



## Staff Report

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**File #:** 18-132  
**Version:** 1

**Date:** 3/26/2018  
**Item #:** 4. a.

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**TO:** Mayor and City Council  
**THROUGH:** Steve Powers, City Manager  
**FROM:** Peter Fernandez, PE, Public Works Director

### **SUBJECT:**

Reconsideration of the Lone Oak Reimbursement District

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

### **ISSUE:**

Shall Council affirm the formation of the Lone Oak Road Reimbursement District to collect funds for reimbursement of the developer's costs associated with constructing Lone Oak Road SE between Muirfield Avenue SE and Rees Hill Road SE?

### **RECOMMENDATION:**

Affirm Lone Oak Road Reimbursement District to collect funds for reimbursement of the developer's costs associated with constructing Lone Oak Road SE between Muirfield Avenue SE and Rees Hill Road SE.

### **SUMMARY AND BACKGROUND:**

On January 22, 2018, Council adopted Resolution No. 2018-08, forming the Lone Oak Reimbursement District to generate funds for reimbursement of Lone Oak Road SE construction from Muirfield Avenue SE to Rees Hill Road. These improvements benefit neighboring properties because of improved street connectivity and accessibility. On February 12, 2018, Council approved a motion to reconsider the issue and scheduled a public hearing for March 26, 2018.

Several interested parties, including the Creekside Homeowner's Association and the South Gateway Neighborhood Association, expressed concerns about the district formation and inquired about the history of the Lone Oak Road SE construction as it relates to the Creekside development. This report

provides additional information using a Question/Answer format.

## **QUESTIONS AND STAFF RESPONSES:**

- Q1: Why was the South Gateway Neighborhood Association not sent notice regarding the hearing for formation of the Reimbursement District?
- A1: The City provides notice to neighborhood associations for various land use decisions. However, the formation of a reimbursement district is a funding mechanism and not a land use decision. Notification requirements are set forth in *Salem Revised Code* (SRC) 200.320(b) which provides for only notifying the affected property owners within a proposed reimbursement district of the public hearing.
- Q2: An older subdivision decision for the Creekside development required that Lone Oak Road SE be constructed before the 351<sup>st</sup> building permit could be issued. What happened to that requirement?
- A2: This requirement related to an off-site linking street improvement along Lone Oak Road from Mildred Lane to the north toward Holder Lane. In 1999, a subsequent land use decision modified the off-site linking street improvement, requiring instead improvements to Mildred Lane SE between Lone Oak Road SE and Sunnyside Road SE. Those linking street improvements along Mildred Lane have been completed.
- Q3: Why is the original developer of the Creekside development no longer required to construct the remaining portion of Lone Oak Road SE within their development?
- A3: The Creekside developer is required to construct Lone Oak Road between Muirfield Avenue and Augusta Drive as a condition of the next sub-phase of Creekside's Phase 14 development. However, the timing of construction is at the developer's discretion, not the City's. Therefore, this condition to construct Lone Oak Road is also being imposed on other developments in the area since the street is needed to serve these other properties.
- Q4: Why is the Creekside Golf Course included in the Reimbursement District boundary and isn't that presupposing development of the golf course?
- A4: The Creekside Golf Course warrants a proportional contribution toward Lone Oak Road construction based on its potential for redevelopment as a residential subdivision and the fact that it would benefit from the Lone Oak improvements. The methodology for establishing the

reimbursement district fee does not presuppose development of the golf course, but rather establishes a reimbursement fee in the event that it is redeveloped. If the golf course property were removed from the district, it is possible the property would be redeveloped and not have an obligation to contribute to the improvements.

Q5: Why did the estimated cost of the bridge crossing Jory Creek increase so greatly?

A5: The difference of estimated cost is based on a difference of opinion between City staff and the developer's engineer as to what will be required by the state and federal permitting agencies for the crossing of Jory Creek. The developer's engineer proposed a long culvert with deep fills, which is less expensive but has greater environmental impact. City staff proposes a bridge structure, which is more expensive but has a lower environmental impact.

Q6: If this is a funding mechanism to cover the cost of the Lone Oak Road improvements, why has adding this street to a future streets bond measure been mentioned?

A6: Depending on the rate of development within the District, the funding for the street improvements may lag behind the schedule for constructing the improvements. If Lone Oak Road is added to a future streets bond proposal, those funds would be reimbursed by District funds as they are received.

Q7: Why is the City not considering realignment of Lone Oak Road through the golf course in order to avoid the Jory Creek crossing and reduce costs?

A7: The current proposed location of Lone Oak Road is the one depicted in the current *Salem Transportation System Plan*, and thus used as the basis for development conditions. Relocation of Lone Oak Road would presuppose development of the golf course, and require an amendment of the Transportation System Plan. There is no certainty that the relocated street would reduce the cost of construction.

Q8: How will the City prevent this scenario from occurring in the future, where an expensive construction project is delayed until the final phase of a subdivision?

A8: City regulations were amended in recent years to require more detailed phasing plans for phasing subdivisions. As a result, land use decisions now have greater specificity regarding how infrastructure requirements are phased.

Q9: When exactly are the District payments required?

A9: The District fees are only due upon annexation **and** development of the properties within the District. Time of payment is specified in SRC 200.355. Generally, District payments will be required at the time of subdivision plat or at the time of building permit issuance where a subdivision is not proposed. Properties outside the city limits are not subject to the payments until the property is annexed into the City and develops as noted above. Existing developments will not be required to pay the district fees unless they create new dwelling units or other development that generates additional vehicle trips.

## **FACTS AND FINDINGS:**

Council may:

- 1) Affirm the formation of the District,
- 2) Modify the District through amending Resolution No. 2018-08, or
- 3) Reject the District through rescinding Resolution No. 2018-08

Robert D. Chandler, PhD, PE  
Public Works Assistant Director

Attachments:  
None





## Staff Report

File #: 18-32  
Version: 1

Date: 1/22/2018  
Item #: 4.a.

**TO:** Mayor and City Council  
**THROUGH:** Steve Powers, City Manager  
**FROM:** Peter Fernandez, PE, Public Works Director

### **SUBJECT:**

Formation of Lone Oak Road Reimbursement District.

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

### **ISSUE:**

Shall Council adopt Resolution No. 2018-08 (Attachment 6), approving the formation of Lone Oak Road Reimbursement District to collect funds for reimbursement of costs associated with constructing Lone Oak Road SE between Muirfield Avenue SE and Rees Hill Road SE?

### **RECOMMENDATION:**

Adopt Resolution No. 2018-08, approving the formation of Lone Oak Road Reimbursement District to collect funds for reimbursement of the developer's costs associated with constructing Lone Oak Road SE between Muirfield Avenue SE and Rees Hill Road SE.

### **SUMMARY AND BACKGROUND:**

As a condition of developing Oak Ridge Estates (Attachment 1), the City, in 2008, required Garrett and Alice Berndt ("Developer") to complete construction of Lone Oak Road ("Lone Oak Improvements") from the development site to Muirfield Avenue SE. These improvements included a new bridge crossing of Jory Creek and approximately 2,500 feet of collector street improvements.

On May 31, 2017, the Developer submitted a request to modify the conditions of approval for Oak Ridge Estates to allow for payment of a proportional fee in lieu of constructing the Lone Oak improvements. Staff anticipates that the Developer's modification will require construction of Lone

Oak Road SE to the south from Sahalee Drive SE to Rees Hill Road as a condition of development if Lone Oak Road SE is not completed from the north to Muirfield Avenue SE.

On August 11, 2017, the Developer submitted an application to form a reimbursement district for construction of the Lone Oak Improvements (Exhibit 1 to Resolution 2018-08). The proposed reimbursement district includes completion of Lone Oak Road SE construction from Muirfield Avenue SE to Rees Hill Road SE for a total estimated cost of 9.3 million dollars (Attachment 2). These improvements benefit neighboring properties because of improved street connectivity and accessibility.

When a developer is required to construct public improvements that benefit neighboring properties, and the improvements are not otherwise eligible for full reimbursement from SDCs or other sources, the Salem Revised Code ("SRC") allows the developer to create a reimbursement district.

Reimbursement districts allow the developer to recoup some portion of the cost of construction of the public improvements from the neighboring properties that are benefited by the improvements. Reimbursement districts identify and account for the benefitted area, and provide a fair and proportional reimbursement to the developer for the cost of improvements that will be used by, and are necessary to serve, the neighboring properties.

## **FACTS AND FINDINGS:**

1. The Lone Oak Improvements were required as a condition of development of the Oak Ridge Estates subdivision. The Improvements were required as conditions A1 and A2 of the Preliminary Declaration for Urban Growth Area Development Permit No. 07-5, dated June 13, 2007 (Attachment 3). The Lone Oak Road Improvements were also required by reference under condition 1 of the Subdivision Review Committee decision for Subdivision 08-4, dated September 15, 2008 (Attachment 4).
2. The Lone Oak Reimbursement District application meets the criteria of SRC 200.310. The Improvements have not been constructed, and the applicant has submitted an engineered estimate of costs that are eligible for reimbursement pursuant to SRC 200.350.
3. All persons owning property within the proposed district were notified by first class mail of the public hearing and purpose thereof, mailed January 9, 2018.
4. The estimated construction costs for the Lone Oak Improvements are \$9,300,000. A portion of the Lone Oak Improvements are eligible for reimbursement from Systems Development Charges (SDCs). The current SDC Eligible Projects List establishes that Lone Oak Road SE in this area is eligible for 21 percent funding from SDCs, which totals \$1,953,000 for the Lone

Oak Improvements. The remaining unreimbursed portion of \$7,347,000 is proposed to be reimbursement through the Lone Oak Reimbursement District and is subject to the reimbursement district fee methodology below.

5. SRC 200.315 requires the Public Works Director to prepare a report considering the following elements: developer financing, the district boundary, apportionment of construction costs, administrative needs of the City, and whether it is in the public interest to establish the district. Based on these criteria, the Director shall make a recommendation on whether the reimbursement district should be formed. This report constitutes the Director's Report required by ordinance; the criteria are considered below:
  - a. Developer Financing: Developers will finance the entire construction cost of the Lone Oak Improvements. The total estimated costs are \$9,300,000, of which \$1,953,000 in SDC-eligible costs are being reimbursed through a separate process. The estimated non-SDC costs total \$7,347,000.
  - b. District Boundary and Lot Projection: The district boundary is proposed to be comprised of four distinct areas because the apportionment of construction cost will be different within each subarea. The lot projection for all subareas (Exhibit 2 to Resolution 2018-08) is shown in the table below. The basis for creating subarea boundaries and lot projections are explained as follows:
    - i. Creekside Area (260 projected lots) - This area includes all undeveloped or underdeveloped lots within the original Golf Club at Creekside development. These properties are selected as a distinct area because the proposed reimbursement fee within this area is based on a fee established by Planning Commission for property within the Creekside development boundary. The lot projection within Creekside Golf Course is distinguished from the lot projection outside the golf course because the area outside the golf course has a number of vacant buildable lots and two existing tentative subdivision approvals, where the golf course does not.
    - ii. West Area (360 projected lots) - This area includes all lots that receive direct benefit from the construction of Lone Oak Road SE. The lot projection within this area has two subcategories based on differing topography.
    - iii. Central Area (225 projected lots) - This area includes all lots that receive indirect benefit from construction of Lone Oak Road SE through improved street connectivity and have limited access to Sunnyside Road SE.

- iv. East Area (120 projected lots) - This area includes all lots that receive indirect benefit from construction of Lone Oak Road SE through improved street connectivity, but have primary access available from Sunnyside Road SE.

Subarea	Acres	Density (lots/acre)	Probability	Lot Projection
Creekside (Other)	N/A	N/A	N/A	50
Creekside (Golf Course)	140	3	50%	210
West A	30	4	50%	60
West B	80	5	75%	300
Central	60	5	75%	225
East	60	4	50%	120
Total				965

- c. Apportionment of Construction Cost:  
The apportionment of cost is shown in the tables below and is further explained as follows:
- i. Creekside Area (\$9,212 per lot) - This area is subject to a \$9,212 per lot proportional share of Lone Oak Improvements based on Condition 7 the Planning Commission decision for Subdivision 15-04, dated April 7, 2015 (Attachment 5). The apportionment for the Creekside Area is shown in the table below

Lots	District Fee	Creekside Share	Total Lone Oak Improvements	Lone Oak Remainder
260	\$9,212	\$2,395,000	\$7,347,000	\$4,952,000

The West, Central, and East areas are being apportioned based on the Lone Oak Remainder of \$4,952,000 described above and the projected number of lots within those areas.

- ii. West Area (\$9,854 per lot) - This area is proposed to have a 100 percent share toward the Lone Oak Improvements because these properties receive direct benefit from Lone Oak Road SE construction.
- iii. Central Area (\$4,927 per lot) - This area is proposed to have a 50 percent share toward the Lone Oak Remainder because these properties receive indirect

benefit from Lone Oak Road SE construction through improved street connectivity and have limited access to Sunnyside Road SE.

- iv. East Area (\$2,464 per lot) - This area is proposed to have a 25 percent share toward the Lone Oak Remainder because these properties receive indirect benefit from construction of Lone Oak Road SE through improved street connectivity, but have primary access available from Sunnyside Road SE.

Area	Lot Projection	Weighted Share	Weighted Lot Equivalent
West	360	100%	360
Central	225	50%	112.5
East	120	25%	30
Total			502.5

The reimbursement fee apportioned to each lot within the West, Central, and East Areas is equal to the Lone Oak Remainder of \$4,952,000 divided by the weighted lot equivalent of 502.5 lots, or \$9,854 per weighted lot equivalent. The projected revenue generated from the within the reimbursement district is summarized in the table below:

Area	Lot Projection	Reimbursement Fee	Subtotal
Creekside	260	\$9,212	\$2,395,000
West	360	\$9,854	\$3,547,000
Central	225	\$4,927	\$1,109,000
East	120	\$2,464	\$296,000
Total			\$7,347,000

The proposed apportionment of cost projects that all properties will developed as single-family dwellings. The reimbursement fee for forms of development other than single family dwellings will be based on the reimbursement fee described above, divided by 9.57 average daily trips per single family dwelling multiplied by the average daily trips of the development being proposed.

- d. Administration Cost:

A one percent administration fee will be collected out of each payment of the reimbursement district fee in order to cover Public Works staff for administrative costs. The remaining balance of the district fee (ninety-nine percent of what is collected) will be reimbursed to the Developer.

e. Public Interest:

SRC 200.315 specifies that the Public Works Director make a recommendation on whether the creation of the district is in the public interest based upon specific criteria. The criteria are applied as follows:

- i. Improvements funded by the Developer provide direct benefit to properties within the district that would have had a condition to construct these improvements for future development on those properties.
  - ii. The reimbursement district provides a mechanism to fairly distribute the costs of the improvements among the properties within the district. No other funding sources are available for the construction of these facilities.
  - iii. The portion of the Improvements that provide incidental benefit to properties outside the district are eligible for SDC funding and are not collected through the Lone Oak Road Reimbursement District.
6. Based on the criteria, the Director recommends a finding that the reimbursement district is in the public interest and should be formed.
  7. Properties are subject to the reimbursement fee based on activities described in SRC 200.355.
  8. Pursuant to SRC 200.250, reimbursement fees shall be reimbursed to the Developer or any third party that constructs a portion of the Lone Oak Improvements.
  9. Public Works staff supports the formation of the Lone Oak Road Reimbursement District to include the benefitted properties within the Director's recommended district boundary.

Peter Fernandez, P.E.  
Public Works Director

Glenn J. Davis, PE, CFM  
Chief Development Engineer

Attachments:

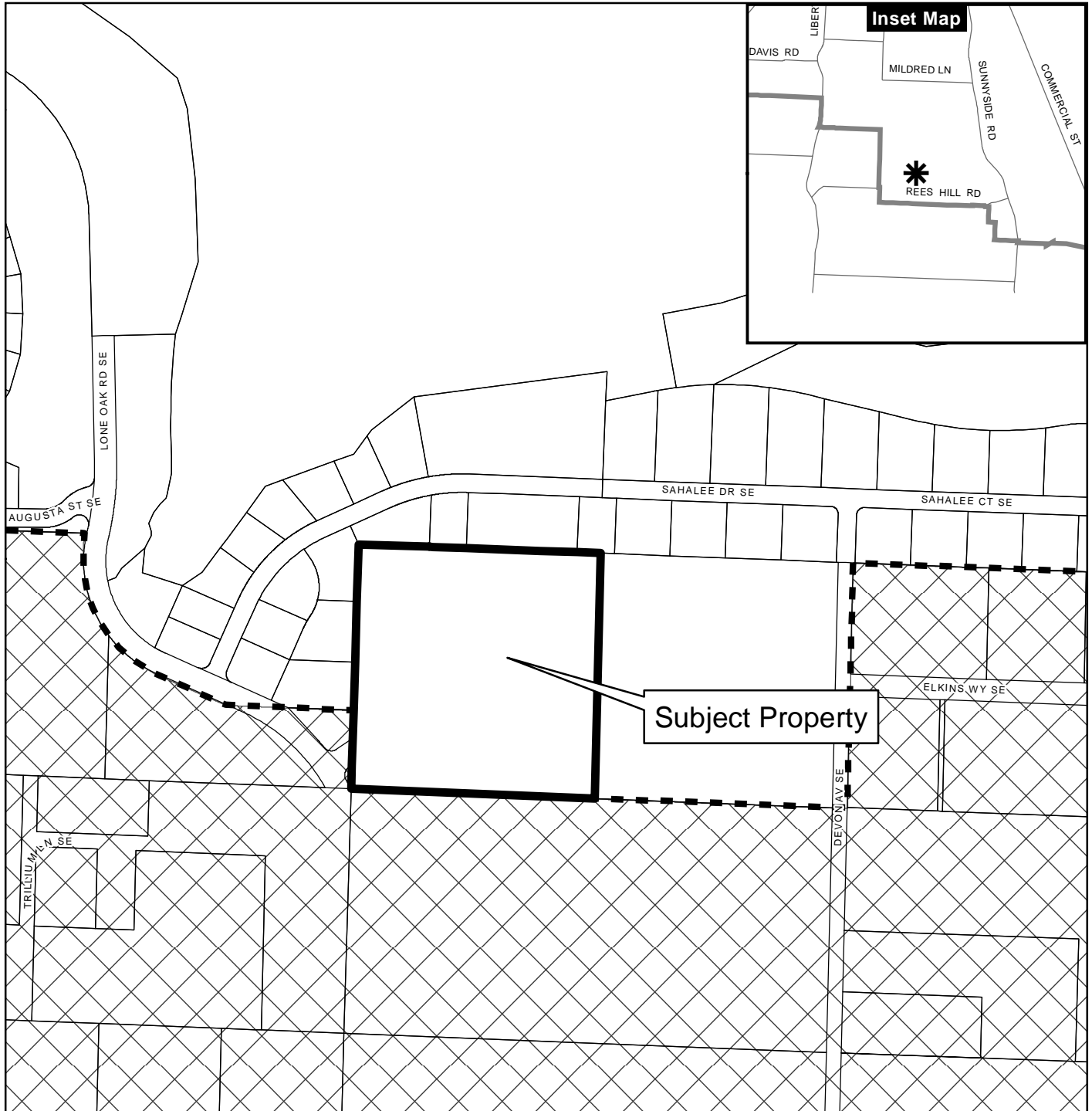
1. Vicinity Map Oak Ridge Estates

2. City Engineer-Approved Cost Estimate
3. UGA Development Permit No. 07-5
4. Subdivision Review Committee decision No. 08-4
5. Planning Commission decision for Subdivision No. 15-04
6. Lone Oak Reimbursement District Resolution No. 2018-08

Exhibits to Resolution 2018-08:

1. Exhibit 1 to Resolution 2018-08 Reimbursement District Application
2. Exhibit 2 to Resolution 2018-08 Reimbursement District Map
3. Exhibit 3 to Resolution 2018-08 List of Tax Lots

# Vicinity Map 6617 Devon Avenue SE



## Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

CITY OF Salem  
AT YOUR SERVICE  
Community Development Dept.

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0 100 200 400 Feet





Reginald I. Tenney  
212 Muirfield Avenue SE  
Salem, OR 97306-8605  
503-991-5745

RECEIVED

JAN 18 2018

CITY OF SALEM  
PUBLIC WORKS

January 14, 2018

Public Works Development Services Section  
555 Liberty Street SE  
Salem, OR 97301

Re: Lone Oak Road Reimbursement District  
January 22, 2018 Hearing Date

Dear Sir or Madam:

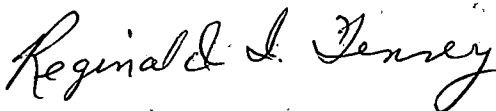
I received in the mail last Friday a "Notice of Public Hearing Regarding Reimbursement District Formation." The map attached to the notice appears to include a lot that my wife and I own at 222 Muirfield Avenue SE within the proposed reimbursement district boundary. I am writing to express my strong objection to the inclusion of our property within that boundary.

The notice states in part that "...reimbursement districts are mechanisms to identify the benefited area and provide a fair and proportional reimbursement to the developer." It goes on to state that one of the criterion considered by the Public Works Director in his or her recommendation to the City Council is "(t)he need for the public improvement in order to facilitate the development of other property within the district..."

My wife and I purchased the lot in 2011 shortly after we moved into our home next door at 212 Muirfield Avenue SE. We currently have no intention of building on the lot. Even if we did intend to build on it, the proposed construction to extend Lone Oak Road would be of no benefit with respect to any contemplated construction, since the lot is fully accessible from Muirfield Avenue and is at no point contiguous to the proposed road extension. Furthermore, neither my wife and me, nor any future owner of the lot should we decide to sell it, would benefit in any way from the proposed Lone Oak Road construction. Quite the contrary, such construction would have a negative impact with respect to the lot (and our home next door) because it would result in an increased volume of vehicular traffic on Muirfield Avenue.

For these reasons, I respectfully request that the lot at 222 Muirfield Avenue SE be excluded from the proposed reimbursement district.

Sincerely,



Reginald I. Tenney

JAN 19 2018

SALEM LEGAL DEPT

## **Lone Oak Road Reimbursement District Formation**

**Hearing Date: January 22, 2018**

Mayor Bennett and City Council,

My name is Nicholas Grice and I currently live at 6191 Insignia St SE in Salem. I also own a residential lot located at 403 Augusta St SE in Salem. This lot is within the proposed reimbursement district map. My wife and I purchased this lot in the summer of 2017 with plans to build our next home. We knew that this area had limited access and that there had been proposals to connect Lone Oak Rd thru to Rees Hill Rd. We were told by the city planning department that there was no current time table for the road completion. With the limited access to this neighborhood, the city currently requires homes constructed on Augusta St SE and Sahalie St SE to install residential fire sprinklers in the homes when built. This is a significant added expense that is not required when building single family homes elsewhere in the City. Now there is this new reimbursement district that is going to add approximately \$10,000 in additional fees when we apply for our building permit. We are currently in the process of having our house plans drawn and hope to break ground sometime this summer. Our biggest concern is that when we do break ground, during this time of unsettlement, we will be afforded an undue building penalty inflicted by the existing city requirements. The reimbursement district will be formed but the access road will not be completed for the fire sprinkler requirement to be removed. We will essentially be penalized with both city requirements instead of one. These penalties will potentially affect the few existing lots on Augusta St SE and Sahalie St SE that are in a previously developed area. The rest of the area within the reimbursement district map are not yet developed and would not be able to be built on without the construction of this road.

We would propose that the few existing lots that are on Augusta St SE and Sahalie St SE be removed from the reimbursement district or have the fee waived if building begins on any of those lots prior to the road being completed, roughly 20 Lots. In addition, the proposed subdivision of Oak Ridge Estates that is the cause of this reimbursement district proposal does not appear to be included in

the reimbursement district. This subdivision is proposed to have 38 lots which more than cover the lots removed by my proposal. This subdivision needs a portion of this road to be constructed, while the existing lots on Augusta St SE and Sahalie St SE do not.

Thank you for your time and consideration.

RECEIVED

JAN 22 2018

CITY OF SALEM  
PUBLIC WORKS

January 22, 2018

Public Works Development Services  
Section 555 Liberty Street  
SE Salem, OR 97301

**Re: Proposed Lone Oak Road Reimbursement District - January 22, 2018 Hearing Date (Our written comment)**

Dear Mayor, Council, interested parties:

\$5,600,000 = Roadway Crossing over Jory Creek including bridge construction!

Again. See reference costs in proposal!

\$5,600,000=Roadway Crossing over Jory Creek including bridge construction!

Also, see in proposal: CREEKSIDE (GOLF COURSE) OF 140 ACRES WITH AT LEAST 210 LOTS IS INCLUDED IN THE PROPOSED REIMBURSEMENT DISTRICT!

Hello. We live in the "East Subarea" of the proposal. We do not object to the use of a reimbursement districts. We believe however they should be well thought out and fair. **We do not favor this proposal.**

We believe it would be a mistake and unfair to create a reimbursement district with components that are too speculative.

The golf course inclusion of 140 acres and 210 lots in the proposed reimbursement district appears too speculative!

Whether or not the reimbursement district is approved as proposed, the decades long concerns with dumping city traffic on poor Rees Hill will continue. We suspect that's probably because Rees Hill suffers from two government entities that seem unable to coordinate on the edge of a UGB.

Where would Boone Rd be today without a Kuebler Rd? Mildred Rd, Lone Oak Rd so far appear to have been jobs well done. But with Rees Hill, we plead for leadership from both government entities. So, even with **all that money** this proposal commits and finances, we suspect the concerns with Rees Hill go on.

Since traffic needs to flow to Rees Hill, **we favor a modification to the proposed reimbursement district.** What's needed is further work applied to apportionment of valid and various construction costs. And this needs to be expedited for stuck south side owners/developers needing aid and services inside a UGB. That's in the public interest! We do see potential in forming a reimbursement district being either much larger or perhaps being much smaller too.

If only Rees Hill were 100% in the city! Build the South Extension for \$1,800,000 and spend a million or two on Rees Hill funded by a modified reimbursement district. Nope. Can't even do that? Two entities?

Bummer.

1/2

For now, to get things moving, we suggest a smaller reimbursement district aimed at smaller targets. We need a district that keeps us financially free from the business of "converting golf courses to city lots". How about approving work directed solely on the south link. Giving relief to Devon St.

Using the current proposals costs, and just doing the South Linking roadway improvements from the intersection of Sahalee CT SE and Lone Oak RD SE south to Rees Hill Rd, its reported to be about \$1.8 million:

South link.....\$1,800,000

Minus Est SDC..\$300,000

Total Cost= \$1,500,000

Lots for a modified area: (without golf course)

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West 360 lots

Central 225 lots

East 120 lots

Total lots= 705

Using no weighting or judgements of "share", and, to simplify to show an example of a smaller and limited debt structured reimbursement district might come out:

West, Central, and East apportionment cost per lot= \$2127

Thank you for the opportunity to submit a written comment.

Steve and Debbie Quady

083W22DA01100

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JAN 22 2018

CITY OF SALEM  
PUBLIC WORKS

January 18, 2018

Re: Lone Oak Road Reimbursement District

Hearing date: January 22, 2018

To the Public Works Director and Members of the City Council,

I and my wife are the owners of 1.5 acres within the proposed Lone Oak Reimbursement District; our address is 6685 Trillium Lane SE. I am a tenured professor at Willamette University, and my wife is a speech-language pathologist and bilingual specialist in the Salem-Keizer School District. We are property owners in both the city and here in the county who gladly pay our property taxes and who always vote in support of measures that fund education, public health, and public safety. We are, to put it simply, believers in the public commons, in paying our share, and in recognizing that government needs resources to pay for collective goods.

But this reimbursement district is not a question of the public good; it seems to be an effort by one property owner to use city procedures to induce other property owners to supplement their development gains when they develop their property. **We vehemently object to the creation of this reimbursement district.**

In the notice we received, the "Summary of Process" states that a reimbursement district can be formed when "a developer constructs improvements that benefit neighboring properties." By this standard, the proposed district is fundamentally backward on two counts. First, **there will be no benefit – zero – to us and to most of the property owners around us who are included in the proposed district.** We will never use this road to get anywhere we don't already travel using county and city roads to get to; to do so would be less direct and slower, not more direct nor faster. Moreover, it will bring no additional commerce or other benefits into our part of town. And, we have already paid for these existing roads, via our tax dollars.

Second, **all of the property owners who might benefit from this – those that live on Sahalee Court, on Lone Oak Rd SE, and on Augusta St SE – are curiously drawn outside of the reimbursement district!!!** All of these properties have a single access road – Devon Ave. SE – and would be the proximate property owners who would have some benefit from the continuation of Loan Oak Road creating a second, northward access road. Why are they not included in the proposed reimbursement district?

The proposal is also illogical because the road extension is not necessary for the development of the property in question. I can see why this will be a *convenience* to the developer (and will likely increase the money the developer makes from it.) But the property to be developed has access to Sahalee Court. If they can't afford to develop the roads they want themselves, they can still develop their land.

Finally, I trust that this is a detail that would not be accidentally overlooked, but I would question whether the City of Salem has the authority to impose such a district onto county residents. Is this actually even legal?

This proposed Reimbursement District is simply unfair to the people it will include. Please do the right thing and reject this proposal.

Very sincerely,

A handwritten signature in blue ink, appearing to read "Kelley Strawn".A handwritten signature in blue ink, appearing to read "Alejandra Reyes".

Kelley Strawn and Alejandra Reyes  
6685 Trillium Lane SE  
Salem, OR 97306  
503-581-0459

**Amy Johnson**

---

**From:** Brian Hines <brianhines1@gmail.com>  
**Sent:** Monday, January 22, 2018 3:12 PM  
**To:** citycouncil  
**Cc:** CityRecorder  
**Subject:** Testimony about Lone Oak Road reimbursement district

I just finished a blog post about this item on tonight's City Council agenda.

<http://hinessight.blogs.com/salempoliticalsnark/2018/01/city-council-poised-to-make-public-pay-for-improvements-not-developers.html>

I've copied it in below. Please consider this advance testimony for the public hearing on the Lone Oak Road reimbursement district.

## **City Council poised to make public pay for improvements, not Larry Tokarski**

Tonight the Salem City Council is having a public hearing on forming a [Lone Oak Road Reimbursement District](#) in the Creekside area.

Basically, as I understand it, a developer (Garrett and Alice Berndt) has requested that buyers and owners of lots in the area be saddled with a total of \$7,347,000 in fees to pay for needed improvements to an extension of Lone Oak Road.

This is a complicated subject, and I don't pretend to be familiar with all of the details surrounding this issue, which has been festering for many years.

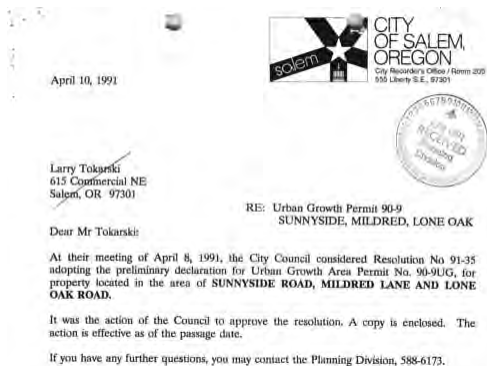
Arguments have gone back and forth about who should be responsible for road improvements in the area, which is in part a safety issue, since some current and proposed home sites only are served by one road, so if it were to be inaccessible emergency vehicles can't reach those homes.

What's most interesting to me is that Larry Tokarski was the developer of the Creekside neighborhood, and back in the early 1990's he was required to pay for improvements to Lone Oak Road. See:

[Download UGA90-09Pages1-43](#)

Here's a screenshot of one of the pages in that document.





My understanding is that in 2003 the City of Salem and Tokarski had an agreement that after 300 homes were built in the Creekside development, the improvements to Lone Oak Road would be made by Tokarski. However, as noted below, in 2007 these improvements were put on hold.

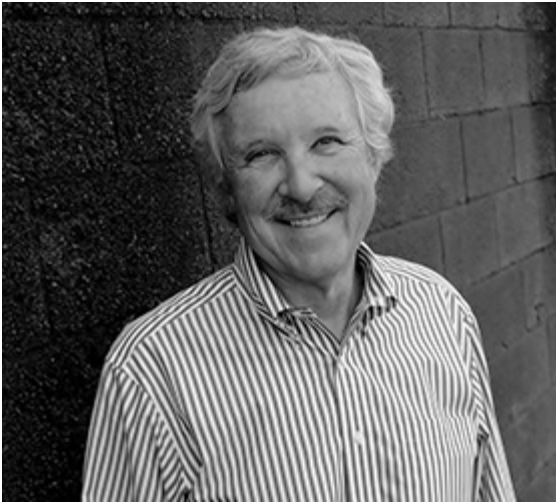
At two City Council meetings last year (March 27 and June 26), this issue came up for discussion. I've made a short video of comments made by councilors Steve McCoid, who represents the Creekside area, and Chris Hoy.

[video not included, but here is a link to it: <https://www.youtube.com/watch?v=Wmjh-oqGXuA&feature=youtu.be> ]

It's sort of surprising that in both these comments, and also elsewhere in discussion of the issue, I never heard anyone mention the name of the developer. I'm pretty sure Larry Tokarski is the developer being referred to, hence I titled the video "Salem City Council on Tokarski development screw-up."

Chris Fry, another Salem developer, spoke about this issue during the public comment period at the March 27, 2017 City Council meeting. Following Fry's remarks about the Lone Oak bridge, which supposedly would cost around \$6 million, Public Works Director Peter Fernandez said: "The project was the responsibility of the Creekside developer and over time they simply never built it."

Now, unless there is a statute of limitations on commitments by developers to build roads and bridges needed for their development, it sure seems like Larry Tokarski and his firm, Mountain West Investment, should be the ones on the hook for the Lone Oak Road improvements.



What makes this issue even more interesting politically is that Tokarski is the biggest contributor to conservative causes in Salem, people running for office and ballot measures. Last April Salem Weekly ran a story, "[The Man Whose Money Talks in Salem](#)."

Larry Tokarski began his real estate career in Salem in 1973. Since then he has founded and managed Mountain West Investment Corporation through which he has influenced the development and building of over a billion dollars of real estate. This includes over 1,000,000 square feet of commercial and residential facilities and more than 30 subdivisions. Tokarski has also been involved in the development and building of 47 retirement communities in Oregon, Washington, Idaho, Colorado, and Nevada.

Not a Salem resident (Tokarski lives in Wilsonville) the developer has invested a minimum of three-quarters of a million dollars in local political campaigns since 2009.

For example, Mountain West Investment Corp contributed 75 percent of the Salem Area Chamber of Commerce's Build Jobs PAC funding for the May 2016 election. Below you see, Tokarski paid \$10,000 to support the campaigns opposing progressive candidates for spring 2016 Salem City Council election, Sally Cook and Cara Kaser.

Well, someone who has been involved in over a billion dollars in real estate apparently should be able to pay for about \$7 million in road improvements for the Creekside area, especially since this was agreed to by Tokarski.

Before the City Council asks another developer to pay for those improvements through a Lone Oak Road Reimbursement District, it sure seems like the agreement(s) made by Tokarski should be carefully examined. I didn't see any sign of this in tonight's [staff report](#), since the history of the Lone Oak Road improvements only begins with a 2008 requirement that Garrett and Alice Berndt make those improvements.

Somewhere along the line Tokarski appears to have been relieved of the necessity of making those promised improvements. An earlier 2017 staff report does detail how the "Creekside developer" (Tokarski) failed to complete the improvements:

Lone Oak Road SE is functionally-classified as a collector street in the Salem Transportation System Plan. From its northern terminus at Browning Avenue SE, Lone Oak Road SE runs north-south parallel to, and roughly mid-point, between Liberty Road SE on the west and Sunnyside Road SE to the east, to its current southern terminus at Jory Creek. Attachment 6 contains photos taken on April 6, 2017, at various locations along the missing segment of Lone Oak Road SE.

In 2007, the Creekside developer initiated construction of the missing segment of Lone Oak Road. Construction plans were prepared by a private engineering consultant and permits were issued by the City. A box culvert was installed over Jory Creek and some preliminary earth grading along the alignment of Lone Oak Road was completed. Work on the project was halted by the developer and no additional work has occurred since 2007. At present, there is no timetable for constructing the bridge and remaining sections of Lone Oak Road SE.

So as Councilor McCoid asked in the video above, who let Tokarski off the hook for constructing the Jory Creek bridge and remaining sections of Lone Oak Road? And could it have been someone who benefitted from Tokarski's political contributions?

Brian Hines  
10371 Lake Drive SE, Salem OR

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[www.hinesblog.com](http://www.hinesblog.com) (blog)  
[www.churchofthechurchless.com](http://www.churchofthechurchless.com) (other blog)  
[www.salempoliticalsnark.com](http://www.salempoliticalsnark.com) (other other blog)

James & Karen Elkins  
928 Elkins Way SE  
Salem, OR 97306

DOCUMENT FILED

JAN 22 2018

CITY OF SALEM  
CITY RECORDER

January 22, 2018

City of Salem, Public Works Development Services Section  
City Hall, Room 325  
555 Liberty St. SE  
Salem, Oregon 97301

RE: **Reimbursement District:** Lone Oak Road Reimbursement District  
**AMANDA Seq. No:** 17-116147-DO  
**Hearing Date:** January 22, 2018  
6:30 pm

To Whom It May Concern:

We are writing to express our concerns whether establishing a reimbursement district for Lone Oak Road is in the public's best interest. It is proposed to establish a reimbursement district for the development of the road/bridge on Lone Oak from Muirfield to Rees Hill Rd. Our properties are located at 928 Elkins Way / 6700 Devon Ave. / 6995 Devon Ave. / 922 Rees Hill / 929 Rees Hill, all of which are within the proposed district. We also have several family members that reside on Rees Hill that would be affected by the newly placed intersection at Lone Oak/Rees Hill.

