

NOTICE OF DECISION

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

DECISION OF THE PLANNING ADMINISTRATOR

PARTITION / CLASS 2 ADJUSTMENT PAR-ADJ19-01

APPLICATION NO. : 19-103244-LD & 19-108918-ZO

NOTICE OF DECISION DATE: May 13, 2019

SUMMARY: A proposed partition to divide property located at 365 Lancaster Drive SE into two parcels with an adjustment to allow a fifth property to use the existing private accessway.

REQUEST: A tentative partition plan to divide approximately 8.55 acres into two parcels, with Parcel 1 consisting of approximately 6.32 acres and Parcel 2 consisting of approximately 2.23 acres. Parcel 1 would retain the existing movie theater and site improvements and Parcel 2 would consist of vacant land which may be developed in the future. A Class 2 Adjustment to allow five properties to utilize the existing private accessway where the maximum allowed is four.

The subject property is approximately 8.55 acres in size, zoned CG (General Commercial), and located at 365 Lancaster Drive SE (Marion County Assessors Map and Tax lot number: 072W31BB 04500).

APPLICANT: Hichi Huynh

LOCATION: 365 Lancaster Drive SE / 97317

CRITERIA: Salem Revised Code SRC 205.005(d) and 250.005(d)(2)

FINDINGS: The facts and findings are in the attached Order dated May 13, 2019.

DECISION: The Planning Administrator **APPROVED** Partition / Class 2 Adjustment Case No. PAR-ADJ19-01 subject to the following conditions of approval:

- Condition 1:** A minimum 5-foot landscape strip is required abutting the parking along the easterly property line. At the time of final plat application, the applicant shall provide a plat which depicts the 5-foot landscape strip required on Parcel 1.
- Condition 2:** Extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way.
- Condition 3:** Provide easements in compliance with PWDS for public infrastructure located within the subject property.
- Condition 4:** Provide an access easement through the existing parking lot within parcel 1 to provide vehicular access for westbound to southbound turning movements into parcel 2.

The rights granted by the attached decision must be exercised, or an extension granted, by **May 29, 2021** or this approval shall be null and void.

Application Deemed Complete:	<u>February 14, 2019</u>
Notice of Decision Mailing Date:	<u>May 13, 2019</u>
Decision Effective Date:	<u>May 29, 2019</u>
State Mandate Date:	<u>June 14, 2019</u>

Case Manager: Olivia Glantz, oglantz@cityofsalem.net

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than Tuesday, May 28, 2019, by 5:00 p.m.** 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 and 250. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem 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 at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**BEFORE THE PLANNING ADMINISTRATOR
OF THE CITY OF SALEM
(PARTITION PLAT NO. 19-01)**

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

**IN THE MATTER OF THE
TENTATIVE APPROVAL OF
PARTITION PLAT NO. 19-01;
365 LANCASTER DRIVE SE**

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FINDINGS AND ORDER

MAY 13, 2019

REQUEST

A tentative partition plan to divide approximately 8.55 acres into two parcels, with Parcel 1 consisting of approximately 6.32 acres and Parcel 2 consisting of approximately 2.23 acres. Parcel 1 would retain the existing movie theater and site improvements and Parcel 2 would consist of vacant land which may be developed in the future. A Class 2 Adjustment to allow five properties to utilize the existing private accessway where the maximum allowed is four.

The subject property is approximately 8.55 acres in size, zoned CG (General Commercial), and located at 365 Lancaster Drive SE (Marion County Assessors Map and Tax lot number: 072W31BB 04500).

DECISION

The tentative partition plan and class 2 adjustment is APPROVED subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the following conditions of final plat approval, unless otherwise indicated:

- Condition 1:** A minimum 5-foot landscape strip is required abutting the parking along the easterly property line. At the time of final plat application, the applicant shall provide a plat which depicts the 5-foot landscape strip required on Parcel 1.
- Condition 2:** Extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way.
- Condition 3:** Provide easements in compliance with PWDS for public infrastructure located within the subject property.
- Condition 4:** Provide an access easement through the existing parking lot within parcel 1 to provide vehicular access for westbound to southbound turning movements into parcel 2.

PROCEDURAL FINDINGS

1. On January 17, 2019, an application for a Tentative Partition Plan was filed proposing to divide an 8.55 acre property at Lancaster Drive SE (Attachment B) into two parcels.
2. The application was deemed complete for processing on February 14, 2019. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on February 15, 2019.

SUBSTANTIVE FINDINGS

1. Proposal

The tentative plan proposes to divide the property into two parcels, with Parcel 1 containing the existing movie theater development and Parcel 2 created for a future, unknown, development (Attachment B). Both parcels are proposed to access to the private street abutting the northerly property line of the properties. The two parcels within the tentative partition plan are proposed as follows:

PROPOSED PARCEL 1

Parcel Size: 6.32 acres,
Parcel Dimensions: Approximately 446.88 feet in width and 517.51 feet in depth.

PROPOSED PARCEL 2

Parcel Size: 2.23 acres,
Parcel Dimensions: Approximately 250.15 feet in width and 494.90 feet in depth.

Access and Circulation: The subject property has frontage along the northerly property line to a private street which connects to Lancaster Drive SE which is designated as a Major Arterial street in the Salem Transportation System Plan (TSP) and is under Marion County jurisdiction.

2. Existing Conditions

Site and Vicinity

The subject property is generally rectangular, with approximately 490 feet of frontage on Lancaster Drive SE along its easterly boundary and approximately 703 feet of frontage on to a private street along the northerly boundary. The property is approximately 703 feet in width and approximately 490 feet in depth from north to south. An existing development is situated on the westerly portion of the subject property. The applicant proposes to retain the existing development after the partition is completed.

