

# 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 informacion, por favor llame  
503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

**PARTITION CASE NO.:** PAR-19-04

**APPLICATION NO. :** 19-102699-LD

**NOTICE OF DECISION DATE:** July 15, 2019

**REQUEST:** A tentative partition to divide approximately 17.36 acres into two parcels, with Parcel 1 consisting of 5 acres, and Parcel 2 consisting of 12.36 acres. The subject property is approximately 17.36 acres in size, zoned RA (Residential Agriculture), and located at 5860 Eastland Avenue SE (Marion County Assessor's Map and Tax Lot number 082W18 / 200).

**APPLICANT:** Don Annotti

**LOCATION:** 5860 Eastland Avenue SE / 97317

**CRITERIA:** Salem Revised Code 205.005(d)

**FINDINGS:** The facts and findings are in the attached Order dated July 15, 2019.

**DECISION:** The Planning Administrator **APPROVED** Partition Case No. PAR-19-04 subject to the following conditions of approval:

- Condition 1:** Provide a water line easement pursuant to PWDS along the existing 36-inch water main within the subject property.
- Condition 2:** Construct a half-street improvement along the entire frontage of Eastland Avenue SE and Markham Street SE to Local street standards. This improvement may be deferred until the time of future subdivision.
- Condition 3:** Provide a 10-foot-wide public utility easement (PUE) along the entire frontages of Eastland Avenue SE and Markham Street SE.
- Condition 4:** The property is subject to a special setback of 30 feet from the centerline of Eastland Avenue SE and 30 feet from the centerline of Markham Street SE.
- Condition 5:** Retention of all existing trees within proposed parcel 2 shall be required at the time of building permit application. All trees identified for preservation by the tree inventory shall be protected, as required above, until issuance of a Notice of Final Completion for proposed parcel 2, or until approval of a Tree Conservation Plan involving the subject property.
- Condition 6:** The parcels shall only be used for residential purposes.

**Condition 7:** All buildings and structures shall meet required setbacks from future street rights-of-way.

**Condition 8:** A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.

The rights granted by the attached decision must be exercised, or an extension granted, by July 31, 2021 or this approval shall be null and void.

Application Deemed Complete:	<u>March 14, 2019</u>
Notice of Decision Mailing Date:	<u>July 15, 2019</u>
Decision Effective Date:	<u>July 31, 2019</u>
State Mandate Date:	<u>November 9, 2019</u>

Case Manager: Brandon Pike, [bpike@cityofsalem.net](mailto:bpike@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 5:00 p.m., Tuesday, July 30, 2019.** 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 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. 19-04)**

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

**IN THE MATTER OF THE  
TENTATIVE APPROVAL OF  
PARTITION PLAT NO. 19-04;  
5860 EASTLAND AVENUE SE**

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**FINDINGS AND ORDER**

**JULY 15, 2019**

**REQUEST**

A tentative partition to divide approximately 17.36 acres into two parcels, with Parcel 1 consisting of 5 acres, and Parcel 2 consisting of 12.36 acres.

The subject property is approximately 17.36 acres in size, zoned RA (Residential Agriculture), and located at 5860 Eastland Avenue SE (Marion County Assessor Map and Tax Lot Number(s): 082W1800200) (see **Attachment A**).

**DECISION**

The tentative partition plan 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:** Provide a water line easement pursuant to PWDS along the existing 36-inch water main within the subject property.
- Condition 2:** Construct a half-street improvement along the entire frontage of Eastland Avenue SE and Markham Street SE to Local street standards. This improvement may be deferred until the time of future subdivision.
- Condition 3:** Provide a 10-foot-wide public utility easement (PUE) along the entire frontages of Eastland Avenue SE and Markham Street SE.
- Condition 4:** The property is subject to a special setback of 30 feet from the centerline of Eastland Avenue SE and 30 feet from the centerline of Markham Street SE.
- Condition 5:** Retention of all existing trees within proposed parcel 2 shall be required at the time of building permit application. All trees identified for preservation by the tree inventory shall be protected, as required above, until issuance of a Notice of Final Completion for proposed parcel 2, or until approval of a Tree Conservation Plan involving the subject property.

**Condition 6:** The parcels shall only be used for residential purposes.

**Condition 7:** All buildings and structures shall meet required setbacks from future street rights-of-way.

**Condition 8:** A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.

### **PROCEDURAL FINDINGS**

1. On January 10, 2019, an application for a Tentative Partition Plan was filed proposing to divide a 17.36-acre property at 5860 Eastland Avenue SE into two parcels (see **Attachment B**).
2. The application was deemed complete for processing on March 14, 2019. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on March 15, 2019. On April 11, 2019 the applicant granted a 30-day time extension to the 120-day state mandated decision date. On July 11, 2019 the applicant modified their time extension to grant an additional 90 days, for a total of a 120-day time extension from the original state-mandated decision deadline. The state-mandated local decision deadline is November 9, 2019.

