

## **FACTS & FINDINGS**

### **SUBDIVISION AND CLASS 2 ADJUSTMENT CASE NO. SUB-ADJ19-02**

**June 25, 2019**

#### **PROCEDURAL FINDINGS**

On December 21, 2018, Tentative Subdivision and Class 2 Adjustment applications were submitted to divide approximately 9.6 acres into 48 single family lots. Additional information was requested from the applicant which was submitted and the application was deemed complete on April 9, 2019.

Notice of public hearing was sent by mail to surrounding property owners pursuant to Salem Revised Code (SRC) requirements on April 11, 2019.

On May 6, 2019, the Planning Administrator issued a decision approving the tentative subdivision with two alternative street standards and a Class 2 Adjustment.

On June 24, 2019, the City Council conducted a hearing to receive evidence and testimony regarding the proposal.

On June 24, 2019, the City Council conducted deliberations and voted to affirm the decision of the Planning Administrator, approving the consolidated application subject to conditions of approval in the May 6, 2019 decision.

#### **1. Salem Area Comprehensive Plan (SACP)**

##### **Salem Area Comprehensive Plan (SACP) Designation**

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

*Relationship to Urban Service Area:* The subject property is located outside of the Urban Service Area. However, comments from the Public Works Department indicate that the proposed subdivision does not precede construction of required facilities, and adequate utilities are available at the perimeter of the site. Therefore, an Urban Growth Area (UGA) permit is not required.

*Comprehensive Plan Map:* The subject property is designated "Developing Residential" on the Salem Area Comprehensive Plan (SACP) Map. The surrounding properties are designated as follows:

North: Single Family Residential

South: (Across Mildred Lane SE) Single Family Residential

East: Developing Residential

West: Developing Residential

## 2. Zoning

### Zoning and Surrounding Land Use

The subject property is zoned RA (Residential Agriculture) and is currently vacant. The surrounding properties are zoned and used as follows:

North: RS (Single Family Residential); single family dwellings

South: (Across Mildred Lane SE) RS (Single Family Residential); single family dwellings

East: RA (Residential Agriculture); single family dwelling

West: RA (Residential Agriculture); vacant

## 3. Land Use History

**Annexation Case No. C-586 (2006):** Voter-approved annexation of the subject property into the City of Salem.

## 4. Public and Private Agency Review

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

**Fire Department** - The Salem Fire Department submitted comments indicating that access will be required within 150 feet of all portions of the structures. The applicant has proposed fire sprinklers rather than an approved Fire Department turnaround off of a private access (flag lot accessway), which is acceptable. The private access needs to be identified as "Fire Lane No Parking". Fire hydrants are required to be within 600 feet of all portions of the structures.

**Building and Safety Department** - The Building and Safety Department reviewed the proposal and indicated no issues with the proposed subdivision.

## 5. Neighborhood Association Comments

The subject property is within the South Gateway Neighborhood Association. Notice of the application was provided to the neighborhood association, pursuant to SRC 300.620(b)(2)(B)(iii), which requires public notice to be sent to "any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property." No comments were received from the South Gateway Neighborhood Association prior to the comment deadline.

## 6. Public Comments

All property owners and tenants within 250 feet of the subject property were mailed notification of the proposed subdivision. Comments from five property owners within the vicinity of the subject property, and members of the public at large, were submitted prior to the close of the public comment period deadline. Concerns and opposition received can be summarized into the following main categories:

- A. **Traffic.** Comments indicate that a traffic along Mildred Lane SE is dangerous and additional development should not have access. Commenters expressed concern about additional accidents and fatalities on Mildred Lane SE.

**City Council Response:** The proposed subdivision will result in a boundary street improvement of Mildred Lane SE along the frontage of the subject property to minor arterial street standards and the extension of new local streets through the subdivision are in conformance with current standards for vehicle, pedestrian, and bicycle facilities. These streets will connect to existing streets and fill in gaps within the current street network. Because the proposed development will not generate traffic volumes sufficient to require a traffic impact analysis (TIA) under SRC 803.015, off-site mitigation to the existing transportation system is not warranted as a condition of the proposed development. The Assistant City Traffic Engineer has had an opportunity to review the proposal and has indicated that as proposed, the street network will provide for safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

- B. **Loss of Wildlife Habitat and Open Space.** Comments received express concern regarding the loss of wildlife habitat and open space that will result from the clearing and development of the subject property.

