, the applicant is proposing proportional dedication and frontage improvements along all portions of the proposed subdivision to serve all six proposed lots. On the applicant's tentative plan, an extension of Mesa Street S proposed to be constructed to Local street standards with a new terminus into a cul-de-sac. The configuration does not meet maximum spacing standards of 600 feet along Kurth Street S between intersections of Kurth and Browning and Kurth and Warren. In lieu of providing a through street, the applicant has requested an alternative street standard. The tentative plan shows mid-block pedestrian connections between lots 3, 4, and 5.*

*Pursuant to SRC 803.065(a), the director may authorize the use of one or more alternate street standards: (1) where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable; and (3) where topography or other conditions make the construction that conforms to the standards impossible or undesirable. In this case, a through street connection of Mesa to Kurth would result in a remnant property that does not meet the depth and width standards of the RS zone. As proposed, the applicant is resolving the bicycle and pedestrian connection issue from Mesa to Kurth while still serving all six lots and creating new properties which conform to the lot standards of the zone.*

*This criterion is met.*

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

***Applicant's Findings:*** *The development site is within half a mile of Sunnyslope City Park. The applicant is proposing to provide sidewalks along the entire frontage of the development site. Streets within the area are underimproved and in most places do not have sidewalks. Though the applicant cannot improve the entire path to the park with sidewalks for bicycle and pedestrian traffic, the addition of the development will provide a needed improvement along the development frontage. The applicant is also proposing to provide a mid-block pedestrian connection from the new cul-de-sac through to Kurth Street. The connection will allow for easier access to the park for bicycle and pedestrian traffic coming from the existing development to the east. This criterion is met by the proposal.*

- (7) The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved traffic impact analysis, where applicable.

***Applicant's Findings:*** *As demonstrated in the applicants' findings for SRC Chapter 803, below, a TIA is not triggered by the proposed development. The applicant is proposing to extend Mesa Street S to a cul-de-sac meeting the PWDS for an appropriate vehicular turnaround. Additionally, the applicant is proposing right-of-way dedication and street improvements along Browning Avenue S and Kurth Street S which are proportional to the development size. The proposal will likely improve the functionality of the abutting streets and mitigates impacts to the transportation system. This criterion is met.*

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

***Applicant's Findings:*** *The applicant has taken adequate measures to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The configuration of lots on the subject property makes logical use of developable land. As described in findings, the lot configuration proposed by the applicant meet applicable development standards minimizing the need for any variances. No existing conditions of topography or vegetation have been identified on the site which would necessitate variances during future development of the property. The layout allows for reasonable development of all lots within the subdivision without variances from the UDC. The proposal meets this criterion.*

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

***Applicant's Findings:*** *The applicant has taken adequate measures to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The configuration of lots on the subject property makes logical use of developable land. As described in findings, the lot configuration proposed by the applicant meets applicable development standards minimizing the need for any variances. No existing conditions of topography or vegetation have been identified on the site that would necessitate variances during future development of the property. The layout allows for reasonable development of all lots within the subdivision without variances from the UDC. The proposal meets this criterion.*

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

***Applicant's Findings:*** *An Urban Growth Preliminary Declaration is not required for this application, pursuant to SRC Chapter 200. This criterion is not applicable.*

- (e) *Expiration.* Tentative subdivision plan approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

***Applicant's Findings:*** *The applicant understands the provisions surrounding expiration of tentative subdivision plan approval in accordance with SRC Chapter 300.850, as demonstrated in Section 4 of this narrative.*

#### **Section 205.050 – Expedited Land Division**

An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions set forth in SRC chapter 300. When an applicant requests an expedited land division, the application shall be processed as provided in ORS 197.360 through ORS 197.380, in lieu of the procedures set forth in SRC chapter 300.

***Applicant's Findings:*** *The applicant is not seeking an expedited review of this land division. This criterion is not applicable.*

## Chapter 511 – RS – Single Family Residential

### Section 511.001 – Purpose

The purpose of the Single Family Residential (RS) Zone is to implement the single-family residential designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The RS zone generally allows single family, two family, three family, and four family residential uses, along with a mix of other uses that are compatible with and/or provide support and services to the residential area.

***Applicant's Findings:*** *The subject property is zoned RS, in accordance with City of Salem maps. The provisions of Chapter 511 are applicable to the proposed subdivision and the applicant has provided responses to applicable criteria below.*

### Section 511.005 – Uses

- (a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the RS zone are set forth in Table 511-1.
- (b) Continued uses. Existing cottage housing within the RS zone constructed prior to May 15, 1979, but which would otherwise be made nonconforming by this chapter, is hereby deemed a continued use.
  - (1) Building or structures housing a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding complies with the standards set forth in SRC 511.010(f).
  - (2) Cease of occupancy of a building or structure for a continued use shall not preclude future use of the building or structure for that use; provided, however, conversion of the building or structure to another use shall thereafter prevent conversion back to that use.

***Applicant's Findings:*** *The applicant is proposing a six-lot subdivision for the future development of single-family dwellings. Land divisions are permissible within the RS zone, subject to standards. Below the applicant is providing findings demonstrating compliance with the applicable standards.*

### Section 511.010 – Development Standards

Development within the RS zone must comply with the development standards set forth in this section.

- (a) *Lot standards.* Lots within the RS zone shall conform to the standards set forth in Table 511-2.

***Applicant's Findings:*** *The tentative plan proposes to divide the property into 6 lots. This will include one tract for public pedestrian access. Lots will range in size from 7,083 square feet to*



approximately 11,036 square feet. All lots within the subdivision are proposed to take access directly from existing public streets.

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Lot Area (All Other uses)	6,000 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Lot Depth (All Other uses)	80 feet
Lot Depth (Double Frontage Lots)	120 feet
Street Frontage	40 feet

*The proposed lots meet or exceed minimum lot area, dimension, and frontage requirements. Therefore, they conform to the applicable standards. The proposed lots within the subdivision are also of sufficient size and dimension to permit future development of uses allowed within the zone.*

(b) *Setbacks.* Setbacks within the RS zone shall be provided as set forth in Table 511-3.

**Applicant's Findings:** SRC Chapter 511 establishes the following setback standards for development within an RS (Single Family Residential) zone:

*Front Yards and Yards Adjacent to Streets:*

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

*Rear Yards:*

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

*Interior Side Yards:*

- *Minimum 5 feet*

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

*The proposal conforms to the requirements of SRC Chapter 511.*

- (c) *Lot coverage; height.* Buildings and accessory structures within the RS zone shall conform to the lot coverage and height standards set forth in Table 511-4.
- (d) *Maximum square footage for all accessory structures.* In addition to the maximum coverage requirements established in Table 511-4, accessory structures to single family and two-family uses shall be limited to the maximum aggregate total square footage set forth in Table 511-5.
- (e) *Development standards for continued uses.* Buildings or structures housing a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding complies with the following standards:
  - (1) The altered, enlarged, or rebuilt building or structure shall conform to development standards set forth in this chapter, and to all other applicable provisions of the UDC.
  - (2) Any building or structure altered or enlarged shall not exceed the square footage and height of the original building or structure by more than 20 percent.
  - (3) Any building or structure rebuilt shall be located on the same location on the lot as the original building or structure, or in compliance with the setbacks set forth in Table 511-3. The square footage and height of the rebuilt building or structure shall not exceed the square footage and height of the original building or structure by more than 20 percent.

***Applicant's Findings:*** *Standards c, d, and e above will be applicable and reviewed at the time of building permit submittal to develop the future single-family sites. At this time, these standards are not applicable.*

#### Chapter 800 – General Development Standards

##### Section 800.015 – Lot Standards, Generally

- (a) *Lot shape and size.* In addition to meeting all applicable lot standards of the UDC, all lots intended for development, as far as practicable, shall be of a size and configuration so that their net remaining area exclusive of required setbacks, easements, riparian corridors, and mapped floodplain/floodway boundaries and wetlands is buildable.

***Applicant's Findings:*** *As demonstrated on the plans provided and the findings included above, the applicant is proposing lots of substantial size and shape adequate for the future development of single-family dwellings. This criterion is met.*

- (b) *Buildings to be on a lot.* Every building or structure shall be entirely located on an individual lot. Buildings that are attached at a common property line, but which otherwise meet all requirements of SRC chapter 56 as separate buildings shall be considered as separate buildings for purposes of this subsection.

***Applicant's Findings:*** This criterion is applicable at the time of building permit submittal. At that time, the builder will provide a site plan demonstrating compliance with all setbacks. Each building permit application will be reviewed by staff to ensure proposed structures are entirely located on an individual lot. This criterion is not applicable at this time, as no structures are proposed.

- (c) *Side lot lines.* As far as is practicable, side lot lines shall run at right angles to the street upon which the lot faces, except that on curved streets they shall be radial to the curve.

***Applicant's Findings:*** The development side is irregularly shaped, but all side lot lines, as far as practicable, run at right angles to the street which they face. This criterion is met.