We would first like to address how irresponsible it would be to put an access point of Lone Oak at the proposed position on Rees Hill Rd. This would pose an extreme traffic hazard. The hilltop in which the proposed intersection of Lone Oak & Rees Hill is located has a severe limited view. Adding an intersection at the proposed area would recklessly endanger every driver who traveled Rees Hill Rd. According to Marion County Driveway Access Construction Standards, a required minimum sight distance on a 45 mph road is 400 feet. The property to the West of the proposed intersection of Lone Oak and Rees Hill, in which the West side of the property is just over the crest of the hill is 208' in length. This is half of the minimum required sight distance. Reducing the speed limit to 20 mph to accommodate this short sight distance is unreasonable, and changing the elevation of the hill would be very costly. Neither is a good solution for a poorly placed access to the proposed development.

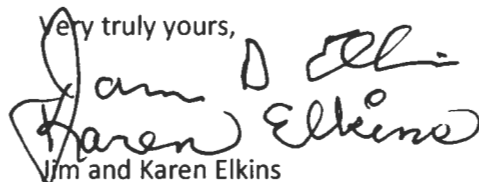
Secondly, any additional influx of traffic on Rees Hill would only add to the problem of overburdening an overused county road that is currently in disrepair and in desperate need of improvements. Current traffic from the Southernmost portion of the Creekside Development has taken traffic beyond the reasonable capacity of the existing county road. The sole route to main arteries of travel is via Rees Hill Rd. Rees Hill Road is one of two

weight restricted roads in Marion County. The section of Rees Hill West of Devon has a weight limit due to the fact that it is a slurry sealed road, not actually paved. The road is in complete disrepair with the current volume of traffic. Adding traffic from additional development and a thoroughfare to the flow of traffic would be very detrimental to the quality of the road surface causing further deterioration and greater safety hazard to all who travel Rees Hill Rd.

Finally, it is not in the public's best interest to establish a reimbursement district. It would certainly provide the developer much needed reimbursements, but that is not in the best interest of the surrounding properties within the proposed reimbursement district. Prior to development of the Southernmost Creekside properties, it was agreed by the developer, city and neighborhood association that a limited number of residence could be built before a triggering factor to require the completion of the bridge on Lone Oak, which is within the scope of this proposed development. This would have connected the newly developed Southern portion of the development to the rest of Creekside, as well as providing a much needed second route of ingress/egress to that neighborhood. After speaking with Steven McCoid, Ward 4 City Councilor, it is our understanding that due to the recession and lack of adequate planning that there is no longer a contingency to build the bridge. *The homes that are already developed, and were agreed upon to take responsibility for funding the bridge have not.* These homes, which sensibly should be included within the reimbursement district would be the most likely to take advantage of using the proposed bridge and newly improved access way. What is the plan for financial accountability for this population? It would certainly be fair to the developer to include a proportional reimbursement from this neighborhood. All other properties to the South of this development, which are mostly single family dwellings on acreages within Marion County (not annexed into the city), the newest of which was built in the 1970's, have been using Devon Avenue and Rees Hill since the roads were put into existence. There is no gain to the existing acreage properties to be included in the calculation for a fair apportionment of the cost. No amount would be considered "fair". Instead, put the responsibility on those that would logically use the road, the new developments.

Thank you for considering and addressing our concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jim and Karen Elkins". The signature is stylized and cursive, with the first name "Jim" and last name "Elkins" being the most legible parts. There is a small "D" or "O" mark above the "Elkins" part.

Jim and Karen Elkins

**See attachment:**

*Google Maps view of proposed intersection Lone Oak / Rees Hill*





671 Rees Hill Rd SE

Traveling West on Rees Hill. Proposed intersection with Lone Oak to the right, where the tree is located.

Lot 083W22C00401 has 208' road frontage



Salem, Oregon



Street View - Sep 2014

Marion County Driveway Access Construction Standards  
Minimum sight distance requirements:  
400' @ 45mph

Image capture: Sep 2014 © 2018 Google

Proposed intersection  
Lone Oak on Rees Hill

## Lone Oak RD SE

Completion of the missing sections of Lone Oak RD SE from  
Muirfield AVE SE to Rees Hill RD SE

1.	Roadway Crossing over Jory Creek including bridge construction.	\$5.6M
2.	North linking roadway improvements from Jory Creek crossing to approx 450 feet north of the intersection of Augusta ST SE and Lone Oak RD SE (Approx 2,000 L.F.)	\$1.9M
3.	South Linking roadway improvements from the intersection of Sahalee CT SE and Lone Oak RD SE south to Rees Hill RD SE (Approx 1,750 L.F.)	\$1.8M
<b>Total Improvement Cost</b>		<b>\$9.3M</b>

Note: Linking roadway improvements does not include street tree installation which would be deferred to future adjacent home construction.

Cost estimates are based upon similar projects completed in 2016.

# UGA DEVELOPMENT REVIEW COMMITTEE

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



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

**DATE OF DECISION:** June 13, 2007

**APPLICANT:** Garret and Alice Berndt

## PURPOSE OF REQUEST:

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

## ACTION:

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

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

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

### A. Linking Street Requirements

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

### B. Boundary Street Requirements

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

### C. Storm Drainage Requirements

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



**D. Water Service Requirements**

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

**E. Sanitary Sewer Requirements**

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

**F. Parks Requirements**

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

Date of Preliminary Declaration: June 13, 2007

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

This Preliminary Declaration will expire on June 13, 2009

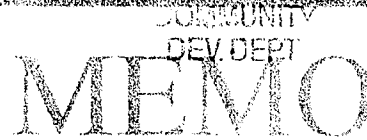
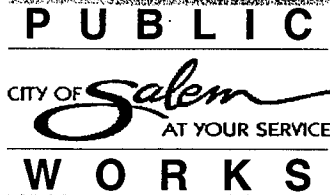
Attachments:	Exhibit 1:	Facts and Findings of the Department of Public Works
	Exhibit 2:	Facts and Findings of the Department of Community Services
	Exhibit 3:	Vicinity Map

Prepared by Jennifer Brown, Assistant Planner

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APR 25 2007



**TO:** Jennifer Brown, Assistant Planner  
Department of Community Development *JBrown*

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

**DATE:** April 24, 2007

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

### **PROPOSAL**

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

### **RECOMMENDED CONDITIONS**

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

EXHIBIT 1

## UGA INFRASTRUCTURE DETAIL

### **Urban Growth Area Development (UGA) Permit**

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

### CURSORY REVIEW OF DEVELOPMENT REQUIREMENTS

#### **Streets**

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

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

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

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

## **Traffic**

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

## **Storm Drainage**

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

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

## Water

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

## Sanitary Sewer

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

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

# MEMORANDUM

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

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

## FACTS AND FINDINGS:

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

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

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

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

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

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

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

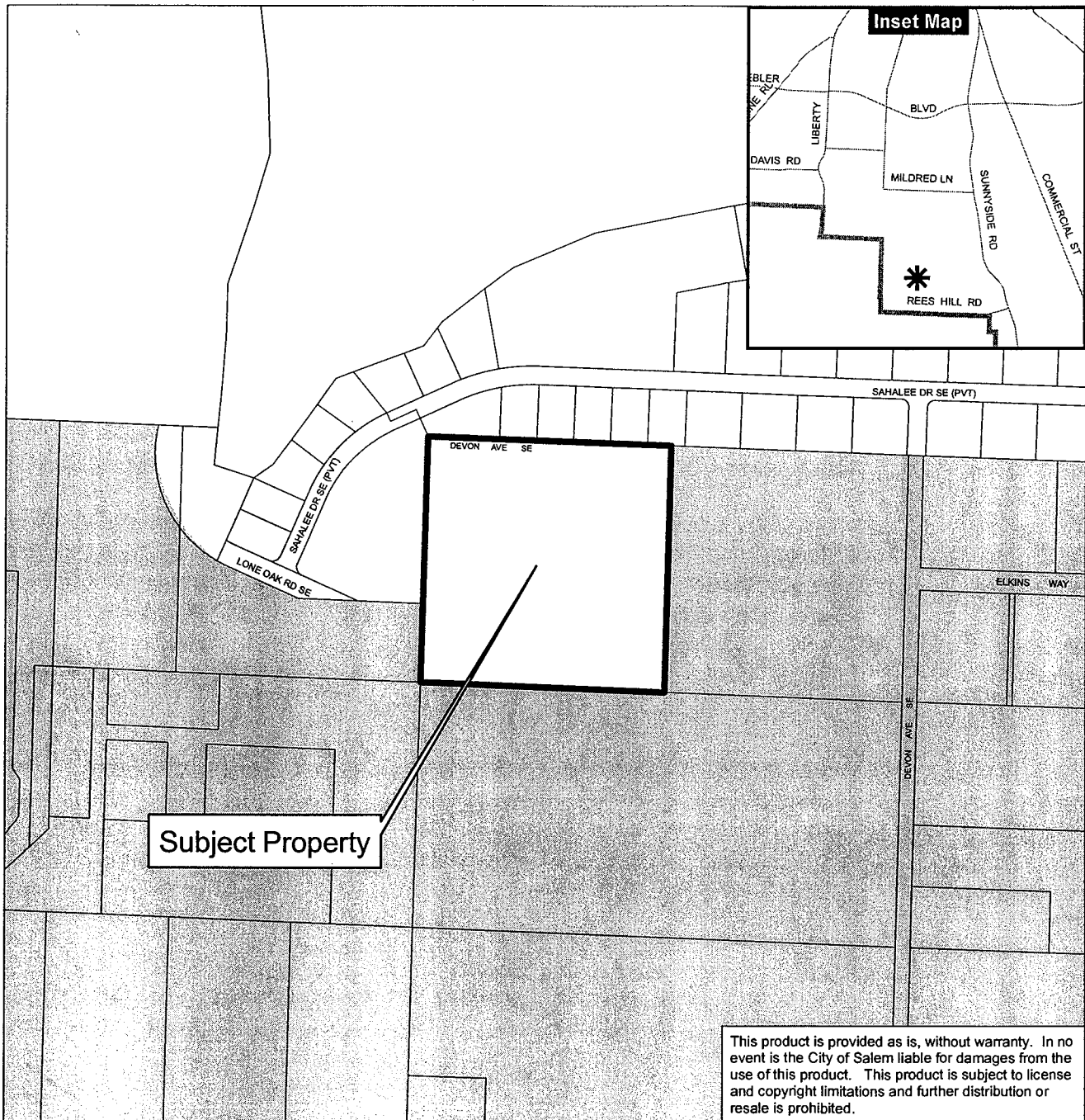
8. *Unique features and/or natural assets.* No know unique features or natural assets. The property contains mature trees and has an average 12% slope.

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

#### **RECOMMENDATION:**

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

# Vicinity Map 6617 Devon Avenue SE



## Legend

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

0 100 200 400 Feet





# SUBDIVISION REVIEW COMMITTEE

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



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

**DATE OF DECISION:** September 15, 2008

**APPLICANT:** Garrett & Alice Berndt

## PURPOSE OF REQUEST:

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

## ACTION: IT IS HEREBY ORDERED

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

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

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

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

Decision Issued According to Salem Revised Code 63.046 and 63.332.

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

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

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

Case Planner: Bryce Bishop, Interim Senior Planner, Ext. 7599, or at [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net)

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

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

)  
)  
)  
)

**FINDINGS AND ORDER**

**PROCEDURAL FINDINGS**

1. On February 22, 2007, the subject property was annexed into the City of Salem (Annexation Case No. C-608) after approval by the voters during the November 7, 2006, general election.  
  
Subsequent to being annexed into the City, an Urban Growth Area (UGA) Development permit was filed and approved for the subject property. The approved UGA permit (Case No. UGA07-5) identifies the public facilities required to serve the subject property and its future development pursuant to the requirements of the City's Urban Growth Management Program, codified under SRC Chapter 66.
2. On June 16, 2008, an application to subdivide the subject property was submitted to the Community Development Department by Multi/Tech Engineering on behalf of the applicant and property owners Garret and Alice Berndt c/o Bruce Thorn.
3. On August 5, 2008, notice of filing of the proposed subdivision was sent to all property owners located within 250 feet of the subject property and to the South Gateway Neighborhood Association.  
  
Public notice of the subdivision review conference to consider the proposed subdivision was also posted on the property by the applicant's representative pursuant to Salem Revised Code (SRC) requirements on August 14, 2008.
4. On August 26, 2008, a subdivision review conference was held to discuss the application and receive testimony from interested parties.

**SUBSTANTIVE FINDINGS**

**1. Request**

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

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

**2. Salem Area Comprehensive Plan (SACP)**

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

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

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

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

### 3. Surrounding Zoning and Land Uses

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

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

### 4. Existing Site Conditions

The subject property contains structures that are proposed for removal.

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

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

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

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

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

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

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

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

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

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

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

## **5. Site Analysis and Lot Layout**

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

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

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

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

The following minimum standards apply to the proposed development:

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

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

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

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

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

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

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

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

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

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

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

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

**Front Yards and  
Yards Adjacent Streets:**

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

-Minimum 20 feet for garages

**Rear Yards:**

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

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

**Interior Side Yards:**

Minimum 5 feet

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

**Garages and Setbacks:**

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

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

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

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

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

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

## **6. Transportation Facilities**

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

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

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

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

### **Accessways Serving 1 to 2 Lots:**

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

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

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

## 7. Neighborhood Association and Citizen Comments

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

## 8. City Department Comments

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

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

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

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

## 9. Public Agency Comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 10. Private Service Provider Comments

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

#### 11. Variance Criteria

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The requested variance conforms to this approval criterion.

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

## **12. Subdivision Approval Criteria**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

**Accessways Serving 1 to 2 Lots:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

on the property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **IT IS HEREBY ORDERED**

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

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

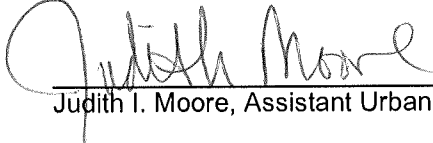
**Condition 10:** Obtain demolition permits and remove the existing buildings from the property.

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

Decision issued according to Salem Revised Code 63.046 and 63.332.

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

This decision is final unless written appeal from an aggrieved party is received by the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, OR 97301, not later than September 30, 2008, 5:00 p.m. The appeal must state where the decision failed to conform to the provisions of the subdivision ordinance (SRC Chapter 63). The appeal is to be filed in duplicate with the City of Salem Planning Division. The appeal fee is to be paid at the time of filing. The Salem Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.



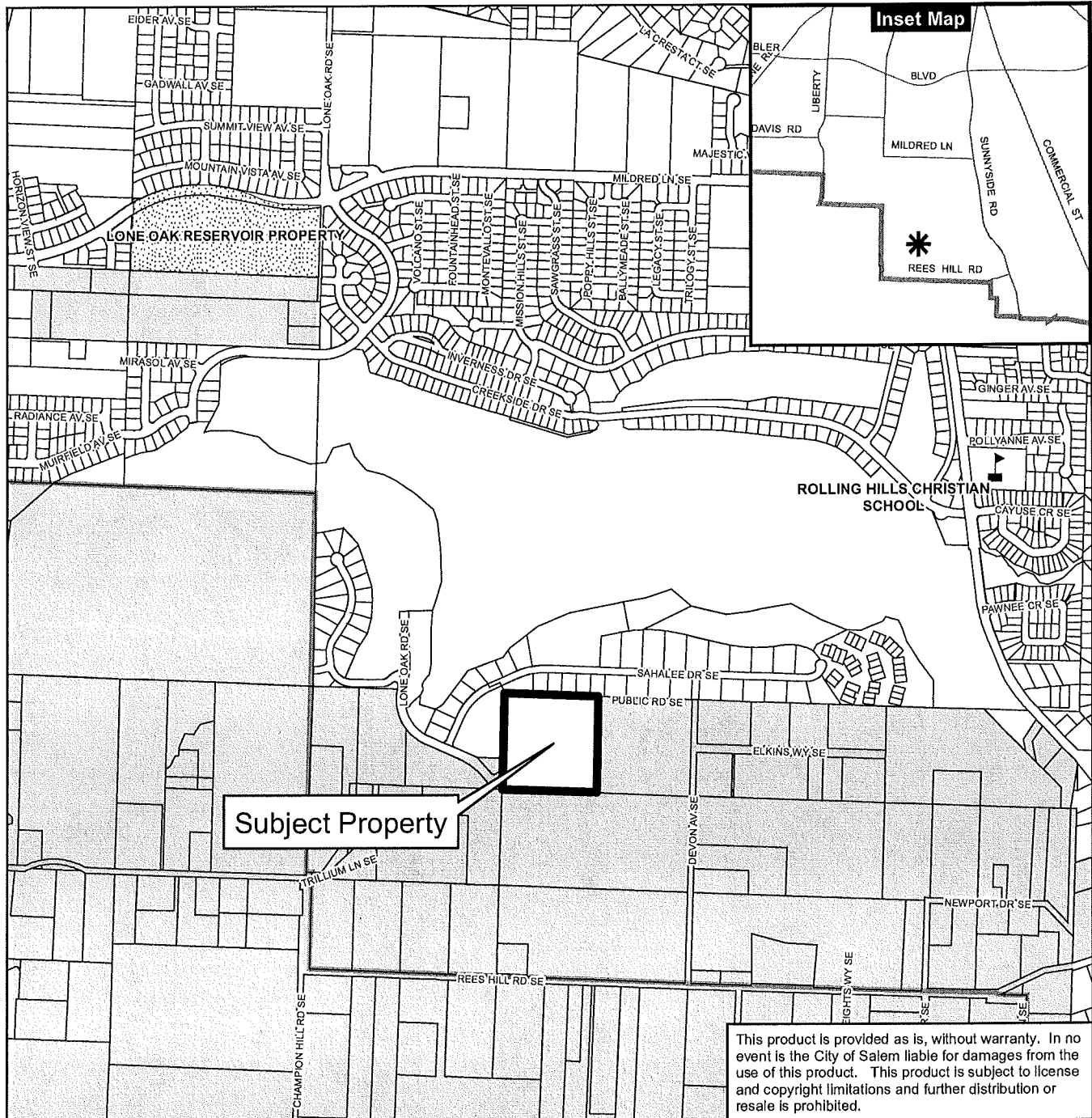
Judith I. Moore, Assistant Urban Planning Administrator

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

Prepared by Bryce Bishop, Interim Senior Planner

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# Vicinity Map 6617 Devon Avenue SE



## Legend

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



0 100/200 400 Feet

CITY OF *Salem*  
AT YOUR SERVICE  
Community Development Dept

G:\CD\PLANNING\Bryce\Current Planning\Subdivisions\2008\6617 Devon Avenue SE\VicinityMap\_6617 Devon Avenue SE(Revised).mxd

ATTACHMENT 1

# UGA DEVELOPMENT REVIEW COMMITTEE

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



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

**DATE OF DECISION:** June 13, 2007

**APPLICANT:** Garret and Alice Berndt

## **PURPOSE OF REQUEST:**

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

## **ACTION:**

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

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

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

### **A. Linking Street Requirements**

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

### **B. Boundary Street Requirements**

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

### **C. Storm Drainage Requirements**

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

ATTACHMENT 2

**D. Water Service Requirements**

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

**E. Sanitary Sewer Requirements**

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

**F. Parks Requirements**

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

Date of Preliminary Declaration: June 13, 2007

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

This Preliminary Declaration will expire on June 13, 2009

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

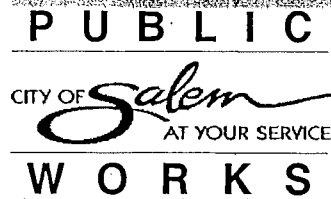
Prepared by Jennifer Brown, Assistant Planner

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RECEIVED

APR 25 2007



COMMUNITY  
DEV. DEPT  
MEMO

**TO:** Jennifer Brown, Assistant Planner  
Department of Community Development 

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

**DATE:** April 24, 2007

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

### PROPOSAL

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

### RECOMMENDED CONDITIONS

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

EXHIBIT 1

## UGA INFRASTRUCTURE DETAIL

### Urban Growth Area Development (UGA) Permit

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

## CURSORY REVIEW OF DEVELOPMENT REQUIREMENTS

### Streets

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

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

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

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

## **Traffic**

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

## **Storm Drainage**

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

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

## Water

### 1. Existing Conditions

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

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

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

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

## Sanitary Sewer

### 1. Existing Sewer

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

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

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

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

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

# MEMORANDUM

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

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

## FACTS AND FINDINGS:

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

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

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

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

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

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

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

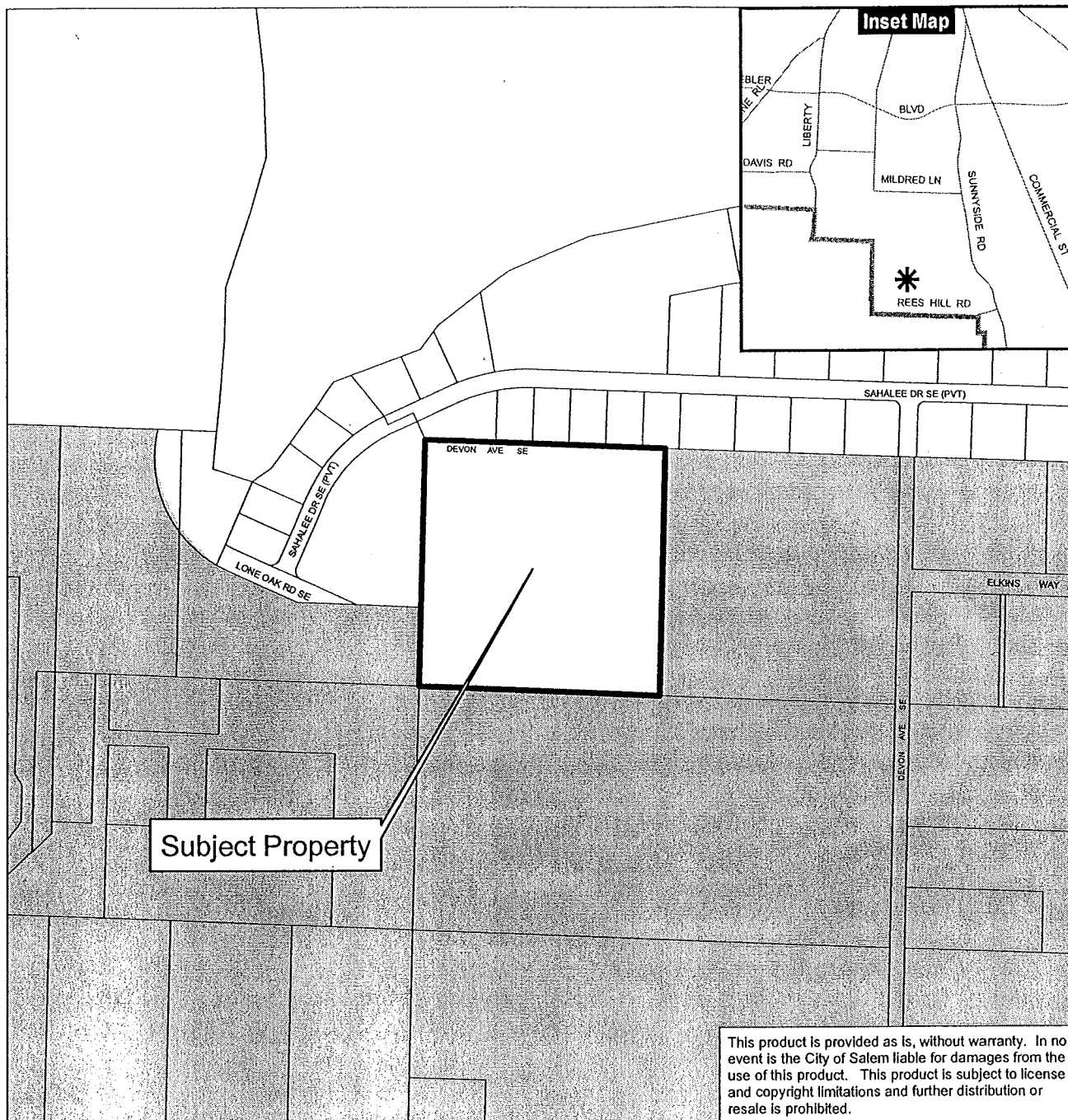
8. *Unique features and/or natural assets.* No know unique features or natural assets. The property contains mature trees and has an average 12% slope.

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

## **RECOMMENDATION:**

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

# Vicinity Map 6617 Devon Avenue SE



## Legend

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

0 100 200 400 Feet



~~COMMUNITY DEVELOPMENT~~



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

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

TAX LOT #100

Owner/Developer:

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

AC	ACRYLIC	AD	ADHESIVE	ADP	ADRENALINIC ACID	AE	ALUMINUM	AF	ALFALFA	AG	AGONY	AI	ARTIFICIAL	AK	AKKIM	AL	ALUMINUM	AM	AMMONIUM	AN	ANESTHETIC	AO	ANALOG	AP	APERTURE	APL	APPLIED	APR	APRIL	AR	ARABIC	AS	ASBESTOS	AT	ATMOSPHERE	AV	AVIATION	AW	AWAY	AX	AXIS	AY	AYER	BA	BALANCE	BB	BALANCE	BC	BALANCE	BD	BALANCE	BE	BALANCE	BF	BALANCE	BG	BALANCE	BH	BALANCE	BI	BALANCE	BJ	BALANCE	BK	BALANCE	BL	BALANCE	BM	BALANCE	BN	BALANCE	BO	BALANCE	BP	BALANCE	BQ	BALANCE	BR	BALANCE	BS	BALANCE	BT	BALANCE	BU	BALANCE	BV	BALANCE	BW	BALANCE	BX	BALANCE	BY	BALANCE	BZ	BALANCE	CA	CALCULUS	CB	CALCULUS	CC	CALCULUS	CD	CALCULUS	CE	CALCULUS	CF	CALCULUS	CG	CALCULUS	CH	CALCULUS	CI	CALCULUS	CJ	CALCULUS	CK	CALCULUS	CL	CALCULUS	CM	CALCULUS	CN	CALCULUS	CO	CALCULUS	CP	CALCULUS	CQ	CALCULUS	CR	CALCULUS	CS	CALCULUS	CT	CALCULUS	CU	CALCULUS	CV	CALCULUS	CW	CALCULUS	CX	CALCULUS	CY	CALCULUS	CZ	CALCULUS	DA	DALY	DB	DALY	DC	DALY	DD	DALY	DE	DALY	DF	DALY	DG	DALY	DH	DALY	DI	DALY	DJ	DALY	DK	DALY	DL	DALY	DM	DALY	DN	DALY	DO	DALY	DP	DALY	DQ	DALY	DR	DALY	DS	DALY	DT	DALY	DU	DALY	DV	DALY	DW	DALY	DX	DALY	DY	DALY	DZ	DALY	EA	EARTH	EB	EARTH	EC	EARTH	ED	EARTH	EE	EARTH	EF	EARTH	EG	EARTH	EH	EARTH	EI	EARTH	EJ	EARTH	EK	EARTH	EL	EARTH	EM	EARTH	EN	EARTH	EO	EARTH	EP	EARTH	EQ	EARTH	ER	EARTH	ES	EARTH	ET	EARTH	EU	EARTH	EV	EARTH	EW	EARTH	EX	EARTH	EY	EARTH	EZ	EARTH	FA	FACILITY	FB	FACILITY	FC	FACILITY	FD	FACILITY	FE	FACILITY	FF	FACILITY	FG	FACILITY	FH	FACILITY	FI	FACILITY	FJ	FACILITY	FK	FACILITY	FL	FACILITY	FM	FACILITY	FN	FACILITY	FO	FACILITY	FP	FACILITY	FQ	FACILITY	FR	FACILITY	FS	FACILITY	FT	FACILITY	FU	FACILITY	FV	FACILITY	FW	FACILITY	FX	FACILITY	FY	FACILITY	FZ	FACILITY	GA	GALAXY	GB	GALAXY	GC	GALAXY	GD	GALAXY	GE	GALAXY	GF	GALAXY	GG	GALAXY	GH	GALAXY	GI	GALAXY	GJ	GALAXY	GK	GALAXY	GL	GALAXY	GM	GALAXY	GN	GALAXY	GO	GALAXY	GP	GALAXY	GQ	GALAXY	GR	GALAXY	GS	GALAXY	GT	GALAXY	GU	GALAXY	GV	GALAXY	GW	GALAXY	GX	GALAXY	GY	GALAXY	GZ	GALAXY	HA	HABITAT	HB	HABITAT	HC	HABITAT	HD	HABITAT	HE	HABITAT	HF	HABITAT	HG	HABITAT	HH	HABITAT	HI	HABITAT	HJ	HABITAT	HK	HABITAT	HL	HABITAT	HM	HABITAT	HN	HABITAT	HO	HABITAT	HP	HABITAT	HQ	HABITAT	HR	HABITAT	HS	HABITAT	HT	HABITAT	HU	HABITAT	HV	HABITAT	HW	HABITAT	HX	HABITAT	HY	HABITAT	HZ	HABITAT	IA	IDENTITY	IB	IDENTITY	IC	IDENTITY	ID	IDENTITY	IE	IDENTITY	IF	IDENTITY	IG	IDENTITY	IH	IDENTITY	II	IDENTITY	IJ	IDENTITY	IK	IDENTITY	IL	IDENTITY	IM	IDENTITY	IN	IDENTITY	IO	IDENTITY	IP	IDENTITY	IQ	IDENTITY	IR	IDENTITY	IS	IDENTITY	IT	IDENTITY	IU	IDENTITY	IV	IDENTITY	IX	IDENTITY	IY	IDENTITY	IZ	IDENTITY	JA	JACUZZI	JB	JACUZZI	JC	JACUZZI	JD	JACUZZI	JE	JACUZZI	JF	JACUZZI	JG	JACUZZI	JH	JACUZZI	JI	JACUZZI	JJ	JACUZZI	JK	JACUZZI	JL	JACUZZI	JM	JACUZZI	JN	JACUZZI	JO	JACUZZI	JP	JACUZZI	JQ	JACUZZI	JR	JACUZZI	JS	JACUZZI	JT	JACUZZI	JU	JACUZZI	JV	JACUZZI	JW	JACUZZI	JX	JACUZZI	JY	JACUZZI	JZ	JACUZZI	KA	KALAMAZOO	KB	KALAMAZOO	KC	KALAMAZOO	KD	KALAMAZOO	KE	KALAMAZOO	KF	KALAMAZOO	KG	KALAMAZOO	KH	KALAMAZOO	KI	KALAMAZOO	KJ	KALAMAZOO	KK	KALAMAZOO	KL	KALAMAZOO	KM	KALAMAZOO	KN	KALAMAZOO	KO	KALAMAZOO	KP	KALAMAZOO	KQ	KALAMAZOO	KR	KALAMAZOO	KS	KALAMAZOO	KT	KALAMAZOO	KU	KALAMAZOO	KV	KALAMAZOO	KW	KALAMAZOO	KX	KALAMAZOO	KY	KALAMAZOO	KZ	KALAMAZOO	LA	LACERATION	LB	LACERATION	LC	LACERATION	LD	LACERATION	LE	LACERATION	LF	LACERATION	LG	LACERATION	LH	LACERATION	LI	LACERATION	LJ	LACERATION	LK	LACERATION	LL	LACERATION	LM	LACERATION	LN	LACERATION	LO	LACERATION	LP	LACERATION
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**Figure 1**

[illegible]

Project Number  
**4984**  
Sheet Number  
**1 of 1**

# PRELIMINARY PLAN

**OAK RIDGE  
ESTATES**

Design: M.D.G.  
Drawn: P.G.G.  
Checked: M.D.G.  
Date: APRIL 2000  
Scale: AS SHOWN

NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.

DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

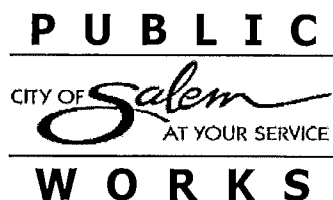


NOT FOR  
CONSTRUCTION  
UNLESS STAMPED

TI/TECH  
SERINO SERVICES, INC.  
1111 ST. N.E. SALEM, OH. 44130  
(216) 333-3333 FAX (216) 333-3333

**ATTACHMENT 3**





MEMO

**TO:** Bryce Bishop, Associate Planner  
Department of Community Development

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

**DATE:** September 15, 2008

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

RECEIVED

SEP 15 2008

COMMUNITY DEVELOPMENT

**PROPOSAL:**

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

**RECOMMENDED CONDITIONS OF PLAT APPROVAL:**

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

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

## **PUBLIC WORKS DISCUSSION:**

### **FACTS**

#### **Streets**

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

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

#### **Storm**

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

#### **Water**

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

#### **Sewer**

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

### **CRITERIA**

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

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

**Findings:**

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

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

**Conditions:**

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

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

**Findings:**

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

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

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

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

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

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

Conditions:

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

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

**Findings:**

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

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

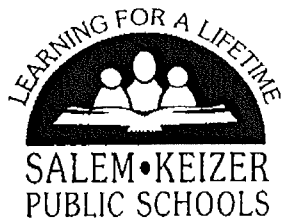
*grade standard for short distances to be reviewed and approved during the public construction plan review process.*

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

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

**Findings:**

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



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

Sandy Husk, Superintendent

August 14, 2008

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

FAX No. 503-588-6005

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

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

#### ELEMENTARY SCHOOL INFORMATION (GRADES K TO 5)

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

#### MIDDLE SCHOOL INFORMATION (GRADES 6 TO 8)

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

#### HIGH SCHOOL INFORMATION (GRADES 9 TO 12)

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

#### ESTIMATE SUMMARY (GRADES K TO 12):

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

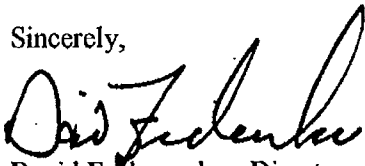
Developer should provide paved walk route(s) to allow pedestrian access and bicycle access to school(s) from all residences within the new development and should provide all improvements required by the City of Salem where new transportation routes are established or existing transportation routes change,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

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

ASSUMPTIONS:

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

Sincerely,



David Fridenmaker, Director  
Planning and Real Property Services

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





# ***Marion County*** **OREGON**

## **PUBLIC WORKS**

# **RECEIVED**

AUG 28 2008

## **COMMUNITY DEVELOPMENT**

August 25, 2008

### **BOARD OF COMMISSIONERS**

Sam Brentano  
Janet Carlson  
Patti Milne

### **DIRECTOR**

Willis G. Worcester, P.E.

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

### **ADMINISTRATION**

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

### **BUILDING INSPECTION**

Dear Mr. Bishop:

### **DOG CONTROL**

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

### **EMERGENCY MANAGEMENT**

### **ENGINEERING**

### **ENVIRONMENTAL SERVICES**

### **OPERATIONS**

### **PARKS**

### **PLANNING**

### **SURVEY**

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

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

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

Sincerely,

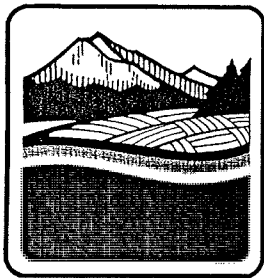
Karen Odenthal  
Civil Engineer Associate

KO:nv

c: John Rasmussen

**ATTACHMENT 6**

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# **Marion County** **OREGON**

## **PUBLIC WORKS**

**RECEIVED**

SEP 02 2008

**COMMUNITY DEVELOPMENT**

August 27, 2008

**BOARD OF  
COMMISSIONERS**

Sam Brentano  
Janet Carlson  
Patti Milne

**DIRECTOR**

Willis G. Worcester, P.E.

**ADMINISTRATION**

**BUILDING  
INSPECTION**

**DOG CONTROL**

**EMERGENCY  
MANAGEMENT**

**ENGINEERING**

**ENVIRONMENTAL  
SERVICES**

**OPERATIONS**

**PARKS**

**PLANNING**

**SURVEY**

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

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

Dear Mr. Bishop:

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

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

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

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

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

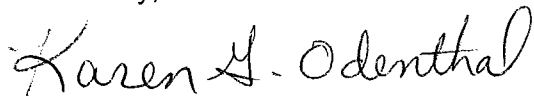
To Bryce Bishop, Planning Division, City of Salem  
From Karen Odenthal, Civil Engineer Associate  
RE: Subdivision Review Conference No. 08-04 located at 6617 Devon Avenue SE  
August 27, 2008

Page 2

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

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

Sincerely,

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

Karen Odenthal  
Civil Engineer Associate

KO:nv

c: John Rasmussen

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

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

)  
)  
)  
)

**STAFF REPORT**

**PROCEDURAL FINDINGS**

1. On February 22, 2007, the subject property was annexed into the City of Salem (Annexation Case No. C-608) after approval by the voters during the November 7, 2006, general election. Subsequent to being annexed into the City, an Urban Growth Area (UGA) Development permit (Case No. UGA07-5) was filed and approved for the subject property identifying the public facilities required to be provided under the City Urban Growth Management Program (SRC Chapter 66) in order to develop the subject property.
2. On June 16, 2008, an application to subdivide the subject property was submitted to the Community Development Department by Multi/Tech Engineering on behalf of the applicant and property owners Garret and Alice Berndt c/o Bruce Thorn.
3. On August 5, 2008, notification of filing for the proposed subdivision was sent to the owners of all property located within 250 feet of the subject property and to the South Gateway Neighborhood Association.