### **SUBSTANTIVE FINDINGS**

#### **1. Proposal**

The tentative plan proposes to divide the subject property into two parcels, with Parcel 1 to retain an existing single family dwelling and accessory buildings and Parcel 2 to be developed in the future in a yet-to-be-determined manner. Both proposed parcels would take access from Eastland Avenue SE. The two parcels within the tentative partition plan are proposed as follows:

#### **PROPOSED PARCEL 1**

Parcel Size: 5 acres  
Parcel Dimensions: Approximately 484.2 feet in width and 475 feet in depth

#### **PROPOSED PARCEL 2**

Parcel Size: 12.36 acres  
Parcel Dimensions: Approximately 860.8 feet in width and 1,067.8 feet in depth

***Access and Circulation:*** The subject property has frontage onto both Eastland Avenue SE and Markham Street SE. Both streets are designated as Local streets within the Salem Transportation System Plan (TSP).

## 2. Existing Conditions

### Site and Vicinity

The subject property is irregularly shaped and approximately 1,340 feet in depth northwest to southeast, and approximately 1,005.5 feet in width northeast to southwest. After the proposed partition, Parcel 1 will have approximately 379.08 feet of frontage on Markham Street SE and approximately 473.28 feet of frontage on Eastland Avenue SE. Parcel 2 will have approximately 1,499.82 feet of frontage on Eastland Avenue SE. The subject property is adjacent to both developed and undeveloped units of land. The subject property borders city limits, adjacent to properties both within and outside the city. The neighboring properties within the city have zoning designations of RA/Residential Agriculture (across Eastland Avenue SE to the west), or PH/Public Health (across railroad right-of-way to the northeast). The neighboring properties outside the city (within Marion County) have zoning designations of UT-10 (across Eastland Avenue SE to the west), UT-5 (to the southeast, and across Eastland Avenue to the west), or RS (across Markham Street SE to the southwest).

### 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 “Developing Residential (DR)” on the Salem Area Comprehensive Plan (SACP) Map. The surrounding properties are designated as follows:

- Northwest: Industrial (IND)
- Northeast: Community Service Government (CSG)
- Southwest: Developing Residential (DR)
- Southeast: Developing Residential (DR)

### Zoning and Surrounding Land Use

The subject property is zoned RA (Residential Agriculture) and is currently developed with a single family dwelling and accessory buildings, and an agricultural field. The surrounding properties are zoned and used as follows:

- Northwest: Across Eastland Avenue SE – UT-10 (within Marion County) – Single family dwellings and undeveloped land
- Northeast: Across railroad right-of-way – PH (Public Health) – agricultural fields, under the ownership of State of Oregon Department of Corrections
- Southwest: Across Eastland Avenue SE and Markham Street SE – UT-5 and RS (within Marion County) – Single family dwellings and undeveloped land

Southeast: UT-5 (within Marion County) – Undeveloped land

West: Across Eastland Avenue SE – RA (Residential Agriculture) – Building and grounds services and construction contracting (Elwood's Tree Service)

#### Relationship to Urban Service Area

The subject property is not within the City's Urban Service Area.

#### Infrastructure

*Water:* The subject property is located within the S-1 water service level. The nearest available public water is an 18-inch S-1 main located approximately 0.62 miles north at the intersection of Boone Road SE and Eastland Avenue SE. A 36-inch transmission main bisects the property. Domestic connections are not allowed to transmission mains pursuant to PWDS.

*Sewer:* The nearest available sewer main is located approximately 1 mile northwest at the intersection of Kuebler Boulevard SE and 36th Street SE.

*Storm Drainage:* The East Fork Pringle Creek runs along the southwestern boundary of the subject property.

*Streets:* Eastland Avenue SE abuts the westerly boundary of the subject property, which both proposed parcels will take access from, and is designated as a Local Street in the Salem Transportation System Plan (TSP).

- The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way.
- The abutting portion of Eastland Avenue SE currently has an approximate 20-foot turnpike improvement within a 40- to 45-foot-wide right-of-way abutting the subject property.
- The frontage of the subject property has a special setback equal to 30 feet from the centerline of Eastland Avenue SE.

Markham Street SE abuts the subject property along the southwesterly boundary, and is designated as a Local Street in the Salem Transportation System Plan (TSP).

- The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way.

- The abutting portion of Markham Street SE has an approximate 20-foot turnpike improvement within a 50-foot-wide right-of-way.
- The frontage of the subject property has a special setback equal to 30 feet from the centerline of Markham Street SE.

### **3. Public and Private Agency Review**

**Public Works Department** - The City of Salem Public Works Department 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** – The City of Salem Fire Department reviewed the proposal and provided the following comments: Fire has no concerns with the partition. Items including fire department access and water supply will be required.