#### Section 800.020 – Designation of Lot Lines

- (a) *Front lot line.* The front lot line shall be designated as set forth in this subsection (see Figure 800-1).
  - (1) *Interior lot.* For an interior lot, the front lot line shall be the property line abutting the street.
  - (2) *Corner lot.* For a corner lot, the front lot line shall be the property line abutting a street designated by the building permit applicant; provided, however, that lot dimension standards are met.
  - (3) *Double frontage lot.* For a double frontage lot, the front lot line shall be the property line abutting a street designated by the building permit applicant; provided, however, that lot dimension requirements are met.
  - (4) *Flag lot.* For a flag lot, the front lot line shall be the outside property line that is an extension of the flag lot accessway or the property line separating the flag portion of the lot from the lot between it and the street from which access is provided to the flag lot, unless the Planning Administrator otherwise directs, in which case the front lot line shall be set forth in the conditions of approval for the tentative plan of the plat, which shall be recorded on deeds conveying lots.
  - (5) *Other lots.* In the case of any lot not covered by subsections (a)(1) through (4) of this section, the front lot line shall be the property line that the architecturally designed front of the building faces.
- (b) *Rear lot line.* The rear lot line shall be designated as set forth in this subsection (see Figure 800-2).
  - (1) *Generally.* For all lots, except those identified in subsection (b)(2) of this section, the rear lot line shall be the property line that is opposite and most parallel to, and located the greatest distance from, the front lot line.
  - (2) *Trapezoidal, triangular, diamond, or other shaped lots.* For trapezoidal, triangular, diamond, or other shaped lots with a distance between the side lot lines at the rear of the lot of less than ten feet, the rear lot line for purposes of

determining required setbacks shall be a line ten feet in width drawn between the side lot lines and located parallel to and at the maximum distance from the front lot line (see Figure 800-3).

(c) *Side lot line.* A side lot line is any lot line which is not a front or rear lot line.

***Applicant's Findings:*** SRC 800.020 establishes front lot line designation requirements for corner lots, double frontage lots, flag lots, and all other uncategorized lots. In accordance with this section, lots that have frontage on a public street, other than corner lots, require that the front lot line shall be the property line that has frontage on the public street. Corner lots are lots located at the intersection of two streets, typically with street frontage on two sides. Provided that lot dimension requirements are met, the front lot line for a corner lot shall be the property line abutting a street provided by the building permit applicant. Those lots which do not meet the lot dimensions from both street frontages will be limited to the front property line setback being from the abutting street which meets the lot depth dimension. As demonstrated on the plans included, only lot 1 is a corner lot having frontage onto Kurth Street S and Browning Avenue S. In accordance with Public Works requirements, access must be taken from the abutting street with the lowest classification. In this case, Kurth Street S is a local street and Browning Avenue S is a collector street. Lot 1 will be required to take access from Kurth Street S. Lots 1 through 4 will all take access from Kurth Street S which they have adequate frontage. Lots 5 and 6 will take access from the newly proposed cul-de-sac extension of Mesa Street S. No double frontage or flag lots are proposed with this subdivision.

#### Section 800.035 – Setbacks

(a) *Setbacks to be unobstructed.* Except as otherwise provided under subsection (b) of this section, required setbacks shall be unobstructed.

***Applicant's Findings:*** The applicant understands setbacks must be unobstructed with the exception of permitted projections outlined in Table 800-2. This application is for a tentative subdivision with six-lots for the future development of single-family dwellings. At this time, development is not being proposed. Setbacks will be reviewed when building permits are submitted for the future single-family dwellings. This criterion will be met.

#### Section 800.040 – Special Setbacks

- (a) *Generally.* To afford better light, air, and vision on public streets and to permit the eventual widening of streets without creating nonconforming structures, special setbacks are hereby established. No structures or paving, other than those identified under subsection (d) of this section, shall be placed within a special setback.
- (b) *Setback distance required; how measured.* The special setback shall equal one-half of the right-of-way width specified in the Salem Transportation System Plan for the street's applicable classification. Special setbacks shall be measured at right angles to the

centerline of the street, or, where there is no street, from the centerline of the right-of-way. Where the centerline is not designated, the Director shall designate the location of the centerline.

***Applicant's Findings:*** As shown on both the existing conditions plan and tentative subdivision plan included with this submittal, dedication and frontage improvements are proposed. The dedication and frontage improvements proposed are proportional to the development. Additionally, the dedication and improvement will complete the needed improvement to Kurth Street S and bring it up to local street standards in accordance with Salem's Transportation System Plan (TSP). Because the streets will be fully improved, no special setbacks are warranted. These criteria are not applicable to this project.

## Chapter 802 – Public Improvements

### Section 802.001 – Purpose

The purpose of this chapter is to establish the means and standards whereby public improvements are provided for development within the City.

***Applicant's Findings:*** The applicant understands the purpose of Chapter 802 is to establish the standards for public improvements as they correlate to development within the city. The applicant has provided findings for each applicable criterion listed below.

### Section 802.010 – Design Standards and Specifications

The Director shall prepare and adopt by administrative rule design standards and specifications consistent with sound engineering principles for the construction, reconstruction, or repair of public improvements within areas under the City's jurisdiction. The design standards and specifications shall be kept on file in the office of the Director. All public improvements shall conform to the adopted design standards and specifications, and with any other adopted plans and policies adopted by the City.

***Applicant's Findings:*** Design standards for public improvements within the City of Salem have been adopted. The proposed improvements meet the requirements of the Public Works Design Standards. At time of design review to permit the proposed improvements, construction documents will be prepared and provided by the applicant's civil engineer. Preliminary drawings for the purpose of land use approval are provided with this submittal for initial review.

### Section 802.015 – Development to be Served by City Utilities

Except as provided under SRC 802.035 and 802.040, all development shall be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and the Public Works Design Standards.

***Applicant's Findings:*** SRC 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS). The Schematic Utility Plan included in the proposal demonstrates each individual proposed lot can be served by city utilities designed and constructed according to the applicable provisions of the SRC and PWDS. The applicant anticipates conditions of approval, typically imposed on subdivisions will be included in the decision for this subdivision in order to ensure appropriate public infrastructure is provided to each of the new lots created by the subdivision. This criterion is met.

#### Section 802.020 – Easements

Subject to any constitutional limitations, the conveyance or dedication of easements for city utilities may be required as conditions of development approval. Easements may be required that are necessary for the development of adjacent properties. Easements shall, where possible, be centered on, or abut property lines, and shall be not less than ten feet in width. No building, structure, tree, or other obstruction other than landscaping shall be located within an easement required by this section.

***Applicant's Findings:*** The applicant understands Public Utility Easements (PUEs) are likely to be required along all public streets. It is anticipated the franchise utility provider in the area (PGE) will require a 10-foot-wide PUE on all street front lots (1 through 6). This will ensure adequate access to electrical services and other utilities. The applicant understands landscaping and structures must remain outside of the PUE and the PUE will appear on the final plat recorded with Marion County. This criterion can be met.

#### Section 802.025 – Utilities to be Placed Underground

- (a) Except as otherwise provided in this section, all utility service shall be provided by underground facilities.
- (b) In industrial and employment and commercial zones, electrical service may be provided by overhead wires where underground utility service is unavailable.
- (c) Stormwater management shall be provided by above ground and below ground facilities.

***Applicant's Findings:*** The applicant understands in residential zones, utilities must be placed underground. The schematic utility plan proposes utility extensions which comply with this provision. This criterion will be met.

### Chapter 803 – Streets and Right-of-Way Improvements

#### Section 803.010 – Streets, Generally

Except as otherwise provided in this chapter, all streets shall be improved to include the following: adequate right-of-way, paving, curbing, bike lanes (where required), sidewalks, street

lighting, stormwater facilities; utility easements, turnarounds, construction strips, landscape strips, parking lanes, adequate right-of-way geometry, paving width, grade, structural sections and monumentation, that conforms to the Public Works Design Standards.

***Applicant's Findings:*** *The subject site abuts Kurth Street S along its westerly boundary. Kurth Street S is designated as a local street in accordance with the Salem TSP and requires a 60-foot right-of-way with two lane curbed improvements including parking and sidewalks. As depicted on the existing conditions plan provided with this application, dedication and frontage improvements are needed along the property frontage. The tentative partition plan demonstrates dedication and frontage improvements including curb-line sidewalks with the planter behind the walk.*

*The site abuts Browning Avenue S along its northerly boundary. Browning Avenue is designated as a collector street in accordance with the Salem TSP and requires a Collector B improvement with two lane curbed improvements, bike lanes, one parking lane, and curb extensions at intersections and sidewalks. The tentative subdivision plan provided shows dedication and a proposed improvement along the frontage to collector standards.*

*The current terminus of Mesa Street S abuts the subject site along its easterly boundary. Mesa Street is designated as a local street in accordance with the Salem TSP. The applicant, as demonstrated on the tentative subdivision plan, is proposing to cul-de-sac Mesa Street and provide a pedestrian connection which would extend from the cul-de-sac bulb to Kurth Street S within proposed Tract A.*

*Each improvement proposed will conform to the PWDS and will be demonstrated on the construction plans provided by the applicant's engineer at the time of permit approval.*

#### **Section 803.015 – Traffic Impact Analysis**

- (a) ***Purpose.*** The purpose of a traffic impact analysis is to ensure that development generating a significant amount of traffic provides the facilities necessary to accommodate the traffic impacts of the proposed development.

***Applicant's Findings:*** *The applicant understands the purpose of some developments triggering a traffic impact analysis (TIA). However, as demonstrated below, the proposed development does not warrant a TIA based on assumed trip generation for the future single-family development on 6 lots.*

- (b) ***Applicability.*** An applicant shall provide a traffic impact analysis if one of the following conditions exists:
  - (1) The development will generate 200 or more daily vehicle trips onto a local street or alley, or 1,000 daily vehicle trips onto a collector, minor arterial, major arterial, or parkway. Trips shall be calculated using the adopted Institute of

Transportation Engineer's Trip Generation Manual. In developments involving a land division, the trips shall be calculated based on the proposed development that will occur on all lots that will be created by the land division.