Salem Area Comprehensive Plan (SACP) Designation

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

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

North: Commercial

South: Multiple Family (Marion County)

East: (Across Lancaster Drive SE) Commercial (Marion County)

West: Commercial

Zoning and Surrounding Land Use

The subject property is zoned CG (General Commercial) and is currently occupied by a commercial development. The surrounding properties are zoned as follows:

North: CG - General Commercial

South: Marion County Zoning

East: (Across Lancaster Drive SE) Marion County Zoning

West: CG - General Commercial

Relationship to Urban Service Area

A portion of the subject property is within the City’s Urban Service Area.

Infrastructure

Water: The subject property is located within the G-0 water service level. A 12-inch public water main is located west of the subject property at the end of the existing private road.

Sewer: A 15-inch sewer main is located on the subject property. This sewer line has limited capacity.

Storm Drainage: A private storm system is located on the subject property. A 24-inch Marion County storm line is located along the southern boundary of proposed parcel 2. A City easement is located along the southern boundary of the subject property. Details of the easement can be found in Marion County Records, Reel 1518, Page 32.

Streets: *Lancaster Drive SE* abuts the easterly boundary of the subject property and is designated as a Major Arterial in the Salem Transportation System Plan (TSP).

- The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way.
- The abutting portion of Lancaster Drive SE currently has an approximately 72-foot wide improvement within a 133-foot-wide right-of-way.

3. Public and Private Agency Review

Public Works Department - The City of Salem Public Works Department, Development Services Section, reviewed the proposal and has provided their comments and recommendation for plat approval. Their memorandum is included as Attachment C.

Building and Safety Department - The City of Salem Building and Safety Department reviewed the proposal and has no objections to it.

Salem Fire Department – Salem Fire Department reviewed the proposal and commented that fire department access is required to be maintained to the existing structure. Any future development will require that fire department access and water supply be provided in accordance with the Oregon Fire Code that is adopted at that time.

Marion County Public Works Department – The Marion County Public Works Department reviewed the proposal and has provided their comments and recommendation for plat approval. Their letter is included as Attachment D. To summarize, the Marion County Public Works Department has requested the following five conditions of plat approval:

1. Upon application for city building permits, an Access Permit will need to be obtained from MCPW for the subject property access to Lancaster Drive, via Cinema Roadway. Access to Lot 2 should be via Cinema Roadway from Lot 1 to maintain adequate spacing from the Lancaster Drive intersection and not to cause conflicts with the turn lanes from Cinema Roadway to Lancaster Drive.

Staff Response: Currently, there is no proposal to develop Parcel 2. The only application under review at this time is the tentative partition application. Any future development proposed on the subject property will require a site plan review application. Marion County will receive notice of the development proposal, at which time this condition may be appropriate.

2. The Applicant should be required to show sufficient access easements on the partition plat to facilitate indirect access to Cinema Drive via proposed Lot 1.

Staff Response: Condition 4 of this decision states the following, provide an access easement through the existing parking lot within Parcel 1 to provide vehicular access for westbound and southbound turning movements into Parcel 2. Through this condition, staff believes the Marion County Public Works recommendation is met.

3. A new Traffic Impact Analysis (TIA) or a limited addendum to the original ACTIII TIA that focuses on the anticipated need for nearby signal timing adjustments on Lancaster Drive and need for a Cinema Drive SBRTL, should be conducted for the proposed development as a contingency for issuance of a County Access Permit. If the TIA, or addendum, indicates the need for signal adjustments or other improvements, a proposed design for that shall be presented in the TIA. The Developer's Traffic Engineer will need to contact MCPW Traffic Engineering to coordinate scoping. The Developer may be financially responsible to the county for costs associated with implementation of adjustments and/or other recommended improvements. Construction of any improvements should be required prior to issuance of a Certificate of Occupancy.

Staff Response: Currently, there is no proposal to develop Parcel 2. The only application under review at this time is the tentative partition and adjustment applications. Any future development proposed on the subject property will require a site plan review application. Marion County will receive notice of the development proposal, at which time this condition may be appropriate.

4. Upon application for city building permits and depending on the results of the TIA, the, developer may be required to design, permit, and construct a southbound right-turn lane into the development from Lancaster Drive, either solely, or if project schedules align, in conjunction with other developments served by Cinema Roadway.

Staff Response: Currently, there is no proposal to develop Parcel 2. The only application under review at this time is the tentative partition application. Any future development proposed on the subject property will require a site plan review application. Marion County will receive notice of the development proposal, at which time this condition may be appropriate.

5. The subject property receives closed system drainage from Lancaster Drive with no known hard connection to the storm drain within an easement located along the southern property line. The Developer should be required to demonstrate that Lancaster Drive flow is not impeded from entering the easement.

Staff Response: Currently, there is no proposal to develop Parcel 2. The only application under review at this time is the tentative partition application. Any future

development proposed on the subject property will require a site plan review application. Marion County will receive notice of the development proposal, at which time this condition may be appropriate.

4. Neighborhood Association Comments

The subject property is within the Southeast Salem Neighborhood Association (SESNA). Notice of the application was provided to the neighborhood association, pursuant to SRC 300.620(b)(2)(B)(iii), which requires public notice to be sent to “any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property.” Comments were not received from the neighborhood association prior to the close of the comment period.