**City Council Response:** In regards to impacts to wildlife habitat, the subject property has not been identified as a significant wildlife habitat by state wildlife management agencies or by the City. The subject property is located within the Urban Growth Boundary and incorporated limits of the City of Salem, and has been designated on the City of Salem Comprehensive Plan Map as "Single Family Residential," which anticipates existing or future residential development similar to the subdivision proposed by the applicant. Loss of wildlife habitat that has not been identified as significant is not a criterion under the Salem Revised Code for granting or denying a tentative subdivision approval.

In regards to impacts on open space, the Salem Area Comprehensive Plan has adopted goals, policies, and plan map designations to protect identified open space areas. The subject property has not been identified as a natural open space area. Instead, the Comprehensive Plan Map designates the subject property as "Single Family Residential," and the site has been zoned RA (Residential Agriculture). While currently undeveloped, the subject property is located within an already developed residential area within the

corporate limits of the City of Salem, and changes to the landscape from future residences in the proposed subdivision are not expected to exceed what would occur from the presumed development of land within the City zoned for single family residential development.

- C. **Adjustment does not Meet Approval Criteria.** Comments submitted express concern that the requested adjustment does not meet the approval criteria and that development should meet the standards.

**City Council Response:** Findings evaluating the Class 2 Adjustment requested by the applicant, in conjunction with the proposed subdivision, are included under Section 8 of this decision. As indicated in the findings under those sections, the requested Class 2 Adjustment is minimal in scope and allows only minor deviations from standards whose underlying purposes are otherwise met by the proposed development. The adjustment does not result in a project which is inconsistent with the overall purpose of the RS zone or the "Single Family Residential" designation of the Salem Area Comprehensive Plan.

- D. **School District Overcrowded.** Comments submitted express concern that the schools are overcrowded.

**City Council Response:** The Salem-Keizer School District did not provide concerns or comments, prior to the City Council report being published.

- E. **Tree Removal.** Several comments received express concern regarding the removal of trees, which will be required to accommodate the proposed subdivision. In addition, comments were submitted expressing concern over the existing grove of trees on the neighboring property to the east.

**City Council Response:** Tree preservation and removal in conjunction with proposed subdivisions is regulated under the City's tree preservation ordinance (SRC Chapter 808). As required under SRC Chapter 808, the applicant submitted a tree conservation plan in conjunction with the proposed subdivision that identifies a total of 44 trees on the property, with no significant oaks.

Of the 44 total trees existing on the property, the proposed tree conservation plan identifies 11 trees (25%) for preservation and 33 trees (75%) for removal. In addition, the applicant has identified a grove of trees along the eastern property line, which will remain. The applicant has provided an arborist report to determine that the existing grove should not be harmed by development of single family dwellings. The applicant has requested a reduction in right-of-way width to facilitate the preservation of the neighboring trees.

The proposed tree conservation plan preserves 25 percent of the existing trees on the property, therefore meeting the minimum 25 percent preservation requirement under SRC Chapter 808. The tree conservation plan is being reviewed by City Council and, if approved, will be binding on

the lots until final occupancy is granted for the construction of dwelling units on the lots.

## 7. Criteria for Granting a Tentative Subdivision

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 City Council 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 9.63 acre property into 48 lots and street rights-of-way, with no remainder. The subject property is currently zoned RA (Residential Agriculture). SRC Chapter 265.015 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. Because the zoning of the subject 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 UDC is based upon the property being rezoned to RS (Single Family Residential).

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 4,974 square feet to 11,492 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.

**Street Frontage:** Except for flag lots, the RS zone, pursuant to SRC 511.010(a), Table 511-2, requires lots that will be used for the construction of single family dwellings to have a minimum of 40 feet of frontage on a street. SRC Chapter 800 (General Development Standards) allows lots to be created without the minimum required frontage on a street when they are developed in conformance with the flag lot development standards set forth in SRC 800.025.