***Applicant's Findings:*** *In accordance with the adopted Institute of Transportation Engineer's Trip Generation Manual, the proposed subdivision will generate approximately 57 new average daily trips (ADT). Approximately 38 of those ADTs will be sent to Kurth Street S and 19 of those ADTs will be sent to Mesa Street S. This trip calculation is less than the 200-trip threshold and does not trigger a TIA.*

- (2) The increased traffic resulting from the development will contribute to documented traffic problems, based on current accident rates, traffic volumes or speeds, and identified locations where pedestrian and/or bicyclist safety is a concern.

***Applicant's Findings:*** *There is not a documented traffic problem within the area. With the approval of the proposed development, Kurth Street S will be brought closer to local street standards with a half street improvement and sidewalks. Mesa Street S will be terminated in a cul-de-sac allowing for safer turnaround of vehicles. The development proposes to add pedestrian connections that do not currently exist in the area providing for safer circulation of persons traveling on foot within the area. The development will improve the road conditions in the area and does not trigger a TIA based on this criterion.*

- (3) The City has performed or reviewed traffic engineering analyses that indicate approval of the development will result in levels of service of the street system that do not meet adopted level of service standards.

***Applicant's Findings:*** *There is not a documented traffic problem within the area. It is not anticipated the city has or will perform or review traffic engineering analyses that indicate approval of the development will result in levels of service of the street system that do not meet adopted level of service standards. As stated above, with the approval of the proposed development, Kurth Street S will be brought closer to local street standards with a half street improvement and sidewalks. Mesa Street S will be terminated in a cul-de-sac allowing for safer turnaround of vehicles. The development proposes to add pedestrian connections that do not currently exist in the area providing for safer circulation of persons traveling on foot within the area. The development will improve the road conditions in the area and does not trigger a TIA based on this criterion.*

- (c) *Improvements may be required.* On-site and off-site public or private improvements necessary to address the impacts identified in the traffic impact analysis may be required as conditions of development approval. Improvements include, but are not limited to, street and intersection improvements, sidewalks, bike lanes, traffic control



signs and signals, parking regulation, access controls, driveway approach location and design, and street lighting.

***Applicant's Findings:*** Based on the size and impact of the development, the frontage dedication and improvements shown on the tentative subdivision plans provided are proportional. Off site improvements would not be proportionate to the development being proposed. Based on the applicant's findings for subsection (b) above, a TIA is not required for this project. This criterion is not applicable.

- (d) *Exception.* An exception to the requirement for a traffic impact analysis may be granted for development that generates more than the trips specified in subsection (b)(1) of this section if the Director determines the traffic impact analysis is not necessary to satisfy the purposes set forth in subsection (a) of this section.

***Applicant's Findings:*** As demonstrated above, a TIA is not triggered by the proposal. This criterion is not applicable.

#### Section 803.020 – Public and Private Streets

- (a) *Public streets.* Except as provided in subsection (b) of this section, all streets shall be public streets.

***Applicant's Findings:*** The applicant's proposal does not include the creation of any new streets. In conjunction with the tentative subdivision plan, the applicant is proposing proportional improvements to the existing public streets along the frontage of the development site and will cul-de-sac Mesa Street S to provide for safe and orderly turnaround opportunities for vehicles. This criterion is met.

#### Section 803.025 – Right-of-Way and Pavement Widths

- (a) Except as otherwise provided in this chapter, right-of-way width for streets and alleys shall conform to the standards set forth in Table 803-1.

***Applicant's Findings:*** The development site abuts two local streets (Kurth Street S and Mesa Street S) and one collector street (Browning Avenue S). Each improvement proposed meets the minimum dimensions for right-of-way width and pavement width in accordance with Table 803-1 and the Salem TSP. The improvements proposed are shown on the preliminary plans included with this application submittal. This criterion is met.

- (b) Except as otherwise provided in this chapter, streets shall have an improved curb-to-curb pavement width as set forth in Table 803-2.

***Applicant's Findings:*** Each improvement proposed meets the minimum dimensions for right-of-way width and pavement width in accordance with Table 803-1 and the Salem TSP. The

*improvements proposed are shown on the preliminary plans included with this application submittal. This criterion is met.*

- (c) Additional right-of-way, easements, and improvements may be required to accommodate the design and construction of street improvement projects due to steep slopes, soils, water features, wetlands, transit bus bays, and other physical constraints.
- (d) Additional right-of-way and roadway improvements at the intersections of parkways, major arterial, minor arterial, and collector streets, and at intersections and access points for high traffic generators, including, but not limited to, shopping centers, schools, major recreational sites, and office complexes, may be required. The design of all intersections shall conform to the Public Works Design Standards.
- (e) When an area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant, dedication and improvement of streets to greater widths than those provided in subsection (a) of this section may be required.

***Applicant's Findings:*** *No site conditions or constraints exist that would trigger additional right-of-way, easements, or other roadway improvements as outlined in subsections (c) and (d) above. These criteria are not applicable.*

#### Section 803.030 – Street Spacing

- (a) Streets shall have a maximum spacing of 600 feet from right-of-way line to right-of way line along one axis, and not less than 120 feet and not more than 400 feet from right-of-way line to right-of-way line along the other axis.
- (b) Street spacing may be increased where one or more of the following exist:
  - (1) Physical conditions preclude streets meeting the spacing requirements. Physical conditions include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes, or a resource protected by state or federal law.
  - (2) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude streets meeting the spacing requirements, considering the potential for redevelopment.
  - (3) An existing public street or streets terminating at the boundary of the development site exceed the spacing requirements or are situated such that the extension of the street or streets into the development site would create a block length exceeding the spacing requirements. In such cases, the block length shall be as close to the spacing requirements as practicable.
  - (4) Strict application of the spacing requirements would result in a street network that is no more beneficial to vehicular, pedestrian, or bicycle traffic than the proposed street network, and the proposed street network will accommodate necessary emergency access.

***Applicant's Findings:*** The applicant is seeking an alternative street standard for the proposed development. The block length along Kurth Street S between Browning Avenue S to the north of the development site and Warren Street S to the south of the development site is approximately 785-feet, exceeding the 600-foot standard by 185-feet. As demonstrated on the plans provided with this submittal, the development site is irregularly shaped and is an infill development with existing development on three sides. The applicant is proposing to cul-de-sac Mesa Street S on the development site, just west of its current terminus. To address the street spacing standards, a mid-block pedestrian access between lots 3, 4, and 5. Had the applicant proposed to connect Mesa Street S to Kurth Street S, there would be a remnant property created to the south of the new right-of-way. The property would be approximately 35-feet wide by 102-feet in depth which does not meet the dimensional standards of the RS zone. The cul-de-sac proposed by the applicant, as demonstrated on the plans provided and the findings below, meets the standards for length and radius. By proposing a cul-de-sac, the applicant is able to provide 6 lots which all meet the dimensional standards of the RS zone for the future development of single-family dwellings. The proposed pedestrian connection meets an alternative street standard to exceed the 600-foot block length requirement of SRC 803.030. The pedestrian connection will be constructed to the Bike/Pedestrian Walkway specifications in the Public Works Design Standards.

#### Section 803.035 – Street Standards

All public and private streets shall be improved as follows:

- (a) **Connectivity.** Local streets shall be oriented or connected to existing or planned streets, existing or planned schools, parks, shopping areas, transit stops, and employment centers located within one-half-mile of the development. Local streets shall be extended to adjoining undeveloped properties for eventual connection with the existing street system. Connections to existing or planned streets and adjoining undeveloped properties for eventual connection with the existing street system shall be provided at no greater than 600-foot intervals unless one or more of the following conditions exist:
  - (1) Physical conditions or the topography, including, but not limited to, freeways, railroads, steep slopes, wetlands, or other bodies of water, make a street or public accessway connection impracticable.
  - (2) Existing development on adjacent property precludes a current or future connection, considering the potential and likelihood for redevelopment of the adjacent property; or
  - (3) The streets or public accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, that by their terms would preclude a current or future connection.

***Applicant's Findings:*** Subsection (a) requires streets within the subdivision to provide connectivity to existing streets and undeveloped properties within the vicinity of the subject property. The subject property abuts existing development or existing public rights-of-way on all sides. The development is infill and a redevelopment of property. As shown, the tentative subdivision plan proposes to provide connectivity by way of a bike/pedestrian connection off the Mesa Street S cul-de-sac connecting to Kurth Street S. Adjacent properties are already divided and cannot be further divided or developed. With the addition of the new bike/pedestrian access, a complete pedestrian and vehicular network will be provided with the new development and existing improvements in the vicinity.