### **4. Neighborhood Association Comments**

The subject property is within the Southeast Mill Creek Neighborhood Association (SEMCA). 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.” No comments were received from the neighborhood association prior to the close of the comment period.

### **5. Public Comments**

Property owners and residents within 250 feet of the subject property were mailed notification of the proposed partition. No comments were received from property owners or residents 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 510 (Residential Agriculture): The proposed partition would divide the 17.36-acre property into two parcels, with Parcel 1 to retain an existing single family dwelling and accessory buildings and Parcel 2 to be developed in the future in a yet-to-be-determined manner. The subject property is currently zoned RA (Residential Agriculture). The minimum lot area requirements of the RA zone are established under SRC 510.010(a) as follows:

**Lot Standards for RA zone (Residential Agriculture)** (see SRC Chapter 510, Table 510-2)

Requirement	Minimum Standard
Lot Area (Single family)	4,000 square feet
All other uses	6,000 square feet
Lot Width (Single family)	40 feet
All other uses	60 feet
Lot Depth (Single family)	70 feet
All other uses	80 feet
Street Frontage (Single family)	40 feet / 30 feet (on the turnaround of a cul-de-sac)
All other uses	60 feet



**Staff Response:** Each of the two proposed parcels in the partition exceed the minimum lot requirements. Proposed Parcel 1 is proposed to retain the existing single family dwelling and accessory buildings and will be 5 acres in size. Parcel 1 will have approximately 379.08 feet of frontage on Markham Street SE and approximately 473.28 feet of frontage on Eastland Avenue SE. It is approximately 484.2 feet in width northwest to southeast, and 475 feet in depth northeast to southwest. Parcel 2 will have approximately 1,499.82 feet of frontage on Eastland Avenue SE. It is approximately 860.8 feet in width northwest to southeast, and 1,067.8 feet in depth northeast to southwest. The proposed parcels within the partition are of sufficient size and dimension to permit future development of uses allowed within the zone.

**Setback Standards for RA zone (Residential Agriculture)** (see SRC Chapter 510, Table 510-3)

Requirement	Minimum Standard
<u>Abutting a Street:</u> Buildings and accessory structures	12 feet / 20 feet (along collector or arterial streets)
<u>Interior Front:</u> Buildings and accessory structures	12 feet / none (applicable to accessory structures not taller than 4 feet)
<u>Interior Side:</u> Single Family  <i>All other uses</i>	5 feet  <i>5 feet (applicable to buildings no taller than 35 feet) 1 additional foot for each foot of height over 35 feet, need not exceed a 20 foot setback</i>
<u>Interior Rear:</u>  All uses   <i>Accessory Structures</i>	14 feet (applicable to any portion of the building not more than 1 story in height)  20 feet (applicable to any portion of the building greater than 1 story in height)  <i>None (applicable to accessory structures no taller than 9 feet)</i>  <i>1 foot for each foot in height over 9 feet (applicable to accessory structures greater than 9 feet in height)</i>

	<i>1 foot (applicable to accessory structures adjacent to an alley, unless a greater setback is required based on the height of the accessory structure)</i>
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**Staff Response:** The proposed partition would locate all existing structures on the subject property within proposed parcel 1. The existing buildings all exceed the minimum required setbacks for the RA zone. Future development within the proposed parcels will be reviewed for adherence to setback requirements at the time of application for building permits. The proposed partition plan provided by the applicant did not show future building envelopes, however, the proposed parcels are of sufficient width and depth to accommodate the required setbacks.

**Lot Coverage:** Maximum lot coverage requirements within the RA zone are established under SRC 510.010(c), Table 510-4. The RA zone limits the total maximum lot coverage for buildings and accessory structures related to single-family uses to 60 percent. For all other uses, buildings and accessory structures are limited to 35 percent.

**Staff Response:** The proposed parcel 1 will retain the existing single family dwelling and accessory structures, which total approximately 5,326 square feet in lot coverage, for a lot coverage percentage of approximately 2.4 percent. This meets the maximum 60 percent lot coverage standard within the RA zone. The proposed parcel 2 contains no existing structures and will be reviewed for conformance with the development standards of SRC 510 at the time of building permit review.

The proposal meets the requirements of SRC Chapter 510.

SRC Chapter 800 (General Development Standards):

*SRC 800.015(a) (Buildings to be on a Lot):* Pursuant to SRC 800.015(a), every building or structure shall be entirely located on a lot.

**Staff Response:** Each existing building on proposed parcel 1 is located entirely within the bounds of proposed parcel 1. Future proposed buildings on the proposed parcels will be required to meet this standard and will be reviewed at the time of building permit.

*SRC 800.015(b) (Side lot lines):* Pursuant to SRC 800.015(b), 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.