Public notice of the subdivision review conference was also posted on the property by the applicant's representative pursuant to Salem Revised Code (SRC) requirements.

4. The Subdivision Review Conference is scheduled for August 26, 2008, at 9:00 a.m. to hear the application and receive testimony from interested parties. The following sections provide information on the application materials submitted and comments received to date. Please feel free to contact Bryce Bishop, Interim Senior Planner, at (503) 588-6173 ext. 7599 if you have questions regarding this application.

**SUBSTANTIVE FINDINGS**

**1. Request**

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

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

**2. Salem Area Comprehensive Plan (SACP)**

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

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

Growth Management: The subject property is located outside of the City's Urban Service Area. Pursuant to the requirements of the Urban Growth Management Program (SRC Chapter 66), an Urban Growth Area (UGA) Development Permit is required prior to development of property that is located outside the boundaries of the Urban Service Area. Because the subject property is located outside the boundaries of the Urban Service Area a UGA permit is required. On June 13, 2007, a Preliminary Declaration for UGA permit No. 07-5 was approved for the subject property (Attachment

2) identifying the public facility improvements required to be provided with the development of the subject property. Development of the proposed subdivision must conform to the requirements of UGA permit No. 07-5.

### **3. Zoning and Land Uses**

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

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

### **4. Existing Site Conditions**

The subject property is currently vacant. There are, however, existing structures on the property that are proposed for removal.

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

The tree conservation plan submitted by the applicant identifies a total of 203 trees as being present on the subject property with 152 trees proposed for removal and 51 trees proposed for preservation. Of the total 203 trees present on the property 19 are "significant" Oregon White Oaks with a diameter-at-breast-height (dbh) of 24-inches or greater. Thirteen of the 19 "significant" Oregon White Oaks have been identified for removal.

The Tree Conservation Plan, if approved, will be binding on the subject property until notices of final completion are issued for the structures on lots containing the existing trees.

**Wetlands:** Designated wetlands are under the purview of the U.S. Army Corps of Engineers, with regulatory authority in Oregon delegated to the Oregon Department of State Lands (DSL). The City of Salem uses an adopted "Local Wetland Inventory" (LWI) in order to determine the locations of potential or existing wetlands. According to the Salem-Keizer LWI the subject property does not contain mapped wetlands or waterways.

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

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

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

### **5. Site Analysis and Subdivision Layout**

The applicant's tentative subdivision proposal results in a total of 38 lots ranging in size from

approximately 7,500 square feet to approximately 13,789 square feet (Attachment 3). Two of the proposed lots within the development (Lots 26 & 27) are proposed as flag lots which do not have street frontage. The remainder of the lots all have frontage on a public street.

**Lot Size:** Minimum lot size standards for subdivisions are established under SRC Chapter 63 (Subdivisions) and within the zoning district the property is located. For flag lots, the minimum standards apply exclusive of the proposed accessway serving the lots. Within the RA (Residential Agriculture) and RS (Single Family Residential) zones the following minimum lot area requirements apply.

**-Lot Area (SRC 63.145(c)):** Min. 4,000 ft.<sup>2</sup> (*single family dwellings*)  
Min. 6,000 ft.<sup>2</sup> (*non-residential uses*)  
Min. 7,000 ft.<sup>2</sup> (*duplexes, when located on corner lot*)

**Lot Dimension:** The minimum lot dimension standards for subdivisions are established under SRC Chapter 63 (Subdivisions) and within the zoning district the property is located. For flag lots, the minimum standards apply exclusive of the proposed accessway serving the lots. Within the RA and RS zones the following minimum lot dimension standards apply:

**-Lot Width (SRC 63.145(a)):** Min. 40 ft. (*on cul-de-sac turnarounds the front lot line width can be reduced to 30 ft. provided that the lot width at the front building setback line shall be 40 ft. (SRC 63.145(d))*)

**-Lot Depth (SRC 63.145(b)):** Min. 70 ft. / Max. 300 percent of the average lot width; or  
Min. 120 ft. (*for double frontage lots*)

**Setback Requirements (RS Zone):**

**Front Yards and**

**Yards Adjacent to Streets:** -Min. 12 feet (*adjacent to 'local' street*)  
-Min. 20 feet (*adjacent to 'collector' or 'arterial' streets*)

**Rear Yards:** -Min. 14 feet (*for a single-story building*)  
-Min. 20 feet (*for a two-story building*)

**Interior Side Yards:** -Min. 5 feet

**6. Transportation Facilities**

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

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

The applicant has requested a concurrent variance with the subdivision to allow street grades greater than the maximum 12 percent allowed under SRC 63.225(b). The variance approval criteria that must be satisfied in order for the variance to be granted are identified in section 13 of this report.

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

**Accessways Serving 1 to 2 Lots:**

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

Transportation Planning Rule (TPR): The State Transportation Planning Rule (TPR) requires that developments provide for safe and convenient pedestrian access to transit, the public sidewalk system, and to neighboring developments. The subject property shall provide streets with safe and convenient bicycle and pedestrian access, and provide boundary street improvements where necessary in order to connect multi-modal transportation facilities with the existing transportation system. Transit is not currently available.

**7. Neighborhood Association and Citizen Comments**

- A. The subject property is located within the South Gateway Neighborhood Association. Notice of the proposal was provided to the Neighborhood Association. As of the date of completing this staff report no comments have been received.
- B. All property owners within 250 feet of the subject property were mailed notification of the proposed subdivision. Public notice was also posted on the subject property. As of the date of completing this staff report no comments have been received from area property owners or the public.

**8. City Department Comments**

- A. The Police Department and the Building and Safety Division reviewed the proposal and indicated that they have no comments.
- B. The City's Urban Forester reviewed the proposal and indicated that he has no comments.
- C. The Public Works Department, Construction Inspection/Survey Section, commented that a field survey and subdivision plat are required pursuant to Oregon Revised Statutes and the Salem Revised Code and that a subdivision plat name certificate from the Marion County Surveyor must be submitted.
- D. Preliminary comments from the Public Works Department, Development Services Section, regarding required street, storm water, sewer, and water improvements are included as Attachment 4.

**9. Public Agency Comments**

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

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

The school district also indicates that the developer should provide paved walking routes to allow pedestrian and bicycle access to schools from all residences within the new development and should provide all improvements required by the City of Salem where new transportation routes are established or existing transportation routes change, such as school flashers, crosswalks, and signage.

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

- B. The Mid-Willamette Valley Council of Governments reviewed the proposal and commented

that street names should be verified by the Public Works Department and approved by the street name coordination team.

#### **10. Private Service Provider Comments**

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

The Subdivision Review Committee will review the information presented above, along with information presented by the applicant and surrounding property owners at the Subdivision Review Conference scheduled for August 26, 2008, in order to determine compliance with the Subdivision approval criteria.

#### **11. Criteria for Granting Approval to Tentative Subdivision**

Salem Revised Code (SRC) 63.046 sets forth the criteria that must be met before approval can be granted to a tentative subdivision plat. The applicant's Tentative Subdivision Plat application shall be considered in light of the following approval criteria, and a decision thereon shall be issued.

- A. Approval of the tentative subdivision plan does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto; and
- B. Provisions for water, sewer, streets, and storm drainage facilities comply with the city's public facility plan; and
- C. The tentative subdivision plan complies with all applicable provisions of the Salem Revised Code, including the Salem zoning ordinance, except as may be waived by variance granted as provided in SRC Chapter 63; and
- D. The proposed subdivision provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.
- E. The planning administrator shall adopt written findings and conclusions in connection with the approval or denial of a tentative plan, and shall serve by regular mail a copy of the decision on the applicant, the owners of the property subject of the application, and on all persons, organizations, and agencies entitled to a notice of filing under SRC 63.042.

#### **12. Tentative Subdivision Plat Review**

Pursuant to Salem Revised Code (SRC) 63.051, lack of compliance with the following land division standards is grounds for denial of tentative plat approval, or for the issuance of certain conditions necessary to more fully satisfy such considerations. The applicant's Tentative Subdivision Plat application shall be considered in light of the following land division standards in order to determine compliance with SRC 63.046 subdivision approval criteria.

- A. The proposal conforms to the requirements of SRC Chapter 63.
- B. The proposed street system in and adjacent to the subdivision conforms to the Salem Transportation System Plan adopted under SRC 64.230, and is designed in such a manner as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.
- C. The proposed subdivision will be adequately served with city water and sewer, and will be served by other utilities appropriate to the nature of the subdivision.
- D. The layout of lots, and their size and dimensions take into account topography and vegetation of the site so as not to require variances from the Salem Zoning Code in order that buildings may be reasonably sited thereon, and the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.
- E. The proposal conforms to the Salem Zoning Code (SRC Title X) and the excavation and fill provisions of SRC Chapter 65.



- F. If the tentative plan is for a subdivision subject to SRC 66.050(a), a UGA Development Permit has been issued and will be complied with.
- G. Adequate measures have been planned to alleviate identified natural or fabricated hazards and limitations to development, as identified by the Planning Administrator, including, but not limited to, wetlands, unstable areas, and stream side setback. For development in wetlands and unstable areas, the following measures shall apply:
  - (1) For wetlands these shall be the measures required by the Division of State Lands for regulatory wetlands.
  - (2) For unstable areas these measures shall be documentation, as approved by the department of public works, that streets and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected.

### 13. VARIANCE CRITERIA

The Subdivision Code (SRC 63.332) specifies the following criteria that must be found to exist before a variance can be granted:

- (1) There are special conditions inherent in the property (such as topography, location, configuration, physical difficulties in providing municipal services, relationship to existing or planned streets and highways, soil conditions, vegetation, etc.) which would make strict compliance with a requirement of SRC 63.115 to 63.295 an unreasonable hardship, deprive the property of a valuable natural resource, or have an adverse effect on the public health, safety, and welfare.
- (2) The variance is necessary for the proper development of the subdivision and the preservation of property rights and values.
- (3) There are no reasonably practical means whereby the considerations found under (1) or (2) above can be satisfied without the granting of the variance.
- (4) It is unlikely that the variance will have adverse effect on the public health, safety, and welfare, or on the comfort and convenience of owners and occupants of land within and surrounding the proposed subdivision or partition.

Application Filing Date: August 5, 2008

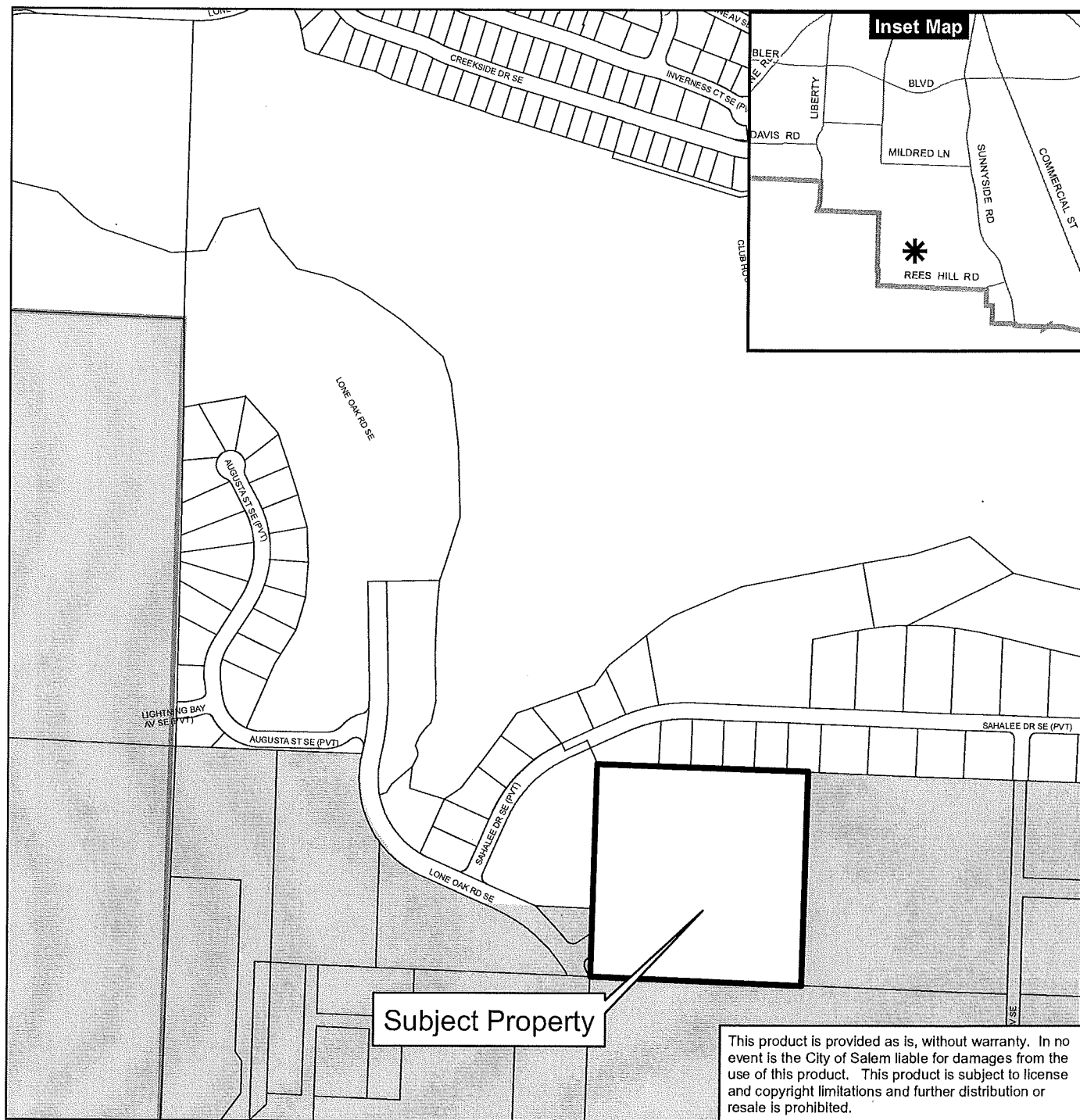
State Mandated Decision Date: December 3, 2008

Attachments:   1.   Vicinity Map  
                  2.   Preliminary Declaration for UGA Permit No. 07-5  
                  3.   Applicant's Tentative Subdivision Plan  
                  4.   Public Works Department Comments (Dated: August 15, 2008)  
                  5.   Salem-Keizer School District Comments

Prepared by Bryce Bishop, Interim Senior Planner

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# Vicinity Map 6617 Devon Avenue SE



## Legend

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

0 100 200 400 Feet



# UGA DEVELOPMENT REVIEW COMMITTEE

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



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

**DATE OF DECISION:** June 13, 2007

**APPLICANT:** Garret and Alice Berndt

## **PURPOSE OF REQUEST:**

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

## **ACTION:**

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

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

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

### **A. Linking Street Requirements**

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

### **B. Boundary Street Requirements**

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

### **C. Storm Drainage Requirements**

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

**ATTACHMENT 2**

**D. Water Service Requirements**

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

**E. Sanitary Sewer Requirements**

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

**F. Parks Requirements**

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

Date of Preliminary Declaration: June 13, 2007

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

This Preliminary Declaration will expire on June 13, 2009

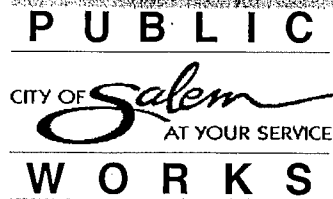
Attachments:	Exhibit 1:	Facts and Findings of the Department of Public Works
	Exhibit 2:	Facts and Findings of the Department of Community Services
	Exhibit 3:	Vicinity Map

Prepared by Jennifer Brown, Assistant Planner

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COMMUNITY  
DEV. DEPT  
MEMO

**TO:** Jennifer Brown, Assistant Planner  
Department of Community Development *[Signature]*

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

**DATE:** April 24, 2007

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

### **PROPOSAL**

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

### **RECOMMENDED CONDITIONS**

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

EXHIBIT 1

## UGA INFRASTRUCTURE DETAIL

### Urban Growth Area Development (UGA) Permit

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

## CURSORY REVIEW OF DEVELOPMENT REQUIREMENTS

### Streets

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

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

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

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

## **Traffic**

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

## **Storm Drainage**

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

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

## Water

### 1. Existing Conditions

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

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

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

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

## Sanitary Sewer

### 1. Existing Sewer

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

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

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

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

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



# MEMORANDUM

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

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

## FACTS AND FINDINGS:

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

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

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

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

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

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

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

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

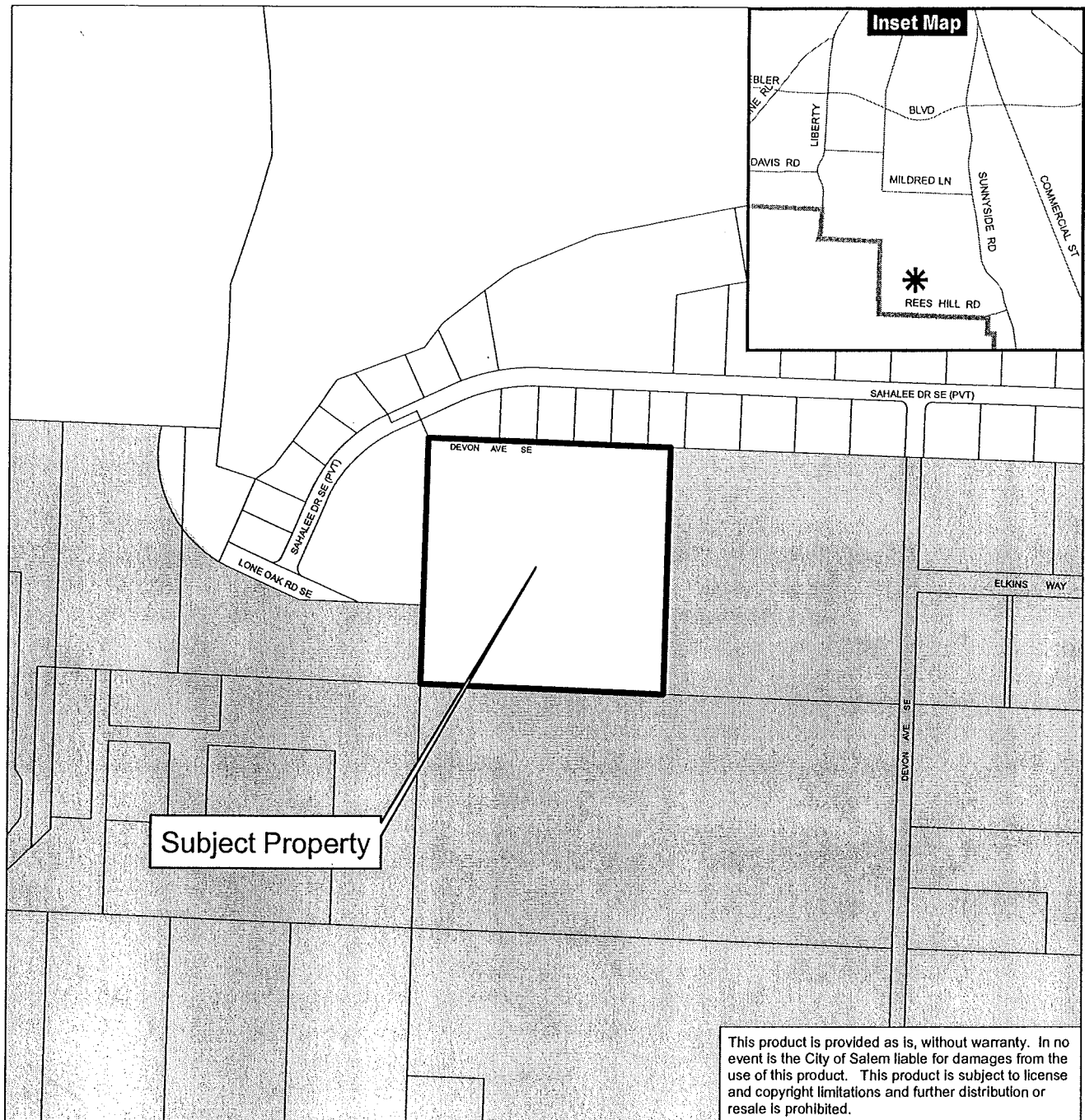
8. The Park System Master Plan does indicate the need for two neighborhood parks within 1/2 mile of the subject property. There is approximately 223 acres, within the UGB, outside of any park service area. There are approximately 330 acres bounded by Sunnyside Road, Creek Side Golf Course, and the UGB that would be served by park(s) in this area. Approximately 10.7 acres would serve the 330 acres of unserved or under served area between Sunnyside Road and the Urban Growth Boundary.

9. Conclusion: The subject property is not served by park land. The property is in the preferred park service area, especially if it is determined that a single neighborhood park could service the unserved areas. Due to the property having average slopes of 12% and the availability of land with less slopes, Staff has determined that park land will not be required as part of this UGA permit. Access will be reviewed during application for subdivision.

## **RECOMMENDATION:**

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

# Vicinity Map 6617 Devon Avenue SE

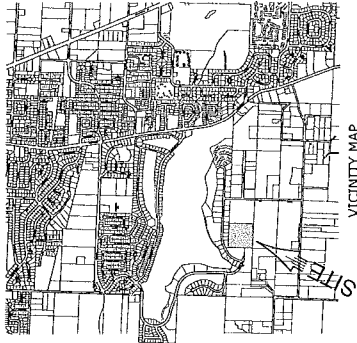


## Legend

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

0 100 200 400 Feet





VICINITY MAP

# OAK RIDGE ESTATES

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

Owner / Developer:

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

PARCEL SIZE \_\_\_\_\_ 10.03 AC.  
DEVELOPABLE AREA \_\_\_\_\_ 38  
NUMBER OF UNITS \_\_\_\_\_ 379 UNITS/ACRE  
DESIGN LOT \_\_\_\_\_ 3,790 SQ. FT.  
LARGEST LOT \_\_\_\_\_ 7,500 SQ. FT.  
SMALLEST LOT \_\_\_\_\_ 8,880 SQ. FT.  
AVERAGE \_\_\_\_\_  
EXISTING ZONE \_\_\_\_\_ Residential Agriculture  
COMPREHENSIVE DESG. \_\_\_\_\_ Single Family Residential  
UTILITIES:  
CABLE \_\_\_\_\_ COMCAST CABLE SERVICES  
POWER \_\_\_\_\_ P.G.E.  
PHONE \_\_\_\_\_ QWEST COMMUNICATIONS  
GAS \_\_\_\_\_ N.W. NATURAL  
STORM DRAIN \_\_\_\_\_ CITY OF SALEM  
SANITARY SEWER \_\_\_\_\_ WATER.

Project Number  
**4984**  
Sheet Number  
**1 of 1**

**PRELIMINARY  
PLAN**

**OAK RIDGE  
ESTATES**

Design: M.D.G.  
Drawn: D.G.G.  
Checked: J.L.G.  
Scale: AS SHOWN  
As-Built:

NO CHANGES, REVISIONS OR  
MODIFICATIONS TO THIS  
DRAWING SHALL BE MADE  
WITHOUT THE WRITTEN  
CONSENT OF THE DESIGN  
ENGINEER.  
DIMENSIONS & NOTES TAKE  
PRECEDENCE OVER GRAPHICAL  
REPRESENTATION.

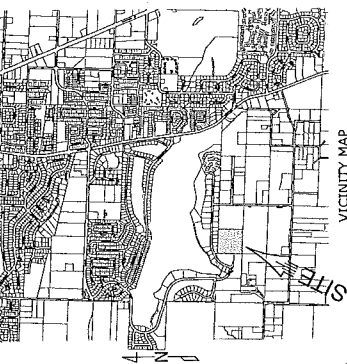


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LTI / TECH  
ENGINEERING SERVICES, INC.  
1111 1/2 NW 10TH AVE., SUITE 200  
PORTLAND, OREGON 97227  
503.241.1000 FAX 503.241.1001  
www.lti-tech.com

AUG 05 2008

~~COMMUNITY DEVELOPMENT~~



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

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

[illegible]

PARCEL SIZE:	10.03 AC.	Residential Agriculture
DEVELOPABLE AREA	38	Single Family Residence
NUMBER OF UNITS	379 UNITS/ACRE	
DENSITY	13,789 SQ. FT.	
LARGEST LOT	7,500 SQ. FT.	
SMALLEST LOT	8,860 SQ. FT.	
AVERAGE		
EXISTING ZONE		
COMPREHENSIVE DESG.		
UTILITIES:		
CABLE	COMCAST CABLE SERVICE	
PHONE	3 GIG	
PHONE	BEST COMMUNICATIONS	
GAS	N.W. NATURAL	
STORM DRAIN	CITY OF SALEM	
SANITARY SEWER,		
WATER,		

MULTI/TECH

ENGINEERING SERVICES, INC.  
1188 134th ST. N.E. SALEM, OR. 97309  
PH. (503) 343-9327 FAX (503) 304-1900

NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.

DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

Design: M.D.G.  
Drawn: O.E.G.  
Checked: M.D.G.  
Date: APRIL 2008  
Scale: AS SHOWN  
As-Built:


NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.

**OAK RIDGE  
ESTATES**

**PRELIMINARY  
PLAN**

Project Number  
4984  
Sheet Number  
1 of 1

**DRAFT**

<b>PUBLIC</b>	<b>MEMO</b>
CITY OF  <b>SALEM</b> AT YOUR SERVICE	
<b>WORKS</b>	

TO:	Bryce Bishop, Associate Planner Department of Community Development
FROM:	Tony C. Martin, P.E., Senior Development Engineer Public Works Department
DATE:	August 15, 2008
SUBJECT:	<b>PUBLIC WORKS RECOMMENDATIONS SUBDIVISION NO. 08-04 (08-109838) 6617 DEVON AVENUE SE 38-LOT SUBDIVISION</b>

**PROPOSAL**

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

**RECOMMENDED CONDITIONS OF PLAT APPROVAL**

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

**ATTACHMENT 4**

7. Construct a 34-foot-wide full street improvement of Lone Oak Road SE from the existing terminus near Sahalee Drive SE to the southern boundary of the public right-of-way adjacent to the subject property.
8. The variance to street grade is approved provided no street grade exceeds 15% and all grades over 12% are limited to no more than 100 feet.

## **PUBLIC WORKS DISCUSSION**

### **FACTS**

#### **Streets**

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

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

#### **Storm**

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

#### **Water**

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

#### **Sewer**

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

### **CRITERIA**

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

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

**Findings:**

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

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

**Conditions:**

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

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

**Findings:**

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

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



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

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

Conditions:

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

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

**Findings:**

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

The applicant has requested a variance to the 12% street grade for the proposed internal street system. City of Salem Street Design Standards indicates that residential streets shall not exceed 12% and in no case shall exceed a 15% grade. The existing grade of the property is approximately 15%. To maintain a 12% grade would require a cut of approximately 6 feet in depth at the eastern property line and a fill of approximately 12 feet at the north east corner of White Oak Loop SE.

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

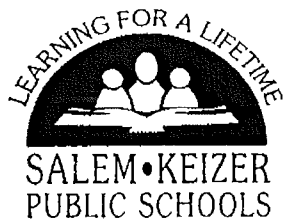
Condition:

- 1. The variance to street grade is approved provided no street grade exceeds 15% and all grades over 12% are limited to no more than 100 feet.*

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

**Findings:**

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



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

Sandy Husk, Superintendent

August 14, 2008

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

FAX No. 503-588-6005

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

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

**ELEMENTARY SCHOOL INFORMATION (GRADES K TO 5)**

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

**MIDDLE SCHOOL INFORMATION (GRADES 6 TO 8)**

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

#### HIGH SCHOOL INFORMATION (GRADES 9 TO 12)

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

#### ESTIMATE SUMMARY (GRADES K TO 12):

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

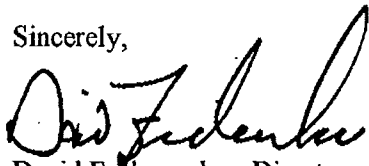
Developer should provide paved walk route(s) to allow pedestrian access and bicycle access to school(s) from all residences within the new development and should provide all improvements required by the City of Salem where new transportation routes are established or existing transportation routes change,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

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

ASSUMPTIONS:

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

Sincerely,



David Fridenmaker, Director  
Planning and Real Property Services

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

# LEGEND

## LINE TYPES

TAX LOT BOUNDARY

ROAD RIGHT-OF-WAY

RAILROAD

STRETA LANE, ETC.

SUBDIVISION BOUNDARY

TAX CODE BOUNDARY

## SYMBOL TYPES

DLC

CONTROL POINTS

SURVEY MONUMENTS

CLL CORNERS

SECTION 1/4 SEC 1/4 SEC 1/4 SEC

1/4 SEC 1/4 SEC 1/4 SEC

## NUMBERS

TAX CODE NO.

000 00 00 0

AREAS - ALL AREAS EXCEPT

ANY PORTION THAT MAY BE

RIGHT OF WAY.

TICK MARKS - WHEN A TICK MARK IS

INDICATED ON THE EXTENSION OF

A LINE, THEN THE DIMENSION GIVES

TO THE TICK MARK. GENERALLY THIS

IS USED WHEN DIMENSIONS DO NOT

PUBLIC RIGHT OF WAY.

ARROWS ARE USED WITH DIMENSIONS

IN AREAS OF GREATER COMPLEXITY.

NOTICE: This map was

created for Assessor's

Office use ONLY.

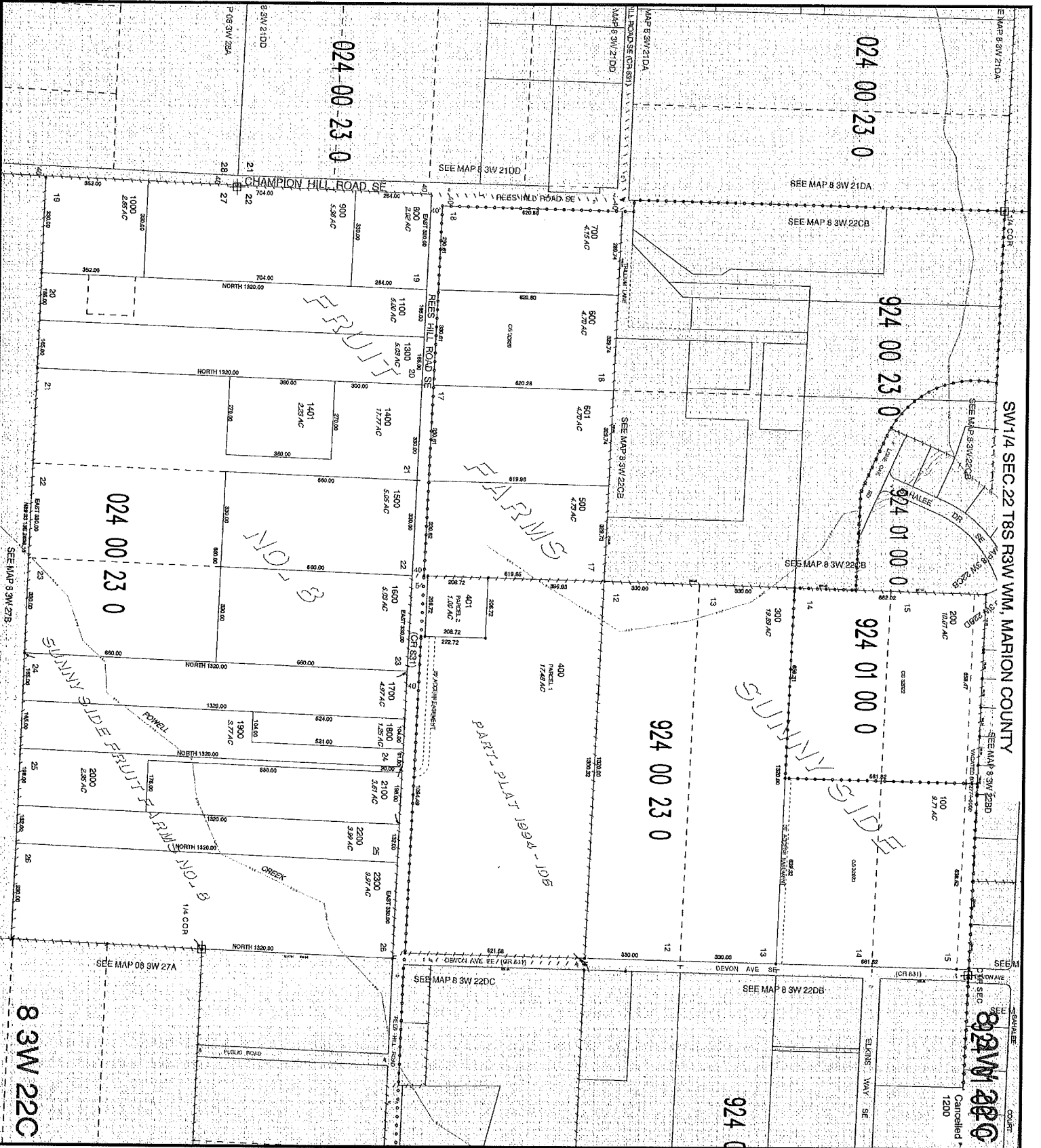


SCALE 1" = 200'

or 1:2400

Plot file created: April 23, 2007

Assessor's Office



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



# NOTICE OF SUBDIVISION FILING

## NOTICE OF SUBDIVISION REVIEW CONFERENCE

### PROPOSED SUBDIVISION

SUBDIVISION NAME: Oak Ridge Estates

SUBDIVISION PLAT NO.: 08-4

LOCATION: 6617 Devon Avenue SE

AMANDA SEQ. NO.: 08-109838-LD

PROPOSED SUBDIVISION MAP: (See attached map)

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

OWNER/APPLICANT: Garret and Alice Berndt

### SUBDIVISION REVIEW CONFERENCE

DATE: Tuesday, August 26, 2008

TIME: 9:00 a.m.

LOCATION: 305 Conference Room, Civic Center, 555 Liberty St. SE

### COMMENTS ON THE PROPOSAL

Any person wishing to participate in the Subdivision Review Conference may do so through:

1. Written Comments: Submit the attached Response Sheet and/or other written comments to the Planning Division Office prior to, or at, the Subdivision Review Conference.
2. Personal Appearance: Appear in person, or send a representative to the Subdivision Review Conference.
3. Neighborhood Association Comments: Contact your Neighborhood Association Land Use Chair about how the Neighborhood Association plans to comment on the proposal. Your Neighborhood Organization is South Gateway and the Land Use Chair is Kristen Roisen, phone: 503-371-3436.

### SUMMARY OF SUBDIVISION DECISION PROCESS

#### THE SUBDIVISION REVIEW CONFERENCE

A copy of the staff analysis, including comments submitted, is mailed to interested persons prior to the Subdivision Review Conference. The Subdivision Review Conference is a public hearing to review the proposed partition. A written request to reschedule the time of the Review Conference must be submitted to the Salem Planning Division Office by: August 13, 2008. At the Subdivision Review Conference, the applicant is provided an opportunity to present the proposal. The staff report, which addresses the approval criteria, is reviewed, item by item, with all parties given an opportunity to testify.

Issues which may provide the basis for an appeal shall be raised in writing prior to close of the Subdivision Review Conference in order to enable the Planning Administrator to respond to the issues.

Appeal of any decision may be taken by anyone entitled under the code to a copy of the decision. Such appeal shall be submitted in writing within 15 calendar days of the decision and shall state where the decision failed to conform to the Subdivision Code. The appeal shall be made to the Planning Commission through the Planning Administrator and accompanied by the appropriate filing fee.

## **APPLICABLE CRITERIA FOR A SUBDIVISION DECISION**

Testimony or written statements will be received from any person or authorized representative for or against the proposed change. Testimony should be directed to the criteria that apply to the application at issue:

### **A. The Subdivision Code (SRC 63.046(b) and 63.051):**

The criteria and findings regarding SRC 63.046(b) are as follows:

- a. Approval does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto.
- b. Provisions for water, sewer, streets, and storm drainage facilities comply with the City's public facility plans.
- c. The tentative plan complies with all applicable provisions of this Code, including the Salem zoning ordinance, except as may be waived by variance granted as provided in this chapter.
- d. The proposed subdivision provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.
- e. The planning administrator shall adopt written findings and conclusion in connection with the approval or denial of a tentative plan, and shall serve by regular mail a copy of the decision on the applicant, the owners of the property subject of the application, and on all persons, organizations, and agencies entitled to a notice of filing under SRC 63.042.

The criteria and findings regarding SRC 63.051 are as follows:

- a. The proposal conforms to the requirements of the Subdivision Code, including the purposes set forth in SRC 63.020.
- b. The proposed street system in and adjacent to a subdivision conforms to the Salem Transportation Plan adopted under SRC 64.230, and is designed in such a manner as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.
- c. That the proposed subdivision will be adequately served with city water and sewer, and will be served by other utilities appropriate to the nature of the subdivision.
- d. That the layout of lots, and their size and dimensions take into account topography and vegetation of the site so as not to require variances from the Salem Zoning Code in order that buildings may be reasonably sited thereon, and that the least disruption of the site, topography, and vegetation will result from reasonable development of the lots.
- e. The proposal conforms to the Salem Zoning Code (SRC Title X) and the excavation and fill provisions of SRC Chapter 65.
- f. If the tentative plan is for a subdivision subject to SRC 66.050(a), that a UGA Development Permit has been issued and will be complied with.
- g. Adequate measures have been planned to alleviate identified hazards and limitations to development, as identified by the Planning Director, including, but not limited to, wetlands, unstable areas, and stream side setback. For development in wetlands and unstable areas, the following measures shall apply:



1. For wetlands these shall be the measures required by the Division of State Lands for regulatory wetlands.
2. For unstable areas these measures shall be documentation, as approved by the Department of Public Works, that streets and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected.