- (b) *Improvements.* All street improvements, including sub-base, base, pavement, curbs, sidewalks, and surface drainage shall conform to all provisions of the Salem Revised Code and the Public Works Design Standards.
- (c) *Alignment and grade.* All streets shall be designed with a vertical alignment that conforms to the Public Works Design Standards. No grade of parkway, major arterial, or minor arterial shall exceed six percent. No grade of a collector street shall exceed eight percent. No grade of a local street shall exceed 12 percent.
- (d) *Dead-end streets.* When it appears necessary to provide connectivity into or through an abutting undeveloped area, a dead-end street shall be provided to the boundary of the undeveloped area. The street may be constructed, and right-of-way may be dedicated without a turnaround unless the Planning Administrator finds that a turnaround is necessary.
- (e) *Reserve blocks.* Reserve blocks controlling access to a street or alley may be required to be dedicated to address one or more of the following:
  - (1) To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.
  - (2) To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in SRC 803.025.
  - (3) To prevent access to land abutting a street of the development, but not within the development itself.
  - (4) To prevent access to land unsuitable for development.
  - (5) To prevent access prior to payment of street improvement assessments or connection charges.
  - (6) To prevent access to an arterial or collector street.

***Applicant's Findings:*** All proposed street improvements have been designed to meet the Public Works Design Standards based on the street classification. At the time of construction permit for required improvements associated with the tentative partition, the applicant's engineer will

*provide a construction drawing set for review and approval by city staff. No dead-end streets or reserve blocks are proposed. As applicable, these criteria will be met.*

(f) *Cul-de-sacs.*

- (1) Cul-de-sacs shall not exceed 800 feet in length.

***Applicant's Findings:*** *The proposed cul-de-sac for Mesa Street S does not exceed 800-feet, as shown on the preliminary plans provided. This criterion is met.*

- (2) No portion of a cul-de-sac shall be more than 400 feet from an intersecting street or cul-de-sac unless physical constraints make it impractical.

***Applicant's Findings:*** *The most westerly portion of the newly proposed cul-de-sac for Mesa Street S is exactly 400-feet from the intersection of Camella Drive S. This measurement extends beyond the pavement and includes the 10-foot PUE. The proposal meets this criterion.*

- (3) Cul-de-sacs shall have a turnaround with a property line radius of not less than that specified in SRC 803.025(a) from the center of the turnaround to the property lines.

***Applicant's Findings:*** *The width and radius of the proposed cul-de-sac extension of Mesa Street S meets the requirements of SRC 803.025 as demonstrated on the plans included with this application submittal.*

(g) *Intersections; property line radius.*

- (1) Intersections shall conform to the Public Works Design Standards; provided, however, additional right-of-way and roadway improvements at or adjacent to the intersections of parkways, major arterials, minor arterials, and collector streets may be required for intersections and access points for high traffic generators, including, but not limited to, shopping centers, schools, major recreational sites, and office complexes.

- (2) The property line radius at intersections shall be not less than the curblane radius as set forth in the Public Works Standards.

(h) *Cut and fill slopes.* Fill slopes shall begin no closer than two feet from the rear edge of the sidewalk, or if there is no sidewalk, from to the rear edge of the curb. Cut and fill slopes shall not exceed two horizontal to one vertical, provided that slopes not exceeding one to one may be approved upon certification by a qualified engineer or geologist that the slope will remain stable under foreseeable conditions.

(i) *Slope easements.* Slope easements shall be provided on both sides of the right-of-way where required by Public Works Design Standards.

(j) *Street alignment.* Consistent with good engineering practice, street alignment shall, so far as possible, avoid natural and constructed obstacles, including, but not limited to, mature trees.

***Applicant's Findings:*** Subjections (g) through (j) above are met by the proposed development, as applicable. The applicant has provided preliminary utility and grading plans and demonstrated the proposed street improvements and right-of-way dedications will meet the requirements of the Public Works Design Standards. As applicable, the above criteria are satisfied by the proposed development.

- (k) *Street trees.* Development adjacent to public streets shall provide street trees that meet the standards and specifications set forth in SRC chapter 86.

***Applicant's Findings:*** Street trees will be provided along all street frontages where they are lacking, in accordance with SRC Chapter 86. This criterion will be met.

(l) *Sidewalks.*

- (1) *Sidewalk construction required.* Sidewalks conforming to this chapter, the Public Works Design Standards, the Americans with Disabilities Act, the Salem Transportation System Plan, and SRC chapter 78 shall be constructed as a part of street improvement projects.

- (2) *Sidewalk location; width.*

- (A) Sidewalks shall be located parallel to and one foot from the adjacent right-of-way; provided, however, on streets having a right-of-way of 50 feet or less, sidewalks shall be located parallel to and abutting the curb.
- (B) If topography or other conditions make the construction of a sidewalk impossible or undesirable in a location required by this subsection, a different location may be allowed.
- (C) Except as otherwise provided in this subsection, all sidewalks shall be a minimum of five feet in width.
- (D) Sidewalks connecting with the direct access to the primary entrance of a school shall be a minimum of eight feet in width along the right-of-way for a distance of 600 feet from the point of connection.
- (E) Sidewalks shall have an unobstructed four-foot-wide clearance around streetlights, signs, mailboxes, and other streetscape facilities.

***Applicant's Findings:*** As shown on the plans provided, curb line sidewalks are proposed along Kurth Street S and the cul-de-sac for Mesa Street S. Property line sidewalks are proposed along the property frontage for Browning Avenue S. The purpose of proposing the sidewalk locations as shown is to conform with the slope requirements of both the Public Works Design Standards and the Americans with Disabilities Act. The sidewalks throughout the development, including the bicycle and pedestrian connection from the cul-de-sac to Kurth Street S meet or exceed the

*minimum dimensional standards. As designed, a minimum of four feet in width will be maintained when sidewalks must clear streetscape facilities. None of the sidewalks within the development provide direct access to a school. As applicable, the above criteria are met.*

- (m) *Bicycle facility standards.* Streets identified in the Salem Transportation System Plan Bicycle System Map as requiring a bicycle facility must conform to the designation of the Salem Transportation System Plan and the Public Works Design Standards.

***Applicant's Findings:*** *The Salem Transportation System Plan identifies Broening Avenue S as a Tier 2 prioritized bicycle project area where it abuts the development site. Simultaneously, Browning Avenue S is categorized as a low priority for street improvement projects according to Map 3-5. The development site has approximately 105-feet of frontage onto Browning Avenue S. Along the property frontage, the applicant is proposing improvements to Browning Avenue including a bike lane as detailed in collector street standards. This criterion is met.*

- (n) *Utility easements.* Public utility easements may be required for all streets. Unless otherwise specified by the Director, public utility easements shall be a minimum of ten feet in width on each side of the right-of-way.

***Applicant's Findings:*** *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (o) *Street lights.* All subdivisions and partitions, and all development on units of land for which site plan review is required, shall include underground electric service, light standards, wiring, and lamps for streetlights that conform to the Public Works Design Standards. The developer shall install such facilities. Upon the City's acceptance of improvements, the street lighting system shall become the property of the City.

***Applicant's Findings:*** *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (p) *Landscape strips.* Landscape strips for signs, streetlights, and shade trees shall be provided that conform to the Public Works Design Standards.

***Applicant's Findings:*** *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (q) *Landscaping.* Property owners shall cover at least 75 percent of the unimproved surface area within the right-of-way abutting the property with perennial living plant material which conforms to all other requirements of the UDC, and which is kept free of noxious vegetation.

***Applicant's Findings:*** *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (r) *Transit facilities.* Transit stops conforming to the applicable standards of the Salem Area Mass Transit District shall be constructed and right-of-way dedication, when necessary to accommodate the transit stop, shall be provided when a transit stop is identified as being needed by the Transit District in connection with a proposed development. Where a transit stop is required, on-street parking shall be restricted in the area of the stop as defined by the Transit District in order to ensure unobstructed access by transit.

***Applicant's Findings:*** *This criterion is not applicable to the proposal.*

- (s) *Urban growth area street improvements.* Where a subdivision or partition is located in the Urban Growth Area or the Urban Service Area, and the construction of street improvements by the City has not yet occurred, the street improvements and dedications shall meet the requirements of SRC chapter 200.

***Applicant's Findings:*** *This criterion is not applicable to the proposal.*

#### Section 803.040 – Boundary Streets

- (a) *General.* Except as otherwise provided in this section, dedication of right-of-way for, and construction or improvement of, boundary streets of up to one-half of the right-of-way and improvement width specified in SRC 803.025 shall be required as a condition of approval for the following:
- (1) Subdivisions;
  - (2) Partitions;
  - (3) Planned unit developments;
  - (4) Manufactured dwelling parks; and
  - (5) The construction or enlargement of any building or structure located on property abutting a boundary street and that requires a building permit under SRC chapter 56.
- (b) *Three-quarter street improvement.* If construction of a half-street improvement is insufficient to provide for a minimum of one 12-foot-wide travel lane in each direction or proper street grade, dedication of right-of-way for, and construction or improvement of, a three-quarter street improvement may be required.
- (c) *Additional right-of-way and improvements.* Dedication and improvement of streets to greater widths than those provided in SRC 803.025 may be required when:
- (1) An area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant.
  - (2) Topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way width or slope easements may be required to allow for all cut and fill slopes.
  - (3) Additional area is required for stormwater facilities located within the right-of-way.



(d) *Exceptions.* Notwithstanding subsections (a) and (b) of this section, the dedication of right-of-way for, and construction or improvement of, boundary streets is not required in the following circumstances:

- (1) Improvement of the boundary street abutting the property is a funded project in the Five Year Capital Improvement Program;
- (2) The construction of a new building or structure in a complex, if the new building or structure is less than 2,000 square feet. This exception shall be based on the extent of development existing on December 31, 1995;
- (3) The enlargement of any building or structure, if the enlargement results in less than a 50 percent increase in gross building area. This exception shall be based on the extent of development existing on December 31, 1995;
- (4) The construction or enlargement of any building or structure to be used entirely for agriculture, the keeping of livestock and other animals, or animal services, as defined in SRC chapter 400, and which involve no retail sales;
- (5) The conversion of, or addition to, an existing single-family detached dwelling to create a duplex, triplex, or quadplex; or
- (6) The construction or enlargement of any building or structure that will generate less than 20 new vehicle trips per day according to the Institute of Transportation Engineers' Trip Generation Manual.