**Staff Response:** Both of the proposed parcels within the partition are irregularly shaped due to natural features and existing rights-of-way. The proposed property line between the parcels is located at an approximately 63-degree angle in relation to Eastland Avenue SE. As required under SRC 205.030(g), the applicant provided a

proposed future lot layout for a potential residential subdivision and each of the future lots appear to meet this standard. At the time of future subdivision of the proposed parcels, the newly created lots will be reviewed to ensure compliance with this provision.

As provided, the proposal conforms to the requirements of SRC Chapter 800.

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

*SRC 806.015(a) (Minimum Required Off-Street Parking):* SRC 806.015(a) requires all Single Family and Two Family dwellings outside of the Central Salem Development Program (CSDP) Area to provide a minimum of two off-street parking spaces. Parks and open space do not have an off-street parking requirement.

**Staff Response:** The subject property is located outside of the CSDP, and the proposed partition would create two parcels, one to retain the existing single family dwelling and accessory structures, and one for a to-be-determined development. The existing dwelling on proposed parcel 1 meets the minimum off-street parking standard. Off-street parking requirements for 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 outside of the Urban Service Area. Pursuant to SRC 200.005, the definition of development does not include partitions; a UGA permit is not required for the proposed partition.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that water and sewer infrastructure is not currently available to the proposed parcels. Specifications for required public improvements are summarized in the Public Works Department memo dated May 16, 2019 (**Attachment C**).

*SRC 802.015 (Development to be Served by City Utilities).* Pursuant to SRC 205.005(d)(8), the tentative partition is not connecting to City water and sewer infrastructure.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. 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.

An existing 36-inch water transmission main is located on the subject property. This pipeline requires an easement of 20 feet pursuant to PWDS. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

In order to ensure water and sewer services are provided in compliance with the requirements of SRC Chapter 802 and the PWDS, the following conditions shall apply:

**Condition 1:** Provide a water line easement pursuant to PWDS along the existing 36-inch water main within the subject property.

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

*SRC 803.015 (Traffic Impact Analysis):* The proposed two-parcel partition generates less than 200 average daily vehicle trips to Eastland Avenue SE and Markham Street SE, which are both designated as Local Streets. Therefore, a Traffic Impact Analysis is not required as part of the proposed partition submittal.

*SRC 803.020 (Public and Private Streets):* There are no internal streets proposed within the partition. Both of the proposed parcels will take access from Eastland Avenue SE.

*SRC 803.025 (Right-of-Way and Pavement Widths):* Eastland Avenue SE and Markham Street SE abut the subject property and do not meet the current standard for Local streets. The applicant shall be required to construct a half street improvement along the frontages of both Eastland Avenue SE and Markham Street SE to Local street standards. These improvements may be deferred pursuant to SRC 803.070.

The abutting portion of Eastland Avenue SE currently has an approximate 20-foot turnpike improvement within a 40- to 45-foot-wide right-of-way abutting the subject property. The abutting portion of Markham Street SE has an approximate 20-foot turnpike improvement within a 50-foot-wide right-of-way. Both streets do not meet the right-of-way width and pavement width standards per the Salem TSP.

In order to ensure the previously stated requirements are met, the following condition of approval shall apply:

**Condition 2:** Construct a half-street improvement along the entire frontage of Eastland Avenue SE and Markham Street SE to Local street standards. This improvement may be deferred until the time of future subdivision.

As conditioned, proposal meets the requirements of SRC Chapter 803.

*SRC 803.030 (Street Spacing):* The proposed partition involves division of a 17.36-acre lot, and does not involve the creation of streets. Adherence to SRC 803.030 will be reviewed at the time of future division of the subject property which would create streets.

*SRC 803.035 (Street Standards):* Pursuant to subsection (n), public utility easements (PUEs) may be required for all streets. In order to ensure adequate access for the provision of electricity and other utilities, the following condition shall apply:

**Condition 3:** Provide a 10-foot-wide public utility easement (PUE) along the entire frontages of Eastland Avenue SE and Markham Street SE.

As conditioned, the proposal conforms to applicable street standards.

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

SRC Chapter 800.040 (Special Setbacks): Eastland Avenue SE and Markham Street SE abut the subject property and do not meet the current standard for Local streets in terms of right-of-way width. Pursuant to subsection (a), no structures or paving, other than those identified under subsection (d) of this section, shall be placed within a special setback.

In order to ensure the previously stated requirements are met, the following condition of approval shall apply:

**Condition 4:** The property is subject to a special setback of 30 feet from the centerline of Eastland Avenue SE and 30 feet from the centerline of Markham Street SE.

As conditioned, the proposal conforms to applicable development standards.