As shown on the applicant's tentative subdivision plan, the proposed lots, with exception of the proposed flag lots (Lots 5, 6, and 7), exceed the minimum 40-foot street frontage requirement. Proposed Lots 5, 6, and 7 are flag lots without the minimum frontage on a street. These proposed lots conform to the flag lot standards of SRC 800.025.

**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

The property is currently vacant, setback requirements for future development on the proposed Lots will be reviewed at the time of application for building permits on those individual parcels.

The proposal meets the requirements of SRC Chapter 511.

SRC Chapter 800 (General Development Standards):

*SRC 800.020 (Designation of Lot Lines):* SRC 800.020 establishes front lot line designation requirements for corner lots, double frontage lots, flag lots, and all other lots. 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. Corner lots are lots located at the intersection of two streets, typically with street frontage on two sides. Proposed Lots 1, 4, 9, 15, 26, 27 43, 44, and 46 are corner lots. Provided that lot dimension requirements are met, the front lot line for a corner lot shall be the property line abutting a street designated by the building permit applicant. Lots 4, and 46 abut Mildred Lane, which will restrict access to the Minor Arterial, requiring Lots 4 and 46 to take access to the proposed local streets. In addition, Lot 43 does not appear to have adequate frontage along Springwood Avenue to provide access, as conditioned below, Lot 43 shall take driveway access from South Street. The applicant has requested an adjustment for Lots 8, 19, 34, 43 and 44 to re-designate the front property line. The adjustment is to ensure a new dwelling can adequately fit on each lot, which is addressed below in Section 8.

**Condition 1:** To ensure adequate vision clearance, Lot 43 shall only have access to South Street.

In order to further clarify the front lot line designations for the proposed corner lots, flag lots and lots with adjustments within the subdivision, and to ensure that, based on the proposed lot configurations and location of existing structures, the proposed lots and future structures will meet applicable SRC requirements, except as otherwise may be allowed through a variance or adjustment, the following front lot line designations will apply:

- Lot 43: The front lot line shall be the east property line.
- Lots 5-6: The front lot line shall be the west property line.
- Lot 8: The front lot line shall be the west property line.
- Lot 9: The front lot line shall be the west property line.
- Lot 19: The front lot line shall be the south property line.
- Lot 26: The front lot line shall be the east property line.
- Lot 34: The front lot line shall be the south property line.
- Lot 43: The front lot line shall be the east property line.
- Lot 44: The front lot line shall be the east property line.
- Lot 46: The front lot line shall be the east property line.

*SRC 800.025 (Flag Lots):* Proposed Lots 5, 6, and 7 are flag lots. Subsections (a) and (b) specify that minimum lot area and dimensions for a flag lot shall be calculated exclusively of the flag lot accessway. All proposed flag lots exceed the

minimum lot area and dimensions exclusive of the flag lot accessway. The applicant is requesting an adjustment to change the front property line of Lot 8 to the west property line (easement line), which would allow access to all four lots. In addition the applicant is requesting an adjustment to designate the south line for Lot 19 as the south. Lot 19 has adequate frontage and is not considered a flag lot.

Subsection (c) establishes standards for flag lots and flag lot accessways. Pursuant to SRC Chapter 800, Table 800-1, flag lot accessways serving 3 to 4 lots must be a minimum of 25 feet in overall width and must be paved to a minimum width of 20 feet. The accessway is proposed to serve Lots 5-8. Lots 1-4 abut the accessway and if used would exceed the allowed amount of lots to be served. The Fire Department has reviewed the proposal and indicate that access is required to be provided to within 150 feet of all portions of the structures. The applicant has proposed fire sprinklers rather than an approved Fire Department turnaround off of a private access (Lots 5-8), which meets Fire Department standards. The proposed Lots 5-8 are not large enough to provide for a Fire Department turnaround and maintain setbacks for future buildings. Since a turnaround is not feasible with the current proposed configuration the following condition applies:

**Condition 2:** At the time of building permit, each dwelling accessing from the flag lot accessway shall provide fire sprinklers meeting Fire Department standards.