(e) *Improvement.*

- (1) All boundary street improvements shall conform to this chapter and the Public Works Design Standards.
- (2) The maximum amount of street widening shall not exceed 17 feet on the development side, plus curb, gutters, sidewalks, bike lanes, stormwater facilities, streetlights, and signing where appropriate. The minimum requirement for the opposite side of the centerline is a 12-foot-wide paved travel lane. The boundary street improvement shall be provided along the full length of the boundary.
- (3) If development is proposed for only a portion of a development site or complex, the boundary street improvement shall be provided as follows:
  - (A) Where the area of development exceeds 25 percent of the total development site or complex area, the street improvements shall be the greater of either the actual street frontage of the phase being developed, or the percentage of street frontage equal to the percentage of area being developed.
  - (B) Where the area of development is equal to or less than 25 percent of the total development site or complex area, the street improvement shall be provided in accordance with the following formula:

- (i) Frontage of Required Street Improvement =  
Proposed Area of Development ÷ Area of  
Undeveloped Site x Total Street Frontage of Entire  
Development Site or Complex.

(C) As used in this subsection, the term "area of development" means that area required for structures, setbacks, off-street parking, landscaping, and any special setbacks.

***Applicant's Findings:*** The dedication and right-of-way improvements detailed on the applicants' proposed plans included with this submittal are proportional to the project. All abutting streets are underimproved in accordance with the City of Salem's Transportation System Plan. The applicant is proposing proportional dedication and half-street improvements as well as a cul-de-sac terminus for Mesa Street S. It is not anticipated any additional boundary street improvements will be required for the proposed six lot subdivision.

#### Section 803.045 – Monuments

Proper monuments that conform to the Public Works Design Standards shall be constructed with street improvements.

***Applicant's Findings:*** During construction, monuments will be placed in accordance with Public Works Design Standards. This criterion will be met.

#### Section 803.050 – Public Accessways

- (a) When necessary for public convenience or safety, public accessways may be required to connect to cul-de-sac streets, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths creating access to schools, parks, shopping centers, mass transportation stops, or other community services, or where it appears necessary to continue the public walkway into a future subdivision or abutting property or streets.

***Applicant's Findings:*** As shown on the plan provided with this submittal, the applicant is proposing a public accessway due to block length being in excess of 600-feet along Kurth Street S. The public accessway is proposed to be within Tract A and will connect from the cul-de-sac on the eastern portion of the development to Kurth Street S at the westerly property line of the development site.

- (b) Public accessways shall conform to the Public Works Design Standards, and have width and location as reasonably required to facilitate public use and, where possible, accommodate utility easements and facilities. Public accessways shall be dedicated on the plat.

***Applicant's Findings:*** The public accessway is being proposed in conformity with the applicable Public Works Design Standards. The public accessway will be dedicated to the city through Tract A on the plat. This criterion will be met.

#### Section 803.055 – Traffic Control, Parking Regulation, and Street Signs and Pavement Markings

The developer shall install all required traffic control, parking regulation, street signs, and pavement markings for all paved blocks of streets within a subdivision or partition prior to final acceptance of the public streets by the City, or prior to the issuance of any building permit for construction within the subdivision or partition for private streets. All traffic control, parking regulation, and street signs and pavement markings shall conform to the Public Works Design Standards and shall be installed at the developer's expense.

***Applicant's Findings:*** Improvements to existing streets abutting the development site is proposed with this six-lot subdivision. It's not anticipated that additional traffic control will be necessary in conjunction with the development. However, the applicant understands the city's traffic engineer will review the proposal and make a determination of concurrence with these findings. As applicable, this criterion will be met.

#### Section 803.060 – Conveyance by Dedication

All streets within subdivisions or partitions, other than private streets allowed under SRC 803.020, shall be dedicated to the City on the plat.

***Applicant's Findings:*** The applicant's engineer and surveyor will prepare the plat dictating the dedication of right-of-way to the city on the plat as required by SRC 803.020. This criterion will be met.

#### Section 803.065 – Alternative Street Standards

- (a) The Director may authorize the use of one or more alternative street standards:
  - (1) Where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable;
  - (2) Where the development site is served by fully developed streets that met the standards in effect at the time the streets were originally constructed; or
  - (3) Where topography or other conditions make the construction that conforms to the standards impossible or undesirable.
- (b) Authorization of an alternative street standard may require additional or alternative right-of-way width, easements, and improvements to accommodate the design and construction using the alternative standard.

***Applicant's Findings:*** The applicant is seeking some alternatives to street standards as discussed throughout this narrative. The subject site falls within a fully developed area and is considered an infill project, or a redevelopment of existing property. The streets abutting the development

*site likely met the standard at the time they were originally constructed, however the applicant is still proposing dedication and frontage improvements.*

#### Section 803.070 – Deferral of Construction of Certain Improvements

(a) *Applicant initiated deferral.* An applicant may apply to defer the construction of the following improvements, upon filing an application and paying the application fee:

(1) *Boundary streets.*

(A) Construction of boundary streets may be deferred if:

- (i) The development site abuts a boundary street section, and the existing vertical or horizontal alignment for the street section neither meets nor can be constructed within the limits of the development site frontage in a manner that conforms to the Public Works Design Standards for future final street grades and alignment;
- (ii) The development site abuts a local street, the development site has less than 150 feet of frontage, and the use will generate 20 or less new vehicle trips per day;
- (iii) The development site abuts a local street and there is no improved street section or street improvement deferral for the boundary street within 150 feet of the property corners of the development site; or
- (iv) Unusual or special conditions exist that, in the opinion of the Director, would warrant a deferral of all or a part of the improvement.

(2) *Sidewalks.*

(A) Construction of sidewalks may be deferred if:

- (i) For property within all zones other than industrial and employment zones:
  - (a) The sidewalk is not on a collector street or arterial street; and
  - (b) Less than one-half of the required sidewalks on the side of the block where the sidewalk is to be constructed have already been constructed.
- (ii) For property within industrial and employment zones:

- (a) The sidewalk would not be part of a pedestrian route to a school, shopping center, park, church, or other pedestrian traffic generator, or identified in a local safe routes to school plan as a facility in need of improvement; and
  - (b) The deferral would not pose a threat to public safety and welfare, based upon review of pedestrian/vehicular traffic on the street, the width and condition of the street, and on-street parking.
- (B) Unless otherwise provided in the deferral agreement, when sidewalk construction has been deferred, the property owner shall:
  - (i) Grade and slope the area to the future sidewalk grade;
  - (ii) Avoid planting trees in the sidewalk area, or building fences, retaining walls, steps, or other impediments to the future sidewalk; and
  - (iii) Note on the plans for the development that a deferment has been granted but that sidewalk construction may be ordered by the City at any time.
- (b) *City required deferral.* The Director may require deferral of the construction of part or all of one or more of the improvements identified in subsection (a) of this section at any time. Deferral pursuant to this subsection shall be at no cost to the applicant.
- (c) *Deferral agreement.* When a deferral is allowed or required pursuant to this section, the applicant shall enter into a deferral agreement. The deferral agreement shall be in a form approved by the City Attorney, shall be filed in the deed records of the appropriate county, and shall provide that the required improvements will be constructed at such time as the Director determines or at such other time as may be specified by resolution of the Council.
- (d) *Notation on plat.* The deferral of any improvements shall be noted on the final plat.

***Applicant's Findings:*** *It is not anticipated a deferral of improvements will be necessary for the proposed subdivision. However, the applicant is aware if a deferral is requested, it must conform to the provisions of this section. If applicable, these criteria will be met.*

## Section 6: Findings Applicable to Tree Conservation Plan

### Chapter 808 – Preservation of Trees and Vegetation

#### Section 808.001 – Purpose

The purpose of this chapter is to provide for the protection of heritage trees, significant trees, and trees and native vegetation in riparian corridors, as natural resources for the city, and to increase tree canopy over time by requiring tree preservation and planting of trees in all areas of the city.

***Applicant's Findings:*** *The applicant understands the purpose of the provisions of this chapter and has provided findings to the applicable criteria below.*

#### Section 808.015 – Significant Trees

No person shall remove a significant tree, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045.

***Applicant's Findings:*** *The applicant is proposing removal of 8 trees on site through a tree conservation plan in conjunction with the proposed subdivision application. This criterion is met.*

#### Section 808.020 – Trees and Native Vegetation in Riparian Corridors

No person shall remove a tree in a riparian corridor or native vegetation in a riparian corridor, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045. Roots, trunks, and branches of trees removed in riparian corridors shall remain within the riparian corridor, unless determined to be a potential hazard or impediment to stream flow by the Director.

***Applicant's Findings:*** *There are no riparian corridors present on the subject site. This criterion is not applicable.*

#### Section 808.025 – Trees on Lots or Parcels 20,000 Square Feet or Greater

No person shall, prior to site plan review or building permit approval, remove a tree on a lot or parcel that is 20,000 square feet or greater, or on contiguous lots or parcels under the same ownership that total 20,000 square feet or greater, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045. Nothing in this section shall be construed to require the retention of trees, other than heritage trees, significant trees, and trees and vegetation in riparian corridors, beyond the date of site plan review or building permit approval, if the proposed

development is other than single family residential, two family residential, three family residential, four family residential, or a cottage cluster.