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 applicant submitted a tree inventory indicating 100 percent of the trees on site would be preserved with the partition. Therefore, a tree conservation plan is not required and the provisions of SRC Chapter 808 have been met. Future developments, such as a subdivision of the lots, may require a Tree Conservation Plan. In order to ensure preservation of the existing trees on the subject property, the following condition of approval shall apply:

**Condition 5:** Retention of all existing trees within proposed parcel 2 shall be required at the time of building permit application. All trees identified for preservation by the tree inventory shall be protected, as required above, until issuance of a Notice of Final Completion for proposed parcel 2, or until approval of a Tree Conservation Plan involving the subject property.

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

According to the Salem-Keizer Local Wetland Inventory (LWI), the subject property does not contain any 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. City records show that the subject property may be located within a landslide hazard area. The applicant's engineer submitted findings demonstrating that the proposed development is a low landslide hazard risk based on SRC Chapter 810.

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

**Finding:** The proposed partition would divide the 17.36-acre property into two parcels, with Parcel 1 to retain an existing single family dwelling and accessory buildings and Parcel 2 to be developed in the future in a yet-to-be-determined manner. The proposed partition would not impede the future use or development of any portion of the property. The only adjoining property is a large piece of land developed with a single family dwelling, and has access to public streets.

The proposed configuration of parcels allows for the future development of the site consistent with applicable zoning standards. The proposal does not adversely affect the safe and healthful development of adjacent properties. The applicant provided a layout

of a potential future residential subdivision development which depicts future stubbed streets to large adjacent properties that can be further divided in the future.

The proposal meets this criterion.

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

**Finding:** The nearest available public water is an 18-inch S-1 main located approximately 0.62 miles north at the intersection of Boone Road SE and Eastland Avenue SE. A 36-inch transmission main bisects the property. Domestic connections are not allowed to transmission mains pursuant to PWDS. The nearest available sewer main is located approximately 1 mile northwest at the intersection of Kuebler Boulevard SE and 36th Street SE. The East Fork Pringle Creek runs along the southwestern boundary of the subject property.

Pursuant to SRC 205.005(d)(8), the proposed development is not connecting to City water and sewer infrastructure. The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. 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.

This criterion is met.

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

**Finding:** Eastland Avenue SE and Markham Street SE abut the subject property and do not meet the current standard for Local streets. The applicant shall be required to construct a half street improvement along the frontages of both Eastland Avenue SE and Markham Street SE to Local street standards. These improvements may be deferred pursuant to SRC 803.070.

As conditioned above, this criterion is met.

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

**Finding:** Eastland Avenue SE and Markham Street SE abut the subject property and do not meet the current standard for Local streets. The applicant shall be required to construct a half street improvement along the frontages of both Eastland Avenue SE and Markham Street SE to Local street standards. These improvements may be deferred pursuant to SRC 803.070.

As conditioned above, the street system adjacent to the tentative partition plan will provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

**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 existing trees on the subject property are all along the outside perimeter of the property, making a high percentage of tree preservation feasible during future development.

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:** As described in the finding above, 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 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 subject property is more than 300 feet from an available sewer main, and the property will not connect to City sewer and water. The property is zoned RA



(Residential Agriculture), and has previously received a favorable site evaluation from the county sanitarian for the installation of an on-site sewage disposal system. Each of the proposed parcels are 5 acres or larger in size, and have no dimension that is less than 100 feet.

The proposal meets this criterion.

**SRC 200.005(e):** In addition to any conditions imposed pursuant to SRC 300.820, 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, the following conditions shall be imposed:

- (1) The parcels shall only be used for residential purposes;**
- (2) All buildings and structures shall meet required setbacks from future street rights-of-way; and**
- (3) A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.**

**Finding:** 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. The intent of requiring the first imposed condition (Condition 6 of this decision) is to limit the type of use allowed at the subject property until City services are available. Once City water and sewer become available to the subject property, this condition will no longer apply. In order to ensure the previously stated requirements are met, the following conditions of approval shall apply:

**Condition 6:** The parcels shall only be used for residential purposes.

**Condition 7:** All buildings and structures shall meet required setbacks from future street rights-of-way.

**Condition 8:** A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.

## **7. Conclusion**

Based upon review of SRC 205.005, the findings contained under Section 6 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 Case No. 19-04, to divide a 17.36-acre property into two parcels, with Parcel 1 consisting of 5 acres and Parcel 2 consisting of 12.36 acres for property zoned RA (Residential Agriculture), and located at 5860 Eastland Avenue SE (Marion County Assessor Map and Tax Lot Number: 082W1800200) 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:** Provide a water line easement pursuant to PWDS along the existing 36-inch water main within the subject property.
- Condition 2:** Construct a half-street improvement along the entire frontage of Eastland Avenue SE and Markham Street SE to Local street standards. This improvement may be deferred until the time of future subdivision.
- Condition 3:** Provide a 10-foot-wide public utility easement (PUE) along the entire frontages of Eastland Avenue SE and Markham Street SE.
- Condition 4:** The property is subject to a special setback of 30 feet from the centerline of Eastland Avenue SE and 30 feet from the centerline of Markham Street SE.
- Condition 5:** Retention of all existing trees within proposed parcel 2 shall be required at the time of building permit application. All trees identified for preservation by the tree inventory shall be protected, as required above, until issuance of a Notice of Final Completion for proposed parcel 2, or until approval of a Tree Conservation Plan involving the subject property.
- Condition 6:** The parcels shall only be used for residential purposes.
- Condition 7:** All buildings and structures shall meet required setbacks from future street rights-of-way.
- Condition 8:** A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.



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Brandon Pike, Planner I  
Planning Administrator Designee

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

Application Deemed Complete: March 14, 2019  
Notice of Decision Mailing Date: July 15, 2019  
Decision Effective Date: July 31, 2019  
State Mandated Decision Date: November 9, 2019

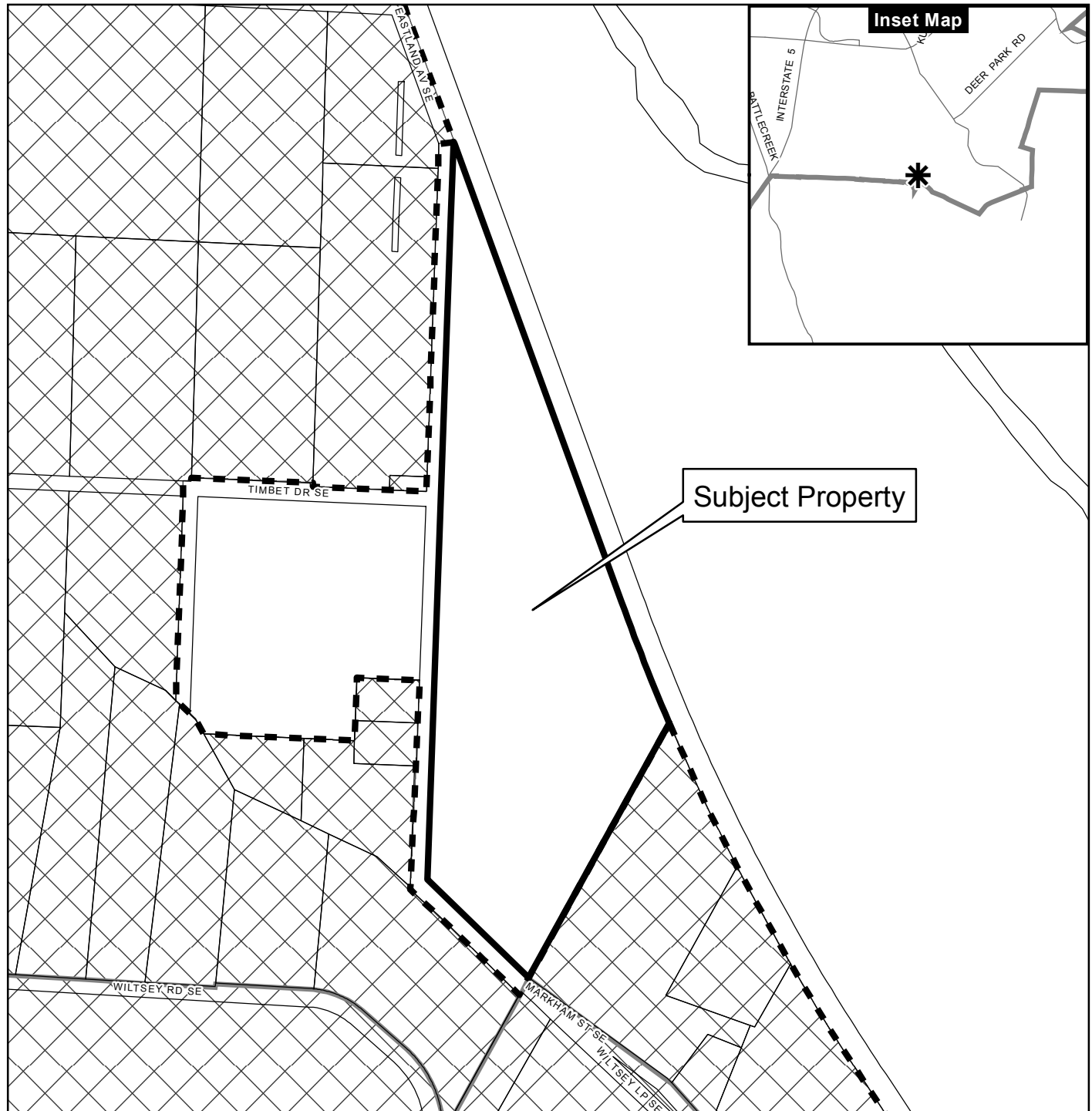
The rights granted by this decision must be exercised or extension granted by **July 31, 2021**, or this approval shall be null and void.

