



NOTICE of FILING

LAND USE REQUEST AFFECTING THIS AREA

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

CASE NUMBER:	Subdivision Case No. SUB14-01
AMANDA APPLICATION NO:	13-119992-LD
NOTICE MAILING DATE:	JANUARY 23, 2014
PROPERTY LOCATION:	2521 & 2531 BOONE RD SE / 97302
PROPERTY OWNER / APPLICANT:	M & T PARTNERS, INC.
AGENT:	JOSH WELLS, WESTECH ENGINEERING
DESCRIPTION OF REQUEST:	<p>A subdivision to divide 7.32 acres into 6 lots ranging in size from approximately 0.795 acres (34,630 square feet) to approximately 2.35 acres (102,192 square feet), with a Class 2 Adjustment to:</p> <ol style="list-style-type: none">1) Allow the number of flag lots within the subdivision to exceed 15 percent;2) Allow more than 4 lots to be served by a flag lot accessway; and3) Allow the length of the flag lot accessway to exceed 400 feet. <p>The property is zoned CO (Commercial Office) and CR (Commercial Retail) and is located at 2521 and 2531 Boone Road SE (Marion County Assessor's Map and Tax Lot Numbers: 083W11D/600 and 083W12C/702).</p>
CRITERIA TO BE CONSIDERED:	<p>❖ Subdivision Criteria</p> <p>Pursuant to SRC 63.046(b), before approval of a TENTATIVE PLAN, the Planning Administrator shall make affirmative findings that:</p> <ol style="list-style-type: none">(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; and(2) Provisions for water, sewer, streets, and storm drainage facilities comply with the City's public facility plan; and(3) The tentative plan complies with all applicable standards of this Code, including the Salem zoning ordinance, unless a variance or adjustment therefore has been obtained; and(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. <p>Additionally, pursuant to SRC 63.051(a), the TENTATIVE PLAN must also be found to meet the following requirements and conditions:</p> <ol style="list-style-type: none">(1) The proposal conforms to the requirements of this Chapter.(2) The proposed street system in and adjacent to a subdivision or partition 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 or partition.(3) That the proposed subdivision or partition will be adequately served with City water and sewer, and will be served by other utilities appropriate to the nature of the subdivision or partition.(4) 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 in order that buildings may be reasonably sited thereon, and that the least disruption of the site, topography, and

vegetation will result from the reasonable development of the lots.

- (5) The proposal conforms to the Salem Zoning Code (SRC Title X) and the excavation and fill provisions of SRC Chapter 65.
- (6) 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.
- (7) 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:
 - (A) For wetlands these shall be the measures required by the Division of State Lands for regulatory wetlands.
 - (B) 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.

❖ ***Class 2 Zoning Adjustment Criteria***

Pursuant to SRC 250.005(d)(2), an application for a **CLASS 2 ADJUSTMENT** shall be granted if all the following criteria are met:

- A. The purpose underlying the specific development standard proposed for adjustment is:
 1. Clearly inapplicable to the proposed development; or
 2. Equally or better met by the proposed development.
- B. If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.
- 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.

PUBLIC COMMENT PERIOD:

All written comments must be submitted to City Staff no later than 5:00 p.m., February 6, 2014. Comments received after the close of the Comment Period will not be considered.


TO SUBMIT COMMENTS:

Any person wishing to express support or opposition to the proposed request may do so by submitting written comments **during the Public Comment Period**. Include case number with the written comments. Written comments may be filed with the Case Manager, Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301, or by email at the address listed below.

Following the close of the Public Comment Period, a decision will be issued and mailed to the applicant, property owner, affected neighborhood association, anyone who submitted written comments, and anyone who received notice of the land use request.