***Applicant's Findings:*** *Tree removal has not taken place on site. The applicant is seeking approval to remove 8 trees on the subject property, the minimum necessary to facilitate efficient and orderly development of the subject site.*

#### Section 808.035 – Tree Conservation Plans

- (a) ***Applicability.*** A tree conservation plan is required in conjunction with any development proposal for the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters.

***Applicant's Findings:*** *Tree removal is proposed in conjunction with the proposed subdivision plan, triggering the applicability of this section.*

- (b) ***Procedure type.*** A tree conservation plan is processed as a Type I procedure under SRC chapter 300.

***Applicant's Findings:*** *Because the tree conservation plan is consolidated with the tentative subdivision plan, a Type II review is required for the consolidated submittal.*

- (c) ***Submittal requirements.*** In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a tree conservation plan shall include the following:
- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
    - (A) The total site area, dimensions, and orientation relative to north;
    - (B) Proposed lot or parcel lines;
    - (C) Site topography shown at two-foot contour intervals or, when grading of the property will be necessary to accommodate the proposed development, preliminary site grading shown at two-foot contour intervals;
    - (D) Identification of slopes greater than 25 percent;
    - (E) The location of any existing structures on the site;
    - (F) Identification of the type, size, location, and critical root zone of all existing trees on the property;
    - (G) Identification of those trees proposed for preservation and those designated for removal;
    - (H) The location of all utilities and other improvements;
    - (I) Required setbacks for the proposed lots or parcels;
    - (J) The locations and descriptions of staking or other protective devices to be used during construction; and

- (K) The site plan may contain a grid or clear delineation of phases that depict separate areas in which work is to be performed and identification of those trees proposed for preservation and those designated for removal with each phase.

***Applicant's Findings:*** Each item listed above has been provided with the proposed tree conservation plan. This criterion is met.

- (2) In addition to the information required by subsection (c)(1) of this section, when a riparian corridor is located on the property, the tree conservation plan shall include:
  - (A) A delineation of the boundaries of the riparian corridor on the site plan;
  - (B) A description of the vegetation within the riparian corridor;
  - (C) A tree and native vegetation replanting plan, in compliance with the standards set forth in SRC 808.055, if trees and native vegetation within the riparian corridor are proposed for removal.

***Applicant's Findings:*** There is no riparian corridor present on the subject site. This criterion is not applicable.

- (3) An arborist report identifying the critical root zone for any non-significant tree whose critical root zone is proposed to be determined by an arborist.

***Applicant's Findings:*** An arborist report is not required to be supplied with the proposed tree conservation plan. This criterion is not applicable.

- (4) For tree conservation plans designating less than 30 percent of the trees on the property for preservation, an explanation of how the mitigation measures of SRC 808.035(e) will be met.

***Applicant's Findings:*** As detailed on the tree conservation plan provided, the subject site has 14 trees. 8 trees have been identified as being removed and 6 trees preserved. The percentage of preservation is approximately 43 percent, exceeding the minimum 30 percent requirement.

(d) Approval criteria.

- (1) An application for a tree conservation plan shall be granted if the following criteria are met:
  - (A) No heritage trees are designated for removal.

***Applicant's Findings:*** There are no heritage trees present on site. This criterion is not applicable.



- (B) No significant trees are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees.

***Applicant's Findings:*** One significant tree is designated for removal. The tree is a 36-inch fir tree that falls within the required right-of-way improvement for Browning Avenue S. There are no reasonable design alternatives that would enable preservation of this tree. This criterion is met.

- (C) No trees or native vegetation in a riparian corridor are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees or native vegetation.

***Applicant's Findings:*** No riparian corridors are present on the subject site. This criterion is not applicable.

- (D) Not less than 30 percent of all trees located on the property are designated for preservation, unless there are no reasonable design alternatives that would enable preservation of such trees.

***Applicant's Findings:*** As detailed on the tree conservation plan provided, the subject site has 14 trees. 8 trees have been identified as being removed and 6 trees preserved. The percentage of preservation is approximately 43 percent, exceeding the minimum 30 percent requirement. The proposal meets this criterion.

- (E) When less than 30 percent of all trees located on the property are designated for preservation, the mitigation measures required under SRC 808.035(e) are met.

***Applicant's Findings:*** As detailed on the tree conservation plan provided, the subject site has 14 trees. 8 trees have been identified as being removed and 6 trees preserved. The percentage of preservation is approximately 43 percent, exceeding the minimum 30 percent requirement. This criterion is not applicable.

- (2) When an approval criterion in this subsection requires a determination that there are no reasonable design alternatives that would enable preservation of a tree(s), the following factors, which include but are not limited to the following, shall be considered in making such determination:

- (A) *Streets.* The removal is necessary due to:

- (i) The location and alignment of existing streets extended to the boundary of the subject property;
- (ii) The planned alignment of a street identified in the Salem Transportation System Plan (TSP);

- (iii) A street required to meet connectivity standards, to serve property where a flag lot accessway is not possible, or where a cul-de-sac would exceed maximum allowed length;
  - (iv) Any relocation of the proposed street resulting in lots that do not meet lot standards;
  - (v) A required boundary street improvement.
- (B) *Utilities*. The removal is necessary due to existing or proposed utilities that cannot be relocated to an alternative location.
- (C) *Site topography*. The removal is necessary due to the topography of site which will require severe grading in the critical root zone of the tree in order to comply with maximum street or intersection grades, fire department access requirements, or Fair Housing Act or ADA accessibility standards.
- (D) *Dwelling unit density*. The removal is necessary in order to meet a minimum dwelling unit density of 5.5 dwelling units per acre. In consideration of this factor:
  - (i) Not more than 15 percent of the proposed dwelling units within the development shall be required to be designated for middle housing in order to meet density requirements and demonstrate there are no reasonable design alternatives enabling preservation of a tree(s); and
  - (ii) The following may be excluded from the total site area for purposes of calculating density:
    - (a) Riparian corridors, provided the riparian corridor is not graded or developed;
    - (b) Areas of the site with slopes exceeding 25 percent, provided such areas are not graded or developed; and
    - (c) Open space that will preserve significant natural features, provided the perpetual maintenance and operation of the open space is provided by a homeowners' association.

***Applicant's Findings:*** Subsection (A) above is applicable to this proposal. One significant tree falls within the right-of-way and frontage improvement area for Browning Avenue. Because the TSP designates bicycle facilities as being required along this frontage, there is no reasonable alternative to preserve the tree.

(e) *Mitigation measures.* When less than 30 percent of all trees located on a property are designated for preservation under a tree conservation plan, any combination of one or more of the following mitigation measures shall be provided for each tree removed in excess of 70 percent:

- (1) *Residential density increase.* One middle housing dwelling unit or accessory dwelling unit shall be provided within the development for each tree removed. Any dwelling unit provided pursuant to this subsection is required in addition to the density requirements otherwise applicable in the zone. The lot(s) within the development that will be developed with the middle housing dwelling unit(s) or accessory dwelling unit(s) shall be specified in the conditions of the associated land division approval.
- (2) *Solar power off-set.* One 25-year 3-kilowatt solar array shall be provided for each tree removed. The lot(s) where the solar array(s) will be located shall be specified in the conditions of the associated land division approval.
- (3) *Electric vehicle charging.* One level 2 240-volt residential electric vehicle charging station shall be provided for each tree removed. The lot(s) where the charging stations will be located shall be specified in the conditions of the associated land division approval.
- (4) *Open space lot.* One or more lots within the development shall be designated as an open space lot planted at a minimum density of two trees for each tree removed. The replanted trees shall be of either a shade or evergreen variety with a minimum caliper of 1.5 inches. The lot(s) within the development that will be designated as an open space lot shall be specified in the conditions of the associated land division approval and shall be perpetually operated and maintained by a homeowners' association.

***Applicant's Findings:*** The applicant is proposing 43 percent preservation, exceeding the minimum 30 percent required. Subsection (e) is not applicable to the proposal.

(f) *Conditions of approval.*

- (1) Conditions may be imposed on the approval of a tree conservation plan to ensure compliance with the approval criteria.
- (2) In addition to any conditions imposed under subsection (e)(1) of this section, every tree conservation plan shall include the following conditions:

- (A) All trees and native vegetation designated for preservation under the tree conservation plan shall [be] protected during construction as set for in SRC 808.046.
- (B) Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

***Applicant's Findings:*** *The applicant understands the review authority may impose conditions on the development to ensure compliance with the approval criteria. However, the applicant believes they have demonstrated compliance and has shown the removal proposed is the minimum necessary to efficiently develop the subject property.*

- (g) *Expiration.* A tree conservation plan shall remain valid as long as the development proposal the tree conservation plan is issued in connection with remains valid.