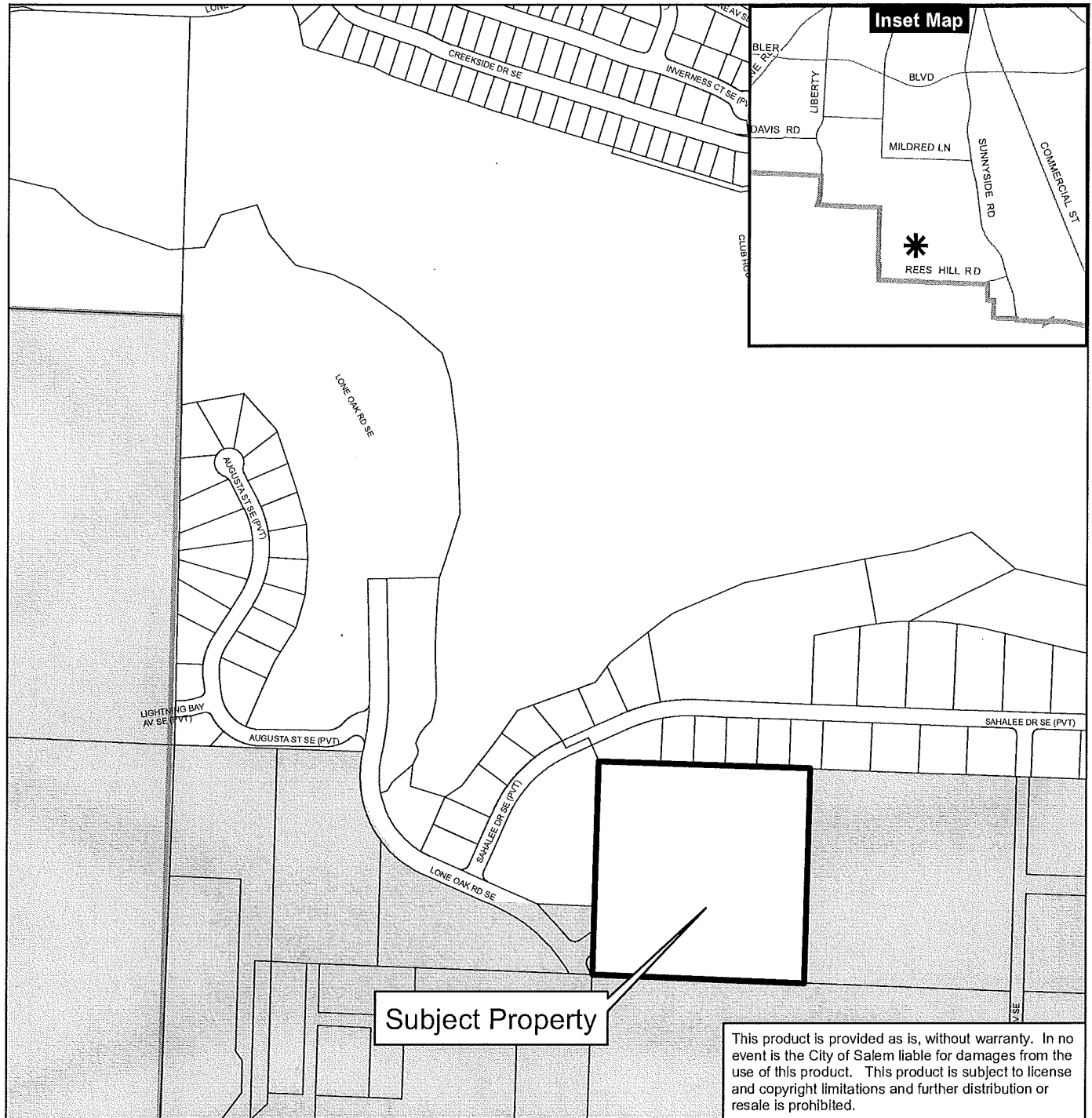
## **INFORMATION AND ACCESS**

The Americans with Disability Act accommodations will be provided on request upon 48 hours notice.

The staff report, application and all material supplied by the applicant are available for inspection or copying at reasonable cost. The staff report will be available seven days prior to the hearing.

For Further Information: Contact **Bryce Bishop, Interim Senior Planner**, City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, OR 97301. Telephone: (503) 588-6173, Ext. 7599, E-Mail [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net). FAX: (503) 588-6005.

# Vicinity Map 6617 Devon Avenue SE



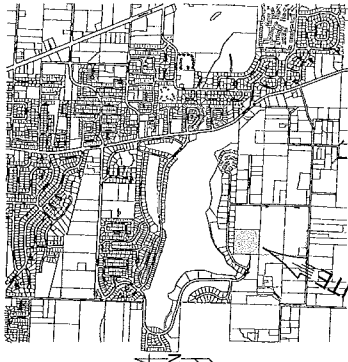
## Legend

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

0 100 200 400 Feet



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



VICINITY MAP

# OAK RIDGE ESTATES

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

TAX LOT #100

Owner / Developer:

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

PARCEL SIZE: 10.03 AC.  
DEVELOPABLE AREA: 38  
NUMBER OF UNITS: 379 UNITS/ACRE  
DENSITY: 13,789 SQ. FT.  
LARGEST LOT: 7,500 SQ. FT.  
SMALLEST LOT: 8,8601 SQ. FT.  
AVERAGE: 8,8601 SQ. FT.

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

UTILITIES:  
CABLE: COMCAST CABLE SERVICES  
POWER: P.O.E.  
PHONE: OWEST COMMUNICATIONS  
GAS: N.W. NATURAL  
STORM DRAIN: CITY OF SALEM  
SANITARY SEWER: WATER

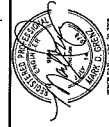
Project Number  
**4984**  
Sheet Number  
**1 of 1**

**PRELIMINARY  
PLAN**

**OAK RIDGE  
ESTATES**

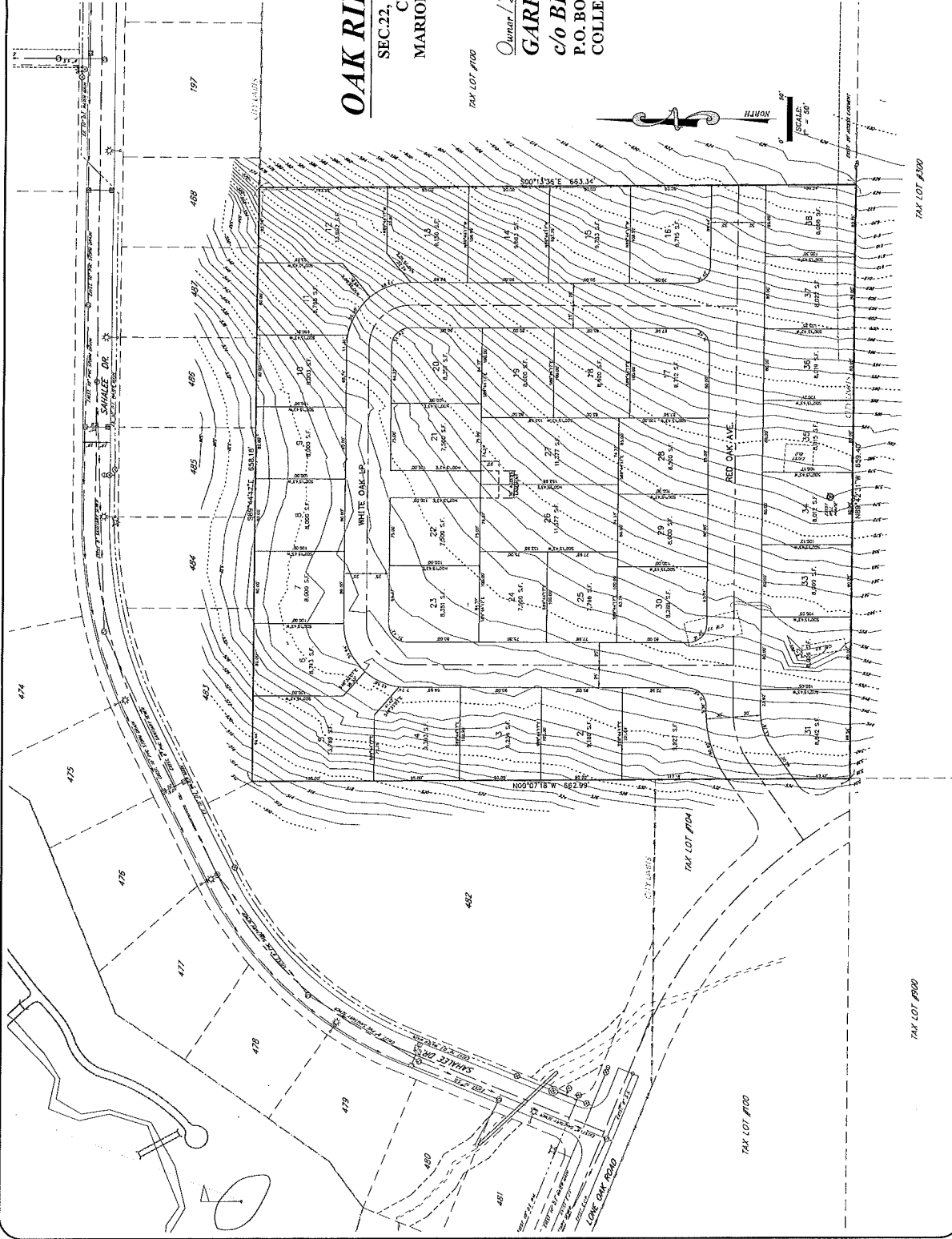
NO CHANGES, MODIFICATIONS OR  
REPRODUCTIONS TO BE MADE TO  
THIS PLAN WITHOUT THE WRITTEN  
AUTHORIZATION OF THE DESIGN  
ENGINEER.  
DIMENSIONS & NOTES TAKE  
PRECEDENCE OVER GRAPHICAL  
REPRESENTATION.

DESIGN: M.E.G.  
DRAWN: J.C.G.  
CHECKED: J.C.G.  
DATE: APRIL 2008  
SCALE: AS SHOWN  
AS-BUILT:



THESE PLANS AND ANY  
LIABILITY IF NOT SHOWN APPROVED  
BY THE  
CONSTRUCTION  
UNLESS SHOWN  
APPROVED HERE

**MULTI / TECH**  
ENGINEERING SERVICES, INC.  
11111 11TH ST. N.E. SUITE 100  
REDMOND, WA 98073  
TEL: (206) 881-1234 FAX: (206) 881-1234  
WWW.MULTITECH-ENG.COM



# SUBDIVISION REVIEW CONFERENCE RESPONSE SHEET

## NOTICE OF REQUEST FOR COMMENTS ON:

Preliminary Subdivision Plat No.: 08-4

Proposed Subdivision Name: Oak Ridge Estates

Subdivision Review Conference Date: Tuesday, August 26, 2008

Amanda Seq. No.: 08-109838-LD

Attached is a reduced copy of the proposed subdivision. A report, including analysis and recommendation for this proposal will be prepared by the planning staff based on information available to the staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as the recommendations and comments of affected property owners or residents.

**COMMENTS RECEIVED BY 5:00 P.M. August 15, 2008**, will be summarized in the staff report. All comments received by the close of the Review Conference are part of the record.

**SEND COMMENTS TO:** Planning Division  
555 Liberty St SE Room 305  
Salem, OR 97301

**IF YOU HAVE ANY QUESTIONS:** Please call or write to the Case Planner, **Bryce Bishop, Interim Senior Planner**, at the address listed above. Telephone: (503) 588-6173, Ext. 7599; Fax: 503-588-6005; E-Mail: [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net)

## PLEASE CHECK THE FOLLOWING THAT APPLY:

- ☐ 1. I have reviewed the proposal and have no comments.
- ☐ 2. I have reviewed the proposal and have the following comments:

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- ☐ 3. A letter expressing my views will be following; you will receive it by: \_\_\_\_\_

- ☐ 4. Other: \_\_\_\_\_

---

---

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Name: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_

**IMPORTANT:** Please fold and **RETURN** this form even if you have no comments (*see Item 2 above*).



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St. SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

April 7, 2017

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

**NOTICE OF FINAL LAND USE DECISION      Appeal of Subdivision Case No. SUB15-04 (formerly PUD-SUB03-01A3) for Property located at 659 Sahalee Dr SE**

YOU ARE HEREBY NOTIFIED that the Salem Planning Commission, at their April 4, 2017 meeting, adopted findings affirming the Planning Administrator's decision. A copy of the Order is attached.

Any person with standing may appeal the City Council's decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, **not later than 21 days** after **April 7, 2017**. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR 97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-6173.

Lisa Anderson-Ogilvie, AICP  
Interim Community Development Director

Attachment: Order No. SUB15-04

**BEFORE THE PLANNING COMMISSION OF THE CITY OF SALEM**

<b>IN THE MATTER OF APPROVING</b>	<b>) ORDER NO. SUB15-04</b>
<b>THE APPLICATION FOR A</b>	<b>)</b>
<b>TENTATIVE SUBDIVISION PLAN,</b>	<b>)</b>
<b>CASE NO. SUB15-04 FOR</b>	<b>) SUBDIVISION CASE NO. 15-04</b>
<b>PROPERTY LOCATED AT 659</b>	<b>)</b>
<b>SAHALEE DRIVE SE</b>	<b>)</b>

This matter having come regularly for hearing before the Planning Commission at its April 4, 2017 meeting, and the Planning Commission, having received evidence and heard testimony, makes the following findings and adopts the following order affirming the decision of the Planning Administrator and approving the application for a Tentative Subdivision Plan in Case No. SUB15-04.

**(I) PROCEDURAL FINDINGS:**

- (a) On June 19, 2015, Mark Grenz, on behalf of applicant Lawrence E. Tokarski Revocable Living Trust, filed a PUD modification and subdivision application to divide approximately 2.83 acres of land within PUD03-01 located at 659 Sahalee Drive SE. The applicant submitted additional requested information and staff subsequently deemed the application complete for processing on August 17, 2015.
- (b) On October 20, 2015, the Planning Administrator issued a decision approving the application for PUD Modification with Subdivision (Case No. PUD-SUB03-01A3), subject to nine conditions of approval.
- (c) On October 26, 2015, the applicant filed a timely appeal of the decision. The applicant's appeal objected to certain conditions of approval, in particular Condition 3, which related to construction of Lone Oak Road SE and a bridge over Jory Creek. PUD 03-1 includes a condition of approval (Condition 4.d) requiring Lone Oak Road SE to be constructed through the PUD to provide circulation of traffic in, through, and out of each phase of the development. The improvements described in Condition 4.d of PUD03-01 had not been completed in full.
- (d) On November 17, 2015, a public hearing before the Planning Commission took place. At the applicant's request, the Planning Commission continued this hearing until February 9, 2016. On February 26, 2016, the Planning Commission issued a decision affirming the Planning Administrator's decision.
- (e) The applicant appealed the Planning Commission's decision to the Oregon Land Use Board of Appeals (LUBA). On August 1, 2016, LUBA remanded the case to the City to be reviewed solely as a tentative subdivision plan, without a modification to PUD03-01.

- (f) The applicant appealed LUBA's decision to the Oregon Court of Appeals, which affirmed the decision without opinion on December 20, 2016. LUBA in turn remanded the case back to the City on December 21, 2016.
- (g) On remand, the Planning Administrator reviewed the proposal as a tentative subdivision plan only, and issued a decision on February 24, 2017 approving the proposed tentative subdivision plan, subject to 7 conditions of approval.
- (h) On March 12, 2017, Creekside Homeowners Association filed a timely appeal of the remand decision.
- (i) On April 4, 2017, upon proper notice being provided by the City, the Salem Planning Commission conducted a hearing on appeal of the application, and received testimony and evidence regarding the application. At the conclusion of the hearing, the Planning Commission then conducted deliberations and voted on the application.
- (j) On April 4, 2017 the Planning Commission voted to affirm the Planning Administrator's decision to approve the application, subject to conditions of approval.
- (k) The Facts and Findings attached hereto as "Exhibit 1," are incorporated herein by this reference.

**(II) SUBSTANTIVE FINDINGS:**

- (a) The applicable criteria for approval of a tentative subdivision plan are SRC 205.010(d).
- (b) The March 12, 2017 Notice of Appeal filed by Creekside Homeowners Association raises the following issues:
  - a. Lack of secondary access to emergency services;
  - b. Precedent for development of future subdivisions in vicinity; and
  - c. Topography of the surrounding area.
- (c) Testimony and evidence was received by the Planning Commission that the impact of the four proposed lots represent a relatively small proportionate share of overall traffic generated in the surrounding area, and that future development on surrounding properties would be subject to linking street requirements through existing conditions of approval and/or application of Urban Growth Management standards. The Planning Commission finds that the application, as proposed and conditioned, has addressed the issues raised by the appeal filing. Complete findings are included in Exhibit 1.

(d) The Planning Commission finds that the proposed size and arrangement of lots along a relatively steep hillside minimizes potential impacts related to the topography and vegetation of the site. Proposed lots within the subdivision meet applicable minimum standards for width, depth, size, street frontage. Sahalee Drive SE, a local street, provides safe and convenient access for future development as allowed in the RS (Single Family Residential) zone.

(e) The Planning Commission finds that the subdivision will comply with City infrastructure standards, subject to the following conditions:

**Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.

**Condition 2:** Construct sewer services to the property line of each lot.

**Condition 3:** Obtain water meter permits to serve each lot.

(f) The Planning Commission finds that the subdivision will comply with special development standards, including the City's landslide hazard ordinance, subject to the following condition:

**Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.

(g) The Planning Commission finds that the subdivision will not impede the future use or development of the property or adjacent land, subject to the following condition:

**Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

(h) The Planning Commission finds that the street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision, subject to the following conditions:

**Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road be equipped with an approved sprinkler system.

**Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.



The Planning Commission finds that the application, as conditioned, meets the applicable criteria for approval of a Tentative Subdivision Plan.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:**

**Section 1.** The Salem Planning Commission affirms the decision of the Planning Administrator, and approves Tentative Subdivision Plan Case No. SUB15-04, subject to the following conditions of approval:

- Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.
- Condition 2:** Construct sewer services to the property line of each lot.
- Condition 3:** Obtain water meter permits to serve each lot.
- Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.
- Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.
- Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road shall be equipped with an approved sprinkler system.
- Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.


**Section 2.** This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

ADOPTED by the Salem Planning Commission this 4<sup>th</sup> day of April, 2017.

  
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Sheronne Blasi, Vice-President  
Salem Planning Commission

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.

Case Manager: Christopher Green, AICP, Planner II, [cgreen@cityofsalem.net](mailto:cgreen@cityofsalem.net)

Checked by: C. Green 

**CRITERIA AND FINDINGS FOR A PROPOSED TENTATIVE SUBDIVISION PLAN  
TO DIVIDE AN APPROXIMATELY 2.83-ACRE PROPERTY AT 654 SAHALEE DRIVE SE  
INTO 4 LOTS**

**PROCEDURAL FINDINGS**

On June 19, 2015, Mark Grenz, on behalf of applicant Lawrence E. Tokarski Revocable Living Trust, filed a PUD modification and subdivision application to divide approximately 2.83 acres of land within PUD03-01 located at 659 Sahalee Drive SE. The applicant submitted additional requested information and staff subsequently deemed the application complete for processing on August 17, 2015.

On October 20, 2015, the Planning Administrator issued a decision approving the application for PUD Modification with Subdivision (Case No. PUD-SUB03-01A3), subject to nine conditions of approval. On October 26, 2015, the applicant filed a timely appeal of the decision. Following a public hearing and several continuances, the Planning Commission issued a decision affirming the Planning Administrator's decision on February 26, 2016.

The applicant appealed the Planning Commission's decision to the Oregon Land Use Board of Appeals (LUBA). On August 1, 2016, LUBA remanded the case to the City to be reviewed solely as a tentative subdivision plan, without a modification to PUD03-01. The applicant appealed LUBA's decision to the Oregon Court of Appeals, which affirmed the decision without opinion on December 20, 2016. LUBA in turn remanded the case back to the City on December 21, 2016.

On remand, the Planning Administrator reviewed the proposal as a tentative subdivision plan only, and issued a decision on February 24, 2017 approving the proposed tentative subdivision plan, subject to 7 conditions of approval. On March 12, 2017, Creekside Homeowners Association filed a timely appeal of the remand decision.

On April 4, 2017, the Salem Planning Commission conducted a hearing on appeal of the decision on remand, and received testimony and evidence regarding the application. The Planning Commission then conducted deliberations and voted to affirm the Planning Administrator's decision approving the proposal, subject to conditions of approval as adopted in the Planning Administrator's February 24, 2017 decision.

Pursuant to SRC 300.1080, the City "shall take final action on decisions remanded by the Oregon Land Use Board of Appeals within 90 days of the effective order, pursuant to ORS 227.181." The applicant has granted an extension to issue a final local decision in response to the remand to April 20, 2017.

**FINDINGS ON APPLICABLE LAND DIVISION PROCESS**

At the public hearing on the appeal, Commissioner Pollock noted that the LUBA Final Opinion and Order remanding the case to the City discusses the correct review process for the proposal as a replat. The Planning Commission finds that the approval criteria for a tentative subdivision plan set forth in SRC 205.010(d) and the approval criteria for a replat set forth in SRC 205.025(d) do not differ substantially, and would not result in a different decision or adopted conditions of approval in the subject case. No provision of the Unified Development Code prohibits the proposal from being reviewed as either a subdivision or replat. The written statement submitted by the applicant with the original application address the approval criteria

for a tentative subdivision plan, indicating an intent to have the proposal reviewed as a subdivision rather than as a replat. Therefore, the Planning Commission finds that the review of the proposal as a tentative subdivision plan is consistent with instructions from LUBA on remand.

## **FINDINGS ON PLANNING COMMISSION JURISDICTION TO REVIEW APPEAL OF REMAND DECISION**

Written comments submitted by the applicant raise an objection to the Planning Commission's jurisdiction to review the appeal of the Planning Administrator's decision. The applicant takes note that SRC Chapter 300, Table 300-2 does not set forth a procedure for processing of a decision on remand from LUBA. The applicant contends, in summary, that this omission, combined with the 90-day processing deadline set forth in SRC 300.1080, effectively prohibit decisions rendered in response to a remand from LUBA from being appealed at the local level.

In considering this objection, the Planning Commission finds that the City's procedures ordinance, adopted as SRC Chapter 300, does not prohibit local appeals of decisions issued on remand, and does not specify a process or review authority for consideration of a decision on remand. The Planning Commission has held a public hearing and conducted review of the appeal of the decision on remand in accordance with the appeal provisions described in the February 24, 2017 notice of the Planning Administrator's decision approving SUB15-04.

## **FINDINGS APPLYING THE APPLICABLE SALEM REVISED CODE CRITERIA FOR A TENTATIVE SUBDIVISION PLAN**

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

SRC Chapter 205.010(d) sets forth the criteria that must be met before approval can be granted to a subdivision request. 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 205.010(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 205.010(d)(1): The tentative subdivision complies with all 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 511 (Single Family Residential): The proposed subdivision would divide the 2.83-acre property into 4 lots with no remainder. The minimum lot area requirements of the RS zone are established under SRC 511.010(a) as follows:

**Lot Standards for RS zone** (see SRC Chapter 511, Table 511-2)

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Street Frontage	40 feet

Proposed lots in the subdivision range from approximately 30,011 square feet to 32,443 square feet in size. The proposed lots exceed minimum lot area, dimension, and frontage requirements and therefore conform to the applicable standards. The proposed lots within the subdivision are also of sufficient size and dimension to permit future development of uses allowed within the zone.

**Setback Requirements:** SRC Chapter 511 establishes the following setback standards for development within an RS (Single Family Residential) zone:

Front Yards and Yards Adjacent to Streets:

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

Rear Yards:

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

Interior Side Yards:

- Minimum 5 feet

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

SRC Chapter 800 (General Development Standards):

There are no existing structures on the subject property. The size, dimension, and proposed lot configuration are adequate to allow future development in conformance with

the general development standards. Conformance with any applicable general development standards will be reviewed at the time of application for building permits on these individual parcels.

The proposal conforms to the requirements of SRC Chapter 800.

**(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 subdivision 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 71 (Stormwater): The proposed partition is subject to the stormwater requirements of SRC Chapter 71 and the revised Public Works Design Standards as adopted in Administrative Rule 109, Division 004. To demonstrate that the proposed parcels can meet the PWDS, the applicant shall provide an engineered tentative stormwater design to accommodate future impervious surface on all lots.

Pursuant to SRC 71.085, all proposed lots shall be designed and constructed with green stormwater infrastructure. In order to ensure that the partition can accommodate required stormwater facilities, the following condition of plat approval shall apply:

**Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.

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

SRC Chapter 200 (Urban Growth Management): The subject property is located outside of the City's Urban Service Area. Pursuant to the urban growth management requirements of SRC Chapter 200 (Urban Growth Management), an Urban Growth Preliminary Declaration is required for development of property located outside the Urban Service Area. On December 11, 1990, the original UGA preliminary declaration was approved for the Creekside Planned Unit Development, UGA Preliminary Declaration Case No. UGA90-9. The preliminary declaration identified the public facilities required to serve the proposed development and allowed up to 650 dwelling units to be constructed. Subsequent to the approval of UGA90-9 in 1990, a series of amendments to the preliminary declaration were made (Case Numbers: UGA92-4, UGA96-6, UGA99-1, UGA00-3, and UGA02-1) adding additional properties to the development, revising required public facility improvement requirements as necessary, and increasing the total number of allowable dwelling units within the development to 767, plus 10 percent, as allowed under the associated infrastructure agreement with the applicant. The applicant's written statement indicates that there are 652 units within the boundaries of the Amended UGA and infrastructure agreement, and the four proposed lots would bring this total to 656 units, less than the 767 plus 10 percent maximum established in the agreement. The requirements of UGA preliminary declaration UGA90-9, and the subsequent amendments to the preliminary declaration, continue to apply to the development.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that water and sewer infrastructure is available in Sahalee Drive SE and appears to be adequate to serve the proposed subdivision. Specifications for required public improvements are summarized in the Public Works Department memo dated February 16, 2017.

SRC 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards. In order to ensure that water and sewer infrastructure are provided to the new lots created by the subdivision, and that appropriate connection fees are paid, the following conditions of approval shall apply:

**Condition 2:** Construct sewer services to the property line of each lot.

**Condition 3:** Obtain water meter permits to serve each lot.

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 4-lot subdivision generates less than 200 average daily vehicle trips to Sahalee Drive SE, a local street. Therefore, a TIA is not required as part of the proposed subdivision submittal.

*SRC 803.020 (Public and Private Streets):* No internal streets are proposed within the subdivision. Lots within the subdivision would take access from the existing frontage of Lot 473 on Sahalee Drive SE, a private street. Sahalee Drive SE was originally constructed in conformance with applicable City standards as an internal street within a PUD, consistent with subsections (b)(1) and (b)(2).

*SRC 803.025 (Right-of-Way and Pavement Widths):* No internal streets are proposed within the subdivision. The abutting portion of Sahalee Drive SE is constructed in conformance with the minimum right-of-way and pavement widths set forth in SRC Chapter 803, Table 803-1 and Table 803-2.

*SRC 803.030 (Street Spacing):* Each lot within the proposed subdivision takes access from the subject property's existing frontage on Sahalee Drive SE. Abutting properties to the east and west are already developed with single family residences. The north boundary of the subject abuts the existing golf course, and is separated from Sahalee Drive by a steep ridge that falls nearly 100 feet to the golf course boundary. Based on existing development and topographic conditions in the vicinity, the proposed subdivision is precluded from making connections to adjacent properties within 600-foot intervals, and is excepted from this requirement under SRC 803.030(a)(2).

*SRC 803.035 (Street Standards):* There are no internal streets proposed as part of the subdivision. All lots would take access from the subject property's frontage on Sahalee Drive SE, an existing private street which has previously been developed to public street standards.

*SRC 803.040 (Boundary Streets):* The south boundary of the subject property abuts Sahalee Drive SE, a private street terminating in a cul-de-sac. Sahalee Drive SE is already fully constructed in conformance with public street standards. Therefore, no boundary street improvements are necessary along the Sahalee Drive frontage.

**(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): The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet.

In addition, SRC 808.035(a) requires a Tree Conservation Plan for a development proposal involving the creation of lots or parcels to be used for the construction of single-family dwelling units, where trees are proposed for removal. The tree preservation ordinance defines "tree" as, "any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves."

There is an approved tree conservation plan that is applicable to the subject property that was approved in 2003 (Case No. TCP03-8) for PUD03-1. TCP03-08 applies to the entire 84-acre area of PUD03-01; and identifies 2,500 within that area. Subsequent to the approval of the tree conservation plan, a series of 15 separate tree conservation plan adjustments have been approved over the years amending the original tree conservation plan.

A Tree Conservation Plan Adjustment (TCPA15-04) was submitted in 2015, in conjunction with the subject application to divide the property into four lots. TCPA15-04 was approved on February 29, 2016, and identifies 2,500 trees on the overall subject property for PUD03-01, with 1,477 trees proposed for removal and 1,023 trees designated to be retained. The 1,023 trees proposed to be retained are equal to approximately 40.92 percent of the trees within the applicable 84-acre area, greater than the minimum of 25 percent required pursuant to SRC 808.035(d)(4). Staff finds that additional trees designated for removal under TCPA15-04 are consistent with the applicant's development proposal for the subject property.

As proposed, the tentative subdivision plan conforms to all applicable SRC Chapter 808 requirements.

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



The Salem-Keizer Local Wetland Inventory (LWI) does not identify any potential wetlands on the subject property. A waterway, Jory Creek, runs along the base of the slope to the north of the subject property. PLA13-08, recorded in 2014, adjusted the north boundary of the subject property southward, further from the riparian corridor of Jory Creek.

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, the subject property is mapped with areas of 2 assigned landslide hazard susceptibility points. There are 3 activity points associated with the proposed subdivision. Pursuant to the requirements of SRC Chapter 810, the cumulative total of 5 points between those associated with the land and those associated with the proposed development activity indicates a moderate landslide risk and therefore a geotechnical report is required.

A geologic assessment was submitted to the City of Salem in conjunction with PUD03-01. This assessment demonstrates that the 84-acre site of PUD03-01, which includes the subject property for the proposed 4-lot subdivision, could be subdivided and developed with single-family dwellings, without increasing the potential for slope hazard on the site or adjacent properties. In order to ensure that updated, site-specific information is available on geologic hazards on the subject property, the following condition shall apply:

**Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.

As conditioned, the proposal meets the requirements set forth in SRC Chapter 810.

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

**Finding:** The proposed subdivision would divide a 2.83-acre property into 4 lots with no remainder. No additional street or pedestrian connections are available from surrounding properties.

Due to existing development and topographic conditions, no street connections are needed to abutting properties to the north, east, and west. Frontage on the south boundary, along Sahalee Drive SE, would be divided nearly equally between the four proposed lots. Each lot exceeds minimum width standards for the RS zone, allowing for development of single family dwellings with driveways that approach the steep grade at an angle, allowing for a more gradual slope near than a perpendicular approach. Future residences on the lots are likely to be sited in a similar manner as those constructed along the ridge to the east and west, with houses at the top of the ridge adjacent to the street, and the remainder of the steep slope being left as open space. The topography of the site and surrounding areas generally precludes the subject property from providing a connection between nearby properties, or for being developed at or near the optimal density of 6.5 dwelling units per gross acre set forth in Comprehensive Plan Policy IV.B.7.

Comments from Portland General Electric, the franchise utility provider of electricity for the subject property request a 10-foot-wide PUE on all street front lots in order to allow installation and maintenance of typical utility services provided by franchisees, such as electricity, natural gas, and telecommunications. In order to ensure adequate access for the provision of electricity and other utilities, the following condition shall apply:

**Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

The lots within the proposed subdivision, as proposed and conditioned, are of sufficient size and dimensions to permit future development of one single family dwelling each, or development of other SRC Chapter 511 "permitted," "special," or "conditional" uses. There is no evidence that the subdivision and subsequent development of the lots will adversely affect public services to any surrounding properties. Approval of the subdivision does not impede future use of the subject property or access to abutting properties. This criterion has been met.

As conditioned, the proposal meets this criterion.

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

**Finding:** The individual lots proposed by the applicant would take street access from Sahalee Drive SE, a private street owned by the Creekside Estates Homeowners Association (HOA). Access to properties within PUD03-1 and other phases of residential development in the Creekside vicinity is provided by a network of private streets owned and maintained by the HOA. Beginning in 1992 with Golf Club Estates at Creekside Phase 1, successive phases within the overall Creekside development have been required to record HOA agreements with appropriate common linkages to provide for shared maintenance of the private street network and other common facilities.

The applicant may need to obtain permission from the HOA or otherwise record an agreement to provide for shared maintenance in order to take access from these private streets. The formation, articles, and contents of homeowners associations established to maintain common facilities in a Planned Unit Development are specified in code.<sup>1</sup> However, the subject proposal does not propose a new or modified Planned Unit Development, and a homeowners association has already been established for properties within the boundaries of PUD03-01, including the subject property, the form of such an agreement is not subject to review as part of this land use decision. The abutting portion of Sahalee Drive SE has been developed in conformance with applicable standards for a cul-de-sac street and is adequate to provide safe, orderly, and efficient local access to the proposed lots and surrounding properties.

Water and sewer infrastructure is available in Sahalee Drive SE and appears to be adequate to serve the property as shown on the applicant's preliminary utility plan. Developments are required to extend public utility services to serve upstream and neighboring properties; the tentative utility plan appears to meet that requirement. Conditions of approval require construction of water and sewer systems to serve each lot,

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<sup>1</sup> SRC 210.055.

an engineered stormwater design to accommodate future impervious surfaces, and dedication of a public utility easement to allow installation and maintenance of private utility infrastructure.

The Public Works Department reviewed the proposal for consistency with the Comprehensive Parks Master Plan Update and found that the subject property is served by developed parks. Rees Park is a developed park east of the subject property; Bryan Johnston Park is a developed park north of the subject property. No park-related improvements are recommended as a condition of development.

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)(6)(B) prior to final plat approval. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

The proposal meets this criterion.

**SRC 205.010(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.**

**Finding:** As described in findings above, Sahalee Drive SE is a private street which conforms to the Salem Transportation System Plan (TSP) standards for a cul-de-sac street. Approximately 1,000 feet southwest of the subject property, Sahalee Drive connects to a segment of Lone Oak Road SE that has been constructed to TSP standards for a collector street. This segment of Lone Oak Road SE is approximately 1,100 feet long, but does not connect to the street network at its current north or south terminus.

The TSP identifies a future extension of Lone Oak Road SE which would connect from the northern end of the currently unconnected segment to the existing street network on the north side of the golf course. A bridge over Jory Creek, identified as a key part of this extension, has been identified as a project in the City of Salem Capital Improvement Plan for Fiscal Years 2016-17 through 2020-21. The TSP further identifies future extensions of Lone Oak Road southward to Rees Hill Road, and improvement of Rees Hill Road to collector standards. Each of these master-planned improvements to the transportation system will provide more direct vehicular access to the subject property as well as other undeveloped parcels in the vicinity. Condition 7 requires the applicant to contribute \$9,212 per lot as a fee-in-lieu towards the costs of these future extensions of the arterial street network in the vicinity.

As proposed and conditioned, Sahalee Drive SE and the adjacent street system serving the subdivision conform to the TSP. The proposal meets this criterion.

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

**Finding:** The individual lots proposed by the applicant would take street access from Sahalee Drive SE, a private street owned by the Creekside Estates Homeowners Association (HOA). At its west terminus, Sahalee Drive connects to an approximately

1,100-foot-long segment of Lone Oak Road SE. This segment of Lone Oak Road has been developed to the applicable standard for a collector street, but planned connections northward across Jory Creek or southward to Rees Hill Road SE have not been completed at this time. As a result, the only connection between the subject property and the existing street network is a circuitous via Devon Avenue SE that leaves the City limits before connecting to Sunnyside Road SE nearly one mile from the subject property.

As described in greater detail above, Condition 4.d of PUD03-01 requires construction of Lone Oak Road northward to connect with the existing street network along the north side of the golf course. The City has since placed a significant portion of this street connection, a Lone Oak Road bridge over Jory Creek, on the Adopted Capital Improvement Program for Fiscal Years 2016-17 through 2020-21 (CIP). The Lone Oak Road extension was an on-site improvement for PUD03-01, and therefore not included in UGA90-9 or any of its subsequent amendments. However, because the subject property is now a separate unit of land (Lot 473), the Lone Oak Road connection would now constitute on off-site improvement.

Because the adjacent segment of Lone Oak Road remains disconnected from the overall street network, the system of traffic circulation in the vicinity of the subject property is incomplete. Currently, access to the subject property is provided by a combination of Devon Avenue SE and Rees Hill Road SE, on an indirect route over roads that do not currently meet collector standards. At this time, several surrounding properties within the Urban Growth Boundary remain undeveloped, and the surrounding street system, even in its incomplete state, is capable of accommodating the relatively small increase in traffic projected from development of single family dwellings on the four proposed lots.<sup>2</sup> However, if further development were to take place on larger lots in the vicinity, the lack of arterial and collector access could cause traffic circulation problems for properties along Sahalee Drive SE, including the four lots within the proposed subdivision.