The tentative plan shows an easement width of at least 25-feet wide, however, plans do not indicated the paved width of each accessway. To ensure this standard is met, the following condition shall apply:

**Condition 3:** Prior to Final Plat approval, the flag lot accessway serving Lots 5 through 8 shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1, for a residential flag lot accessway serving 3 to 4 lots.

Table 800-1 – Flag Lot Accessway Standards identifies that a maximum of four lots may take access from a flag lot accessway. To ensure this standard is met, the following condition shall apply:

**Condition 4:** Lots 1 through 4 shall not have access to the proposed access easement.

Subsection (d) prohibits parking on flag lot accessways. In order to ensure that resident and emergency access remains unobstructed, the following condition shall apply:

**Condition 5:** "NO PARKING—FIRE LANE" signs shall be posted on both sides of the segments of the proposed flag lot accessway that are designated as fire apparatus roadways and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.



Subsection (e) limits the maximum number of flag lots within a subdivision to 15 percent of the proposed lots. The proposed subdivision includes four flag lots (Lots 5-7), or approximately 6 percent of the total proposed lots, therefore meeting the standard provided in SRC 800.025(e).

As conditioned, 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 (PWDS) as adopted in Administrative Rule 109, Division 004. The applicant submitted a stormwater report in compliance with PWDS in order to demonstrate that green stormwater infrastructure could be constructed to accommodate future impervious surfaces on the subject property. In order to ensure that stormwater infrastructure is implemented, the following condition shall apply:

**Condition 6:** Design and construct stormwater facilities pursuant to SRC Chapter 71 and PWDS.

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

SRC Chapter 200 (Urban Growth Management): The Urban Growth Management Program requires that an Urban Growth Area (UGA) Development Permit must be obtained prior to development of property outside the Salem Urban Service Area. Although the subject property is located outside of the Urban Service Area, comments from the Public Works Department indicate that the proposed subdivision does not precede construction of required facilities, and adequate utilities are available at the perimeter of the site. Therefore, a UGA permit is not required.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that water and sewer infrastructure is available along the perimeter of the site and appears to be adequate to serve the proposed subdivision. Specifications for required public improvements are summarized in the Public Works Department memo dated May 3, 2019 (Attachment C).

SRC 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS). Water mains shall be located within the

public right-of-way pursuant to PWDS; mains located outside of the right-of-way require a Design Exception approved by the City Engineer.

Developments are required to extend public utility services to serve upstream and neighboring properties. The proposed utility plan shows public sewer extensions to adjacent upstream parcels. An 8-inch water main shall also be extended west in Sarah Renee Ave SE to the property line pursuant to PWDS. The conceptual water and sewer plan included in the application shows that each individual lot can be served by City utilities designed and constructed according to the applicable provisions of the SRC and PWDS.

All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 205.035(c)(7)(B) prior to final plat approval. Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

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 48-lot subdivision generates less than 1,000 average daily vehicle trips to Mildred Lane SE, a minor arterial street. Therefore, a TIA is not required as part of the proposed subdivision submittal.

*SRC 803.020 (Public and Private Streets):* The applicant proposes for all internal streets within the subdivision to be public streets.

*SRC 803.025 (Right-of-Way and Pavement Widths):* As part of the Ironwood Estates No 7 subdivision, a stub street (Springwood Avenue) is located along the northern property line. The extension of Springwood Avenue and the alignment of Sarah Renee Avenue to the west, both meet the required right-of-way and pavement widths.

The applicant has proposed an alternative street standard for East Street, which warrants a reduced right-of-way width of 50 feet, with property line sidewalks and a four foot landscaping strip on both sides. Topographic conditions, in particular a cross-slope on this portion of the site exceeding 16 percent make construction of a standard local street impracticable. In addition, the existing stand of trees along the eastern property line require a larger buffer from grading than what could be provided with a 60-foot right of way. The applicant has provided evidence from an arborist regarding the existing stand of trees along the eastern property line. For these reasons, the reduced right-of-way width meets the criteria for an alternative street standard pursuant to SRC 803.065.