***Applicant's Findings:*** *The applicant understands the provisions surrounding expiration of an approved tree conservation plan.*

#### Section 808.046 – Protection Measures During Construction

Except where specific protection requirements are established elsewhere under the UDC, any trees or native vegetation required to be preserved or protected under the UDC shall be protected during construction as follows:

- (a) *Trees.* All trees shall be protected during construction with the installation of an above ground silt fence, or its equivalent.
  - (1) The above ground silt fence shall encompass 100 percent of the critical root zone of the tree.
  - (2) Within the area protected by the above ground silt fence, the tree's trunk, roots, branches, and soil shall be protected to ensure the health and stability of the tree; and there shall be no grading, placement of fill, storage of building materials, or parking of vehicles.
  - (3) Notwithstanding SRC 808.046(a)(2):
    - (A) Up to a maximum of 30 percent of the critical root zone of a tree may be disturbed in order to accommodate development of the property when a report from an arborist is submitted documenting that such disturbance will not compromise the long-term health and stability of the tree and all recommendations included in the report to minimize any impacts to the tree are followed.
    - (B) Fences, patios, landscaping and irrigation, and accessory and similar structures that do not require a building permit, may be placed or constructed within the critical root zone of a tree.

(b) *Native vegetation.* All native vegetation shall be protected during construction with the installation of an above ground silt fence, or its equivalent.

(1) The above ground silt fence shall be located around the perimeter of the native vegetation.

(2) Within the area protected by the above ground silt fence, native vegetation shall not be removed and there shall be no grading, placement of fill, storage of building materials, or parking of vehicles.

(c) *Duration.* Protection measures required under this section shall remain in place until issuance of notice of final completion for the dwelling unit(s) on the lot, or issuance of certificate of occupancy in all other cases.

***Applicant's Findings:*** All tree protection measures outlined in this section will be followed during the construction phase of this project. These criteria will be met.

#### Section 808.050 – Tree Planting Requirements

(a) Within development proposals for the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters, each lot or parcel shall contain, at a minimum, the number of trees set forth in Table 808-1.

***Applicant's Findings:*** At the time of building permit for the future single-family dwellings, site plans will be provided demonstrating replating requirements have been met as shown in Table 808-1.

(b) If there are insufficient existing trees on a lot or parcel to satisfy the number of trees required under Table 808-1, additional trees sufficient to meet the requirement shall be planted. The additional trees shall be a minimum 1.5-inch caliper.

***Applicant's Findings:*** The applicant understands existing trees count toward the required number of trees outlined in Table 808-1 and additional trees may be required to meet the minimum trees required dependent on lot size. Additionally, the applicant understands the newly planted trees must be a minimum of 1.5-inch caliper. This criterion will be met.

(c) When a lot includes one or more significant trees that have been designated for preservation under a tree conservation plan, the number of trees required to be replanted on the lot may be reduced by a ratio of two trees for each significant tree preserved on the lot.

***Applicant's Findings:*** None of the trees designated for preservation are significant. This provision is not applicable.

## Section 7: Conclusion

Based on the facts and findings presented by the applicant within this detailed written narrative, the applicant believes they have satisfied the burden of proof and demonstrated how the proposed subdivision not only satisfies all applicable criteria but would also be a benefit to the community by providing a needed improvement to the area.

## Section 8: Exhibits

Exhibit A – Marion County Tax Map

Exhibit B – Deed

Exhibit C – Neighborhood Contact

Exhibit D – Proposed Plans



## MEMO

**TO:** Bryce Bishop, Planner III  
Community Development Department

**FROM:** Laurel Christian, Development Services Planner II  
Public Works Department

**DATE:** November 18, 2022

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS  
SUB22-07 (22-114284)  
4120 KURTH STREET S  
6-LOT SUBDIVISION**

### **PROPOSAL**

An application for a subdivision tentative plan to divide 1.52 acres into six lots ranging in size from approximately 6,966 square feet to 11,036 square feet. The subject property is zoned RS (Single Family Residential), and located at 4120 Kurth Street S (Marion County Assessor Map and Tax Lot Numbers: 083W09BB01600 and 00300).

### **RECOMMENDED CONDITIONS APPROVAL**

1. Prior to public construction plan approval or final plat approval, whichever comes first, the applicant shall identify the total number of dwelling units to be constructed within the subdivision.
2. The following conditions of approval shall be completed prior to final plat approval or shown on the final plat:
  - a. Dedicate a 10-foot public utility easement along the street frontage of Kurth Street S, Browning Avenue S, and the Mesa Street S cul-de-sac.
  - b. All necessary (existing and proposed) access and utility easements must be shown and recorded on the final plat.
  - c. Convey land for dedication of right-of-way along the entire frontage Kurth Street S equal 30 feet from centerline.
  - d. Convey land for dedication of right-of-way along the entire frontage of Browning Avenue S equal to 30 feet from centerline.
  - e. Dedicate a minimum 15-foot of right-of-way for the mid-block bike/pedestrian connection from Mesa Street S to Kurth Street S.

- f. Dedicate right-of-way for the extension of Mesa Street S within the subject property as shown on the applicant's tentative plan.
  - g. Provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
- 3. The following conditions of approval shall be completed prior to final plat approval or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B):
  - a. Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.
  - b. If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to Condition 1 will result in 20 or more new daily trips, with credits for prior use, if applicable, construct a half-street improvement along the frontage of Kurth Street S to collector street standards, including a property line sidewalk, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
  - c. If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to Condition 1 will result in less than 20 new daily trips, with credits for prior use, if applicable, along the entire frontage of Kurth Street S construct additional pavement for a pedestrian access route to a width of 17 feet from the centerline as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803. The pavement shall be constructed according to PWDS for the grade and surface standards of a pedestrian access route.
  - d. Construct a half-street improvement along the frontage of Browning Avenue S to collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
  - e. Construct the extension of Mesa Street S to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.
  - f. Construct a mid-block bike/pedestrian connection from Mesa Street S to Kurth Street S, as shown on the applicant's tentative plan, and in accordance with the PWDS.
  - g. Obtain street tree removal permits, as necessary, pursuant to SRC Chapter 86.



- h. Install street trees to the maximum extent feasible along the Kurth Street S, Browning Avenue S, and Mesa Street S frontages.
- i. Upgrade the existing 4-inch main in Mesa Street S to a minimum 8-inch main from Camelia Street SE to the Mesa Street S cul-de-sac.

## **FACTS AND FINDINGS**

### **Streets**

#### **1. Kurth Street S**

- a. Standard—This street is designated as a collector street in the Salem TSP. The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way.
- b. Existing Condition—This street has an approximate 17-foot improvement within a 50-foot-wide right-of-way abutting the subject property.

#### **2. Browning Avenue S**

- a. Standard—This street is designated as a collector street in the Salem TSP. The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way.
- b. Existing Condition—This street has an approximate 20-foot improvement within a 40-foot-wide right-of-way abutting the subject property.

#### **3. Mesa Street S**

- a. Standard—This street is designated as a local street in the Salem TSP. The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way.
- b. Existing Condition—This street has an approximate 20-foot improvement within a 60-foot-wide right-of-way abutting the subject property.

### **Water**

#### **1. Existing Conditions**

- a. The subject property is located within the S-3 water service level.
- b. A 6-inch and 12-inch water main is located in Kurth Street S.
- c. 12-inch water main is located in Browning Avenue S.

- d. A 4-inch water main is located in Mesa Street S.

## **Sanitary Sewer**

### **1. Existing Conditions**

- a. An 8-inch sewer main is located in Kurth Street S.
- b. An 8-inch sewer main is located in Browning Avenue S.
- c. An 8-inch sewer main is located in Mesa Street S.
- d. An 8-inch sewer main is located along the eastern property line and travels from Browning Avenue S to the southern property line in an easement.

## **Storm Drainage**

### **1. Existing Conditions**

- a. A 12-inch storm main is located in Kurth Street S.
- b. A 24-inch storm main is located in Browning Street S.
- c. A 10-inch storm main is located in Mesa Street S.
- d. An 18-inch storm main is located along the eastern property line and travels from Browning Avenue S to the southern property line in an easement.

## **Parks**

The proposed development is served by Sunnyslope Park approximately 0.40 miles southwest of the subject property.

## **CRITERIA AND FINDINGS**

The following Code references indicate the criteria that must be found to exist before an affirmative decision may be made. The applicable criteria and the corresponding findings are as follows:

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

- 1. Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;**
- 2. City infrastructure standards; and**

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

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

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

A 10-foot-wide public utility easement is required along the street frontage of Kurth Street S, Browning Avenue S, and Mesa Street S pursuant to SRC 803.035(n).

**Condition:** Dedicate a 10-foot public utility easement along the street frontage of Kurth Street S, Browning Avenue S, and Mesa Street S.

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

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property.

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

**Findings**— Water, sewer, and stormwater infrastructure are available in Kurth Street S and Browning Avenue S along the perimeter of the site and appear to be adequate to serve the lots fronting on Kurth Street S and Browning Avenue S as shown on the applicant's tentative plan.

The existing 4-inch main in Mesa Street S cannot support the proposed lots and the proposed fire hydrant at the end of Mesa Street S. The applicant shall upgrade the existing 4-inch main in Mesa Street S to an 8-inch main from Camelia Street SE to the Mesa Street cul-de-sac.

**Condition:** Upgrade the existing 4-inch main in Mesa Street S to a minimum 8-inch main from Camelia Street SE to the Mesa Street S cul-de-sac.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. To demonstrate the proposed parcels can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities.