Testimony submitted by the Creekside Homeowners Association during the 2016 public hearing on the proposal express concern about the adequacy of the current street network, particularly as it relates to emergency vehicle access. The subject appeal by Creekside Homeowners Association reiterates the concern that there is not adequate secondary access for emergency services to access the subject property and existing residences in the vicinity. The Fire Department reviewed the proposed development and indicated that, pursuant to Section D107 of the Oregon Fire Code, new dwelling units on all proposed lots shall include an approved automatic fire sprinkler system, or an approved secondary fire department access road shall be provided. Although the requirement to install sprinklers is typically implemented at the time of building permit review, the Planning Administrator's February 24, 2017 decision includes a condition to this effect in response to the concerns raised by the appellant and the lack of existing secondary access to the subject property.

In order to ensure that the homes constructed on the proposed lots conform to SRC Chapter 58 and are developed in a manner that allows for safe, orderly, and efficient fire service access, the following condition of approval shall apply:

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<sup>2</sup> As described in findings on SRC 205.010(d)(7), the estimated trip generation from the four lots falls well below the 200 Average Daily Trip threshold for requiring a Traffic Impact Analysis.

**Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road be equipped with an approved sprinkler system.

Adequate circulation and access can be maintained for the four proposed lots using the existing portions of the street system in the vicinity and subject to installation of sprinkler systems in new dwelling units. However, further development of large residential lots in the vicinity, including the additional lots proposed as part of the subdivision, will eventually necessitate a direct, fully-improved connection to the existing arterial street network. The applicant has proposed a \$9,212-per-lot fee as a cash assurance to reimburse the subdivision's proportionate share of future construction costs of the Lone Oak Road connection. Public Works Department staff has reviewed the proposed fee and finds that it represents a reasonable estimate of the proposed development's share of future costs to provide arterial connectivity to the subject property and future developments in the vicinity.

Pursuant to SRC 200.405, the Public Works Director may allow a developer to enter into an agreement with the City for the payment of a fee-in-lieu of making a public improvement required as a condition of a development approval, when the following conditions are met:

- (1) The development approval only requires the construction of a portion of the public improvement, and additional portions are required to be constructed in order to have an operational, fully functioning public improvement;*
- (2) Construction of the additional portions of the public improvement will not or cannot occur simultaneously with the construction of the portion required as the condition of development approval because funding for other portions is unavailable at the time the developer would construct the developer's portion of the public improvement; and*
- (3) Construction of only a portion of the public improvement would impeded the construction of the additional portions or otherwise affect the physical integrity of the public improvement at a future date.*

Comments submitted by the Public Works Department find, in summary, that a fee in-lieu of the Lone Oak Road extension is warranted because the Jory Creek crossing and other topographical features make phased development of the street connection impossible, and that construction in the interim of a shorter segment of the proposed extension would impede future construction of the full extension while providing no benefit to the surrounding transportation system.

The appeal by Creekside Homeowners Association contends, in summary, that the proposed fee-in-lieu would set a precedent allowing further development in the vicinity to take place prior to construction of the Lone Oak Road extension and bridge. The appeal statement describes "38 lots already approved for this area" and "1 or 2 more subdivisions under consideration." At the public hearing, the Planning Commission received further testimony emphasizing that owners of undeveloped lots between Sahalee Drive SE and Rees Hill Road SE would in turn claim a right to subdivide their

property subject to the fee-in-lieu, and that this in turn would allow dozens or hundreds of lots to be developed in the vicinity without construction of secondary access.

Testimony from staff contained in the supplemental staff report and presentation at the public hearing indicates that the Oak Ridge Estates subdivision (Case No. SUB08-4) was approved in 2008, allowing approximately 9.95 acres at 6617 Devon Avenue SE to be divided into 38 lots. In 2016, the fourth and final extension was granted for the tentative subdivision plan, which is set to expire in 2018. Conditions 5 and 6 of the decision approving SUB08-4 require the construction of the Lone Oak Road extension and bridge prior to final plat recording. Pursuant to SRC 205.070(d)(1), any modification to SUB08-4 would have to remain consistent with adopted conditions of approval.

To date, there have been no other applications for subdivisions or other residential development in the area proposed to be served by the Lone Oak Road extension and Jory Creek Bridge. Remaining undeveloped properties in the vicinity are outside of the Urban Service Area. Unlike the subject property, these undeveloped lots are not within the area covered by UGA90-9 and its successors, and will therefore need to obtain an Urban Growth Preliminary Declaration prior to development.<sup>3</sup> Pursuant to SRC 200.055, an Urban Growth Preliminary Declaration on these properties would address requirements for linking streets to connect future development with the existing street network. These future review processes, based on a different set of circumstances, and in some cases different approval criteria, would not create a binding precedent to allow significant future development in the vicinity without accompanying upgrades to the nearby street network.

The Planning Commission notes that individual development proposals are reviewed on their own merits, the facts of each case, and conformance with applicable approval criteria. The decision reached by the Planning Commission on SUB15-04 addresses only the specific circumstances of that case, in which the proposal would further divide a previously platted lot within an area subject to the infrastructure requirements of Urban Growth Preliminary Declaration UGA90-9 and subsequent amendments. Future subdivisions in the vicinity will be required to meet all applicable approval criteria, regardless of the outcome of the subject case.

Therefore, in order to ensure that the proposed development provides a proportionate share of funding to complete the arterial street network serving the subject property, the following condition shall apply:

**Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.

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<sup>3</sup> At the time that UGA90-9 and later amendments were enacted, the subject property for the tentative subdivision was still part of a larger property that encompassed all lands within PUD03-01. The proposed alignment of Lone Oak Road extension and Jory Creek Bridge crosses through that property and would therefore have been considered an "on-site" improvement for PUD03-01, rather than an off-site improvement listed in the Urban Growth Preliminary Declaration.

The subdivision, as proposed and conditioned, is served with adequate transportation infrastructure to serve the proposed lots within the subdivision. The proposal meets this criterion.

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

**Finding:** The proposed subdivision is located near the south boundary of the city limits, in an area where many properties remain undeveloped or developed in a rural residential pattern. Since the early 1990s, the Creekside series of Planned Unit Developments have been developed around the perimeter of the Creekside golf course and are oriented to access the golf course as an amenity. At present, Bryan Johnston Park, approximately 3,300 feet from the subject property, is the nearest neighborhood activity center.

Future development of several larger properties within the Urban Growth Boundary but south of the present city limits will be accompanied by further development of the nearby street network and neighborhood activity centers. Condition 7 requires the applicant to provide a portion of funding required to connect the subject property to the arterial street network in the vicinity. The existing street system in the vicinity of the subject property is developed to public street standards, including curbs and sidewalks, and will provide for safe and convenient access to the future street network and neighborhood activity centers as they are developed.

The proposal meets this criterion.

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

**Finding:** The Public Works Department has reviewed the proposal and finds that the 4-lot subdivision will generate less than 200 average daily vehicle trips to Sahalee Drive SE, designated in the Transportation System Plan as a local street. Accordingly, a Transportation Impact Analysis is not required as part of the review of the tentative subdivision plan.

**SRC 200.010(d)(8): The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.**

**Finding:** The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The subject property occupies a relatively steep ridgeline that falls nearly 100 feet from the Sahalee Drive right-of-way at the southeast corner of the property to the boundary of the golf course at the northwest corner.

The tentative subdivision plan proposes four lots, each in excess of 30,000 square feet in size. The large lot configuration maximizes the lot area and street frontage available to accommodate more gradual grade changes necessary for construction of foundations, driveways, utility service, and other typical home site elements. The layout allows for reasonable development of all lots within the subdivision without any anticipated variances from the UDC.

The proposal meets this criterion.

**SRC 200.010(d)(9): The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.**

**Finding:** As described above, the subject property occupies a relatively steep ridgeline that falls nearly 100 feet from the Sahalee Drive right-of-way at the southeast corner of the property to the boundary of the golf course at the northwest corner. The tentative subdivision plan utilizes the available frontage on an existing street. No internal streets are proposed, and future homes are expected to be sited adjacent to the existing street frontage at the top of the slope.

The four lots proposed by the applicant all exceed 30,000 square feet in size, in response to the steep slope across the subject property. The large lot configuration allows the majority of the site to be left as open space, with little or no disruption to topography or vegetation across the northern portions of each lot. The large lots also minimizes the total number of home sites to be created along this portion of the ridge, thereby reducing overall impacts caused by grading and construction of foundations, driveways, and utility service lines across the subject property.

A tree conservation plan adjustment, TCPA15-04, demonstrates that the proposed lots may be developed for home sites while retaining a majority of the existing trees on the subject property. Additional trees proposed for removal under TCPA15-04 are concentrated on the southern portion of Lots 1 and 4, where grading and construction related to new home development is most likely to occur. No vegetation removal is proposed within the adjacent riparian corridor for Jory Creek.

The appeal contends that "the topography of the area is another issue as steep hills and creeks surround the area." Testimony at the public hearing did not provide further elaboration on this issue. As described above, the Planning Commission finds that the proposed tentative subdivision plan adequately addresses the existing topography of the site and vicinity, as required under approval criteria SRC 205.010(d)(8) and (9). Further, the Planning Commission concurs with the applicant's contention in their March 15, 2017 letter that the appellant's comment regarding topography lacks the specificity needed for the decision-maker or the applicant to respond to the issue being raised.

The proposal meets this criterion.

**SRC 200.010(d)(10): When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC Chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction**



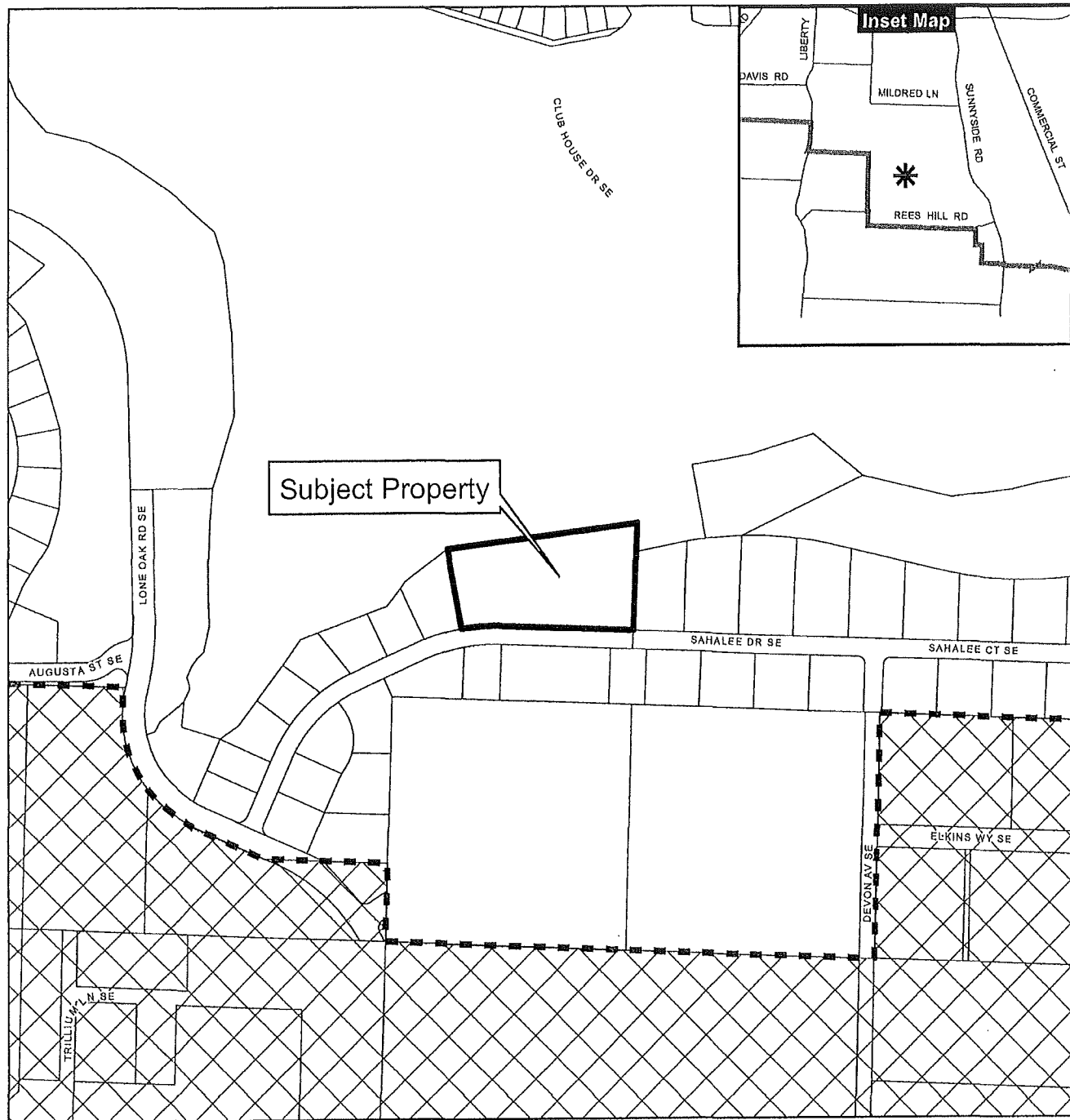
**of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.**

**Finding:** The subject property is located outside of the City's Urban Service Area. Pursuant to the urban growth management requirements of SRC Chapter 200 (Urban Growth Management), an Urban Growth Preliminary Declaration is required for development of property located outside the Urban Service Area. On December 11, 1990, the original UGA preliminary declaration was approved for the Creekside Planned Unit Development, UGA Preliminary Declaration Case No. UGA90-9.

The requirements of UGA preliminary declaration UGA90-9, and the subsequent amendments to the preliminary declaration, continue to apply to the development. These amendments added additional properties to the development, revising required public facility improvement requirements as necessary, and increasing the total number of allowable dwelling units within the development to 767, plus 10 percent, as allowed under the associated infrastructure agreement with the applicant. The applicant has indicated that there are approximately 493 dwelling units in the entire series of Creekside PUDs within the territory covered by the amended UGA Preliminary Declaration. The subject application is a further subdivision within a platted lot within the boundaries covered by UGA90-9, and none of the identified off-site improvements in that Preliminary Declaration or its amendments are specifically warranted by the proposed subdivision.

The proposal meets this criterion.

# Vicinity Map 659 Sahalee Drive SE



## Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

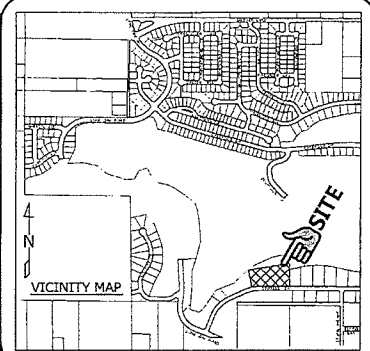
**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

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J:\5800-5882\5882 Creekside Lot 473 LLA\Drawings\5882b.dwg, P1--CS, 6/12/2015 9:10:10 AM, Psaunders

## CREEKSIDE GOLF COURSE

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

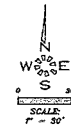


Owner/Developer:

**Mt. West Investment Corp.**

201 Ferry St. SE #400  
SALEM, OREGON 97301

GOLF CLUB ESTATES  
AT CREEKSIDE  
PHASE 6A P.U.D.  
BOTP V. 44, P. 34



GOLF CLUB ESTATES  
AT CREEKSIDE  
PHASE 11 P.U.D.  
BOTP V. 45, P. 182

GOLF CLUB ESTATES  
AT CREEKSIDE  
PHASE 11 P.U.D.  
BOTP V. 45, P. 182

PARCEL SIZE:  
DEVELOPABLE AREA 2.829 Ac.  
NUMBER OF UNITS 4  
DENSITY 1.41 UNITS/ACRE  
LARGEST 32,443 S.F.  
SMALLEST 30,011 S.F.  
AVERAGE 30,802 S.F.

EXISTING ZONE RS (SINGLE FAMILY RESIDENTIAL)  
COMPREHENSIVE DESG. RS (SINGLE FAMILY RESIDENTIAL)

UTILITIES:  
CABLE COMCAST CABLE SERVICES  
POWER P.G.E.  
PHONE CENTURY LINK  
GAS N.W. NATURAL  
STORM DRAIN, SANITARY SEWER, & WATER CITY OF SALEM



MULTI/TECH ENGINEERING SERVICES, INC.  
DESIGNED BY  
CHECKED BY  
DATE: 06-11-15  
BY: D. HENRY



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

Design: J.H.S.  
Drawn: J.H.S.  
Checked: B.H.S.  
Date: JUNE 2015  
Scale: AS SHOWN  
As-Built:

**GOLF CLUB ESTATES  
AT CREEKSIDE Ph. 11**

**PRELIMINARY  
PLAN**

Project Number  
**5882**  
Sheet Number  
**1 of 2**

## **RESOLUTION 2018-08**

### **A RESOLUTION FORMING THE LONE OAK ROAD REIMBURSEMENT DISTRICT AND MAKING PROVISION THEREFOR**

**Whereas**, reimbursement districts under SRC 200.310-200.385 may be formed if a public improvement required to be constructed as a condition of development approval benefits property other than property being developed; and

**Whereas**, reimbursement districts may be used to provide a fair and proportional reimbursement to the developer for the cost of improvements that will be used to serve such benefitted properties; and

**Whereas**, on June 13, 2007, the Planning Administrator's conditional approval of the Preliminary Declaration for Urban Growth Area Development Permit No. 07-5 required Alice and Garrett Berndt ("Developer") to construct street improvements along Lone Oak Road between Muirfield Avenue and Rees Hill Road ("Lone Oak Improvements"); and

**Whereas**, on September 15, 2008, the Planning Administrator's conditional approval of Subdivision 08-4 ("Oak Ridge Estates") required the Developer to construct the Lone Oak Improvements; and

**Whereas**, on August 11, 2017, the Developer submitted an application to form a reimbursement district for construction of the Lone Oak Improvements (Exhibit 1), which the Public Works Director has estimated to cost a total of \$9,300,000; and

**Whereas**, the application for a reimbursement district was submitted prior to the start of construction; and

**Whereas**, Lone Oak Road is designated as a collector street in the Salem Transportation System Plan, and the Lone Oak Improvements benefit neighboring properties because of improved street connectivity and accessibility; and

**Whereas**, under SRC 41.100(h), the Lone Oak Improvements are qualified public improvements eligible for \$1,953,000 in Systems Development Charge credits based on an eligibility ratio of 21 percent from the Transportation Systems Development Charge Eligible Projects List; and

**Whereas**, the Developer has requested the formation of a reimbursement district to collect \$7,347,000 of unreimbursed costs through reimbursement fees; and

**Whereas**, the Public Works Director has evaluated whether the proposed reimbursement district should be formed and prepared a report ("Director's Report") recommending a reimbursement fee methodology, which is submitted with this resolution as the staff report and incorporated herein by reference; and

**Whereas**, not less than ten days prior to the hearing, Developer and all persons owning property within the proposed district were notified by first class mail of the public hearing and the purpose thereof; and

**Whereas**, the public hearing was held on January 22, 2018, at which time any person was given the opportunity to comment on the formation of the proposed reimbursement district; “Exhibit 3” is a list of tax lots affected by the reimbursement district which is attached hereto and incorporated herein by reference. and

**Whereas**, the City Council hereby approves the district based on the Director’s Report;

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

**Section 1. Reimbursement District Formed.** To provide reimbursement for the Lone Oak Improvements, the Lone Oak Road Reimbursement District (Reimbursement District) is hereby formed with subareas titled Creekside, West, Central, and East, the boundaries of which are shown on “Exhibit 2,” which is attached hereto and incorporated herein by reference.

**Section 2. Reimbursement Fee Methodology.** The reimbursement fee per single family dwelling lot assigned to each subarea are as follows: Creekside - \$9,212; West - \$9,854; Central - \$4,927; East - \$2,464. The Director’s Report describes that these reimbursement fee amounts are a reasonable and fair apportionment of the Lone Oak Improvements and anticipates that the reimbursement fees will collect the \$7,347,000 in unreimbursed costs within the twenty-year time frame of the district. Other forms of development other than single family dwellings will be based on the reimbursement fee described above divided by 9.57 average daily trips per single family dwelling multiplied by the average daily trips of the development being proposed.

**Section 3. Interest Rate.** Interest on reimbursement fees collected within the Reimbursement District shall be based on Engineering News Record, three West Coast City average of construction cost index per annum, simple interest.

**Section 4. Administration Cost.** The reasonable costs to adequately reimburse the City for administration of the Reimbursement District are one (1) percent of the total reimbursement fee. One (1) percent of each reimbursement fee payment shall be collected by the City for an administration fee. The remaining balance of the district fee (ninety-nine (99) percent of what is collected) will be reimbursed to the Developer.

**Section 5. Payment of Reimbursement Fee.** Payment of the reimbursement fee, as designated for all real property located in the Reimbursement District, is a precondition of receiving any City permits applicable to development on such real property. The reimbursement fee is not eligible for reimbursement from Systems Development Charges.

**Section 6. Eligibility for Reimbursement of Construction Costs.** The Developer or any third party that constructs a portion of the Lone Oak Improvements shall be eligible for reimbursement from Reimbursement Fees collected within the reimbursement district.

**Section 7. Recording the Resolution.** The City Recorder shall record this resolution with the Clerk of Marion County.

**Section 8. Appeal of Formation of Reimbursement District.** No legal action intended to contest the formation of the Reimbursement District or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after sixty (60) days following the

adoption of this resolution. Any challenge or appeal to the formation of the Reimbursement District shall be solely by writ of review pursuant to ORS 34.010-ORS 34.102, and not otherwise.

**Section 9. Reimbursement Fee Not a Tax or Lien.** Formation of the Reimbursement District shall not result in an assessment upon or lien against real property and reimbursement fees collected by the City on behalf of a Developer are not taxes subject to the property tax limitations of Article XI, section 11(B) of the Oregon Constitution.

**Section 10. Effective Date.** This Resolution is effective upon adoption, and the date of formation of the Reimbursement District shall be the effective date of this Resolution.

ADOPTED by the City Council this 22<sup>nd</sup> day of January, 2018

ATTEST:

City Recorder

Approved by City Attorney: \_\_\_\_\_

Checked by:

## ATTACHMENT 2

October 27, 2017

**VIA ELECTRONIC MAIL:** GDAVIS@cityofsalem.net

*Original to follow via hand delivery*



Glenn Davis  
Public Works Department  
City of Salem  
555 Liberty ST SE RM 325  
Salem, OR 97301

RE: Request to Establish Reimbursement District  
Our File No: 18495

Glenn:

Enclosed please find our submittal on behalf of Alice and Garrett Berndt (our "**Client**" and "**Applicant**") wherein we are requesting the approval of a Reimbursement District with respect to the Lone Oak Extension. In accordance with SRC 200.310, our submittal includes the following:

- 1) Applicant's Written Statement to Establish a Reimbursement District based on SRC 200.310;
- 2) Exhibits to Written Statement:
  - a. Exhibit A— Reimbursement District with Proposed Fee Allocation;
  - b. Exhibit B— Map Depicting Boundary of Proposed District and Tax Lots contained within;
  - c. Exhibit C— Table containing Property Information as required under SRC 200.310(1)(2) for District properties;
  - d. Exhibit D— Multi/Tech's Completion Analysis for the Proposed Improvement; and,
- 3) A Check in the amount of \$5,307.00.

Following your review please don't hesitate to contact Mark Shipman with any questions or concerns.

Thanks,

A handwritten signature in blue ink, appearing to read "Hannah F. Stevenson".

HANNAH F. STEVENSON  
LEGAL ASSISTANT  
hstevenson@sglaw.com  
Voice Message #325

hst:hst

Enclosures

cc: *Via Email Only*  
Lisa Anderson-Ogilvie  
Natasha Zimmerman  
Chris Green  
Peter Fernandez  
Client

Park Place, Suite 200  
250 Church Street SE  
Salem, Oregon 97301

Post Office Box 470  
Salem, Oregon 97308

tel 503.399.1070  
fax 503.371.2927

www.sglaw.com



## APPLICATION TO ESTABLISH A REIMBURSEMENT DISTRICT

**Owner/Applicant:**

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

**Applicant's Representative:**

Mark D. Shipman  
Saalfeld Griggs PC  
PO Box 470  
Salem, Oregon 97308  
(503) 399-1070



Applicant is requesting the approval of an application to establish a Reimbursement District to facilitate the construction of the Lone Oak Extension (the "**Application**"). This public improvement will run adjacent to Applicant's property designated by the Marion County Assessor as 08 -3W-22C Tax Lot 200 and 08-3W-22CB Tax Lot 105 (collectively, the "**Subject Property**"). Applications to establish a Reimbursement District are governed by Salem Revised Code Section 200.310 which reads as follows:

**200.310. Application to Establish a Reimbursement District.**

**(a) A Developer may request the formation of a reimbursement district by submitting an application on forms provided by the Director, which shall contain:**

- (1) A map showing the boundaries of the proposed reimbursement district and each tax lot within the proposed district;**
- (2) The zoning designations for all property located within the proposed reimbursement district; the names and mailing addresses of each owner of property within the proposed district; the tax account number for the owner's property; the width of the frontage, if any and if necessary to determine the allocation of the reimbursement fee; the area of the property in square feet; and any other similar information deemed necessary by the Director for calculating the fair apportionment of the cost; the property or properties owned by the Developer; and**
- (3) A description of the location, type, size and actual or estimated cost of each public improvement constructed or to be constructed within the proposed reimbursement district.**
- (4) Such other information deemed necessary to evaluate the request by the Director of Public Works.**

**(b) The application shall be accompanied by an application fee, which shall be established by resolution of the City Council.**



- (c) *The application may be submitted to the Director prior to the construction of the public improvement but no later than 180 days after acceptance of the public improvement by the City.*

Applicant contacted the City of Salem's (the "**City**") regarding the necessary application form and was informed that no forms currently exist. As such, Applicant is providing the necessary information through this written statement. Applicant has attached the map showing the boundaries of the proposed reimbursement district (the "**District**") with the proposed fee allocation, which is attached hereto and incorporated herein as **Exhibit "A"** as well as a map showing each tax lot within the District, which is attached hereto and incorporated herein as **Exhibit "B."** Applicant has also attached a table that depicts the information requested in Section 200.310(a)(2) as **Exhibit "C"** to this written statement.

The proposed public improvement will be approximately three thousand nine hundred fifty feet (3,950 ft.) and will connect the two (2) existing portions of Lone Oak Road SE (the "**Proposed Improvement**") to provide a continuous connection through the developing properties in the area. The two portions of the Proposed Improvement will extend approximately two thousand two hundred feet (2,200 ft.) from south of Muirfield Ave SE to north of Augusta Street SE (the "**North Extension**") and one thousand seven hundred fifty feet (1,750 ft.) south of Sahalee Ct. SE to Rees Hill Rd. SE (the "**South Extension**"). The road will be developed according to the Lone Oak Road's current designation as a "collector" and thus will be thirty four feet (34 ft.) wide with the requisite storm water facilities and storm water quantity facilities. The right-of-way for the Proposed Improvement for the North Extension was dedicated by the Creekside Phase 14, however, there has been no right-of-way dedication for the South Extension. Applicant has not included a cost estimate for obtaining an additional right-of-way along the North Extension but has included an estimate for the cost of obtaining an additional right-of-way along the South Extension. Water and Sanitary Sewer Mains will be located within the roadway improvement limits with approximately Two Hundred Fifty feet (250 ft.) of sixteen inch (16 in.) water main and one thousand two hundred fifty feet (1,250 ft.) of eight inch (8 in.) sanitary sewer main for the North Extension and an extension of the existing ten inch (10 in.) water main and eight inch (8 in.) sanitary sewer main for the South Extension.

The Salem Transportation System Plan (the "**Plan**") identifies the proposed extension as providing "an important north-south collector street connection area through [the] developing area." STSP p. 3-56. The Plan designates the proposed improvement as 187 in Table 3-7 on page 3-70 and estimates the cost of the project at Three Million Eight Hundred Thirty Four Thousand and No/100 Dollars (\$3,834,000.00). Applicant engaged Multi/Tech Engineering Services, Inc. ("**Multi/Tech**") to perform a Completion Analysis for the 2 portions of the extension. Multi/Tech found that the estimated cost would be Two Million Seven Hundred Sixty Nine Thousand Six Hundred Ten and No/100 (\$2,769,610.00) for the North Extension and One Million Four Hundred Ninety Five Thousand Six Hundred Six and No/100 Dollars (\$1,495,606.00) for the South Extension if the Proposed Improvement was privately constructed or Four Million Six Hundred Fifty Six Thousand Seven Hundred Seven and No/100 Dollars (\$4,656,707.00) and Two Million One Hundred One Thousand Eight Hundred Eighty Eight and 50/100 Dollars (\$2,101,888.50), respectively, if constructed by the City. This analysis indicates that the total cost of the Proposed Improvement would be either Four Million Two Hundred Sixty Five Thousand Two Hundred Sixteen and No/100 Dollars (\$4,265,216.00) if privately constructed or Six Million Seven Hundred Fifty Eight Thousand Five Hundred Ninety Five and 50/100 Dollars (\$6,758,595.50) if constructed by the City. The Completion Analysis for both portions of the Proposed Improvement is attached hereto as **Exhibit "D."**

Submission of this Application and the accompanying Application Fee of Five Thousand Three Hundred Seven and no/100 Dollars (\$5,307.00) is being submitted to the City of Salem prior to the construction of the above discussed improvement.

Applicant has demonstrated compliance with all of the applicable requirements of SRC 200.310. Therefore, Applicant respectfully requests that the City approve this Application as submitted.

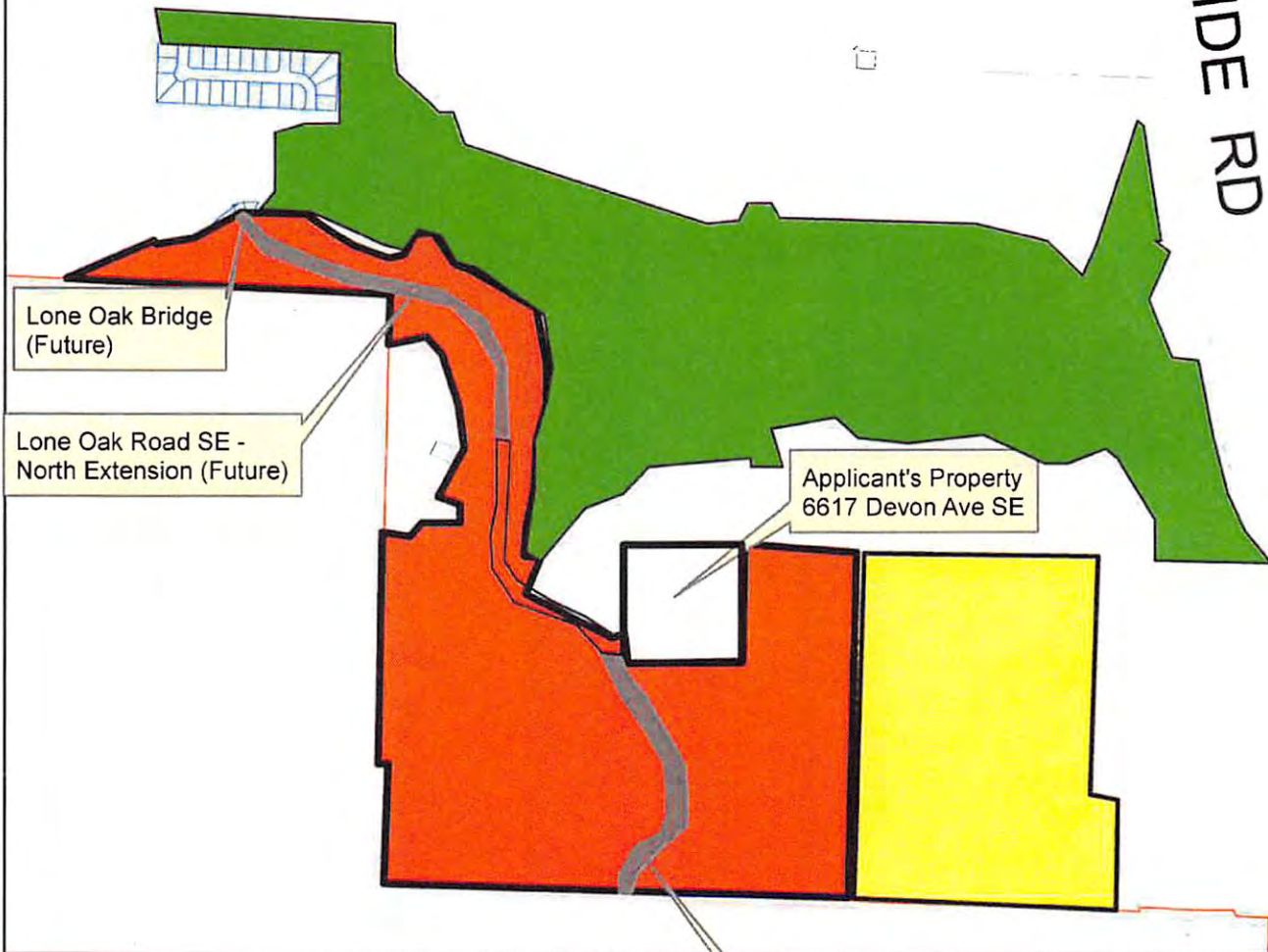
EXHIBIT

A

tabbles'

MILDRED LN

SUNNYSIDE RD



6617 DEVON AVENUE SE



100% Reimbursement District Boundary



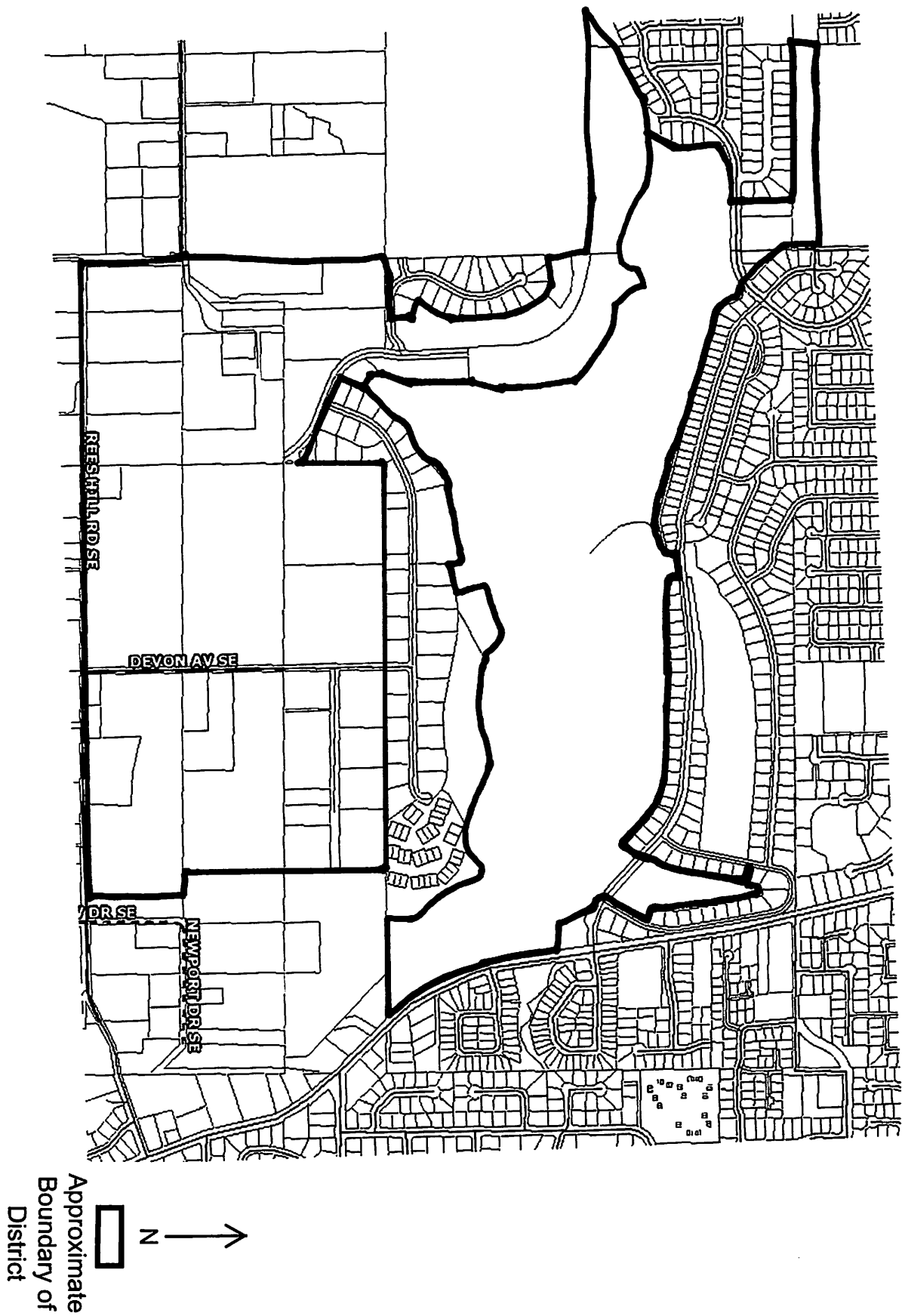
"50%" Reimbursement District Boundary

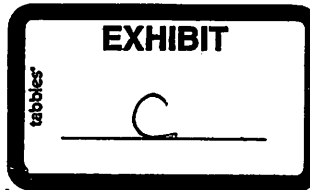


"20%" Reimbursement District Boundary

2,000 1,000 0 2,000 Feet

EXHIBIT A





### Reimbursement District Properties

Tax Map/Lot Number	Owner	Address	Tax Account	Width of Frontage	Acreage	Zoning
08 3W 16DD 300	Robert & Maria Noyes	430 Turtle Bay Ct SE Salem, OR 97306	R93563	NA	4.97	Residential Acreage
08 3W 21AA 300	Lawrence E. Tokarski RLT	201 Ferry St SE #400 Salem, OR 97301	R32581	Approx. 1,000 ft.	9.73	Residential Acreage
08 3W 22 108	Lawrence E. Tokarski RLT	201 Ferry St SE #400 Salem, OR 97301	R32661	Approx. 1,011 ft.	8.92	Residential Acreage
109	Creekside HOA, LLC	2105 SE 9TH St Portland, OR 97214	R32662	NA	1.73	Residential Acreage
110	Creekside Golf Course, LLC	6250 Clubhouse DR SE Salem, OR 97306	R32663	NA	0.79	Residential Acreage
111	Creekside Golf Course, LLC	6250 Clubhouse DR SE Salem, OR 97306	R32664	NA	136.73	Residential Acreage
113	Golf Course Estates HOA	2105 SE 9TH AV Portland, OR 97214	R32666	NA	0.23	Residential Acreage
118	Creekside Golf Course, LLC	6250 Clubhouse DR SE Salem, OR 97306	R328333	NA	6.63	Residential Acreage
08 3W 22AA 3900	Creekside Golf Course, LLC	6250 Clubhouse DR SE Salem, OR 97306	R32659	NA	4.90	Residential Acreage
08 3W 22BC 2200	Lucinda & Terry Kelly	6450 LONE OAK RD SE SALEM, OR 97306	R343302	NA	1.96	Residential Acreage
2300	Creekside Owners Assoc.	2105 SW 9 <sup>th</sup> St Portland, OR 97214	R343303	NA	Open Space	Single Family Residential
2500	Augusta Real Estate LLC	PO Box 967 Salem, OR 97309	R351448	NA	6.37	Residential Acreage
2600	Lawrence E. Tokarski RLT	201 Ferry St SE #400 Salem, OR 97301	R351449	NA	0.97	Residential Acreage
08 3W 22C 100	John & Nancy Gattuccio	6581 Devon Ave SE Salem, OR 97306	R93744	NA	9.71	Residential Acreage
200	Applicant	6989 Bates Rd S Salem, OR 97306	R93745	NA	10.01	Residential Acreage
300	Susan Ballard & Edward Kirasich	470 S Acoma Blvd #1006 Lake Havasu City, AZ 86404	R93743	Approx. 690 ft.	19.89	Residential Acreage
400	Swarthout Trusts	19828 Kenzie Ave Bend, OR 97702	R93741	Approx. 430 ft.	17.48	Residential Acreage
401	Swarthout Trusts	19828 Kenzie Ave Bend, OR 97702	R93742	Approx. 240 ft.	1.00	Residential Acreage
500	Natalya N. Ganchenko	653 Rees Hill Rd SE Salem, OR 97306	R93746	Approx. 245 ft.	4.73	Residential Acreage
600	Donald C. Skorniak	PO Box 753157 Las Vegas, NV 89136	R93747	NA	4.70	Residential Acreage
601	Donald C. Skorniak	PO Box 753157 Las Vegas, NV 89136	R93748	NA	4.70	Residential