To ensure the existing stand of trees adjacent to Lots 9 through 16 is provided the adequate buffer, the following conditions shall apply:

- Condition 7:** Construct internal streets to local street standards pursuant to PEDS except as authorized through a Design Exception by the City Engineer. The alternative street standard for East Street shall be constructed as proposed, with 50-foot right-of-way, four foot landscaping strip and property line sidewalks.
- Condition 8:** Prior to Public Construction, the applicant shall have a certified arborist prepare a tree preservation and protection plan for Lots 5 through 16. The plan shall provide the trees size, location, species, extent of root cover, an evaluation of the trees tolerance to construction, and what is an adequate level of protection for the trees based on the findings from the site visit.
- Condition 9:** Prior to issuance of Public Construction permits, the tree preservation and protection plan (described in Condition 8), signed by the certified arborist, shall be submitted the City for review and approval.
- Condition 10:** Prior to Public Construction, the applicant shall have the certified arborist, who prepared the protection plan, mark the root protection zone with fencing and root protection zone signage indicating no ground disturbance activity for Lots 5 through 16.
- Condition 11:** The applicant shall have an arborist on site during all construction activity, including all grading activity, public construction, and construction of dwellings on Lots 5 through 16.
- Condition 12:** Prior to final plat approval, a final report from the arborist documenting all inspections and verifying the viability of the trees after the public construction phase, shall be provided to the City.

As conditioned, the proposal meets this requirement.

*SRC 803.030 (Street Spacing):* The subject property is a 9.63 acre site that is bordered by existing single family residential subdivisions to the north, vacant land to the east and west and Mildred Lane SE to the south. The proposed subdivision has provided street spacing at less than 600-foot intervals, except on the north end of Springwood Avenue SE. The existing subdivision to the north, currently has a block length of over 450-feet to the subject property. The provided findings state that the topography of the northern portion of the property has a cross-slope of 16%-17% and the extension of the east/west street is not feasible and meets SRC 803-035(a)(1). If the applicant proposed to extend Sarah Renee east across the subject property the dwellings to the north would not meet setback requirements. Therefore, the block length on the east side of Springwood Avenue SE is 1,050 feet. Due to the existing conditions of the previous subdivision to the north,

location of the existing dwellings, and cross-slope of 16 percent, the proposal meets SRC 803.035(a)(1) and has a greater block length than 600-feet.

*SRC 803.035 (Street Standards):* Subsection (a) requires streets within the subdivision to provide connectivity to existing streets and undeveloped properties within the vicinity of the subject property. The subject property abuts a platted residential subdivision to the north with street connection to the subject property. The proposed subdivision plan provides internal street connectivity by extending Springwood Avenue SE from its existing terminus across the interior of the subject property to Mildred Lane SE. The proposal provides two connections to the west, one connection aligning with Sarah Renee Avenue SE. In addition, two connections to the east are provided; these internal streets provide a robust network points of connection to these existing boundary streets and the existing surrounding street system.

These street connections, except for the east side of Springwood Ave SE, are approximately 450 to 600 feet apart, this ensures properties to the east and west can be developed in the future and meet the 600-foot maximum block length set forth in SRC 803.030(a).

Subsection (b) requires that all street improvements, including sub-base, base, pavement, curbs, sidewalks, and surface drainage shall conform to all provisions of the Salem Revised Code and Public Works Design Standards (PWDS).

Pursuant to subsection (c), street grade for of a local street shall not exceed 12 percent. The applicant has provide street profiles and a written statement that all streets have been designed not to exceed 12 percent meeting this standard. The applicant does not need an alternative street standard for increased grade.

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

**Condition 13:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

As conditioned, the proposal conforms to applicable street standards.

*SRC 803.040 (Boundary Streets):* Mildred Lane SE abuts the property to the south and does not meet the current standard for a Minor Arterial Street. In order to ensure that boundary street improvements are implemented consistent with the Transportation System Plan and Public Works Design Standards, the following conditions shall apply:

**Condition 14:** Convey land for dedication to equal a half-width right-of-way of 36 feet on the development side of Mildred Lane SE

**Condition 15:** Construct a half-street improvements along the entire frontage of Mildred Lane SE to Minor Arterial Street Standards.