**Condition:** Provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

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

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

As described above, public sewer and storm mains are located on the subject property within an easement. The tentative plan does not show all existing easements for existing infrastructure; these shall be shown on the final plat. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

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

**SRC 205.010(d)(4) and SRC 205.0010(d)(5)—The street system in and adjacent to the tentative subdivision plan conforms to the *Salem Transportation System Plan*. The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.**

**Finding**—Kurth Street S abuts the subject property and does not meet the current standards for a collector street. Kurth Street S has a “Collector C” designation according to the Salem TSP because there is not a designated bike route along this street; parking should be provided along the development side of the street pursuant to PWDS once the street is fully constructed to collector street standards. The existing street section of Kurth Street S in the vicinity of the proposed partition lacks curbs and sidewalks, yet has stormwater facilities. Pursuant to SRC 803.040, the applicant is required to convey land for dedication of right-of-way to equal 30 feet from centerline along the entire frontage of

Kurth Street S SE to meet Collector street standards.

For boundary street improvements along the frontage of Kurth Street S, Public Works staff recommends a minimum improvement of a temporary pedestrian access route by widening the existing pavement to 17 feet from centerline, and installation of street trees. Up to a half-street improvement to Collector standards may be warranted based on the proposed uses of the lots. At the minimum density of six single-family dwellings, the applicant shall construct a pedestrian access route to mitigate traffic impacts of six single-family dwellings and contribute to the safe, orderly, and efficient circulation of traffic by reducing potential conflicts between motorists and pedestrians. Up to 23 middle housing units could be constructed on the six lots, which would have a more significant impact on the transportation system and warrant a half-street boundary improvement on Kurth Street S. Street trees shall be provided consistent with collector street standards as specified in the Salem TSP.

The applicant shall submit a plan that identifies the total number of dwelling units proposed to be constructed on the site to determine the impacts to the transportation system. If the proposed development exceeds 20 new average daily trips, taking into consideration prior uses of the site, a half-street improvement to Kurth Street S shall be required.

**Condition:** Convey land for dedication of right-of-way along the entire frontage Kurth Street S equal 30 feet from centerline;

**Condition:** Prior to public construction plan approval or final plat approval, whichever comes first, the applicant shall identify the total number of dwelling units to be constructed within the subdivision.

**Condition:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to Condition 1 will result in 20 or more new daily trips, with credits for prior use, if applicable, construct a half-street improvement along the frontage of Kurth Street S to collector street standards, including a property line sidewalk, as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

**Condition:** If the cumulative vehicle trips resulting from the number of dwelling units identified by the applicant to be constructed within the subdivision pursuant to Condition 1 will result in less than 20 new daily trips, with credits for prior use, if applicable, along the entire frontage of Kurth Street S, construct additional pavement for a pedestrian access route to a width of 17 feet from the centerline as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803. The pavement shall be constructed according to PWDS for the grade and surface standards of a pedestrian access route.

Browning Avenue S abuts the subject property and does not meet the current standard for a collector street. Browning Avenue S is designated as a "Collector B" according to

the Salem TSP as there is a mapped bike route along this street. Bike lane and parking should be provided along the development side of the street pursuant to PWDS. Browning Avenue S to the west of the subject property is constructed with curbs and sidewalk; therefore, curb and sidewalk extension along the property frontage is warranted. As identified in the conditions of approval, the applicant is required to construct a half-street improvement along the entire frontage of Browning Avenue S to Collector Street standards. The proposed development is required to dedicate right-of-way equal to 30 feet from centerline on the development side of Browning Avenue S.

**Condition:** Convey land for dedication of right-of-way along the entire frontage of Browning Avenue S equal to 30 feet from centerline.

**Condition:** Construct a half-street improvement along the frontage of Browning Avenue S to collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

The applicants site plan shows the extension of Mesa Street S to a cul-de-sac. The applicant requests an increased block length to allow Mesa Street S to cul-de-sac rather than extend through to Kurth Street S. The block length along Kurth Street S from Browning Avenue S to Warren Lane S will be approximately 814 feet, where the standard is 600 feet. In lieu of extending Mesa Street S to Kurth Street S, the applicant proposes a mid-block pedestrian connection. The mid-block pedestrian connection shall be designed in accordance with PWDS. A larger block length is authorized by the Director under SRC 803.030(b) because it accommodates for more efficient and denser development with less impervious surface, and strict application of the spacing requirements would result in a street network that is no more beneficial to vehicular, pedestrian, or bicycle traffic.

**Condition:** Dedicate right-of-way for the extension of Mesa Street S within the subject property as shown on the applicant's tentative plan.

**Condition:** Construct the extension of Mesa Street S to local street standards as specified in the City Street Design Standards and consistent with the provisions in SRC Chapter 803.

**Condition:** Dedicate a minimum 15-foot right-of-way for the mid-block bike/pedestrian connection from Mesa Street S to Kurth Street S.

**Condition:** Construct a mid-block bike/pedestrian connection from Mesa Street S to Kurth Street S, as shown on the applicant's tentative plan, and in accordance with PWDS.

Preliminary plans indicate that removal of street trees may be necessary to construct the required street improvements. Removal of trees located within the right-of-way requires a street tree removal permit pursuant to SRC Chapter 86. Pursuant to SRC 86.015(e), anyone undertaking development along public streets shall plant new

street trees to the maximum extent feasible.

**Condition:** Obtain street tree removal permits, as necessary, pursuant to SRC Chapter 86.

**Condition:** Install street trees to the maximum extent feasible along the Kurth Street S, Browning Avenue S, and Mesa Street S frontages.

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

**Findings**—The subject property is served by Sunnyslope Park, which is a park site located southwest of, and within a half-mile of, the subject property. Access to the park is available through the existing transportation system.

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

**Findings**—The proposed 6-lot subdivision generates less than 1,000 average daily vehicle trips to the collector street system. Therefore, a TIA is not required as part of the proposed subdivision submittal.

Prepared by: Laurel Christian, Development Services Planner II  
cc: File

## Bryce Bishop

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**From:** Jennifer Quisenberry <jlquisenberry@gmail.com>  
**Sent:** Monday, September 26, 2022 2:12 PM  
**To:** Bryce Bishop  
**Subject:** Case #SUB22-07

Hi there,

I just wanted to send an email to voice support for the six-lot subdivision plan. This is SO much better than the apartment complex that was first proposed. I think adding single family homes here would fit the neighborhood and existing infrastructure well.

Thank you!

Jennifer Quisenberry

Sent from my iPhone



## REQUEST FOR COMMENTS

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

**REGARDING:** Subdivision Tentative Plan Case No. SUB22-07

**PROJECT ADDRESS:** 4120 Kurth St S, Salem OR 97302

**AMANDA Application No.:** 22-114284-PLN

**COMMENT PERIOD ENDS:** October 6, 2022

**SUMMARY:** A six-lot subdivision of approximately 1.52 acres, with associated site improvements.

**REQUEST:** An application for a subdivision tentative plan to divide 1.52 acres into six lots ranging in size from approximately 6,966 square feet to 11,036 square feet. The subject property is zoned RS (Single Family Residential) and located at 4120 Kurth Street S (Marion County Assessor Map and Tax Lot Numbers: 083W09BB01600 and 00300).

The Planning Division is interested in hearing from you about the attached proposal. Staff will prepare a Decision that includes consideration of comments received during this comment period. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners or residents. The complete case file, including all materials submitted by the applicant and any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports, are available upon request.

**Comments received by 5:00 p.m. Thursday, October 6, 2022,** will be considered in the decision process. Comments received after this date will be not considered. *Comments submitted are public record. This includes any personal information provided in your comment such as name, email, physical address and phone number. Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail your comments to the Case Manager listed below.*

**CASE MANAGER:** Bryce Bishop, Planner III, City of Salem, Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503-540-2399; E-Mail: [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net).

For information about Planning in Salem, please visit: <http://www.cityofsalem.net/planning>

### PLEASE CHECK THE FOLLOWING THAT APPLY:

☐ 1. I have reviewed the proposal and have no objections to it.

☒ 2. I have reviewed the proposal and have the following comments: Pedestrian Safety - install sidewalks - no current sidewalks on Browning or Kurth  
2) Traffic Safety - widen Street on both Kurth + Browning - OR prevent street parking 3) Bring back Sherriots - need closer public transportation -

Name/Agency: Cheryl Grossman

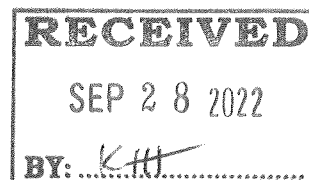
Address: 1747 Berndt Hill Dr S. - 97302

Phone: 503-507-3573

Email: Cherylhcp@gmail.com

Date: 9/26/2022

**IMPORTANT: IF YOU MAIL COMMENTS, PLEASE FOLD AND RETURN THIS POSTAGE-PAID FORM**



## REQUEST FOR COMMENTS

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

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**CASE MANAGER:** Bryce Bishop, Planner III, City of Salem, Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503-540-2399; E-Mail: [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net).

For information about Planning in Salem, please visit: <http://www.cityofsalem.net/planning>

### PLEASE CHECK THE FOLLOWING THAT APPLY:

- ☐ 1. I have reviewed the proposal and have no objections to it.
- ☒ 2. I have reviewed the proposal and have the following comments: As long as we do not lose a portion of our driveway or yard or parking on the st we have no objections.

Name/Agency: Drew Kangler

Address: 1312 Mesa St S

Phone: 503-743-8928

Email: \_\_\_\_\_

Date: 9/30/22

**IMPORTANT: IF YOU MAIL COMMENTS, PLEASE FOLD AND RETURN THIS POSTAGE-PAID FORM**