5. Public Comments

Property owners within 250 feet of the subject property were mailed notification of the proposed partition. No comments were received prior to the close of the comment period.

6. Criteria for Granting a Tentative Partition

The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The partition process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created parcels at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final partition plat.

SRC Chapter 205.005(d) sets forth the criteria that must be met before approval can be granted to a tentative partition plan. The following subsections are organized with approval criteria shown in bold, followed by findings of fact upon which the Planning Administrator’s decision is based. The requirements of SRC 205.005(d) are addressed within the specific findings which evaluate the proposal’s conformance with the applicable criteria. Lack of compliance with the following criteria is grounds for denial of tentative plan or for the issuance of conditions of approval to more fully satisfy the criteria.

SRC 205.005(d)(1): The tentative partition plan complies with the standards of this Chapter and with all applicable provisions of the UDC, including, but not limited to the following:

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

SRC Chapter 523 (General Commercial): The subject property is currently zoned CG (General Commercial). The minimum lot area requirements of the CG zone are established under SRC 523.010(a) as follows:

Lot Standards for CG zone (General Commercial)

(see SRC Chapter 523, Table 523-2)

Requirement	Minimum Standard
Lot Area	None
Lot Width	None
Lot Depth (Single Family)	None
Street Frontage	16 feet (uses other than single family)

The proposed parcels exceed minimum lot area, dimension, and frontage requirements and therefore conform to the applicable standards. The proposed parcels within the partition are also of sufficient size and dimension to permit future development of uses allowed within the zone.

Setback Requirements: SRC Chapter 523 establishes the following setback standards for development within the CG (General Commercial) zone:

Buildings and Accessory Structures Adjacent to Streets:

- Minimum 5
- Vehicle use areas pursuant to SRC Chapter 806

Rear Yards:

- Zone to zone setbacks (Table 523-4) for uses other than single family and multiple family
- Vehicle use areas pursuant to SRC Chapter 806, for uses other than multiple family

Interior Side Yards:

- Zone to zone setbacks (Table 523-4) for uses other than single family and multiple family
- Vehicle use areas pursuant to SRC Chapter 806, for uses other than multiple family

Setback requirements for the proposed Parcel 2 will be reviewed at the time of development. As proposed, the parking lot abutting the newly created easterly property line for Parcel 1, would create a nonconforming situation for the existing

parking area. To ensure the parking area meets the development standards, the following condition shall apply:

Condition 1: A minimum 5-foot landscape strip is required abutting the parking along the easterly property line. At the time of final plat application, the applicant shall provide a plat which depicts the 5-foot landscape strip required on Parcel 1.

Lot Coverage: Maximum lot coverage requirements within the CG zone are established under SRC 523.010(c), Table 523-5. There is no maximum lot coverage for buildings and accessory structures within the CG zone. The maximum height allowed for buildings and accessory buildings, for uses other than residential, is 70-feet. The existing development does not exceed the maximum height. Any future development on proposed Parcel 2 would be evaluated for conformance with this development standard

As conditioned, the proposal meets the requirements of SRC Chapter 523.

SRC Chapter 800 (General Development Standards)

SRC 800.025(c) (Flag Lot Accessways): Flag lot accessways shall be developed and maintained in conformance with the standards set forth in Table 800-1 and this subsection. Nonresidential zoned property may have a maximum number of 4 lots served by a single accessway. Currently, Tax Lot 4502, 4501, and 4500 all take access from the accessway abutting the property along the northerly property line. Tax Lot 4700 has a primary access to Lancaster Drive SE through Tax Lot 4501 by way of a 20-foot-wide access easement as described in Reel 1518, Page 692. Tax Lot 4700 also has secondary access onto the access easement, however, because this is not the primary access, the number of lots accessing the easement remains at 3. Upon recordation of this partition, proposed Parcel 2 will have access to the accessway bringing the total number of properties having primary access to the accessway to the maximum of 4. The additional lot would be the fifth lot on the existing accessway, exceeding the maximum of four lots served by a single accessway. The applicant has requested an adjustment, which is addressed below in Section 7.

SRC Chapter 806 (Off-Street Parking, Loading, and Driveways)

SRC 806.015(a) (Minimum Required Off-Street Parking): An existing development currently occupies the subject property, with off-street parking provided by an existing parking lot. In accordance with SRC Chapter 400, the existing movie theater development is classified as a Commercial Entertainment Indoor use which requires 1 off-street parking space per 5 seats or 10 feet of bench length. The proposed partition does not modify the number of off street parking spaces currently provided for the existing development.

Off-street parking requirements for the proposed Parcel 2 will be reviewed at the time of application for building permits.

The proposal meets the requirements of SRC Chapter 806.

(B) City Infrastructure Standards.

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

SRC Chapter 200 (Urban Growth Management): The Urban Growth Management Program requires that an Urban Growth Area (UGA) Development Permit must be obtained prior to development of property outside the Salem Urban Service Area. The subject property is located partially outside of the Urban Service Area. However, the definition of development in SRC 200.005 does not include partitions, therefore a UG Preliminary Declaration is not required as part of this application.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that water and sewer infrastructure is available along the perimeter of the site and appears to be adequate to serve the proposed partition. Specifications for required public improvements are summarized in the Public Works Department memo dated March 25, 2019 (Attachment C).

SRC 802.015 (Development to be Served by City Utilities). Water, sewer and stormwater services must be provided to each of the proposed parcels, consistent with Public Works Design Standards (PWDS). In order to ensure water, sewer and stormwater service are provided in compliance with the requirements of SRC Chapter 802 and the PWDS, the following conditions shall apply:

Condition 2: Extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way.