						Acreage
700	Freeburg Trusts	6742 Trillium Ln SE Salem, OR 97306	R93749	NA	4.15	Residential Acreage
<b>08 3W 22CB</b> 100	York Living Trust	6504 Lone Oak Rd SE Salem, OR 97306	R43027	NA	2.93	Urban Transition
105	Applicant	6989 Bates Rd S Salem, OR 97306	R342925	Approx. 61 feet	0.02	Urban Transition
200	York Living Trust	6504 Lone Oak Rd SE Salem, OR 97306	R43020	NA	4.66	Urban Transition
300	Lois Rosen & Kevin Davidson	6751 Trillium Ln SE Salem, OR 97306	R43018	NA	4.46	Urban Transition
400	Lois Rosen & Kevin Davidson	6751 Trillium Ln SE Salem, OR 97306	R43017	NA	4.39	Urban Transition
500	Alejandra Reyes & Kelley Strawn	6685 Trillium Ln SE Salem, OR 97306	R43019	NA	0.53	Urban Transition
600	Alejandra Reyes & Kelley Strawn	6685 Trillium Ln SE Salem, OR 97306	R43025	NA	1.03	Urban Transition
700	Steve & Jamie Poppleton	6661 Trillium Ln SE Salem, OR 97306	R43022	NA	1.03	Urban Transition
800	York Living Trust	6504 Lone Oak Rd SE Salem, OR 97306	R43023	NA	0.82	Urban Transition
900	York Living Trust	6504 Lone Oak Rd SE Salem, OR 97306	R43024	Approx. 160 feet	7.47	Urban Transition
1000	McKenzie & Jeffrey Trautman	6652 Trillium Ln SE Salem, OR 97306	R43026	NA	5.37	Urban Transition
1700	York Living Trust	6504 Lone Oak Rd SE Salem, OR 97306	R343301	NA	0.59	Urban Transition
<b>08 3W 22DB</b> 100	Rene L. Tornberg	929 Elkins Way SE Salem, OR 97306	R93726	NA	2.74	Urban Transition
200	Marilyn & William Bensink	899 Elkins Way SE Salem, OR 97306	R93727	NA	1.83	Urban Transition
300	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93724	NA	1.82	Urban Transition
400	Sonya & Michael Collum	6508 Devon Ave SE Salem, OR 97306	R93723	NA	2.53	Urban Transition
500	Schie Trusts	6608 Devon Ave SE Salem, OR 97306	R93728	NA	1.69	Urban Transition
600	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93725	NA	0.10	Urban Transition
700	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93729	NA	3.53	Urban Transition
800	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93731	NA	0.69	Urban Transition
900	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93730	NA	0.92	Urban Transition
1000	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93732	NA	2.05	Urban Transition
1100	Elkins Trusts	928 Elkins Way SE Salem, OR 97306	R93733	NA	14.93	Urban Transition

1200	Brewer Trusts	6710 Devon Ave SE Salem, OR 97306	R93735	NA	3.40	Urban Transition
1300	Erasmio & Rise Cuellar	6710 Devon Ave SE Salem, OR 97306	R93734	NA	1.43	Urban Transition
<b>08 3W 22DC</b> 200	CAD Properties, LLC	928 Elkins Way SE Salem, OR 97306	R93737	NA	2.98	Urban Transition
201	Marilyn & Robert Williams	928 Elkins Way SE Salem, OR 97306	R93738	NA	16.60	Urban Transition
300	Richard & Lynell Gehr	819 Rees Hill Rd SE Salem, OR 97306	R93740	NA	0.46	Urban Transition
400	CAD Properties, LLC	928 Elkins Way SE Salem, OR 97306	R93739	NA	0.43	Urban Transition



## Lone Oak North - Linking Improvement

*Completion Analysis - End of Existing Lone Oak, North and West to Existing Street*

Nov-17

The projected costs to complete the improvements of Lone Oak from  
The south side of Phase 10 to the existing street section in Phase 12.

	Privately Constructed	City Constructed
The following are the projected costs for the completion.		
Culvert Crossing	\$ 950,000.00	\$ 1,400,000.00
16 Inch Water Main	\$ 65,750.00	\$ 98,625.00
Sanitary Sewer	\$ 154,425.00	\$ 231,638.00
Storm Drainage	\$ 82,135.00	\$ 123,202.00
Storm Water Quality Facilities	\$ 85,000.00	\$ 127,500.00
Storm Detention Facilities	\$ 75,000.00	\$ 112,500.00
Street Improvements	\$ 345,550.00	\$ 518,325.00
Street Lights	\$ 35,750.00	\$ 53,625.00
Sidewalks	\$ 85,750.00	\$ 128,625.00
Engineering etc.	\$ 225,750.00	\$ 750,000.00
Contengency	\$ 664,500.00	\$ 1,112,667.00
<b>Total Cost</b>	<b>\$ 2,769,610.00</b>	<b>\$ 4,656,707.00</b>
Approximatly 22% is TSDC Elligable	\$ 609,314.20	\$ 1,024,475.54
<b>Net Costs</b>	<b>\$ 2,160,295.80</b>	<b>\$ 3,632,231.46</b>



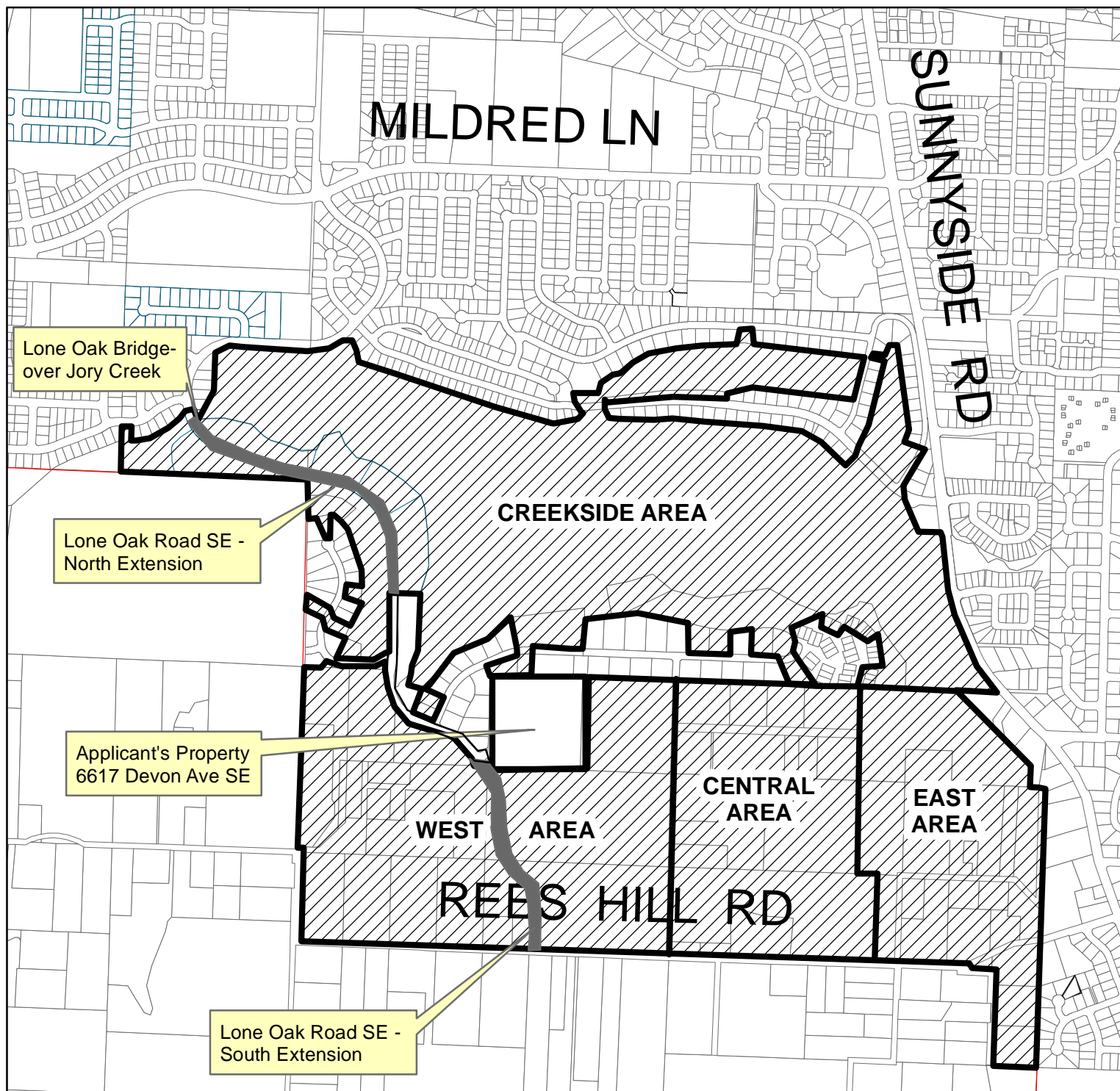
## Lone Oak South - Linking Improvement

*Completion Analysis - End of Existing Lone Oak, South to Rees Hill Road*

Nov-17

The projected costs to complete the improvements of Lone Oak from  
The south end of the existing improvement to Rees Hill Road

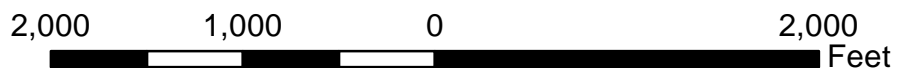
	Privately Constructed	City Constructed
The following are the projected costs for the completion.		
Culvert Crossing	\$ 20,000.00	\$ 27,000.00
10 Inch Water Main	\$ 135,650.00	\$ 183,127.50
Sanitary Sewer	\$ 85,750.00	\$ 115,762.50
Storm Drainage	\$ 99,575.00	\$ 134,426.25
Storm Water Quality Facilities	\$ 95,750.00	\$ 129,262.50
Storm Detention Facilities	\$ 42,775.00	\$ 57,746.25
Street Improvements	\$ 306,250.00	\$ 413,437.50
Street Lights	\$ 21,250.00	\$ 28,687.50
Sidewalks	\$ 24,750.00	\$ 33,412.50
Engineering etc.	\$ 166,630.00	\$ 301,750.00
Contengency	\$ 145,700.00	\$ 325,750.00
Right of way	\$ 351,526.00	\$ 351,526.00
<b>Total Cost</b>	<b>\$ 1,495,606.00</b>	<b>\$ 2,101,888.50</b>
Approximatly 22% is TSDC Elligable	\$ 329,033.32	\$ 462,415.47
<b>Net Costs</b>	<b>\$ 1,166,572.68</b>	<b>\$ 1,639,473.03</b>



6617 DEVON AVENUE SE



Reimbursement District Boundary



## EXHIBIT 2

**LONE OAK ROAD REIMBURSEMENT DISTRICT - TAXLOTS BY AREA:**

<b>CREEKSIDE AREA - \$9,212 PER LOT</b>
083W21AA 00300
083W21AA 04000
083W22 00108
083W22 00109
083W22 00110
083W22 00111
083W22 00113
083W22 00118
083W22AA 03900
083W22AB 06100
083W22AC 00600
083W22AC 03000
083W22AC 03100
083W22AC 03200
083W22AC 03300
083W22AC 03400
083W22AC 03900
083W22AC 04000
083W22AC 04100
083W22AC 04200
083W22AC 04300
083W22AC 04500
083W22AC 04600
083W22AC 04900
083W22AC 05000
083W22BA 00100
083W22BA 07000
083W22BC 00300
083W22BC 01000
083W22BC 01600
083W22BC 01900
083W22BC 02500
083W22BC 02600
083W22BC 02700
083W22BD 01000
083W22BD 01400
083W22BD 01500
083W22CB 01400
083W22CB 01500
083W22CB 01700

<b>WEST AREA - \$9,854 PER LOT</b>
083W22BC 02300
083W22C 00100
083W22C 00200
083W22C 00300
083W22C 00400
083W22C 00401
083W22C 00500
083W22C 00600
083W22C 00601
083W22C 00700
083W22CB 00100
083W22CB 00104
083W22CB 00105
083W22CB 00200
083W22CB 00300
083W22CB 00400
083W22CB 00500
083W22CB 00600
083W22CB 00700
083W22CB 00800
083W22CB 00900
083W22CB 01000

<b>CENTRAL AREA - \$4,927 PER LOT</b>
083W22DB 00100
083W22DB 00200
083W22DB 00300
083W22DB 00400
083W22DB 00500
083W22DB 00600
083W22DB 00700
083W22DB 00800
083W22DB 00900
083W22DB 01000
083W22DB 01100
083W22DB 01200
083W22DB 01300
083W22DC 00200
083W22DC 00201
083W22DC 00300
083W22DC 00400

<b>EAST AREA - \$2,464 PER LOT</b>
083W22DA 00700
083W22DA 00800
083W22DA 00900
083W22DA 01000
083W22DA 01100
083W22DA 01200
083W22DA 01300
083W22DA 01400
083W22DC 00100
083W22DD 00200
083W22DD 00300
083W22DD 00400
083W22DD 00500
083W22DD 00600
083W22DD 00700
083W22DD 00701
083W22DD 00900
083W22DD 01000
083W22DD 01100
083W22DD 01600
083W23CC 04800

## Amy Johnson

---

**From:** Jerry Bennett <jbestg@outlook.com>  
**Sent:** Thursday, March 22, 2018 5:25 PM  
**To:** citycouncil; Chuck Bennett; Steve McCoid; Matthew Ausec; Chris Hoy; Sally Cook; Jim Lewis; Tom Andersen; Cara Kaser; Cara Kaser; Steve Powers  
**Cc:** Glenn Baly; Jerry Bennett  
**Subject:** Written SGNA testimony for March 26, 2018, 6:00, Hearing -- for the record  
**Attachments:** SGNA position for Mar 26 Council Mtg jb.docx; City Council hearing Attachment A 3 19 18.docx

Please find attached two pages of my written testimony on behalf of SGNA's petition for reconsideration of the proposed Reimbursement District.

Our chairman, Glenn Baly, has submitted written testimony, but he will not be able to be present as a result of business-related meeting in Bend, Oregon. I have been asked to be the Board's representative at the hearing. As a board member, I'm requesting the five-minute speaking privilege -- any other party of interest would use the three-minute allotment.

It is very important that Council members read Mr. Baly's comprehensive written testimony before I address the Council as it is my task to only give a brief summary of SGNA's position.

Thank you for your interest and support. We trust that you will find our inputs helpful to your difficult decision making processes.

Jerry Bennett  
804 Creekside Drive SE, Salem, Oregon 97306  
(503) 589 9669

TO: Mayor Chuck Bennett; Council Members: Steve McCoid, Chrmn.; Cara Kaser, Tom Andersen, Brad Nanke, Matt Ausec, Chris Hoy, Sally Cook, Jim Lewis; Steve Power, City Mgr.

**RE: Testimony supporting Steve McCoid's motion, and COUNCIL's 7-0 vote, recognizing SGNA's Petition for "Reconsideration" of its January 22, 2018, Lone Oak Reimbursement District decision.**

Jerry Bennett, SGNA board member – 3/22/2018

Development of Creekside Valley and its surrounding hills requires sound public policy that meets the needs and interests of the majority of the citizenry – it is essential to the health and welfare of the community.

SGNA's review concludes that staff recommendations were not adequately formulated on past, present, and future consequences of the project(s) in question. City staff testified at the Feb. 12 council meeting that "the matter was a funding issue, not needing public inputs", but considering the overlapping environmental, wet lands – **Attachment A**, water shed, flooding, property valuations, recreational, and likely taxing issues, the comment lacks merit. And, including the water shed and wet lands in the proposal that brought 155 acre Creekside Valley into play during an ongoing litigation between the course owners and the Creekside Estates HOA shocked the community. Is it appropriate for a judicial branch of government to approve a land use agreement with a financial district with a hypothetical district that doesn't exist? If that's not a legal question, it is a blatant lack of impartiality by the Planning and Public Works Departments between a developer and thousands of residents.

In your deliberations, please consider the following peripheral issues:

(1) The State is currently seeking a leader for its newly created Office of Outdoor Recreation, who'll receive up to \$97,000 a year to create a central clearinghouse for outdoor recreation projects and businesses across Oregon. Isn't it great that with Mr. Tokarski's support, Creekside Golf Club, its restaurant, swimming pool, and driving range, are still functioning as Salem's only golf course – a priority parks and recreation asset stated in the City's Comprehensive Plan.

(2) Three environmental groups are suing the federal government over the decline in wild salmon and steel head in the Upper Willamette watershed. The reason? The government allegedly failed to take required steps to improve conditions for the threatened fish. Now shift to Salem's largest water shed area that poses a direct flood threat to "people" in down stream locations from Creekside Golf Course to Turner, including certain down town areas. Will the proposed reimbursement district increase that threat in catastrophic weather conditions? Has the City taken all necessary steps to prevent a future calamity and to also protect the City's primary recreational and open green space in SE Salem?

(3) Environmental groups are trying to block the expansion of a Columbia River port, the latest in the ongoing debate over natural areas. They're trying to block the re-classification of 837 acres of farmland from becoming industrial use. A commissioner stated, "We don't approve any lease without an actual public meeting. In our case, SGNA is responding to resident's security on properties that they have invested millions for housing/recreational purposes.

SGNA board member are guided by the "NA Guide Handbook" supported by the City of Salem. In Section 3, the Role of NA board members, the "problem solving processes" is compelling. In Section 4, emphasis on Neighbors Working Together to Improve Neighborhoods make sense. And, in Section 5, the guide to giving input to the City Council, Urban Renewal Agency, Housing Authority, City Council Boards and Commissions is essential to effective and cost efficient local governance. Thus, NA inputs on matters such as the one in front of you are invaluable to the well being of SE Salem and the City as a whole. Diversified recommendations from staff are of course a necessity in any operation, as are inputs from your NA. It is equally important that staff remains diligent at all times in the effective use of all available resources .

**CONCLUSION:** (a) City staffers did not take all necessary steps to encourage SGNA inclusion in the development phase. (b) Staff did not consider impact of flood and wet land conditions in the water shed area. (c) Staff failed to consider ongoing legal issues. (d) Staff put a developer's special interests over the needs and interests of the Creekside community. (e) And, staff didn't adhere to the City's Comprehensive Plan, the City's Strategic Plan, the City's guide for NA Board Guides, and/or FEMA studies or ongoing City study committees on flood issues, or developing studies from the \$395,000 Turner Water Shed Study group. Therefore:

**REQUEST:** the LONE OAK ROAD REIMBURSEMENT DISTRICT should be **RESCINDED**, and **TABLED** until such time that the City and developers submit meritorious proposals for consideration!

## ATTACHMENT “A” – **SGNA OPPOSES LONE OAK ROAD REIMBURSEMENT DISTRICT**

Background: The law firm of Vick and Genze, representing developer Larry Tokarski, responded to opinion writer Brian Hines’s commentary in the Salem Weekly. Vick contended that *Tokarski’s responsibilities for the extension of Lone Oak Road and associated improvements, including the Jory Creek bridge installation, weren’t entirely Tokarski’s fault, advancing the position that the City’s Public Works Department expanded the type and description of the bridge installation from \$1.2m to \$7.5m.*” City staff agreed that neither they or Tokarski were fully aware of federal, state, and city permit requirements protecting riparian habitat which might mandate more expensive building methods. Investigative writer Helen Caswell concluded: “. . . Mr. Hines’ opinion is largely accurate and that all available documentation indicate that the primary, commonly-understood ‘developer’ is indisputably Mr. Tokarski’, as General Partner with Hawaii Ventures Northwest.” ***But, Salem Weekly acknowledged that this issue is more complex than the printed story reveals. Too, Hines failed to note that other significant partners and entities were involved in the development over the years.***

- - - - -The rest of the story- - - - -

*The City’s approval for PUD 03-1 ON May 27, 2003, notes that Jory Creek includes regulated wetlands and **that the developer has special responsibilities** – bold print added. The conditions for approval follow:*

*There are approximately 3+ acres of open space area located around Jory Creek that is also crossed by the extension of Lone Oak Road. There are no site improvements, trails or other facilities proposed to be developed in the open space area. The open space area is located in proposed Phase 3. Emergency and maintenance access to the open space is available from Lone Oak Road or the golf cart track around the golf course.*

*Development within the flood way is restricted as described in SRC 140.090(b). Environmental standards are substantial and readily available to all developers and citizens.*

*Battle Creek, Powell Creek, and Jory Creek are within the golf course development. There is a regulated wetland on the subject property. It is the developer’s responsibility to contact the Division of State Lands (DSL) regarding wetland issues and to comply with applicable permit and mitigation requirements before final plat approval. The DSL generally submits a copy of their determination to the City after a site specific proposal has been reviewed by the State. It is the developer’s responsibility to make sure that the City receives a copy of an approved plan prior to development.*

*Also, 9. Submit proof of Division of State Lands (DSL) concurrence of the wetland determination/delineation to the City of Salem, Natural Resources Section, prior to final plat approval. All wetlands identified as jurisdictional by DSL are subject to the regulations of that agency, as well as compliance with Chapter 126 and subsequent wetland regulations.*

- - - - -

**SGNA’s Concerns: Without flood mitigation remedies, project may increase Flood Conditions for all down-stream residents from Creekside to Turner, including some down town designations and eliminates valuable recreational space:** *The proposed REIMBURSEMENT DISTRICT put Creekside Golf Course in play as a possible 210 unit development and a revenue source for stated road and bridge costs. However, this property has the same wetland, water shed, and environmental challenges as the Jory Creek site that extends throughout Creekside Valley (Creekside Golf Course) from its west start at Lone Oak all the way to its east end at Sunnyside Road. If the restrictions exemplified in the now defunct Jory Bridge project were cause sufficient for the developer(s) to abort the required work, consider the degree of difficulty that will be placed on any developer attempting to put 210+ housing structures on the environmentally sensitive golf course – a plan that could take 20 years to complete and pay for. Basic math suggests the Reimbursement District proposal cannot pay for itself, which may require voter approval for a road/street bond paid for by local property taxes.*

***This is not an acceptable business plan. And, it violates all of the requirements of sound public policy.***



To: Mayor Bennett & Council Members

From: E.M. Easterly

Re: 18-132 Proposed Reconsideration of Reimbursement District Date: March 26, 2018

I invite the Council to consider the irony that the below proposed subdivision is NOT included in the pending Reimbursement District.

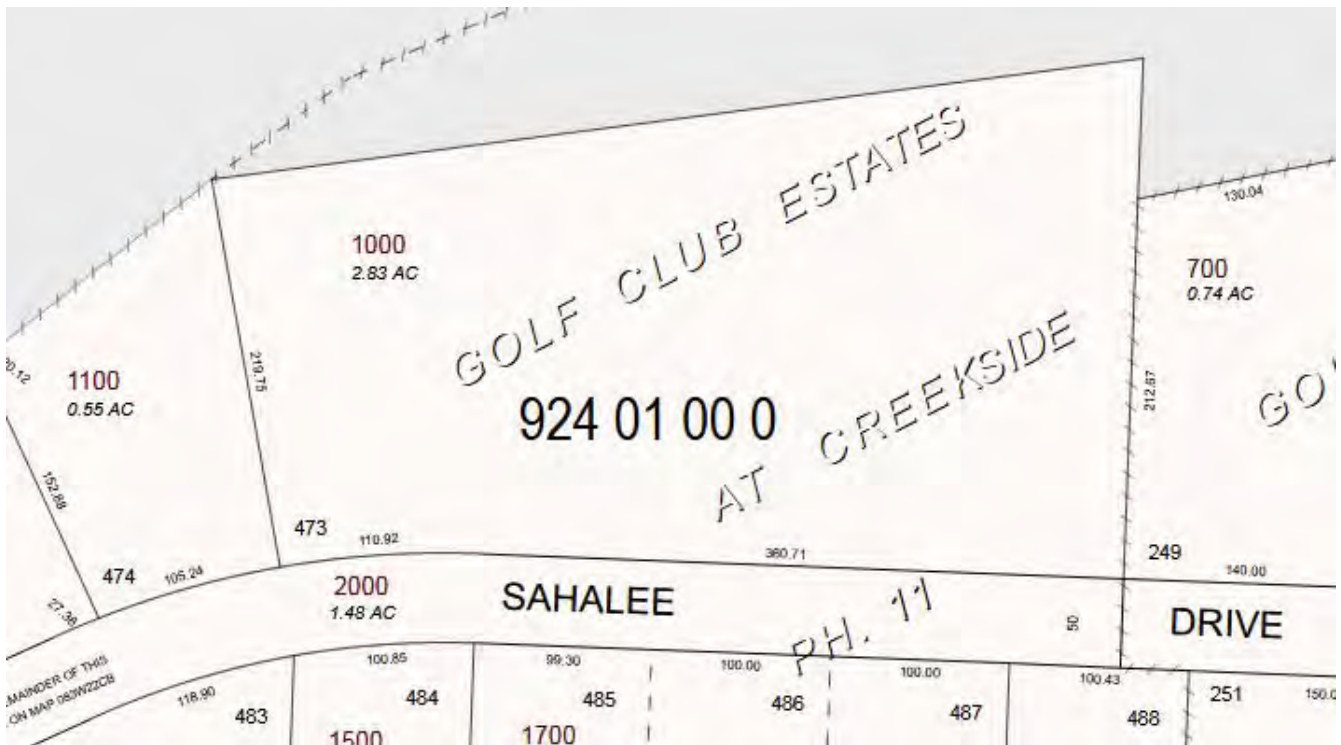
Account No.: R339474

Map Tax Lot: 083W22BD01000

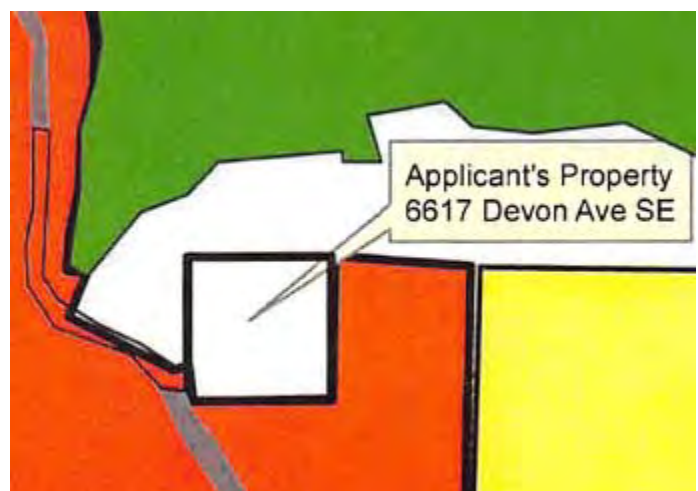
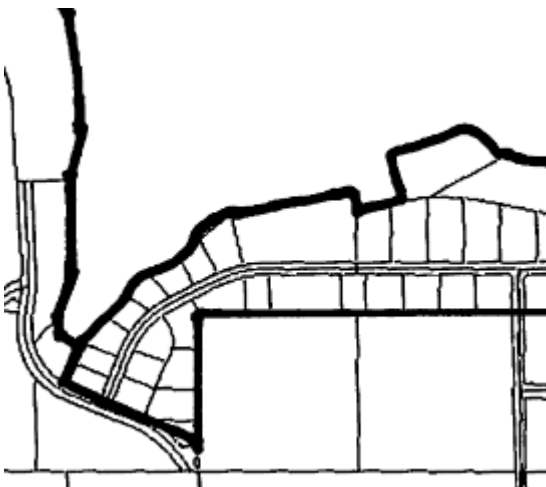
Situs Address: 659 SAHALEE DR SE

SALEM, OR 97306

Owner: LAWRENCE E TOKARSKI RLT & TOKARSKI, LAWRENCE E TRE  
201 FERRY ST SE #400 SALEM, OR 97301



Proposed File # 18-32 Subdivision proposal pg 131/147 not included in the Lone Oak Improvement District.







**Amy Johnson**

---

**From:** E Easterly <emeasterly@comcast.net>  
**Sent:** Sunday, March 25, 2018 10:22 AM  
**To:** Chuck Bennett  
**Cc:** citycouncil  
**Subject:** Re: Contact City Council - Lone Oak Reimbursement District testimony

**Thank you, Mayor Bennett, for responding to my submitted testimony.**

I would be pleased if your belief is correct.

I invite, you, your council colleagues, and staff to explain how a proposed, but un-platted 5 lot subdivision, which is not identified in the description of the proposed reimbursement district has paid "the proposed fee", that is, the proposed reimbursement district fee.

Please explain **when** the not-yet-adopted reimbursement fee was paid by the property owner/developer for the proposed five lots I identified in my original written testimony.

Other areas of the original phased Creekside development are included in and slated to pay the proposed reimbursement district fee; so why was this part of the Creekside development excluded from the proposed reimbursement district?

I further request that this email exchange be included as part of the council deliberations regarding the March 26th Lone Oak Reimbursement District Council agenda item.

E.M.

**Re: Contact City Council**

[Chuck Bennett](#)

3/24/2018 8:03 PM

To [emeasterly@comcast.net](mailto:emeasterly@comcast.net) Copy [citycouncil](#)

- 
-

•  
•

I believe your information is incorrect. My understanding is that this property has already paid the proposed fee.

Chuck Bennett  
Sent from my iPad

On Mar 24, 2018, at 4:07 PM, "[emeasterly@comcast.net](mailto:emeasterly@comcast.net)" <[emeasterly@comcast.net](mailto:emeasterly@comcast.net)> wrote:

Your Name E.M. Easterly Your Email [emeasterly@comcast.net](mailto:emeasterly@comcast.net) Street 775 Fir Gardens Street NW N/A City Salem State OR Zip 97304 Message Please submit the attached testimony regarding the reimbursement district being reviewed by Council. This email was generated by the dynamic web forms contact us form ...

<Lone Oak Reimbursement District testimony.doc>

## Amy Johnson

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**From:** Lisa Anderson-Ogilvie  
**Sent:** Monday, March 26, 2018 1:49 PM  
**To:** E Easterly; Chuck Bennett  
**Cc:** citycouncil  
**Subject:** RE: Contact City Council - Lone Oak Reimbursement District testimony  
**Attachments:** SUB15-04 Land Use Decision.pdf  
  
**Categories:** Follow-up

E.M.,

The Mayor is referring to the approved subdivision for this lot which has a condition of approval requiring them to pay \$9,212 per lot at the time of building permit. (See condition 7 of the attached decision). This is the same fee that is proposed for the rest of the 'Creekside' lots in the reimbursement district. They are required to pay this fee with or without the reimbursement district, as their share of the Lone Oak improvement.

Lisa | 503-540-2381

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**From:** E Easterly [mailto:emeasterly@comcast.net]  
**Sent:** Sunday, March 25, 2018 10:22 AM  
**To:** Chuck Bennett <CBennett@cityofsalem.net>  
**Cc:** citycouncil <citycouncil@cityofsalem.net>  
**Subject:** Re: Contact City Council - Lone Oak Reimbursement District testimony

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E.M.

**Re: Contact City Council**

[Chuck Bennett](#)

3/24/2018 8:03 PM

To [emeasterly@comcast.net](mailto:emeasterly@comcast.net) Copy [citycouncil](#)

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- 

I believe your information is incorrect. My understanding is that this property has already paid the proposed fee.

Chuck Bennett  
Sent from my iPad

On Mar 24, 2018, at 4:07 PM, "[emeasterly@comcast.net](mailto:emeasterly@comcast.net)" <[emeasterly@comcast.net](mailto:emeasterly@comcast.net)> wrote:

Your Name E.M. Easterly Your Email [emeasterly@comcast.net](mailto:emeasterly@comcast.net) Street 775 Fir Gardens Street NW N/A City Salem State OR Zip 97304 Message Please submit the attached testimony regarding the reimbursement district being reviewed by Council. This email was generated by the dynamic web forms contact us form ...

<Lone Oak Reimbursement District testimony.doc>



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St. SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

April 7, 2017

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

**NOTICE OF FINAL LAND USE DECISION      Appeal of Subdivision Case No. SUB15-04 (formerly PUD-SUB03-01A3) for Property located at 659 Sahalee Dr SE**

YOU ARE HEREBY NOTIFIED that the Salem Planning Commission, at their April 4, 2017 meeting, adopted findings affirming the Planning Administrator's decision. A copy of the Order is attached.

Any person with standing may appeal the City Council's decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, **not later than 21 days after April 7, 2017**. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR 97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-6173.

Lisa Anderson-Ogilvie, AICP  
Interim Community Development Director

Attachment: Order No. SUB15-04



**BEFORE THE PLANNING COMMISSION OF THE CITY OF SALEM**

<b>IN THE MATTER OF APPROVING</b>	<b>) ORDER NO. SUB15-04</b>
<b>THE APPLICATION FOR A</b>	<b>)</b>
<b>TENTATIVE SUBDIVISION PLAN,</b>	<b>)</b>
<b>CASE NO. SUB15-04 FOR</b>	<b>) SUBDIVISION CASE NO. 15-04</b>
<b>PROPERTY LOCATED AT 659</b>	<b>)</b>
<b>SAHALEE DRIVE SE</b>	<b>)</b>

This matter having come regularly for hearing before the Planning Commission at its April 4, 2017 meeting, and the Planning Commission, having received evidence and heard testimony, makes the following findings and adopts the following order affirming the decision of the Planning Administrator and approving the application for a Tentative Subdivision Plan in Case No. SUB15-04.

**(I) PROCEDURAL FINDINGS:**

- (a) On June 19, 2015, Mark Grenz, on behalf of applicant Lawrence E. Tokarski Revocable Living Trust, filed a PUD modification and subdivision application to divide approximately 2.83 acres of land within PUD03-01 located at 659 Sahalee Drive SE. The applicant submitted additional requested information and staff subsequently deemed the application complete for processing on August 17, 2015.
- (b) On October 20, 2015, the Planning Administrator issued a decision approving the application for PUD Modification with Subdivision (Case No. PUD-SUB03-01A3), subject to nine conditions of approval.
- (c) On October 26, 2015, the applicant filed a timely appeal of the decision. The applicant's appeal objected to certain conditions of approval, in particular Condition 3, which related to construction of Lone Oak Road SE and a bridge over Jory Creek. PUD 03-1 includes a condition of approval (Condition 4.d) requiring Lone Oak Road SE to be constructed through the PUD to provide circulation of traffic in, through, and out of each phase of the development. The improvements described in Condition 4.d of PUD03-01 had not been completed in full.
- (d) On November 17, 2015, a public hearing before the Planning Commission took place. At the applicant's request, the Planning Commission continued this hearing until February 9, 2016. On February 26, 2016, the Planning Commission issued a decision affirming the Planning Administrator's decision.
- (e) The applicant appealed the Planning Commission's decision to the Oregon Land Use Board of Appeals (LUBA). On August 1, 2016, LUBA remanded the case to the City to be reviewed solely as a tentative subdivision plan, without a modification to PUD03-01.