As conditioned, the proposal meets the requirements of SRC 803.040.

**(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. A Tree Conservation Plan (TCP19-06) was submitted in conjunction with the subdivision tentative plan. TCP19-06 identifies 44 trees on the subject property, with 33 trees proposed for removal. Trees proposed for removal are primarily located within presumed building envelopes, street rights-of-way, and utility easements. There are no significant trees located on the subject property. The applicant is proposing to preserve 11 trees, or 25 percent, on 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 wetlands on the subject property. As proposed, the tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

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, there are areas on the subject property assigned 2 landslide hazard susceptibility points. The proposed subdivision adds three activity points to the proposal, which results in a total of 5 points. Pursuant to SRC Chapter 810, Table 810-1E, the proposed subdivision is classified as a moderate landslide risk and requires a geologic assessment.

A geologic assessment, prepared by Branch Engineering and dated February 7, 2019, was submitted to the City of Salem. This assessment demonstrates that the site could be subdivided and developed without increasing the potential for slope hazards on the site or adjacent properties.

**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 9.68-acre property into 48 lots and rights-of-way for boundary and internal streets. Access to lots within the proposed subdivision is provided by new internal streets and improved boundary streets, with three lots near the southern edge of the site served by a flag lot accessway. The subject property abuts a built-out single family residential subdivision to the north, vacant land to the east and west. The proposal is providing two street connections to the east and west, which will provide access to undeveloped properties. The proposal would not limit, or interfere with, the established use or future redevelopment of these properties.

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. The existing street network in the vicinity of the subject property and proposed streets within the subdivision are sufficient to provide access to each of the proposed lots. 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.

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:** As described in findings above, although the subject property is located outside of the designated Urban Service Area, surrounding developments have brought water and sewer infrastructure to the perimeter of the site. Comments from the Public Works Department indicate that this infrastructure 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 green stormwater infrastructure to accommodate future impervious surfaces, and dedication of public and private utility easements to allow for 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 Bryan Johnston Park, a 14.6-acre neighborhood park which is less than

one-half mile southeast of the proposed subdivision. No park-related improvements are required 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 pursuant to 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:** Mildred Lane SE abuts the subject property and does not meet the current standard for a minor arterial street. As identified in the conditions of approval, the applicant is required to dedicate right-of-way and construct half-street improvements, along the entire frontage of the subject property on Mildred Lane SE. The project includes the extension of Springwood Street from the north.

As described in findings above, due to topographic constraints and specifications of existing streets, East Street will be constructed to alternative street standards approved pursuant to SRC 803.065. Other internal streets will meet the Local Street standard with 60-foot-wide rights-of-way and 30-foot-wide improvements. The TSP Bicycle Map does not propose additional bike lanes within or adjacent to the subject property. As proposed and conditioned, the existing and future streets serving the subdivision conform to the TSP. The tentative plan 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:** Conditions above implement required boundary street improvements along the abutting portions of Mildred Lane SE. In addition to the boundary improvement, internal circulation would be provided by extensions of Springwood Street SE and proposed local streets. Access to Lots 5 through 8 will be provided by a flag lot accessway.

The proposed network of boundary and internal streets serving the subdivision provides direct access to all lots within the subdivision. The subdivision, as proposed and conditioned, is served with adequate transportation infrastructure. The street system adjacent to the subdivided property will conform to the Salem Transportation System Plan, and provide for safe, orderly, and efficient circulation of traffic into, through, and out of 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 situated within one-half mile of two neighborhood activity centers:

- Sumpter Elementary School, a public middle school located at 525 Rockwood Street SE, approximately 1,300 feet north of the closest lots within the proposed subdivision. Sumpter Park, a 3.66-acre park abuts the elementary school campus to the east.
- Bryan Johnston Park, a 14.6-acre neighborhood park is located approximately 1,700 feet southeast of the closest lots within the proposed subdivision, at 400 Mildred Lane SE.

The nearest transit service available to the subject property is on Mildred Lane at Sunnyside Street, by way of Salem Keizer Transit's Route 6 bus line. Direct and continuous sidewalk access is available between the subject the bus stop and Sumpter Elementary School and park.