Condition 3: Provide easements in compliance with PWDS for public infrastructure located within the subject property.

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

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

SRC 803.015 (Traffic Impact Analysis): The proposed 2 parcel partition will not generate additional trips to Lancaster Drive SE. Therefore, a Traffic Impact Analysis (TIA) is not

required as part of the proposed partition submittal. A TIA may be required for the future development of Parcel 2.

SRC 803.020 (Public and Private Streets): There are no internal streets proposed within the partition. The subject property has frontages on to an accessway to the north and Lancaster Drive SE, which is a public street.

SRC 803.025 (Right-of-Way and Pavement Widths): The subject property abuts Lancaster Drive SE. This street is a Major Arterial street in the Salem TSP and is under the jurisdiction of Marion County. This section of street appears to meet the right-of-way and street improvement widths of the Salem TSP. No internal street improvements are warranted as a condition of the proposed development.

SRC 803.030 (Street Spacing): The proposed partition involves further division of an 8.55 acre lot, within an established area where the network of streets has been in place for several decades. The limited size of the proposal and existing development on adjacent properties preclude development of further street connections as part of the proposal. The requirements of SRC Chapter 803.030 are not applicable to this proposal.

SRC 803.040 (Boundary Streets): The abutting portion of Lancaster Drive SE designated as a Major Arterial street in the Salem TSP and is under Marion County jurisdiction. The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way. This street has an approximate 72-foot improvement within a 133-foot-wide right-of-way abutting the subject property. The requirements of SRC Chapter 803.040 are not applicable to this proposal.

The proposal meets the requirements of SRC Chapter 803.

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

SRC Chapter 808 (Preservation of Trees and Vegetation): 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 the construction of single family or duplex dwelling units, if the development proposal will result in the removal of trees.

The subject property is zoned CG (General Commercial) and a portion is currently developed with a movie theater and site improvements including parking and landscaped areas. There is no proposal to develop the newly created Parcel 2 and the applicant is not proposing the removal of any trees with this partition application. Because of these reasons, a tree conservation plan application is not required.

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 shows that there are wetland channels and/or hydric soils mapped on the property. Pursuant to SRC 809.025, notification is provided to the Oregon Department of State Lands for development or land use within wetland areas.

SRC Chapter 810 (Landslide Hazards): City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility.

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are mapped 3-point landslide hazard areas on the subject property. The proposed activity of a partition adds 2 activity points to the proposal, which results in a total of 5 points. Therefore, the proposed development is classified as a moderate landslide risk and requires a geological assessment. A Geotechnical Study, prepared by GeoPacific Engineering, Inc., and dated August 23, 2018, was submitted to the City of Salem. This study demonstrated that the landslide hazard risk of the site in its existing conditions may be considered low and recommended at the time of development that a geotechnical engineer review the proposed plans and perform a site investigation to provide recommendations prior to further development.

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

Finding: The proposed partition would divide an 8.55 acre property into two proposed parcels with no remainder. The proposed partition would not impede the future use or development of any portion of the property. The adjoining properties are developed and have access to public streets.

The proposed configuration of parcels allows for the future development of the site consistent with applicable zoning standards. The property's existing frontage on to the private accessway abutting to the north and to Lancaster Drive SE are sufficient to provide access to each of the proposed parcels. The proposal does not adversely affect the safe and healthful development of adjacent properties. The proposal meets this criterion.

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

Finding: Sewer and stormwater infrastructure are available along the perimeter of the site and has limited capacity. An existing 12-inch water main is located west of the property at the end of the existing private accessway. The applicant shall extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way. The applicant has the option of entering into a “No-build” Improvement Agreement and constructing the main at the time of building permit pursuant to SRC 110.100 and SRC 205.035(c)(6)(B).

The proposal meets this criterion, as conditioned above.

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

Finding: The subject property abuts Lancaster Drive SE. This street is a Major Arterial street in the Salem TSP and is under the jurisdiction of Marion County. This section of street appears to meet the right-of-way and street improvement widths of the Salem TSP. No internal street improvements are warranted as a condition of the proposed development.

The application shows access to the parcels from the existing private accessway on the adjacent lot north of the subject property. The configuration of the proposed parcels creates the potential for traffic conflicts that may cause a traffic safety problem in Lancaster Drive SE. As eastbound vehicles are queued at the Lancaster Drive SE signal, westbound vehicles will be unable to enter the parcel 2 and will cause traffic to be obstructed in Lancaster Drive SE. As a result, the applicant shall provide an access easement from parcel 1 to benefit parcel 2 to ensure that westbound left-turn movements do not obstruct the Lancaster Drive SE intersection. To ensure this standard is met, the following condition shall apply:

Condition 4: Provide an access easement through the existing parking lot within parcel 1 to provide vehicular access for westbound to southbound turning movements into parcel 2.

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

Finding: The subject property abuts Lancaster Drive SE. This street is a Major Arterial street in the Salem TSP and is under the jurisdiction of Marion County. This section of street appears to meet the right-of-way and street improvement widths of the Salem TSP. No internal street improvements are warranted as a condition of the proposed development.

The application shows access to the parcels from the existing private accessway on the adjacent lot north of the subject property. The configuration of the proposed parcels creates the potential for traffic conflicts that may cause a traffic safety problem in Lancaster Drive SE. As eastbound vehicles are queued at the Lancaster Drive SE signal, westbound vehicles will be unable to enter the parcel 2 and will cause traffic to be obstructed in Lancaster Drive SE. As a result, the applicant shall provide an access easement from parcel 1 to benefit parcel 2 to ensure that westbound left-turn movements do not obstruct the Lancaster Drive SE intersection. As conditioned above, this criterion is met.