- (f) The applicant appealed LUBA's decision to the Oregon Court of Appeals, which affirmed the decision without opinion on December 20, 2016. LUBA in turn remanded the case back to the City on December 21, 2016.
- (g) On remand, the Planning Administrator reviewed the proposal as a tentative subdivision plan only, and issued a decision on February 24, 2017 approving the proposed tentative subdivision plan, subject to 7 conditions of approval.
- (h) On March 12, 2017, Creekside Homeowners Association filed a timely appeal of the remand decision.
- (i) On April 4, 2017, upon proper notice being provided by the City, the Salem Planning Commission conducted a hearing on appeal of the application, and received testimony and evidence regarding the application. At the conclusion of the hearing, the Planning Commission then conducted deliberations and voted on the application.
- (j) On April 4, 2017 the Planning Commission voted to affirm the Planning Administrator's decision to approve the application, subject to conditions of approval.
- (k) The Facts and Findings attached hereto as "Exhibit 1," are incorporated herein by this reference.

## **(II) SUBSTANTIVE FINDINGS:**

- (a) The applicable criteria for approval of a tentative subdivision plan are SRC 205.010(d).
- (b) The March 12, 2017 Notice of Appeal filed by Creekside Homeowners Association raises the following issues:
  - a. Lack of secondary access to emergency services;
  - b. Precedent for development of future subdivisions in vicinity; and
  - c. Topography of the surrounding area.
- (c) Testimony and evidence was received by the Planning Commission that the impact of the four proposed lots represent a relatively small proportionate share of overall traffic generated in the surrounding area, and that future development on surrounding properties would be subject to linking street requirements through existing conditions of approval and/or application of Urban Growth Management standards. The Planning Commission finds that the application, as proposed and conditioned, has addressed the issues raised by the appeal filing. Complete findings are included in Exhibit 1.



(d) The Planning Commission finds that the proposed size and arrangement of lots along a relatively steep hillside minimizes potential impacts related to the topography and vegetation of the site. Proposed lots within the subdivision meet applicable minimum standards for width, depth, size, street frontage. Sahalee Drive SE, a local street, provides safe and convenient access for future development as allowed in the RS (Single Family Residential) zone.

(e) The Planning Commission finds that the subdivision will comply with City infrastructure standards, subject to the following conditions:

**Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.

**Condition 2:** Construct sewer services to the property line of each lot.

**Condition 3:** Obtain water meter permits to serve each lot.

(f) The Planning Commission finds that the subdivision will comply with special development standards, including the City's landslide hazard ordinance, subject to the following condition:

**Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.

(g) The Planning Commission finds that the subdivision will not impede the future use or development of the property or adjacent land, subject to the following condition:

**Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

(h) The Planning Commission finds that the street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision, subject to the following conditions:

**Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road be equipped with an approved sprinkler system.

**Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.



The Planning Commission finds that the application, as conditioned, meets the applicable criteria for approval of a Tentative Subdivision Plan.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:**

**Section 1.** The Salem Planning Commission affirms the decision of the Planning Administrator, and approves Tentative Subdivision Plan Case No. SUB15-04, subject to the following conditions of approval:

- Condition 1:** Provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Construct any stormwater facilities that are not located within the lot being served by the facility.
- Condition 2:** Construct sewer services to the property line of each lot.
- Condition 3:** Obtain water meter permits to serve each lot.
- Condition 4:** Provide a final report from a qualified geotechnical engineer that addresses the geotechnical considerations for each individual building lot.
- Condition 5:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.
- Condition 6:** Any dwelling units constructed on Lots 1-4 prior to the provision of an approved secondary fire department access road shall be equipped with an approved sprinkler system.
- Condition 7:** Enter into a fee-in-lieu agreement toward Lone Oak Road improvements, pursuant to SRC 200.405, requiring that a fee-in-lieu payment of \$9,212.00 be made to the City prior to building permit issuance for each lot in the subdivision.

**Section 2.** This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

ADOPTED by the Salem Planning Commission this 4<sup>th</sup> day of April, 2017.

  
\_\_\_\_\_  
Sheronne Blasi, Vice-President  
Salem Planning Commission

## Amy Johnson

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**From:** E Easterly <emeasterly@comcast.net>  
**Sent:** Monday, March 26, 2018 2:12 PM  
**To:** Chuck Bennett; Lisa Anderson-Ogilvie  
**Cc:** citycouncil  
**Subject:** RE: Contact City Council - Lone Oak Reimbursement District testimony

Thank you, Lisa.

I was led astray by the staff report that included proposed district boundaries at pdf pages 139 & 140. I subsequently accessed subdivision 15-04 which contained the in lieu language and later the map on staff report pdf page 146.

My initial concerns have been answered.

E.M.

On March 26, 2018 at 1:48 PM Lisa Anderson-Ogilvie <LMAnderson@cityofsalem.net> wrote:

E.M.,

The Mayor is referring to the approved subdivision for this lot which has a condition of approval requiring them to pay \$9,212 per lot at the time of building permit. (See condition 7 of the attached decision). This is the same fee that is proposed for the rest of the 'Creekside' lots in the reimbursement district. They are required to pay this fee with or without the reimbursement district, as their share of the Lone Oak improvement.

Lisa | 503-540-2381

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**From:** E Easterly [mailto:emeasterly@comcast.net]  
**Sent:** Sunday, March 25, 2018 10:22 AM  
**To:** Chuck Bennett <CBennett@cityofsalem.net>  
**Cc:** citycouncil <citycouncil@cityofsalem.net>  
**Subject:** Re: Contact City Council - Lone Oak Reimbursement District testimony

**Thank you, Mayor Bennett, for responding to my submitted testimony.**

I would be pleased if your belief is correct.

I invite, you, your council colleagues, and staff to explain how a proposed, but unplatted 5 lot subdivision, which is not identified in the description of the proposed reimbursement district has paid "the proposed fee", that is, the proposed reimbursement district fee.

Please explain **when** the not-yet-adopted reimbursement fee was paid by the property owner/developer for the proposed five lots I identified in my original written testimony.

Other areas of the original phased Creekside development are included in and slated to pay the proposed reimbursement district fee; so why was this part of the Creekside development excluded from the proposed reimbursement district?

I further request that this email exchange be included as part of the council deliberations regarding the March 26th Lone Oak Reimbursement District Council agenda item.

E.M.

**Re: Contact City Council**

[Chuck Bennett](#)

3/24/2018 8:03 PM

To [emeasterly@comcast.net](mailto:emeasterly@comcast.net) Copy [citycouncil](#)

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I believe your information is incorrect. My understanding is that this property has already paid the proposed fee.

Chuck Bennett  
Sent from my iPad

On Mar 24, 2018, at 4:07 PM, "[emeasterly@comcast.net](mailto:emeasterly@comcast.net)" <[emeasterly@comcast.net](mailto:emeasterly@comcast.net)> wrote:

Your Name E.M. Easterly Your Email [emeasterly@comcast.net](mailto:emeasterly@comcast.net) Street 775 Fir Gardens Street NW N/A City Salem State OR Zip 97304 Message Please submit the attached testimony regarding the reimbursement district being reviewed by Council. This email was generated by the dynamic web forms contact us form ...

<Lone Oak Reimbursement District testimony.doc>



**Amy Johnson**

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**From:** Brian Hines <brianhines1@gmail.com>  
**Sent:** Friday, March 23, 2018 9:30 PM  
**To:** citycouncil  
**Cc:** CityRecorder  
**Subject:** Advance testimony for 3/26 City Council hearing

Members of the City Council and other City of Salem officials, I'm submitting a blog post that I wrote as advance testimony for the March 26 hearing on the reconsideration of a Lone Oak Road Reimbursement District.

Here's a link to the blog post for anyone who wants to be able to access the live links.

<http://hinessight.blogs.com/salempoliticalsnark/2018/03/city-staff-ignore-neighborhood-association-questions-about-creekside-development.html>

Brian Hines  
10371 Lake Drive SE  
Salem, OR 97306

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**City staff ignore neighborhood association questions about Creekside development**

Stonewalling. Obfuscating. Ignoring.

There's numerous ways to describe how City of Salem staff are failing to respond to questions from the South Gateway Neighborhood Association (SGNA) about why the Creekside developer hasn't been required to build an extension of Lone Oak Road, the cost of which would be borne by the public if a Lone Oak Road Reimbursement District gets a go-ahead from the City Council next Monday.

The neighborhood association is justifiably irritated at how they've been treated by City staff. Here's an excerpt from a letter submitted by SGNA as advance testimony for the March 26 hearing on the Reimbursement District.

[Download SGNA Testimony & Attachments - March 26 City Council Meeting](#)

I've circled in red the unanswered question that I'm most interested in.



- City staff met SGNA leadership to discuss the Reimbursement District. City staff requested SGNA's questions prior to the meeting, but failed to answer a number of questions regarding the Reimbursement District, including the total amount of public financing and the legal enforceability of certain Creekside Estates improvement agreements. Of specific note, City staff have been unwilling to answer SGNA leader questions whether the 350 building permit trigger in the 1992 improvement agreement requiring the construction of Lone Oak Road by the developer is legally binding; when the 351 building permit was issued; why the obligation under the 2006 improvement agreement that required the construction of Lone Oak Road over Jory Creek by the developer was not completed within three years yet building permits were issued; and how the City accounted for the liquidated damage provisions in the 2006 agreement.

When "public servants" willfully ignore questions that, if answered, likely would put them in a bad light, this strikes at the heart of the trust that should exist between government employees and the citizens whom they ostensibly serve.

Look, everybody makes mistakes. These can be forgiven when a mistake is honestly acknowledged, and sincere efforts are made to prevent the error from happening again.

But City of Salem staff are choosing a different approach: ignore tough questions about how the development of the Creekside neighborhood was handled in an apparent hope that throwing up a smokescreen of verbiage will make concerned citizens forget that their queries were ignored.

I hope the Mayor and other members of the City Council will keep asking the following two simple questions of City staff until they get believable answers.

What we know is that in 2007 [the Creekside developer](#) built a box culvert over Jory Creek and started construction of the northern extension of Lone Oak Road. There are photos of this work in a City of Salem staff report.

[Download CITY OF SALEM - File #: 17-341](#)

Here's an excerpt from the report.

"In 2007, the Creekside developer initiated construction of the missing segment of Lone Oak Road. Construction plans were prepared by a private engineering consultant and permits were issued by the City. A box culvert was installed over Jory Creek and some preliminary earth grading along the alignment of Lone Oak Road was completed. Work on the project was halted by the developer and no additional work has occurred since 2007. At present, there is no timetable for constructing the bridge and remaining sections of Lone Oak Road SE."

**Question 1: Why did the developer halt work on the Lone Oak Road improvements?** Permits to construct the missing segment of Lone Oak Road were issued by the City of Salem. So there wasn't any disagreement about the work to be done, given the permits. The work just was stopped by the developer.

**Question 2: Why did City officials allow the developer to walk away from completing the Lone Oak Road improvements?** Again, the Creekside developer obviously believed they were required to build a bridge and road, or the 2007 work wouldn't have been started. There should be some documentation of an agreement to allow the developer to stop work on the Lone Oak Road improvements, unless the agreement was verbal, which would be bothersome. Yet City staff haven't been able or willing to provide those documents.

Bottom line: there seems to be some sort of cover-up regarding the Creekside developer's failure to complete the Lone Oak Road improvements that were started in 2007. I'm usually loathe to use that word, cover-up, but it seems fitting in this case.

The spin being put forward by City of Salem staff just doesn't hold up under scrutiny. [The staff report](#) for the reconsideration of a Lone Oak Road Reimbursement District on the March 26 City Council meeting agenda is in a question and answer format, with the questions having been posed by the South Gateway Neighborhood Association. One Q & A says:

"Q5: Why did the estimated cost of the bridge crossing Jory Creek increase so greatly?

A5: The difference of estimated cost is based on a difference of opinion between City staff and the developer's engineer as to what will be required by the state and federal permitting agencies for the crossing of Jory Creek. The developer's engineer proposed a long culvert with deep fills, which is less expensive but has greater environmental impact. City staff proposes a bridge structure, which is more expensive but has a lower environmental impact."

But this answer doesn't make sense, since as noted above, permits were issued by the City of Salem for the bridge and road work initiated by the Creekside developer in 2007. So at that time there wasn't any "difference of opinion" between City staff and the developer's engineer, since City staff approved the developer's plan for the Lone Oak Road improvements.

And it's incorrect for City staff to say in the answer to Question 5 that the developer's engineer "proposed" a long culvert with deep fills, because this is what was *actually built* by the developer after getting permits from the City of Salem. Here's the proof:



Box culvert over Jory Creek at southern terminus of Lone Oak Road, near Muirfield Avenue

I realize that Salem's city councilors are unpaid and don't have staff of their own, which makes them dependent on City of Salem employees. However, they still can ask tough questions of City staff and not put up with refusals to answer cogent questions.

If City staff can't answer the two questions I posed, which reflect questions asked by the South Gateway Neighborhood Association, there shouldn't be a vote on the Lone Oak Road Reimbursement District proposal.

Salem citizens shouldn't be asked to foot the bill for completing the unbuilt northern section of Lone Oak Road until it is clear why the Creekside developer was allowed to stop construction of the bridge and road after beginning this work in 2007. Again, the questions are:

**Why did the developer halt work on the Lone Oak Road improvements?  
Why did City officials allow the developer to walk away from completing the Lone Oak Road improvements?**

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Brian Hines

Salem, Oregon USA

[brianhines1@gmail.com](mailto:brianhines1@gmail.com)

<https://www.facebook.com/OregonBrian>

<https://www.facebook.com/StrangeUpSalem>

<https://www.facebook.com/SalemPoliticalSnark/>

<http://twitter.com/oregonbrian>

[www.hinesblog.com](http://www.hinesblog.com) (blog)

[www.churchofthechurchless.com](http://www.churchofthechurchless.com) (other blog)

[www.salempoliticalsnark.com](http://www.salempoliticalsnark.com) (other other blog)





## Amy Johnson

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**From:** Brian Hines <brianhines1@gmail.com>  
**Sent:** Sunday, March 25, 2018 5:12 PM  
**To:** citycouncil  
**Cc:** CityRecorder  
**Subject:** Advance testimony for March 26 City Council hearing

Dear Mayor Bennett, City Councilors, and City of Salem staff:

Here is some additional advance testimony I'm submitting for the March 26 reconsideration hearing on a Lone Oak Road Reimbursement District.

As you will read below, my basic point is that there is no need for the Reimbursement District, since the Creekside developer is responsible for the northern unbuilt section of Lone Oak Road, and the two developers who are constructing subdivisions to the south should be responsible for the southern unbuilt section of Lone Oak Road.

Regarding the north portion of Lone Oak Road, the staff report for the March 26 hearing states that the Creekside developer is required to construct this:

The Creekside developer is required to construct Lone Oak Road between Muirfield Avenue and Augusta Drive as a condition of the next sub-phase of Creekside's Phase 14 development. However, the timing of construction is at the developer's discretion, not the City's. Therefore, this condition to construct Lone Oak Road is also being imposed on other developments in the area since the street is needed to serve these other properties.

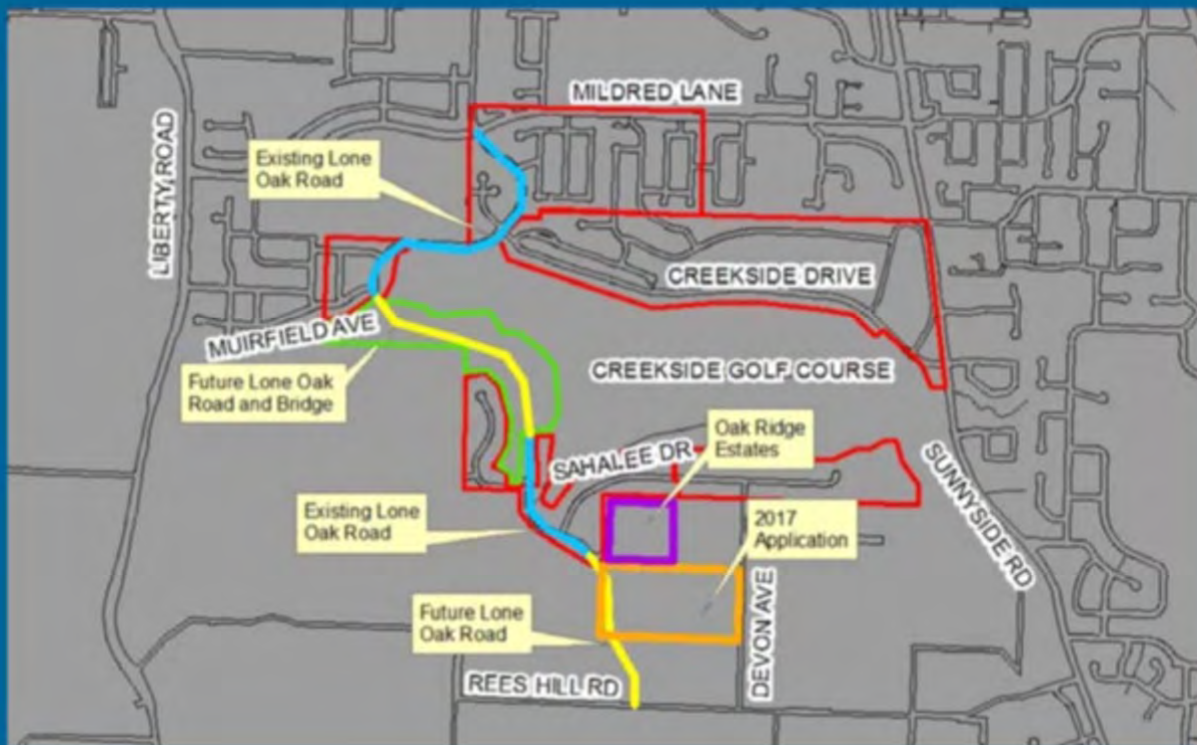
So it appears that either current requirements say that the Creekside developer can be made to pay for the northern section of Lone Oak Road, or building the road can be made a condition for developing a subdivision on the golf course property, should the Creekside developer be allowed to do this. Either way, the public doesn't have to pay the bill.

The unbuilt southern portion of Lone Oak Road is easier to figure out: the developers of the two subdivisions planned for this area should pay for it.

At the February 12 City Council meeting, Mark Shipman, an attorney representing the 10 acre, 38-lot subdivision just south of Sahalee Drive, Oak Ridge Estates, explained that his clients wanted the City of Salem to help them find a way to pay for the cost of building the south portion of Lone Oak Road. The reimbursement district was what came out of this.

However, there's no discernible reason why the developers of the two subdivisions south of Sahalee shouldn't be paying for the extension of Lone Oak Road south to Rees Hill Road. If the 20 acre development is built to the same density as the 10 acre development, 114 lots will be developed (38 + 76).

## 20-Acre proposed subdivision



This sure seems like enough lots to justify making the two developers pay for the southern extension of Lone Oak Road, since the map above shows the road going immediately adjacent to the 10-acre development and through the west side of the 20-acre development.

I've seen no explanation why a reimbursement district was justified to pay back the developer(s) for the cost of building the southern Lone Oak Road extension to Rees Hill Road. Seemingly it just was assumed that if a developer complains about the cost of constructing needed roads, the public should foot the bill instead.

Attorney Shipman said that his clients are ready to build the south portion of Lone Oak Road. Great. They should build it, and also pay for it on their own. Then they can be partially reimbursed by the developer of the 20 acre property outlined in orange above, whose subdivision application is more recent.

City officials have been bending over backwards to please developers who don't want to pay for roads needed to serve their developments. This needs to change. Our "public servants" should start living up to their name and begin putting the interests of the general public above the wants of developers.

Sincerely,

Brian Hines  
10371 Lake Drive SE

Salem, OR 97306

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Brian Hines

Salem, Oregon USA

[brianhines1@gmail.com](mailto:brianhines1@gmail.com)

<https://www.facebook.com/OregonBrian>

<https://www.facebook.com/StrangeUpSalem>

<https://www.facebook.com/SalemPoliticalSnark/>

<http://twitter.com/oregonbrian>

[www.hinesblog.com](http://www.hinesblog.com) (blog)

[www.churchofthechurchless.com](http://www.churchofthechurchless.com) (other blog)

[www.salempoliticalsnark.com](http://www.salempoliticalsnark.com) (other other blog)



2075 Madrona Ave. SE  
Suite 100  
Salem, Oregon 97302

T 503-399-1500  
F 503-399-0651

[HomeBuildersAssociation.org](http://HomeBuildersAssociation.org)

March 21, 2018

Mayor Chuck Bennett  
Salem City Council  
555 Liberty St SE  
Salem, OR 97301

RE: Public Hearing 18-32 – Lone Oak Reimbursement District

Dear Mayor Bennett and City Council members:

The Home Builders Association of Marion & Polk Counties is very supportive of the proposed Lone Oak Reimbursement District designed to fund road improvements on Lone Oak Rd between Rees Hill Rd and Jory Creek.

Like you, we wish the road improvements had been funded and constructed well before now. However, without the creation of this reimbursement district, a very significant amount of land between Rees Hill Rd and Creekside Golf Course is essentially undevelopable. This is because the area is generally comprised of smaller parcels of land that -- in and of themselves -- aren't big enough to fund the necessary road improvements. The creation of the reimbursement district allows Lone Oak to be funded by future development activity throughout the entire benefitted area. Given that it's impossible to go back in time and require a previous developer to build out Lone Oak, the reimbursement district appears to be the best and most equitable option remaining.

It's incumbent on the city that a viable funding solution be developed for this stretch of Lone Oak Rd. The land between Rees Hill and Creekside Golf Course is inside of Salem's Urban Growth Boundary and intended for future development. The inventory of new homes available for sale in the community is at an all-time low, and residential land development activity is not keeping up with housing demand. Preventing this land from being developed through a lack of needed road infrastructure will only contribute to our housing affordability problems, further limiting supply and putting upward pressure on prices throughout the community.

For these reasons, we urge you to support the creation of the Lone Oak Reimbursement District.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Erdmann'.

Mike Erdmann  
Chief Executive Officer

**Amy Johnson**

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**From:** Lora Meisner <lmgb@earthlink.net>  
**Sent:** Monday, March 26, 2018 11:43 AM  
**To:** Chuck Bennett; citycouncil  
**Subject:** re: Reimbursement District

In case I run over 3 minutes here is my testimony for tonight's meeting on the Reimbursement District—Lone Oak Road

**I urge a "no" vote on the City Manager's proposal.**

**I am addressing the City Manager's staff report questions and answers Numbers 3 and 6.**

**Question #3 states flat out that the Creekside developer is NOW required to construct Lone Oak Road over Jory Creek. So why are we even talking about a Reimbursement District to have future residents pay for what the developer is legally obligated to construct? Think about that before you vote.**

**Here is a direct quote from the staff report:**

**The Creekside developer is required to construct Lone Oak Road between Muirfield Avenue and Augusta Drive as a condition of the next sub-phase of Creekside's Phase 14 development. However, the timing of construction is at the developer's discretion, not the City's.**

**City Council has voted on this issue twice already and this is the first time the City Manager's staff have put in writing that the Creekside developer is required to construct Lone Oak Road. The newest report also mentions that the same obligation to build Lone Oak applies to other developers who want the City to approve subdivisions south of Jory Creek. The first developer who needs building permits is the one to build it and then other developers can share the costs by asking the City for a reimbursement district -- AFTER the bridge is**

**built. Why? Well let me quote from the Marion County Commissions' 1990 letter to the City of Salem with regard to improvement of Lone Oak Road south of the City:**

**it seems inappropriate to require the taxpayers of the county or the city to pay for improvements that obviously and directly benefit the developer.**

**The developer of Creekside and the other developers who want to build more homes south of Jory Creek need to pay to construct Lone Oak BEFORE even ONE more land use action or building permit is issued.**

**Question #6 addresses the escalating costs of the structure over Jory Creek.**

**Why did the City allow the developer to start and build the culvert over the creek when regulations prescribe for lower environmental impact of an actual bridge structure? The developer's engineers did not just "propose" a long culvert as noted in the staff report -- the developer actually built the culvert and then abandoned the culvert.**

**The developer and city staff are trying to stick future home owners and Salem's taxpayers with the bill to both demolish the culvert and build a full-fledged bridge that spans the deep Jory Creek canyon. Do you really want to vote for the Manager's funding plan again and stick the taxpayers with the bill? Since when are developers allowed to renege on their obligations and make taxpayers foot their bill?**

**Please Vote NO**

**Thank you.**

-----  
Lora Meisner  
1347 Spyglass Court SE  
Salem, OR 97306

March 19, 2018

RECEIVED  
MAR 22 2018  
CITY OF SALEM  
PUBLIC WORKS

Public Works Development Services Section  
555 Liberty Street SE  
Room 325  
Salem, OR 97301

RE: Lone Oak Road Reimbursement District, Hearing Date of March 26, 2018 (Our written comment)

Dear Mayor, Council, interested parties:

We are owners now defined to be in the new Lone Oak Road Reimbursement District. We submitted written comment and personal appearance at the January 22, 2018 Public Hearing.

We urge the Council to totally **reject** the formation of this new Lone Oak Road Reimbursement District. We simply believe it is reasonable to expect orderly development can be achieved in this "District" or area without the formation of this Lone Oak Road Reimbursement District.

We agree with points made in the letter from Glenn Baly dated February 8, 2018 representing the South Gateway Neighborhood Association: That the Lone Oak Reimbursement District is flawed.

We believe more items of fact were needed. And some research for alternatives, to properly develop a bit of equity and fairness on this matter. The city council, we believe, might have voted different with a more complete airing of the issues. Perhaps a modification or rejection. Its not a simple matter.

We hope the council will truly reconsider. The Council has shown its open to additional facts by voting for this reconsideration. We do say **thank you** to the City Council and Mayor for their service. We have come to appreciate what heavy schedules and work they perform.

We are owners with two properties in the East Area. We have a house on each property needing additions. We have 3 outbuildings needing work. We are not City residents. We cannot vote for City candidates or other issues. We believe we can't vote if a vote were held regarding annexation of our property into the City. We are residents of the County inside the UGB. We have lived under very strict zoning for decades because we are of the UGB. For example, if one was lucky & got approval for a new house, the placement of the house must allow for future city streets! We're required to standby for development.

Now, after all those decades on standby: Here come the Reimbursement Districts!

It sounds funny, but, we may need to get a reimbursement district to pay for all the reimbursement districts our property will be assigned (may have by the time we choose to sell to a developer).

For any given property, could a limit be placed on the number of reimbursement districts?

We believe they lower our real market value! Like taxes. And our taxes will rise as the last parcels in our part of the UGB move into the City Limits.

Reimbursement districts effect the value that we could sell our property, for, say, in 2030. It seems a professional appraisal would show (via the Cost Method) that if owner simply sells their property to speculators or developers, offers will be less for our property. They would need to adjust for more cost like they do for higher than normal SDC's; Developers will simply adjust for these added reimbursement fees and buy our properties for less. They will use reimbursement fees to justify lower offers. We believe reimbursement districts are a threat to our highest and best use real market value when marketed as a developable property (with potentially many lots or apartments sites).



Marion County did not comment on Jan 22 as far as we know. We think they did comment on the original approved Berndt 2008 application. That being back in 2008; The County noted Rees Hill, where city traffic is dumped, the road was being damaged. We believe that comment still is true today. We continue to urge both entities, City and County, to invest in bringing Rees Hill road to a quality level. The Director seems to have a good working relationship with the County. That helps, we think!

At the Jan 22 hearing, the facts presented turned out not too simple: The history of the "bridge" and who should have paid for it. It was before the current staff's time. They tried to reconstruct history. The new adopted reimbursement district will help pay for it? No, not really. City Director said that even with the new reimbursement district, **a bond would be needed**. And the City Attorney advised a bit at the Jan 22 meeting on the golf course's legal challenge. And the bond amount will have to evolve? Depends maybe on the golf course. But really it doesn't? But let's include it anyway? But still the **estimated cost of it all** was used to calculate our reimbursement district fees! Both number of lots and estimated costs had issues unresolved (see video or other of public hearing). Both number of lots and costs figures are very uncertain. That's due to these complicated circumstances. That seemed evident to everyone in the room!

The estimates used to create the Lone Oak Reimbursement District are not reliable estimates.

Cost divided by lots = reimbursement fee. Neither of these components appear to have reliable estimates to proceed to a sturdy creation of a Lone Oak Reimbursement District.

Creating the reimbursement district for water was successful. Some speculation surely was involved in creating that one. But this Lone Oak Reimbursement District involves building city roads, a very costly bridge and dismantling a partially constructed bridge, as well as a golf course appeal, wetlands in the golf course, and judging who will benefit from using the new city road, and a future Bond to voters to cover for its short comings; possible realignment of roads; this is not a comparable to a simple pipe water district. We believe the Lone Oak Road Reimbursement District as currently defined is a much more speculative endeavor.

During the City Council and Mayor deliberations Jan 22, 2018, with the Director, they seemed to question what they would do, it seemed to hang in the balance; there seemed genuine interest in modifying the area or at least removing the East portion. At least two East owners had objected to be included because of the logic used to create the East area. We are in the East area. We agree with them and their statements at appearance testimony on Jan 22.

More on the East area: The parcels north of ours access their property via Sunnyside Road and probably represent 25% of the entire East area of the Lone Oak Reimbursement District. See East area (1.79 ac and 13.46 ac lots or 83W22DA00700 and 800). We did not think of that for the Jan 22 meeting. We urge those parcels be removed and/or the entire East area excised. If not, how about enlarging it; include two vacant lots. (See 6919 Osprey Ct SE and 6929 Osprey Ct SE) Are they a qualified "pimple"? Could be included with similar judgement & logic? And South, to the undeveloped parcel in the UGB next to the Osprey Ct subdivision; Then, North of that parcel, across Sunnyside Rd, to Sabre Ridge with numerous vacant lots. This is all contiguous. And maybe large dividable but currently exempt (churches) properties across Sunnyside on east side, if they sold out and were developed.

The Mayor had asked for a clear airing of what had happened on the bridge and all. That didn't seem to be achieved at that Jan 22 public meeting. New facts seem to be coming available since that meeting! And some sorry ones.

A legal appeal by Creekside's home owner association is evidently pending. The developer has approval to convert a golf course to city lots but it's being appealed. Hundreds of thousands of dollars in legal

fees appear to hang in the balance for both sides. We think we heard the Creekside HOA board members are being singled out by the golf course owners. We feel sorry if that is the case.

We favor of waiting for the outcome of the appeal on golf course, as Southgate Neighborhood recommends. Makes sense. Might clear stuff out. If the Council finds modification is in order, exclude the east district or enlarge it. More interesting facts or rebuttal comments from others, non-applicants, wanting consideration of their situation could prove important. The Director indicated that another adjacent property to Berndt has been presented to his office. We think that means another application to develop may soon follow. Perhaps regular rate of progress on the South link could occur without the bridge. We favor a wait for bond to win the vote to pay for the bridge. Development could go on without sourcing bridge funds now. And it seems to be planned that way in any event. We hope we are not viewed as easy down payment on problems not of our making.

Below are additional areas of concern we do have on the Lone Oak Road Reimbursement District adoption:

1. Interest Rate & Construction Index: Interest rate on reimbursement fees collect within the Reimbursement District will occur per a construction index. After 20 years, the fees may grow with the index rising thru 2038. Was noted in Staff Report as item 7, properties are subject to? We missed that until recently and perhaps other parties are unaware. Administration of costs are a burden and cost in themselves as well, and a legacy of "bureaucracy" for the future. The City will have an Office of Reimbursement District Administration? Under Engineering? One percent administrative cost too, a cost that grows!
2. In the future, the entire area will be annexed to the City at some point. Tax rates will climb significantly for our area. The City Director indicated a bond will be needed in any event, mostly **due to the bridge**. Bonds increase taxes and the real market value is likely affected negatively again. Many in our reimbursement district will likely pay for the bridge that way too, again, via City Bond and its tax. Kind of a double taxation?
3. The Staff Report for Jan22 under Facts and Findings states that "The Improvements have not been constructed..." and within the RESOLUTION 2018-08 included with the Notice of Adoption states "Whereas, the application for a reimbursement district was submitted prior to the start of construction"; But construction was started. Those statements appear not accurate. The costliest item in the estimates by far, **the bridge**, appears to have been started. Also, the North link approx. 2,000 linear feet appears grubbed out looks like preliminary grading accomplished. It could have been "roaded" enough to aid in the bridge construction that has been done. Start of construction has been started ahead of adoption. Recent March 8 Southgate meeting, the City indicated cost of the bridge (\$5.6 million) includes demolition of the **existing first try bridge structure** (started some years ago). Do second opinions and audits occur? What kind of work and effort is done to check the cost estimates? We assume this is all o.k. but just wonder. Should we call a good logger to build a bridge with whole Douglas Fir logs? Works for loaded logging trucks.
4. In Jan 22 Staff Report, Page 6 Public Interest states "No other funding sources are available for the construction of these facilities." Must mean currently or what? Just went thru a long hard recession. **Surely, additional opportunities for funding sources will arise in the future and by using other funding methods.**
5. See Sec. 200.355 – Obligation to pay reimbursement fee. With a building permit for any building; permit for any additions, modifications, repairs or alterations of a building which exceed 25 per cent of value of the building per Assessor Office. Sounds like significant bureaucracy and its costs. And any new building Sec 200.355 (a)(1) fees will apply.
6. See Sec 200.370 – Hardship: Golf course could have wetlands....persons may apply for a reduction in the reimbursement fee by filing an application with the Director...The developer of the golf course

converts to lots will get to apply for a reduction in reimbursement fees due to unforeseen hardships! How big if any wetlands exist. Are there unforeseen hazards near and around the old rock pit? Geologic hazards there? Wetlands were identified there years ago, we think.

On Jan 22, participation for owners in the defined area was only as one time commenters. The public hearing seemed to be a "modified" public hearing custom made via Sec 200.320, and probably sufficient for simpler cases. No chance for us or other owners or parties to rebuttal was given at the last meeting, Jan 22, once a personal appearance was done and a written comment delivered. We are grateful for this second opportunity.

We understand that by looking at the totality of the circumstances, there is to be expected different views and what is in the public interest.

With the golf course, the unusual bridge cost, and absence of accountability of who abandoned it and why? That seems significant facts enough to be resolved before moving to form a reimbursement district that brings in owners never involved!

Judgement to use one tool in 2008 has been vacated. Are we covering mistakes and laying them on to people never involved in the first place? We hope not. That's simply unfair.

We in the UGB appear to be the path of least resistance in this complicated situation. Is that fair and equitable? We think not. Will the golf course appeal win? Who knows? But keep us out of it.

We are excited by recent creative ideas to **realign Lone Oak**. Reasonable options seem to be appearing. This would be great to reduce those bridge costs with alternate sites. That is in the public interest.

We like The Creekside Golf course nearby. We think it adds to the entire neighborhoods real market value. It's enjoyed by thousands of people. Like to just to walk near it is a pleasure and seems to fit perfectly in the area for decades to come. We respect its exclusiveness if it aids its existence.

We urge the City Council to reject the Lone Oak Reimbursement District on March 26, 2018.

Separately, we urge the City Council to find a way to accommodate the Berndt development without use of a reimbursement district. But we hope they receive approval via an equitable, fair, workable, practical and rewarding option for owners stuck inside a UGB.

Thank you for the opportunity to submit a written comment.

Steve and Debbie Quady

083W22DA01100

Enclosure: Copy of "Notice of Adoption – Lone Oak Road Reimbursement District" for Steve Quady

**Request: Please post Enclosure with this, our comment.**



**Public Works Department**

555 Liberty Street SE / Room 325 • Salem OR 97301-3513 • Phone 503-588-6211 • Fax 503-588-6025

January 24, 2018

Steve Quady  
1137 Newport Drive SE  
Salem OR 97306

**SUBJECT: Notice of Adoption - Lone Oak Road Reimbursement District**

Dear Property Owner:

As required in *Salem Revised Code* 200.330, the City is notifying property owners affected by the formation of the Lone Oak Road Reimbursement District. On January 22, 2018, City Council adopted a resolution to form the Lone Oak Road Reimbursement District. According to Marion County records, you are the owner of property included in the East Area of the District.

The reimbursement district application was submitted by Alice and Garrett Berndt, the owners of property at 6617 Devon Avenue SE, to provide a fair and proportional reimbursement for street improvements to the remaining portions of Lone Oak Road SE between Muirfield Avenue SE and Rees Hill Road SE that benefit neighboring properties. Prior to adopting the resolution, the Public Works Director evaluated the application, City staff notified affected property owners by mail, and City Council conducted a public hearing.