The subject property will provide internal streets with safe and convenient bicycle and pedestrian access. Additionally, the development will provide boundary street improvements along the south boundary of the subject property, connecting existing multi-modal transportation facilities with the existing transportation system. Although the immediate vicinity of the subject property includes sloping topography and large undeveloped properties, existing bicycle and pedestrian access to neighborhood activity centers is safe and convenient. The bicycle and pedestrian network in the vicinity is likely to improve as development occurs on surrounding properties.

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 48-lot subdivision will generate less than 1,000 average daily vehicle trips to Mildred Lane SE, designated in the Transportation System Plan as a Minor Arterial. Accordingly, a Transportation Impact Analysis is not required as part of the review of the tentative subdivision plan.

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

**Finding:** The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and



limitations to development, including topography and vegetation of the site. The applicant has proposed a street network that allows designed street grades to meet City standards. The proposed streets will be typical of residential development in Salem in areas with relatively steep natural topography.

Despite constraints imposed by the sloping topography the layout allows for reasonable development of all lots within the subdivision without variances from the UDC. No existing conditions of topography or vegetation have been identified on the site which would necessitate variances during future development of the property. The layout allows for reasonable development of all lots within the subdivision without variances from the UDC.  
The proposal meets this criterion.

**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:** The proposed configuration of lots and streets are designed to provide for efficient connection of utilities and other infrastructure sequentially as each phase is developed. As described above, the proposal makes logical connections to the east and west at the perimeter of the subject property as well as connecting the existing streets.

As proposed and conditioned, the tentative subdivision plan meets all applicable approval criteria contained in SRC Chapter 205.

**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 Urban Service Area. However, as described in findings above, required facilities to serve the development have already been constructed. Therefore, an Urban Growth Area Preliminary Declaration is not required and this criterion does not apply.

## **8. Criteria for granting a Class 2 Adjustment**

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

- (i) Clearly inapplicable to the proposed development; or**
- (ii) Equally or better met by the proposed development.**

**Finding:** The applicant is requesting a Class 2 Adjustment to re-designate the front property lines for Lots 8, 19, 34, 43 and 44.

The applicant is requesting to re-designate the front property line for several lots to ensure construction of single family dwellings will meet applicable setback standards. The adjustment is to ensure a new dwelling can adequately fit on each lot. City Council determined that the adjustment is not required for Lots 43 and 44. Each of these lots meet the minimum lot width, depth and frontage requirements of the RS zone. When reviewing these two lots (Lots 43 and 44), it is clear the front property lines for each is the eastern property lines. As addressed above, depending on the location of the driveway on Lot 43, parked cars would be blocking vision clearance. As conditioned above, Lot 43 shall take access from South Street eliminating the need to restrict parking.

The remainder of the lots (Lot 8, 19, and 34) need to re-designate the front property line to meet applicable setback of the RS zone.

**Lot 8:**

Lot 8 currently has frontage on South Street making the north property line the front property line. The setback to South Street will remain the same, regardless of the designation of the front property line. Because the lot will take access from the flag lot accessway, the applicant is requesting the west property line (easement line) be the front. The proposal would only change the designation of the rear property line from the south to the east. This would allow the dwelling to be constructed in a similar manner as Lots 5 through 7, which satisfies the criteria.

**Lot 19:**

Lots 19 and 34 are designed similar to flag lot accessways. If an east/west street was feasible to connect Springwood Avenue and East Street the location would be along the southern edge of these lots. The lot is approximately 7,500 square feet, greatly exceeding the minimum lot size and meets lot depth, both east to west and north to south based on the configuration. Lot 19 has adequate frontage but closely resembles a flag-lot with a narrow (40-ft) street frontage and is setback off the public street separated by another lot. The lot is narrow from east to west and will likely have the driveway along the southern property line which is the widest section of the property. Re-designating would allow for the west and east property lines to be a side yards and north to be the rear. The re-designating will provide for a single family dwelling to be built without further adjustments, which satisfies the criteria.