SRC 205.005(d)(6): The tentative partition plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Finding: The proposed partition has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The layout allows for reasonable development of all parcels within the partition without variances from the UDC. The proposal meets this criterion.

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

Finding: The applicant proposes to retain the existing movie theater development on Parcel 1 within the partition, alleviating the disruption to topography and vegetation that would result from demolition, grading, and construction associated with redevelopment of this portion of the site.

The proposal meets this criterion.

SRC 200.005(d)(8): When the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer:

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

Finding: The site is served by available sewer and water. Therefore, this criterion does not apply.

7. Criteria for Granting a Class 2 Adjustment

Because of limitations on access to the subject property, and because of the property's overall size and dimensions, the applicant has requested two Class 2 Adjustments with the subdivision.

Pursuant to SRC 250.005(d)(2), an application for a Class 2 Adjustment shall be granted if the following criteria are met:

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

(i) Clearly inapplicable to the proposed development; or

(ii) Equally or better met by the proposed development.

Findings:

The applicant is requesting to increase the maximum number of commercial lots served by an existing flag lot accessway to a maximum of 5, where SRC 800.025(c)(1) states that a maximum of 4 lots may be served by a flag lot accessway. The intent and purpose of this standard is to ensure safe, unobstructed access to all lots or parcels served by an accessway.

The development site includes Parcels 1 and 2, the existing and proposed development, and shared parking; the complex will access Lancaster Drive SE from the existing private accessway that serves the subject property. This accessway also serves 4 existing lots. Although up to five commercial lots could eventually be served by the accessway, only two of those five lots would have no frontage on Lancaster Drive SE. This arrangement is consistent with other commercial developments where joint access easements are provided across adjacent properties in order to gain access to joint driveways.

SRC 800.025, Table 800-1, requires a minimum total width of 25 feet and a minimum paved width of 20 feet for an accessway serving 1 to 4 non-residential lots. The existing private access easement is greater than 25 feet wide and the proposed pavement, is approximately 50 feet wide. The Salem Fire Department has reviewed the proposed site plan and indicated no objections to the proposed partition or development. Public Works commented that the driveway onto Lancaster Drive SE provides for safe turning movements into and out of the property. Because the proposed access to the proposed parcels is consistent with adopted access management standards, and because the existing flag lot accessway provides for safe and convenient access to the development, the proposal equally meets the purpose underlying the development standards proposed for adjustment. The proposal equally or better meets the intent of the code. The proposal meets this criterion.

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

Finding: The subject property is not located within a residential zone. This criterion is not applicable to the proposed adjustment.

C. 250.005(d)(2)(C): If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Finding: The applicant has applied for one adjustment. This criterion is not applicable to the proposed adjustment.

7. Conclusion

Based upon review of SRC 205.005, the findings contained under Section 6 and 7 above, and the comments described, the tentative partition 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 Partition Plan-Adjustment Case No. 19-01, to divide an 8.55 acre property into 2 parcels and allow five users on a flag lot accessway, for property zoned CG (General Commercial), and located at 365 Lancaster Drive SE 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:

- Condition 1:** A minimum 5-foot landscape strip is required abutting the parking along the easterly property line. At the time of final plat application, the applicant shall provide a plat which depicts the 5-foot landscape strip required on Parcel 1.
- Condition 2:** Extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way.
- Condition 3:** Provide easements in compliance with PWDS for public infrastructure located within the subject property.
- Condition 4:** Provide an access easement through the existing parking lot within parcel 1 to provide vehicular access for westbound to southbound turning movements into parcel 2.



Olivia Glantz, Planner III
Planning Administrator Designee

Attachments: A. Vicinity Map
B. Applicant's Tentative Partition Plan
C. City of Salem Public Works Department Comments
D. Marion County Public Works Department Comments

Application Deemed Complete: February 14, 2019
Notice of Decision Mailing Date: May 13, 2019
Decision Effective Date: May 29, 2019
State Mandated Decision Date: October 12, 2019