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, July 30, 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

## 5860 Eastland Avenue SE



### Legend

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

Parks

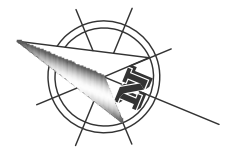
**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

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.

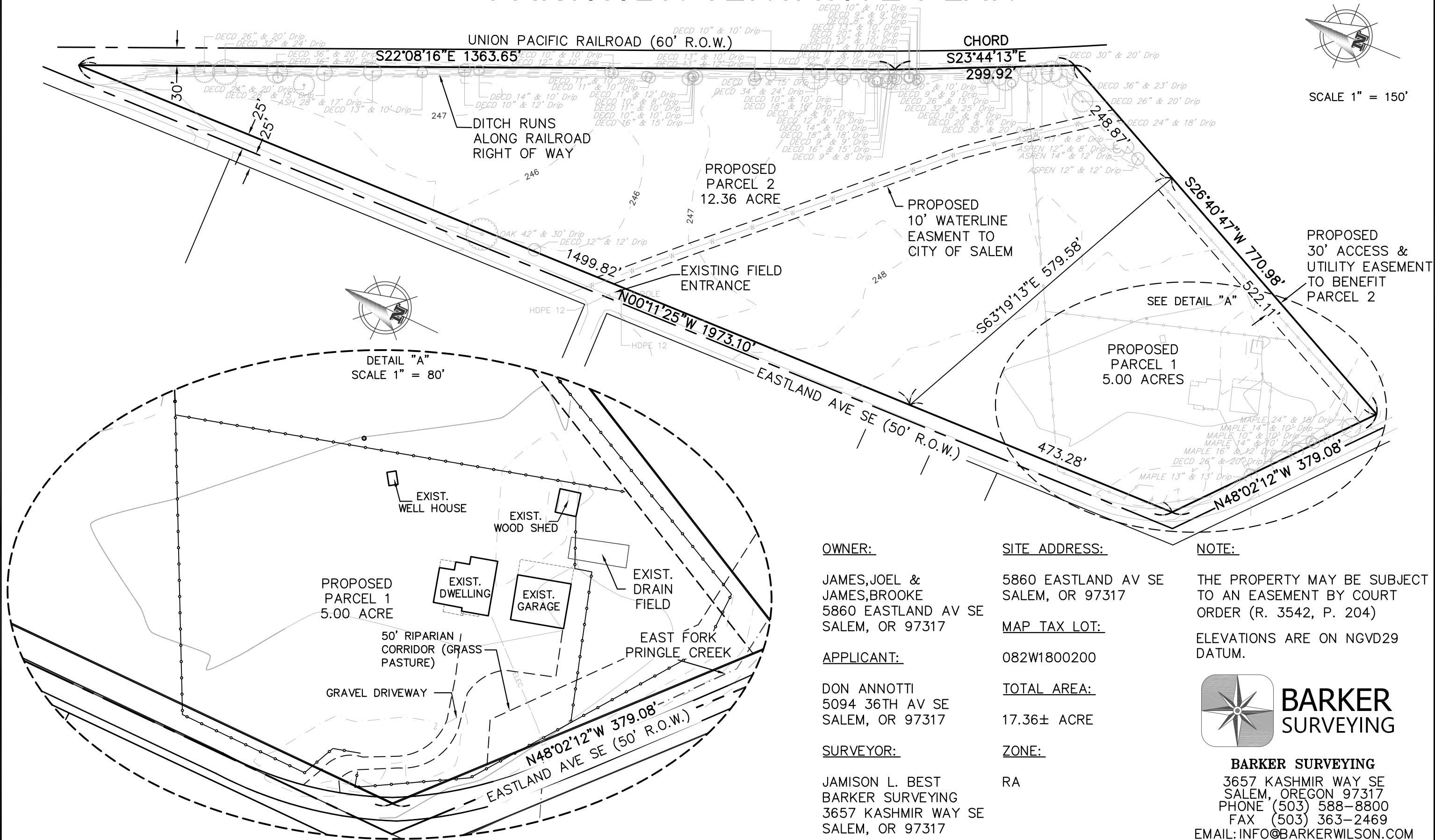
0 100 200 400 Feet



PARTITION TENTATIVE PLAN



SCALE 1" = 150'



OWNER:

JAMES,JOEL &  
JAMES,BROOKE  
5860 EASTLAND AV SE  
SALEM, OR 97317

APPLICANT:

DON ANNOTTI  
5094 36TH AV SE  
SALEM, OR 97317

SURVEYOR:

JAMISON L. BEST  
BARKER SURVEYING  
3657 KASHMIR WAY SE  
SALEM, OR 97317

SITE ADDRESS:

5860 EASTLAND AV SE  
SALEM, OR 97317

MAP TAX LOT:

082W1800200

TOTAL AREA:

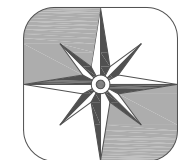
17.36± ACRE

ZONE:

RA

NOTE:

THE PROPERTY MAY BE SUBJECT  
TO AN EASEMENT BY COURT  
ORDER (R. 3542, P. 204)  
ELEVATIONS ARE ON NGVD29  
DATUM.