**Lot 34:**

Lots 19 and 34 are designed similar to flag lot accessways. If an east/west street was feasible to connect Springwood Avenue and East Street the location would be along the southern edge of these lots. The lot is approximately 8,800 square feet, greatly exceeding the minimum lot size and meets lot depth, both east to west and north to south based on the configuration. The lot is narrow from east to west and will likely have the driveway along the southern property line which is the widest section of the property. Re-designating the south property line as the front would not change the distance of any building to the street but would allow for the east property line to be a side and north to be the rear. The re-designating will provide

for a single family dwelling to be built without further adjustments, which satisfies the criteria.

To ensure the above lots maintain the setbacks of the RS zone the following condition applies:

**Condition 16:** The designated front property line for Lot 8 is the west property line and the designated front property line for Lots 19 and 34 is the south property line.

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

**Finding:** As described above, the adjustments are to allow single family dwellings to be constructed on lots in a manner that would alleviate future need to reduce setbacks. The adjustment to Lot 8 would allow the dwelling to be constructed in a similar manner as Lots 5 through 7 and the adjustments to Lots 19 and 34 take in to consideration the configuration of the lots in relation to a new single family dwelling. The lack of an east/west street lends these lots to be larger along the southern property line, which is the likely location for a driveway. The adjustment would allow the lots to be developed in a similar way as the surrounding properties, meeting this criterion.

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

**Finding:** The adjustment requested by the applicant are to re-designate property lines for setbacks. The adjustment allows the subject property to be developed in a manner that is consistent with the remaining lots being proposed. The effect of the adjustment is to allow development which is consistent with the overall purpose of the RS (Single Family Residential) zone.

## **CONCLUSION**

Based upon review of SRC 205.005 and 250.005(d), the findings presented herein the tentative subdivision plan complies with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

**Condition 1:** To ensure adequate vision clearance, Lot 43 shall only have access to South Street.

**Condition 2:** At the time of building permit, each dwelling accessing from the flag lot accessway shall provide fire sprinklers meeting Fire Department standards.

- Condition 3:** Prior to Final Plat approval, the flag lot accessway serving Lots 5 through 8 shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1, for a residential flag lot accessway serving 3 to 4 lots.
- Condition 4:** Lots 1 through 4 shall not have access to the proposed access easement.
- Condition 5:** "NO PARKING—FIRE LANE" signs shall be posted on both sides of the segments of the proposed flag lot accessway that are designated as fire apparatus roadways and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.
- Condition 6:** Design and construct stormwater facilities pursuant to SRC Chapter 71 and PWDS.
- Condition 7:** Construct internal streets to local street standards pursuant to PEDS except as authorized through a Design Exception by the City Engineer. The alternative street standard for East Street shall be constructed as proposed, with 50-foot right-of-way, four foot landscaping strip and property line sidewalks.
- Condition 8:** Prior to Public Construction, the applicant shall have a certified arborist prepare a tree preservation and protection plan for Lots 5 through 16. The plan shall provide the trees size, location, species, extent of root cover, an evaluation of the trees tolerance to construction, and what is an adequate level of protection for the trees based on the findings from the site visit.
- Condition 9:** Prior to issuance of Public Construction permits, the tree preservation and protection plan (described in Condition 8), signed by the certified arborist, shall be submitted the City for review and approval.
- Condition 10:** Prior to Public Construction, the applicant shall have the certified arborist, who prepared the protection plan, mark the root protection zone with fencing and root protection zone signage indicating no ground disturbance activity for Lots 5 through 16.
- Condition 11:** The applicant shall have an arborist on site during all construction activity, including all grading activity, public construction, and construction of dwellings on Lots 5 through 16.
- Condition 12:** Prior to final plat approval, a final report from the arborist documenting all inspections and verifying the viability of the trees after the public construction phase, shall be provided to the City.
- Condition 13:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

- Condition 14:** Convey land for dedication to equal a half-width right-of-way of 36 feet on the development side of Mildred Lane SE.
- Condition 15:** Construct half-street improvements along the entire frontage of Mildred Lane SE to Minor Arterial Street Standards.
- Condition 16:** The designated front property line for Lot 8 is the west property line and the designated front property line for Lots 19 and 34 is the south property line.