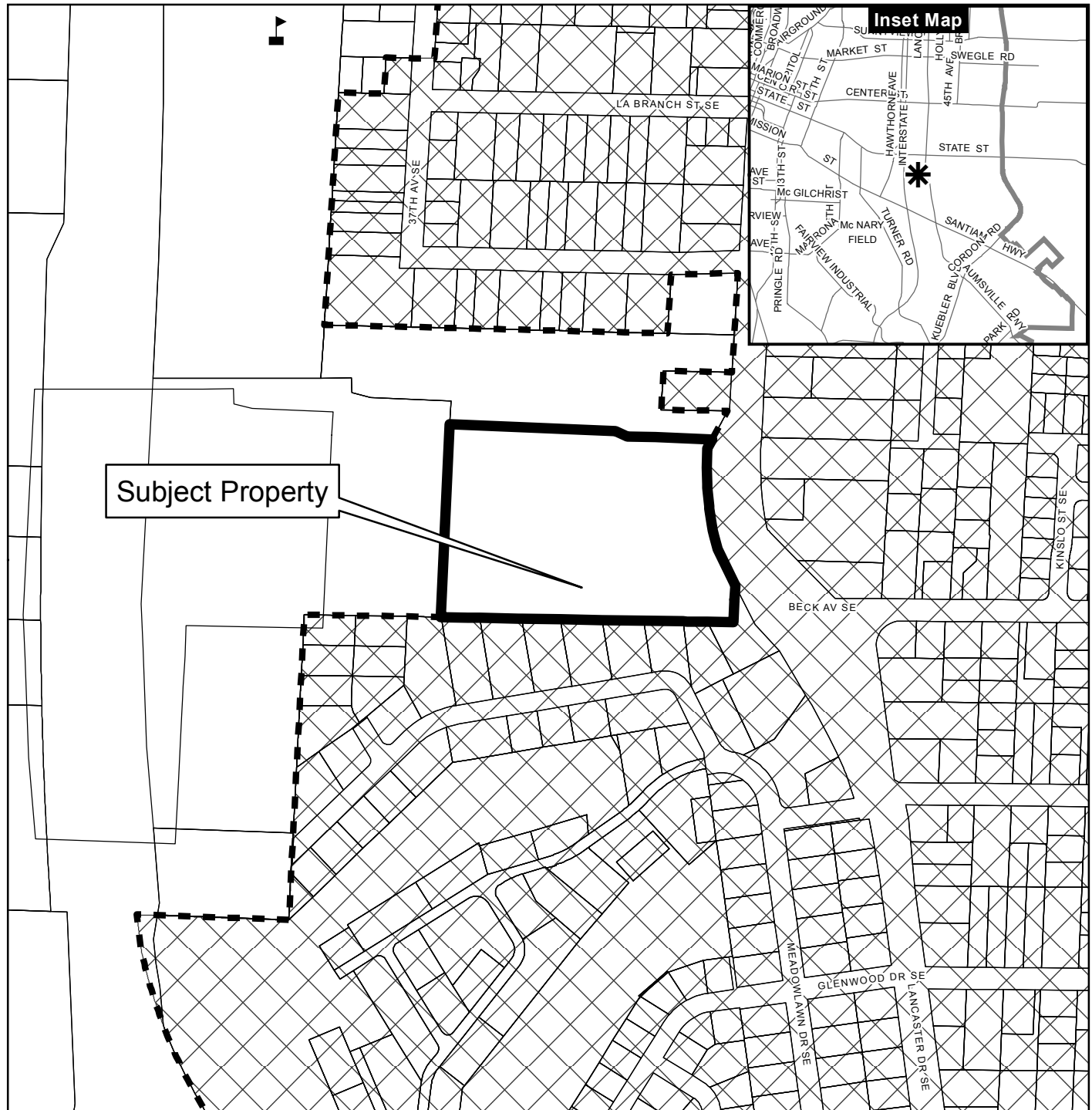
The rights granted by this decision must be exercised or extension granted by **May 29, 2021**, or this approval shall be null and void.

A copy of the complete Case File is available for review during regular business hours at the Planning Division office, 555 Liberty Street SE, Room 305, Salem OR 97301.

This decision is final unless written appeal from a party with standing to appeal, along with an appeal fee, is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, Oregon 97301, **no later than Tuesday, May 28, 2019, by 5:00 p.m.** The notice of appeal must contain the information required by SRC 300.1020. The notice of appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the notice of appeal is untimely and/or lacks the proper fee, the notice of appeal will be rejected. The Salem Planning Commission will review the appeal at a public hearing. The Planning Commission may amend, rescind, or affirm the action or refer the matter to staff for additional information.

Vicinity Map

365 Lancaster Drive SE



Legend

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

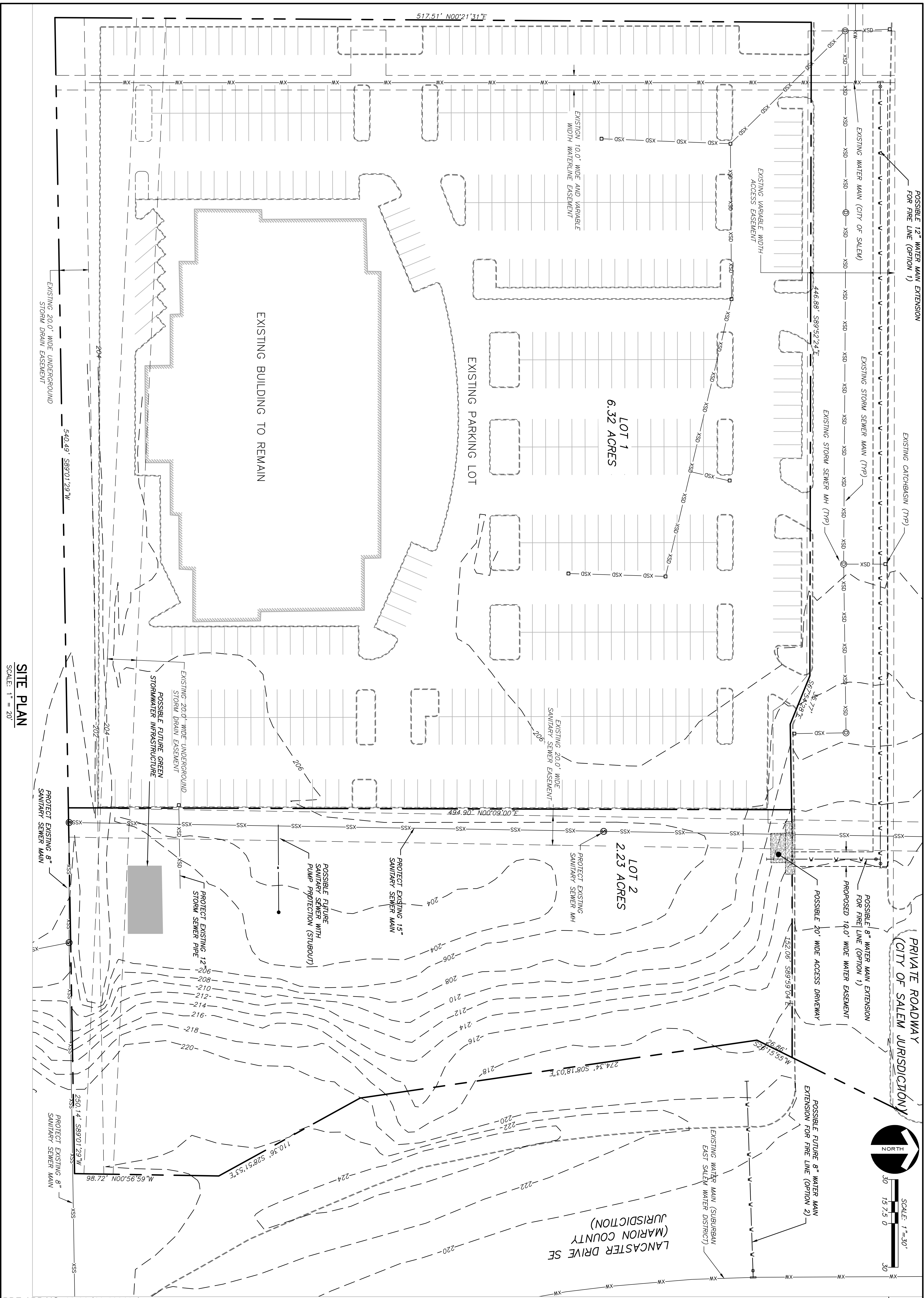
Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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0 100 200 400 Feet