**BARKER  
SURVEYING**

**BARKER SURVEYING**  
3657 KASHMIR WAY SE  
SALEM, OREGON 97317  
PHONE (503) 588-8800  
FAX (503) 363-2469  
EMAIL: INFO@BARKERWILSON.COM



# MEMO

**TO:** Brandon Pike, Planner I  
Community Development Department

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

**DATE:** May 16, 2019

**SUBJECT:** **PUBLIC WORKS RECOMMENDATIONS**  
**PARTITION PLAT NO. 19-04 (19-102699)**  
**5860 EASTLAND AVENUE SE**  
**2-LOT PARTITION**

## PROPOSAL

A tentative partition to divide approximately 17.36 acres into two parcels, with Parcel 1 consisting of 5 acres, and Parcel 2 consisting of 12.36 acres. The subject property is approximately 17.36 acres in size, zoned RA (Residential Agriculture), and located at 5860 Eastland Avenue SE (Marion County Assessor's Map and Tax Lot Number 082W18 / 200).

## RECOMMENDED CONDITIONS OF PLAT APPROVAL

1. Construct a half-street improvement along the entire frontage of Eastland Street SE and Markham Street SE to Local street standards. This improvement may be deferred until the time of future subdivision.
2. The property is subject to a special setback of 30 feet from the centerline of Eastland Avenue SE and 30 feet from the centerline of Markham Street SE.
3. Provide a water line easement pursuant to PWDS along the existing 36-inch water main within the subject property.
4. All buildings and structures shall meet required setbacks from future street rights-of-way.
5. A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.



6. Provide a 10-foot-wide public utility easement along the entire frontage of Eastland Avenue SE and Markham Street SE.

## **FACTS**

### **1. Eastland Avenue SE**

- 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 turnpike improvement within a 40- to 45-foot-wide right-of-way abutting the subject property.
- c. Special Setback—The frontage of the subject property has a special setback equal to 30 feet from centerline of Eastland Avenue SE.

### **2. Markham Street SE**

- 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 turnpike improvement within a 50-foot-wide right-of-way abutting the subject property.
- c. Special Setback—The frontage of the subject property has a special setback equal to 30 feet from centerline of Markham Street SE.

## **Storm Drainage**

### **1. Existing Condition**

- a. The East Fork Pringle Creek runs along the southwestern boundary of the subject property.

## **Water**

### **1. Existing Conditions**

- a. The subject property is located in the S-1 water service level.

- b. The nearest available public water is an 18-inch S-1 main located approximately 0.62 miles north at the intersection of Boone Road SE and Eastland Avenue SE.
- c. A 36-inch transmission main bisects the property. Domestic connections are not allowed to transmission mains pursuant to PWDS.

### **Sanitary Sewer**

#### **1. Existing Sewer**

- a. The nearest available sewer main is located approximately one mile northwest at the intersection of Kuebler Boulevard SE and 36<sup>th</sup> Street SE.

### **CRITERIA AND FINDINGS**

SRC 205.005(d)(8) states that 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, the following criteria are applicable:

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

These criteria must be found to exist before an affirmative decision may be made. Additional 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. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), 672.060(4), *Oregon Administrative Rules* 850-020-0015(4)&(10), 820-020-0020(2), and 820-020-0045(5).

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.

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

City records show that the subject property may be located within a landslide hazard area. The applicant's engineer submitted findings demonstrating that the proposed development is a low landslide hazard risk based on SRC Chapter 810.

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

**Findings**—Pursuant to SRC 205.005(d)(8), the proposed development is not connecting to City water and sewer infrastructure.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. 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.

An existing 36-inch water transmission main is located on the subject property. This pipeline requires an easement of 20 feet pursuant to PWDS. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

**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**—Eastland Avenue SE and Markham Avenue SE abut the subject property and do not meet the current standard for a Local street. As identified in the conditions of approval, the applicant is required to construct a half-street improvement along the

entire frontage of the subject property. This improvement may be deferred until the time of future subdivision pursuant to SRC 803.070.

Prepared by: Jennifer Scott, Program Manager  
cc: File