The reimbursement district fee for this property is currently \$2,464 per single-family lot, which the property owner is required to pay upon development of the owner's property, as defined in *Salem Revised Code* 200.355. The fee will be adjusted for inflation annually, and is not eligible for system development charge credits. If no development occurs on the property, then no fee is due, nor will a lien or assessment be placed on the property.

If you have any questions, please feel free to contact me at 503-588-6211. Thank you for your consideration.

Sincerely,

Glenn J. Davis, PE, CFM  
Chief Development Engineer

C:\M\VR\F:\Common\PAC\Agreements-Licenses\ReimbursementDistricts\LoneOakRd\NoticeOfDecision\Notice of Adoption of Resolution for Lone Oak.doc

**Enclosures:**

1. Resolution2018-08
2. Exhibit 2

cc: File

**Transportation and Utility  
Operations**

1410 20<sup>th</sup> Street SE / Building 2  
Salem OR 97302-1209  
Phone 503-588-6063  
Fax 503-588-6480

**Parks Operations**

1460 20<sup>th</sup> Street SE / Building 14  
Salem OR 97302-1209  
Phone 503-588-6336  
Fax 503-588-6305

**Willow Lake Water Pollution  
Control Facility**

5915 Windsor Island Road N  
Keizer OR 97303-6179  
Phone 503-588-6380  
Fax 503-588-6387

## **RESOLUTION 2018-08**

### **A RESOLUTION FORMING THE LONE OAK ROAD REIMBURSEMENT DISTRICT AND MAKING PROVISION THEREFOR**

**Whereas**, reimbursement districts under SRC 200.310-200.385 may be formed if a public improvement required to be constructed as a condition of development approval benefits property other than property being developed; and

**Whereas**, reimbursement districts may be used to provide a fair and proportional reimbursement to the developer for the cost of improvements that will be used to serve such benefitted properties; and

**Whereas**, on June 13, 2007, the Planning Administrator's conditional approval of the Preliminary Declaration for Urban Growth Area Development Permit No. 07-5 required Alice and Garrett Berndt ("Developer") to construct street improvements along Lone Oak Road between Muirfield Avenue and Rees Hill Road ("Lone Oak Improvements"); and

**Whereas**, on September 15, 2008, the Planning Administrator's conditional approval of Subdivision 08-4 ("Oak Ridge Estates") required the Developer to construct the Lone Oak Improvements; and

**Whereas**, on August 11, 2017, the Developer submitted an application to form a reimbursement district for construction of the Lone Oak Improvements (Exhibit 1), which the Public Works Director has estimated to cost a total of \$9,300,000; and

**Whereas**, the application for a reimbursement district was submitted prior to the start of construction; and

**Whereas**, Lone Oak Road is designated as a collector street in the Salem Transportation System Plan, and the Lone Oak Improvements benefit neighboring properties because of improved street connectivity and accessibility; and

**Whereas**, under SRC 41.100(h), the Lone Oak Improvements are qualified public improvements eligible for \$1,953,000 in Systems Development Charge credits based on an eligibility ratio of 21 percent from the Transportation Systems Development Charge Eligible Projects List; and

**Whereas**, the Developer has requested the formation of a reimbursement district to collect \$7,347,000 of unreimbursed costs through reimbursement fees; and

**Whereas**, the Public Works Director has evaluated whether the proposed reimbursement district should be formed and prepared a report ("Director's Report") recommending a reimbursement fee methodology, which is submitted with this resolution as the staff report and incorporated herein by reference; and

**Whereas**, not less than ten days prior to the hearing, Developer and all persons owning property within the proposed district were notified by first class mail of the public hearing and the purpose thereof; and

Whereas, the public hearing was held on January 22, 2018, at which time any person was given the opportunity to comment on the formation of the proposed reimbursement district; "Exhibit 3" is a list of tax lots affected by the reimbursement district which is attached hereto and incorporated herein by reference. and

Whereas, the City Council hereby approves the district based on the Director's Report;

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

**Section 1. Reimbursement District Formed.** To provide reimbursement for the Lone Oak Improvements, the Lone Oak Road Reimbursement District (Reimbursement District) is hereby formed with subareas titled Creekside, West, Central, and East, the boundaries of which are shown on "Exhibit 2," which is attached hereto and incorporated herein by reference.

**Section 2. Reimbursement Fee Methodology.** The reimbursement fee per single family dwelling lot assigned to each subarea are as follows: Creekside - \$9,212; West - \$9,854; Central - \$4,927; East - \$2,464. The Director's Report describes that these reimbursement fee amounts are a reasonable and fair apportionment of the Lone Oak Improvements and anticipates that the reimbursement fees will collect the \$7,347,000 in unreimbursed costs within the twenty-year time frame of the district. Other forms of development other than single family dwellings will be based on the reimbursement fee described above divided by 9.57 average daily trips per single family dwelling multiplied by the average daily trips of the development being proposed.

**Section 3. Interest Rate.** Interest on reimbursement fees collected within the Reimbursement District shall be based on Engineering News Record, three West Coast City average of construction cost index per annum, simple interest.

**Section 4. Administration Cost.** The reasonable costs to adequately reimburse the City for administration of the Reimbursement District are one (1) percent of the total reimbursement fee. One (1) percent of each reimbursement fee payment shall be collected by the City for an administration fee. The remaining balance of the district fee (ninety-nine (99) percent of what is collected) will be reimbursed to the Developer.

**Section 5. Payment of Reimbursement Fee.** Payment of the reimbursement fee, as designated for all real property located in the Reimbursement District, is a precondition of receiving any City permits applicable to development on such real property. The reimbursement fee is not eligible for reimbursement from Systems Development Charges.

**Section 6. Eligibility for Reimbursement of Construction Costs.** The Developer or any third party that constructs a portion of the Lone Oak Improvements shall be eligible for reimbursement from Reimbursement Fees collected within the reimbursement district.

**Section 7. Recording the Resolution.** The City Recorder shall record this resolution with the Clerk of Marion County.

**Section 8. Appeal of Formation of Reimbursement District.** No legal action intended to contest the formation of the Reimbursement District or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after sixty (60) days following the

adoption of this resolution. Any challenge or appeal to the formation of the Reimbursement District shall be solely by writ of review pursuant to ORS 34.010-ORS 34.102, and not otherwise.

**Section 9. Reimbursement Fee Not a Tax or Lien.** Formation of the Reimbursement District shall not result in an assessment upon or lien against real property and reimbursement fees collected by the City on behalf of a Developer are not taxes subject to the property tax limitations of Article XI, section 11(B) of the Oregon Constitution.

**Section 10. Effective Date.** This Resolution is effective upon adoption, and the date of formation of the Reimbursement District shall be the effective date of this Resolution.

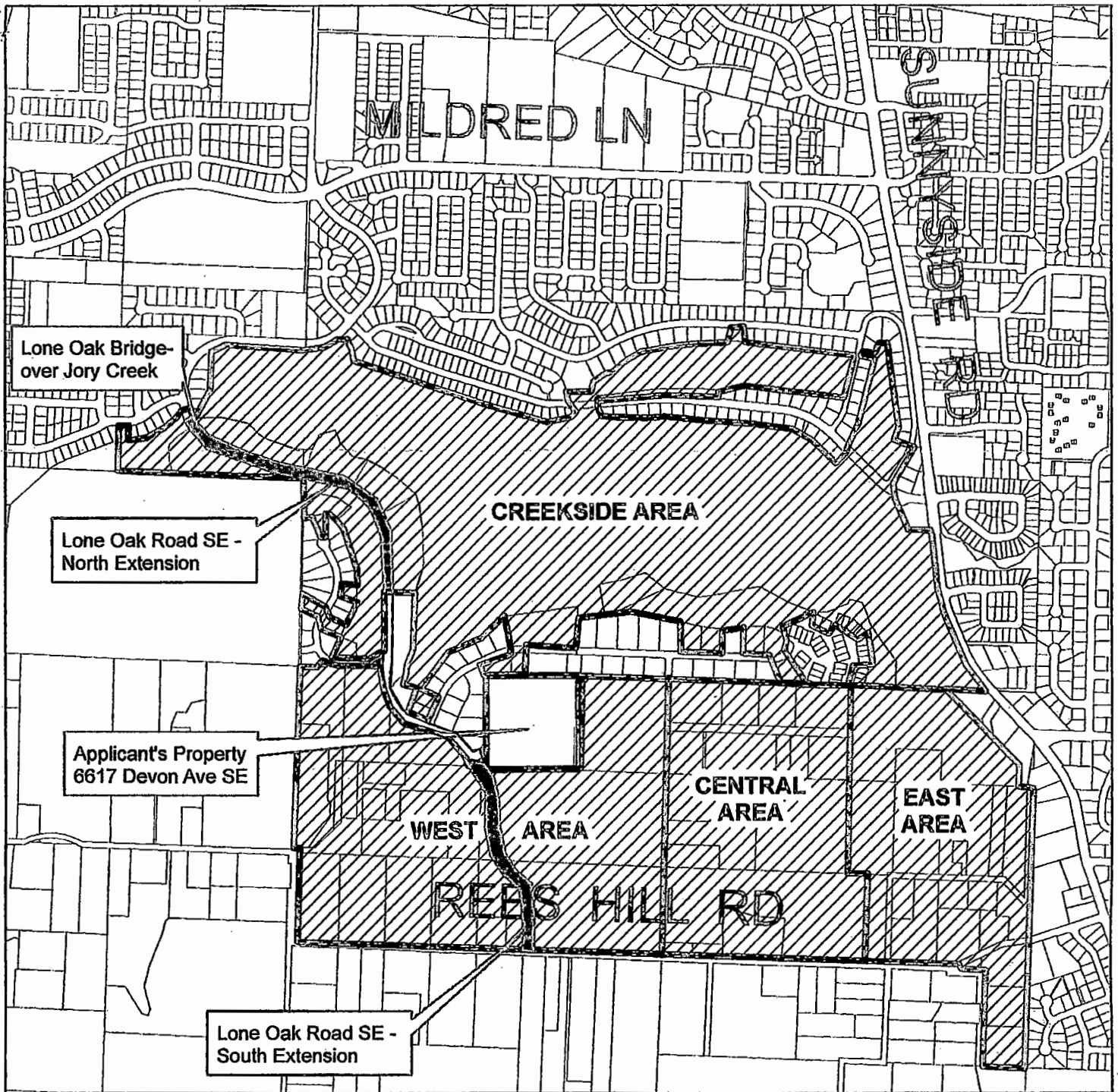
ADOPTED by the City Council this 22<sup>nd</sup> day of January, 2018

ATTEST:

City Recorder

Approved by City Attorney:

Checked by:



6617 DEVON AVENUE SE



Reimbursement District Boundary

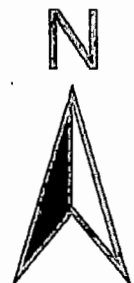
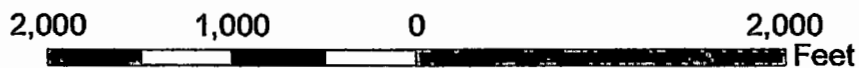


EXHIBIT 2





March 26, 2018

Mayor Chuck Bennett  
Salem City Council  
555 Liberty St SE RM 220  
Salem OR 97301

Dear Mayor and City Councilors,

Thank you for allowing us to fulfill our statutory duty to advise you on the Lone Oak Reimbursement District. The South Gateway Neighborhood Association (SGNA) discussed the Lone Oak Reimbursement District at the February 8, 2018 Board meeting and unanimously approved a motion requesting City Councilor McCoid and the Salem City Council to reconsider approval of the Lone Oak Reimbursement District and to not approve the district or related land use actions until the pending Creekside court case is decided.

Following the February 12, 2018 unanimous City Council decision to reconsider the decision, SGNA leadership further researched the Lone Oak Reimbursement District and met with City Planning staff to discuss our concerns regarding the District and the planning process. SGNA is still opposed to the Lone Oak Reimbursement District and maintains the following concerns:

#### **1. Citizen Involvement/Transparency**

- The City of Salem classified the Reimbursement District as a funding decision. Public Hearing testimony by staff identified limited public notification to property owners within the proposed district. Staff failed to notify other residents potentially affected by the decision and SGNA, which represents the area as per Salem's Citizen Involvement Program. SGNA disagrees with the use of City code classification as a funding item and not associated with Land Use Planning. This line of thought is contrary to Oregon State Land use Goals. Goal 1 specifies that "Citizen Involvement is required when addressing land use planning to community agencies involved in "implementation" of land use decisions.<sup>1</sup> The Reimbursement District decision is tied to the land use decisions in

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<sup>1</sup> Oregon Goal 1: D. TECHNICAL INFORMATION. Agencies that either evaluate or implement public projects or programs (such as, but not limited to, road, sewer, and water construction, transportation, subdivision studies, and zone changes) should provide assistance to the citizen involvement program.

Creekside Estates and property inside the UGB south. This is evident in a March 12 decision by the Salem Plan Administrator by his use of the "UNDECIDED REIMBURSEMENT DISTRICT" as a condition of approval for a UGA application. Citizen involvement in "...all phases of the [land use] planning process" is Goal #1 of the Oregon Land Use Law. SGNA feels that the City's limited notification is counter to this legal requirement.

- The Reimbursement District plan depends on land use actions partitioning the Creekside Golf Course into about 355 parcels that have not been completed. Since the District plan presupposes the outcome of a yet to be completed land use action, all property owners within 250 feet of the golf course must be notified before the Reimbursement District is considered by City Council. Property owners within 250 feet of the golf course have not been notified and so the March 26, 2018 public hearing should not be held.
- City staff met SGNA leadership to discuss the Reimbursement District. City staff requested SGNA's questions prior to the meeting, but failed to answer a number of the questions regarding the Reimbursement District, including the total amount of public financing and the legal enforceability of certain Creekside Estates improvement agreements. Of specific note, City staff have been unwilling to answer SGNA leadership questions whether the 350 building permit trigger in the 1992 improvement agreement requiring the construction of Lone Oak Road by the developer is legally binding; when the 351 building permit was issued; why the obligation under the 2006 improvement agreement that required the construction of Lone Oak Road over Jory Creek by the developer was not completed within three years yet building permits were issued; and how the City accounted for the liquidated damage provisions in the 2006 agreement.
- Contrary to the directions in Goal 1 that the Community Land Use Authority (City of Salem) to provide technical information to SGNA, the City required SGNA to obtain historical Creekside Estates improvement agreements through the public records request process and initially requested payment counter to City code. This served to create a delay in the availability of this information, thus reducing the time available to review the complicated, necessary information and formulate Citizen recommendations.

## **2. City Enforcement/Monitoring of Creekside Estates Development**

The Golf Club at Creekside Estates (Creekside Estates) is a 25 plus year development that was created by the City of Salem with conditions and improvement requirements, including the building of Lone Oak Road. The City subsequently allowed this development to be constructed in over a dozen phases with further subdivisions. Multiple agreements approving the development required the developer to construct Lone Oak Road over Jory Creek, including:

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Urban Growth Permit 90-9 and Planned Unit Development Permit 03-1. Related Improvement Agreements with triggers for construction of Lone Oak Road and liquidated damages were signed by the developer in 1992 and 2006.

Throughout this process the City not only failed to enforce the infrastructure requirements cited above, but entered into a Memorandum of Understanding in 2015 that partially shifted Jory Creek bridge building costs to Salem citizens through placement of funding in the Salem Capital Improvement Plan. In addition, the City's multi-phased approval was granted without corresponding development code language or effective monitoring/enforcement of overall infrastructure developments and led to homes built on Augusta Road and Sahalee Drive without fire suppression systems or safe access to emergency services.

### **3. Reimbursement District Proposal**

At the June 26, 2017 and January 22, 2018 City Council meetings, City staff recommended that the City Council approve the request from Alice and Garrett Berndt to recoup costs for building Lone Oak Road from Rees Hill Road up to the Augusta Road and a portion Murfield Road as part of UGA Permit 07-5. The remaining portion of Lone Oak Rd. to Murfield Road would be paid through a transportation bond financed through an increase in citizens' property taxes. SGNA has serious concerns regarding this option, including:

- The District which is based on fees imposed on undeveloped land, including the Creekside Golf Club, seems to provide "tacit" approval of land use actions dividing the property, which have not yet been granted by the City of Salem. The establishment of the District also presupposes the outcome of a major court case, which has not been rendered.
- The development of Creekside Golf Club and surrounding undeveloped land poses multiple Natural Hazard risks to proper stormwater management. Salem's recent code changes (Chapter 71 Salem Revised Code) help to address such risks, but these code provisions may not apply to the properties considered included in the proposed Reimbursement District<sup>2</sup>. Based on development to the west of Creekside (not covered by Salem's new code), recent observed storm water flows, increased flooding in the

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<sup>2</sup> Sec. 71.080. - Requirements for land divisions.

- (a) Except as provided in SRC 71.080(c), all land divisions shall be provided with stormwater facilities that are sized to serve the entire land division under fully developed conditions.
- (b) Construction of stormwater facilities that serve only one lot or parcel may be delayed until the time of building construction on that lot or parcel.
- (c) A lot or parcel created through an approved tentative plan submitted to the City prior to January 1, 2014 may comply with the requirements of this chapter or with the regulations in effect at the time of the tentative plan application.



Battle Creek Basin areas, downstream businesses and residents such as Turner and downtown Salem are at increased risk.

- The City cites a 2015 LUBA decision and a subsequent Memorandum of Understanding as the basis for the City's partial obligation to construct Lone Oak Road over Jory Creek. However, no indication is made regarding the legal viability of earlier improvement agreements regarding segments of Lone Oak Road or potential legal actions that could be taken to enforce the provisions of earlier agreements.
- The Reimbursement District relies on public financing through a transportation bond to construct a portion of Lone Oak Road between Augusta Road and Murfield Road requiring that all Salem owners pay higher property taxes.
- The use of the reimbursement district is establishing financing requirements on lands not in consideration for land use development puts the finance cart before the land use application horse. It raises the question about impartiality for the Council should a land use application for development be submitted within the proposed district after the district is established.

#### 4. SGNA Recommendations to City Council

- a) Decline the application to create the Lone Oak Reimbursement District to finance construction costs incurred by the Oak Ridge Estates developer for extending Lone Oak Road (from Augusta Road SE to Rees Hill Road and from Augusta Road to Murfield Avenue).
- b) Reevaluate all development south of Jory creek until legal options have been pursued to enforce existing Creekside Estates Improvement Agreements in 1992 and 2006 that require the building of Lone Oak Road between Murfield Avenue and August Road and a decision has been rendered in the Creekside Golf Club development court case
- c) Conduct an audit/comprehensive review of the City of Salem development/planning policies, programs and management to identify weaknesses and provide recommendations for improving the management, especially infrastructure requirements and phased development, including:
  - Comprehensive Plan and Development Code changes
  - Planning program policies and processes
  - Negotiation, monitoring and enforcement of agreements
  - Alignment with Oregon Land Use Laws and Principles and Salem Strategic Plan

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Baly", written in a cursive style.

Glenn Baly  
SGNA Chair



## LONE OAK ROAD IMPROVEMENT AGREEMENT

THIS AGREEMENT, made between the CITY OF SALEM, an Oregon municipal corporation ("City"); and HAWAII NORTHWEST VENTURES LIMITED PARTNERSHIP, ("Developer"),

### WITNESSETH:

WHEREAS, developer owns approximately 305 acres of property located in the 6200 block of Sunnyside Road, S.E., the 700 block of Mildred Lane, S.E., and 6200 block of Lone Oak Road, S.E. in Marion County, Oregon. Said property is hereinafter called the "Development"; and,

WHEREAS, on April 8, 1991, the City approved Urban Growth Area (UGA) Development Permit No. 90-9UG. This permit, attached as exhibit A and incorporated herein, details the major public facilities required of the Developer under the Urban Growth Management Program (Salem Revised Code Chapter 66); and,

WHEREAS, UGA Development Permit No. 90-9UG requires, among other things, the improvement of Lone Oak Road as a "linking street," from the development property line north to the Currently Developed Area line; and,

WHEREAS, subsequent to issuance of UGA Development Permit No. 90-9UG, Salem Revised Code Chapter 66 was modified to eliminate linking street requirements for certain properties that abutted the Currently Developed Area, and application of the revised code would relieve Developer of the obligation to improve portions of Lone Oak Road; and,

WHEREAS, improvement of Lone Oak Road was nevertheless made a condition of the annexation of that part of the Development outside the city limit line; and,

WHEREAS, Developer desires to construct the linking street portion of Lone Oak Road as set forth in UGA Permit 90-9UG;

NOW THEREFORE, in consideration of the covenants herein contained, the parties agree as follows:

For the consideration of one dollar paid by the City, receipt of which is hereby acknowledged, Developer agrees to improve Lone Oak Road from its intersection with Mildred Lane north to the Currently Developed Area line as shown on the City zoning map. Improvement shall be as provided in SRC 66.090 and 66.100 and shall consist of a 34 foot paved surface with no curbs or sidewalks, in a 60 foot wide right-of-way and constructed to City of Salem design standards.

Developer may defer construction of Lone Oak Road until a maximum of three hundred fifty (350) dwelling unit building permits are issued by the City for the Development. No further building permits, and no access to the existing right-of-way of Lone Oak



Road shall be allowed until the road is improved and accepted by the City.

This Agreement shall be recorded, shall run with the land and shall be binding upon Developer's transferees or successors.

IN WITNESS WHEREOF Developer has signed this Agreement and City has accepted the same through its duly authorized representatives as of the dates set forth below.

HAWAII NORTHWEST VENTURES LIMITED PARTNERSHIP

By:

Title:

Sam Hoon, Jr. GLOBAL PROPERTY INC  
Managing General Partner

STATE OF OREGON

County of Molai

ss.

Personally appeared before me on the 28<sup>th</sup> day of July, 1992, the above-named Sam Hoon, Jr. Global Property Inc, who, being sworn, stated that he/she he is the Managing General Partner of HAWAIIAN NORTHWEST VENTURES LIMITED PARTNERSHIP, and acknowledged the foregoing instrument to be his/her voluntary act.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 10/8/92

CITY OF SALEM

By:

Gary A. Eide  
City Manager

8/6/92

ATTEST:

[Signature]  
City Recorder

APPROVED AS TO FORM

[Signature]  
Assistant City Attorney



*Cop't to [Signature] Aug 1  
8-17-92*

MICROFILMED



## IMPROVEMENT AGREEMENT

Agreement between the City of Salem, Oregon, an Oregon municipal corporation ("City"), and Hawaii Northwest Ventures, an Oregon Limited Partnership ("Developer"):

### RECITALS:

1. Developer wishes to plat and develop Golf Club Estates at Creekside, the boundary of which is shown on Attachment "A" location map and described as follows:

Beginning at the Southwest Corner of Lot 481 Golf Club Estates at Creekside Phase 11, P.U.D. as recorded in the Marion County Book of Town Plats in Volume 45, Page 182; thence S22°08'06"W, along the west line of said subdivision, a distance of 60.38 feet to a point; thence Northwesterly, along the arc of a 330.00 feet radius curve right (the chord of which bears N25°14'58"W 395.03 feet), an arc distance of 423.50 feet to a point; thence N89°32'53"W a distance of 250.21 feet to a point; thence N89°40'11"W a distance of 330.03 feet to a point; thence N00°43'01"W a distance of 1323.01 feet to a point; thence N89°16'42"W a distance of 1330.54 feet to a point; thence N00°21'04"W a distance of 190.10 feet to a point at the southwest corner of Lot 472 Golf Club Estates at Creekside Phase 10, P.U.D. as recorded in the Marion County Book of Town Plats in Volume 45, Page 102; thence, along the southerly boundary of said subdivision, Northeasterly, along the arc of a 539.81 feet radius curve right (the chord of which bears N71°27'13"E 180.00 feet), an arc distance of 180.84 feet to a point; thence Northeasterly, along the arc of a 187.03 feet radius curve right (the chord of which bears N74°58'49"E 39.56 feet), an arc distance of 39.63 feet to a point; thence N68°54'36"E a distance of 12.87 feet to a point; thence N54°13'45"E a distance of 67.48 feet to a point; thence N58°33'31"E a distance of 60.58 feet to a point; thence N44°31'23"E a distance of 60.00 feet to a point; thence N53°26'18"E a distance of 66.29 feet to a point; thence N27°04'16"E a distance of 31.44 feet to a point; thence N76°08'38"E a distance of 60.00 feet to a point; thence N88°30'33"E a distance of 81.65 feet to a point at the southeast corner of Lot 465 of said Phase 10; thence leaving the southerly line of said subdivision, S25°28'29"W a distance of 79.46 feet to a point; thence N78°22'18"E a distance of 45.25 feet to a point; thence N87°20'37"E a distance of 138.78 feet to a point; thence S78°37'07"E a distance of 195.11 feet to a point; thence S49°07'37"E a distance of 114.75 feet to a point; thence S57°51'03"E a distance of 61.23 feet to a point; thence S74°07'38"E a distance of 83.13 feet to a point; thence S71°59'11"E a distance of 148.19 feet to a point; thence N84°18'54"E a distance of 108.74 feet to a point; thence N25°30'27"E a distance of 112.64 feet to a point; thence N72°11'01"E a distance of 116.16 feet to a point; thence S23°44'39"E a distance of 98.81 feet to a point; thence S42°16'39"E a distance of 124.82 feet to a point; S77°39'09"E a distance of 120.25 feet to a point; S65°40'23"E a distance of 93.55 feet to a point; S56°53'19"E a distance of 157.11 feet to a point; S50°37'57"E a distance of 170.85 feet to a point; thence S19°38'21"E a distance of 87.00 feet to a point; thence S08°23'02"E a distance of 191.71 feet to a point; thence S03°31'03"E a distance of 223.91 feet to a point; thence S15°17'09"W a distance of 153.96 feet to a point; thence S17°10'43"W a distance of 215.41 feet to a point; thence S00°17'02"E a distance of 140.27 feet to a point; thence S02°55'54"W a distance of 160.58 feet to a point; thence S04°00'03"W a distance of 190.39 feet to a point; thence S74°10'57"E a distance of 113.33 feet to a point at the Most Northerly corner of Lot 480 of said Phase 11;



thence S22°08'06"W, along the west line of said Phase 11, a distance of 183.39 feet to the point of beginning.

The above-described tract contains 38.71 acres of land located in the Northeast Quarter of Section 21, and the West Half of Section 22, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon.

2. The Planning Administrator issued Preliminary Declarations for Urban Grown Area (UGA) Development Permit Nos. 90-9, 92-4, 96-6, 99-1, and 00-3, which set forth certain Required Public Improvements, which must be constructed in order for development of the Property to occur.
3. The 16-inch water main in the proposed Lone Oak Road SE street extension is a Qualified Public Improvement as defined in SRC 41.100(h) because it is required as a condition of development approval under the UGA Preliminary Declarations; is identified in the Water System Master Plan; and is required to be built with greater capacity than the minimum to serve this particular development. In accordance with SRC 41.160, the oversize portion of the construction cost for this water main is eligible for repayment from the SDC improvement fees paid within this development.
4. On May 27, 2003, the Planning Administrator granted conditional approval to Planned Unit Development Plat File No. PUD 03-1, Golf Club Estates at Creekside.
5. Developer has not completed construction of the Required Public Improvements.
6. Developer is required pursuant to Salem Revised Code 77.090 to obtain permit(s) from the City for the improvements.
7. Developer is required pursuant to Salem Revised Code 63.052 to obtain Final Plat approval, by either constructing all Required Public Improvements, or by entering into an Improvement Agreement to provide for the construction therefor.

NOW THEREFORE, as consideration for final plat approval prior to the completion of construction of all Required Public Improvements required as a condition of development, Developer agrees to the following:

1. Developer shall cause Developer's engineer(s) to provide construction plans for the Required Public Improvements acceptable to the City.
2. Developer shall complete or cause to be completed the Required Public Improvements as detailed on the approved construction plans and according to the specifications and standards on file in the office of the City of Salem Public Works Director.
3. Developer shall cause Developer's engineer(s) to provide all surveying services necessary for the Required Public Improvements prior to and during construction and to prepare and furnish acceptable as-built drawings to the City when the Required Public Improvements are complete, all in conformance with City Standards.
4. Developer shall complete those Required Public Improvements in Golf Club Estates at Creekside within 18 months of the date of final plat approval. Upon written request of Developer, however, this Agreement may be extended for an additional period of time, not to exceed an additional 18 months, by mutual written agreement of Developer and City.



5. Should it be determined, during preparation of plans or during construction, that additional easements are necessary to construct any of the Required Public Improvements, Developer shall cause the City to be furnished said easements, at Developer's expense, within the time covered under this Agreement.
6. Pursuant to City of Salem Design Standards, the final lift of asphalt paving on internal streets within new subdivisions shall be constructed between July 1st and September 30th of the calendar year following that calendar year during which the initial street construction paving was completed, provided, however, that this final lift requirement shall not extend the time for completion as provided in paragraph 4.
7. Developer has provided the following performance guarantee to assure performance of these conditions:

It is agreed between City and Developer that no building permits for any structures within the development will be issued until all required improvements have been constructed, a maintenance bond is provided, and all conditions of approval have been met by Developer and accepted by the City.

It is further agreed that the final plat will not be approved until the Champion Hill reservoir water system is operational.

8. Developer shall submit a maintenance bond or other written evidence in a form approved by the City Attorney and Public Works Director guaranteeing the completed project construction for a period of one year after the date of final acceptance. The bond or other written evidence shall be valued at a minimum amount of 40 percent of the estimated construction cost.
9. Developer agrees to comply with all other conditions of development.
10. Upon **substantial completion**, as hereinafter defined, of the Required Public Improvements, Developer may deposit with the City either a Cashier Check or a Construction Performance surety bond in the amount \$5 per square yard of pavement in which the final lift is delayed in accordance with City Design Standards, plus a cash deposit equal to 200% of the City-approved estimated cost of incomplete work as security for the remaining required improvements. Upon receipt of this deposit and the acceptance of the security and maintenance bond, the City will allow building permits and water and sewer connections to be processed. Except for the delayed final lift of asphalt paving (if applicable), Developer shall complete all remaining items of work in accordance with the following table:

If Substantially Complete & Security Accepted In:	Complete All Remaining Items by:
January through March	July 31 (same year)
April through June	August 31 (same year)
July through August	October 31 (same year)
September through December	July 31 (following year)



Substantial completion, as used herein is defined as completion, testing, and acceptance of all water, sewer, and storm water systems and that these utilities are fully functioning; completion of all public improvements fronting existing houses within the subdivision and properties outside the subdivision; completion of all conditions of an Urban Growth Area Development Permit (if applicable); final paving of all required street improvements except as required to be delayed by City Design Standards; clean-up around adjacent properties; placement of street name signs; provision of a maintenance bond; City approval of preliminary as-built drawings showing the length, depth, and station of all service connections; satisfactory completion of any other items that would, in the opinion of the City Engineer, represent unacceptable safety or inconvenience to the public; and City approval of all required easements or warranty deeds.

Should any condition of this Agreement not be completed within the time frame specified, the City shall estimate the cost of completing the condition, call upon the performance guarantee for funds necessary to cover the cost, and complete the condition with funds collected under the performance guarantee. If the funds collected under the performance guarantee are insufficient to complete the condition, the City may either hold the collected funds until additional funds are authorized to complete the condition or expend the collected funds to complete revised condition or on a portion of the condition as determined reasonable by the Public Works Director.

11. In the event Developer includes more than one person or entity, all such persons or entities shall be jointly and severally liable for all conditions herein.
12. Developer's obligations as set forth herein shall be binding upon Developers and the Developer's heirs, successors, and assigns.

Hawaii Northwest Ventures, an Oregon  
Limited Partnership

By: L. Tokarski  
Larry Tokarski, President of Mountain West Investment  
Corporation, Managing Partner

STATE OF OREGON     )  
                                  ) ss.  
County of Marion     )

This instrument was acknowledged before me on October 18, 2006,  
by Larry Tokarski as President of Mountain West Investment Corporation, Managing Partner  
of Hawaii Northwest Ventures, an Oregon Limited Partnership.



Bonnie Washburn  
Notary Public—State of Oregon  
My commission expires: 1/28/09



CITY OF SALEM

Robert Wells  
Assistant City Manager

STATE OF OREGON )

County of Washington ) SS.

This instrument was acknowledged before me on November 1, 2006,  
by ~~Linda Norris~~ as ~~Assistant~~ City Manager of the City of Salem, Oregon.

Robert Wells



Margaret Blaine  
Notary Public—State of Oregon  
My commission expires: 9-27-08

DEPARTMENT APPROVAL:

T. H. Felling  
Public Works Director

## Amy Johnson

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**From:** Jerry Bennett <jbestg@outlook.com>  
**Sent:** Monday, March 26, 2018 3:16 PM  
**To:** citycouncil; Chuck Bennett; Steve McCoid  
**Subject:** Tonight's hearing on Reimbursement District . . .  
**Attachments:** City council testimony II March 26 jb.docx

For the official record for tonight's hearing, please find attached a copy of my summary inputs for the Council members' review. As shared earlier, our chairman, Glenn Baly, will not be able to attend tonight as he is required to be at a work-related meeting in the Bend area. But, his thoughtful written testimony presents the essence of overall presentation. For follow-up purposes, the SGNA board has appointed me as the board's representative. I'd appreciate receiving the five minute privilege for NA officers. (I promise to stay within the timeline!) Others may sign up, but to my knowledge other than myself, John Shepard is the only other SGNA member that intends to sign up, although Lora Meisner may choose to make comments.

Thanks for your time and civic contributions. Jerry Bennett

(Jerry Bennett, South Gate Neighborhood Association rep; 804 Creekside Dr. SE, Salem, Oregon, 97306)

I'm here as SGNA's representative to back up the RE-CONSIDERATION vote you approved 7-0 on Feb. 15, 2018. You received Chairman Glenn Baly's written testimony in advance – it represents the essence of our continuing concerns on the REIMBURSEMENT DISTRICT and specifies remedies.

It is obvious that someone still wants to build on the hills south of Creekside. When the City annexed and approved urbanizing the 300-plus acre Creekside farm land valley, the developer signed agreements to build all the roads through the subdivision. However, the most difficult and expensive road remains unfinished – that's the Lone Oak Road over Jory Creek and south up the hill. The City has approved a reimbursement district to help push the project forward. SGNA opposes this plan. The following anecdotes overcome objections:

1. SGNA was not consulted on this multi-faceted "LAND DEVELOPMENT" proposal. Zero input!
2. Going back to 1992, the developmental plans appear to have progressive flaws in supervision and performance – with the City making concession after concession. The development is now in the 14<sup>th</sup> phase.
3. The District is messy. It would not meet the criteria for a bonafide ballot measure – there are too many peripheral issues to be addressed. Too, the proposed 20-year District is designed for the City to transfer funding responsibilities from developers to homeowners and taxpayers.
4. The District does not have a defensible business plan as it is open ended with no plausible funding guarantees. The City will, however, recover expenses and increase property tax revenues.
5. A large part of the proposed funding depends on the failure of Creekside HOA's appeal in the appellate court to determine if its covenants are valid or if the owners have the right to close the golf course for development purposes. However, there's a "Catch 22": The owners have repeatedly committed to the "Member Strong Group" to keeping the course open, if it's profitable. Do we need a LUBA ruling on impartiality?
6. The District's 210 mythical lots on Creekside Golf Course will not resolve the District's funding needs. It takes 800+ new homes at a \$10,000 tax or fee assessment per unit to raise the \$9m cost projection – it's not possible! But, the City could retrieve \$1m of taxpayer money that it invested early on to help move the project to completion so that available SW farm lands can be annexed and developed.
7. The land use plan for the project included Jory Creek Bridge's three acres in a regulated wet land that SRC: 140.090(b) required extensive protections by the developer – who aborted the project in 2007. Please note: the 210 building sites on the 155 acre valley known as Creekside Golf Course has wet lands, water shed, and environmental areas from Lone Oak Road to the Sunnyside Road; its three creeks are the main source of downstream flooding from Creekside to Turner and down town Salem. This land also represents the major recreational site for SE Salem and it is Salem's only golf course – it has championship status.
8. The Public Works Dept.'s SUMMARY RECOMMENDATIONS specify: "These improvements benefit neighboring properties because of improved connectivity and accessibility." But, it doesn't explain the benefits and ignores obvious traffic, safety, water shed, aquifer challenges. It explains in A4: "... that it, Creekside Golf Course – would benefit from the Lone Oak improvements." But, again, it doesn't explain the benefits!"

The bottom line? There is no valid reason for the Reimbursement District. The Creekside developer(s) and two other developers on the hill need the un-built southern section of Lone Oak Road. I'm a big fan of "**pay as you go**" When the developers are actually required to have an approved road in place in order to secure City approvals and building permits, they will figure out how to pay for it and build it without public subsidy.

WE AGAIN ASK THAT YOU RESCIND THE PROPOSAL Given time, the DEVELOPERS WILL COME!

## Amy Johnson

---

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**Sent:** Monday, March 26, 2018 4:20 PM  
**To:** citycouncil  
**Subject:** Fw: Tonight's hearing on Reimbursement District . . .  
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I apologize . . . I made a couple of errors on the first attachment that would be hard to remedy at tonight's REIMBURSEMENT DISTRICT hearing. If you have time to replace it with this revision in the folders of the mayor, council, and manager, it would be greatly appreciated. Realizing how busy pre-council meetings can be for all support systems, I apologize again. Thanks. Jerry Bennett

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**From:** Jerry Bennett <jbestg@outlook.com>  
**Sent:** Monday, March 26, 2018 3:15 PM  
**To:** citycouncil@cityofsalem.net; Chuck Bennett; smccoid@cityofsalem.net  
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