PRE-APP NO. 18-61 (18-109167)					
CO.O	JOB NO. CHA001	SCALE: AS SHOWN 2-11-2019	DRAWN BY:	DESIGN BY:	CHECKED BY:
		TDM	TDM	TDM	TDM
SITE PLAN			CITY OF SALEM, OREGON		
<i>Cinema 2-Lot Partition</i>					
PROJECT INFORMATION:			MAILING ADDRESS:		
365 Lancaster Drive SE Salem, OR			[REDACTED] CIVIL [REDACTED] [REDACTED] ENGINEERING, PC 5290 NW 164th Ave. PORTLAND, OR 97229 TEL: 971-235-4656 FAX: 503-334-4326 tmail@yahoo.com		
Sec 31, T7S, R2 West					
Tax Map & Lot: 072W31BB 04500					
			EXPIRES 12-31-2018		



MEMO

TO: Britany Randall, Planner II
Community Development Department

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

DATE: March 25, 2019

SUBJECT: PUBLIC WORKS RECOMMENDATIONS
PARTITION PLAT NO. 19-01 (19-103244)
365 LANCASTER DRIVE SE
2-LOT PARTITION

PROPOSAL

To divide approximately 8.55 acres into 2 parcels in a CG (General Commercial) zone at 365 Lancaster Drive SE (Marion County Map and Tax Lot Number 072W31BB 04500).

RECOMMENDED CONDITIONS OF PLAT APPROVAL

1. Extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way.
2. Provide easements in compliance with PWDS for public infrastructure located within the subject property.
3. Provide an access easement through the existing parking lot within parcel 1 to provide vehicular access for westbound to southbound turning movements into parcel 2.

FACTS

1. Lancaster Drive SE
 - a. Standard—This street is designated as a Major Arterial street in the Salem TSP and is under Marion County jurisdiction. The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way.

- b. Existing Condition—This street has an approximate 72-foot improvement within a 133-foot-wide right-of-way abutting the subject property.

Storm Drainage

1. Existing Conditions

- a. A private storm system is located on the subject property.
- b. A 24-inch Marion County storm line is located along the southern boundary of proposed parcel 2.
- c. A City easement is located along the southern boundary of the subject property. Details of the easement can be found in Marion County Records, Reel 1518, Page 32.

Water

1. Existing Conditions

- a. The subject property is located in the G-0 water service level.
- b. A 12-inch public water main is located west of the subject property at the end of the existing private road.

Sanitary Sewer

1. Existing Sewer

- a. A 15-inch sewer main is located on the subject property. This sewer line has limited capacity.

CRITERIA AND FINDINGS

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

SRC 205.005(d)(1)—The tentative partition plan complies with the standards of this Chapter and with all applicable provisions of the Unified Development Code, 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; and

(C) 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 partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes* (ORS) and SRC.

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.

The Salem-Keizer Local Wetland Inventory shows that there are wetland channels and/or hydric soils mapped on the property. Pursuant to SRC 809.025, notification is provided to the Oregon Department of State Lands for development or land use within wetland areas.

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are mapped 3-point landslide hazard areas on the subject property. The proposed activity of a partition adds 2 activity points to the proposal, which results in a total of 5 points. Therefore, the proposed development is classified as a moderate landslide risk and requires a geological assessment. A Geotechnical Study, prepared by GeoPacific Engineering, Inc., and dated August 23, 2018, was submitted to the City of Salem. This study demonstrated that the landslide hazard risk of the site in its existing conditions may be considered low and recommended at the time of development that a geotechnical engineer review the proposed plans and perform a site investigation to provide recommendations prior to further development.

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

Findings—Sewer and stormwater infrastructure are available along the perimeter of the site and has limited capacity. An existing 12-inch water main is located west of the property at the end of the existing private road. The applicant shall extend a 12-inch water main through the subject property from the existing 12-inch water line west of the proposed development to the Lancaster Drive SE right-of-way. The applicant has the option of entering into a "No-build" Improvement Agreement and constructing the main at the time of building permit pursuant to SRC 110.100 and SRC 205.035(c)(6)(B).

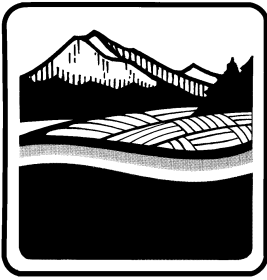
SRC 205.005(d)(4) and SRC 205.005(d)(5)—The street system in and adjacent to

the tentative partition plan conforms to the *Salem Transportation System Plan*. The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

Finding—The subject property abuts Lancaster Drive SE. This street is a Major Arterial street in the Salem TSP and is under the jurisdiction of Marion County. This section of street appears to meet the right-of-way and street improvement widths of the Salem TSP. No internal street improvements are warranted as a condition of the proposed development.

The application shows access to the parcels from the existing private street on the adjacent lot north of the subject property. The configuration of the proposed parcels creates the potential for traffic conflicts that may cause a traffic safety problem in Lancaster Drive SE. As eastbound vehicles are queued at the Lancaster Drive SE signal, westbound vehicles will be unable to enter the parcel 2 and will cause traffic to be obstructed in Lancaster Drive SE. As a result, the applicant shall provide an access easement from parcel 1 to benefit parcel 2 to ensure that westbound left-turn movements do not obstruct the Lancaster Drive SE intersection.

Prepared by: Jennifer Scott, Program Manager
cc: File



Marion County **OREGON**

PUBLIC WORKS

BOARD OF COMMISSIONERS

Kevin Cameron
Sam Brentano
Colm Willis

DIRECTOR

Brian Nicholas, P.E.

ADMINISTRATION

BUILDING INSPECTION

EMERGENCY MANAGEMENT

ENGINEERING

ENVIRONMENTAL SERVICES

OPERATIONS

PARKS

PLANNING

SURVEY

March 1, 2019

Via email: BRandall@cityofsalem.net

Britany Randall, Case Manager

City of Salem

555 Liberty Street SE

Salem OR 97301-3053

RE: RFC: PAR19-01
365 Lancaster Drive SE

Dear Britany,

We have received City notice for the above referenced property. The proposal will create a 2-acre developable parcel from the Act III Cinema Theater property. Our background, requested conditions and city advisory are as follows:

BACKGROUND

- Lancaster Drive SE is under Marion County maintenance jurisdiction adjacent to the subject parcel, and is designated as a Major Arterial in Salem's TSP.
- Lancaster Drive, as well as the State Street & Cinema Roadway signalized intersections are situated outside city limits, within the UGB, and are under County jurisdiction.
- Marion County, through zone code and our Access Ordinance, is able to require reasonable mitigation(s) for anticipated traffic impacts to county maintained facilities.

REQUESTED CONDITIONS

A. *Upon application for city building permits, an Access Permit will need to be obtained from MCPW for the subject property access to Lancaster Drive, via Cinema Roadway. Access to Lot 2 should be via Cinema Roadway from Lot 1 to maintain adequate spacing from the Lancaster Drive intersection and not to cause conflicts with the turn lanes from Cinema Roadway to Lancaster Drive.*

B. *The Applicant should be required to show sufficient access easements on the partition plat to facilitate indirect access to Cinema Drive via proposed Lot 1.*

To: Britany Randall, Planner II, City of Salem
From: Max Hepburn, MCPW Engineering
RE: PAR19-01, 365 Lancaster Drive SE
Date: March 1, 2019

Page 2

- C. *A new Traffic Impact Analysis (TIA) or a limited addendum to the original ACTIII TIA that focuses on the anticipated need for nearby signal timing adjustments on Lancaster Drive and need for a Cinema Drive SBRTL, should be conducted for the proposed development as a contingency for issuance of a County Access Permit. If the TIA, or addendum, indicates the need for signal adjustments or other improvements, a proposed design for that shall be presented in the TIA. The Developer's Traffic Engineer will need to contact MCPW Traffic Engineering to coordinate scoping. The Developer may be financially responsible to the county for costs associated with implementation of adjustments and/or other recommended improvements. Construction of any improvements should be required prior to issuance of a Certificate of Occupancy.*
- D. *Upon application for city building permits and depending on the results of the TIA, the developer may be required to design, permit, and construct a southbound right-turn lane into the development from Lancaster Drive, either solely, or if project schedules align, in conjunction with other developments served by Cinema Roadway.*
- E. *The subject property receives closed system drainage from Lancaster Drive with no known hard connection to the storm drain within an easement located along the southern property line. The Developer should be required to demonstrate that Lancaster Drive flow is not impeded from entering the easement.*

ENGINEERING ADVISORY (for City)

- F. MCPW Traffic Engineering will also need to be directly involved in any subsequent signal timing strategy meetings with the City related to timing adjustments. Any questions in this regard should be directed to our Transportation Planner, Janelle Shanahan, by e-mail at jshanahan@co.marion.or.us or call 503-588-5036.

General comments or questions regarding this transmittal can be directed to the undersigned at mhepburn@co.marion.or.us or call the main number noted above.

Sincerely,



Max Hepburn
Civil Engineering Associate II

Cc: Janelle Shanahan, Transportation Planner, MCPW Engineering

MH:ds

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