Failure to raise an issue in writing prior to the close of the Public Comment Period with sufficient specificity to provide the opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on this issue. A similar failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

CASE MANAGER:

Bryce Bishop, Case Manager, City of Salem Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Telephone: 503-540-2399; E-mail: bbishop@cityofsalem.net 

NEIGHBORHOOD ORGANIZATION:

Located within the South Gateway Neighborhood Association, Steve Withers, Land Use Chair; Phone: (503) 540-0442; Email: withers5361@comcast.net;

Also located ADJACENT Morningside Neighborhood Association, Geoffrey James, Land Use Chair; Phone: (503) 931-4120; Email: geoffreyjames@comcast.net

DOCUMENTATION MATERIALS:

Copies of the application, all documents and evidence submitted by the applicant are available for inspection at no cost at the Planning Division office, City Hall, 555 Liberty Street SE, Room 305, during regular business hours. Copies may be obtained at a reasonable cost. Please contact the Case Manager.

ACCESS:

The Americans with Disabilities Act (ADA) accommodations will be provided on request.

PLEASE PROMPTLY FORWARD A COPY OF THIS NOTICE TO ANY OTHER OWNER, TENANT OR LESSEE

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

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, as provided by Salem Revised Code Chapter 97. The City of Salem, also fully complies with Title VI of the Civil Rights Act of 1964, and related statutes and regulations, in all programs and activities. Disability-related modification or accommodation, including auxiliary aids or services, in order to participate in this meeting or event, are available upon request. Sign language and interpreters for languages other than English are also available upon request. To request such an accommodation or interpretation, contact the Community Development Department at 503-588-6173 at least two business days before this meeting or event. TTD/TTY telephone 503-588-6439 is also available 24/7

REQUEST FOR COMMENTS

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

REGARDING: Subdivision Case No. SUB14-01
PROJECT ADDRESS: 2521 & 2531 BOONE RD SE, SALEM OR 97302
AMANDA Application No. 13-119992-LD
COMMENT PERIOD ENDS: FEBRUARY 6, 2014

REQUEST: A subdivision to divide 7.32 acres into 6 lots ranging in size from approximately 0.795 acres (34,630 square feet) to approximately 2.35 acres (102,192 square feet), with a Class 2 Adjustment to:

- 1) Allow the number of flag lots within the subdivision to exceed 15 percent;
- 2) Allow more than 4 lots to be served by a flag lot accessway; and
- 3) Allow the length of the flag lot accessway to exceed 400 feet.

The property is zoned CO (Commercial Office) and CR (Commercial Retail) and is located at 2521 and 2531 Boone Road SE (Marion County Assessor's Map and Tax Lot Numbers: 083W11D/600 and 083W12C/702).

Attached is a copy of the proposal and any related maps. A decision for this proposal will be prepared by the planning staff from 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 neighborhood association recommendations and comments of affected property owners or residents.

Comments received by 5:00 P.M., FEBRUARY 6, 2014, will be considered in the decision process. Comments received after this date will be not considered.

SEND COMMENTS TO: Bryce Bishop, Case Manager *BB*
City of Salem, Planning Division
555 Liberty St SE, Room 305
Salem, OR 97301
Phone: 503-540-2399; Fax: 503-588-6005
<http://www.cityofsalem.net/planning>

IF YOU HAVE QUESTIONS: Please contact the Case Manager at the address listed above, by telephone at 503-540-2399, by E-Mail at bbishop@cityofsalem.net, or by Fax at 503-588-6005.

PLEASE CHECK THE FOLLOWING THAT APPLY:

- ☐ 1. I have reviewed the proposal and have no objections to it.
☐ 2. I have reviewed the proposal and have the following comments: _____

- ☐ 3. Other: _____

Name: _____

Address: _____

Agency: _____

Phone: _____

Date: _____

IMPORTANT: PLEASE FOLD AND RETURN THIS POSTAGE-PAID FORM

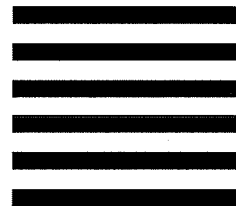
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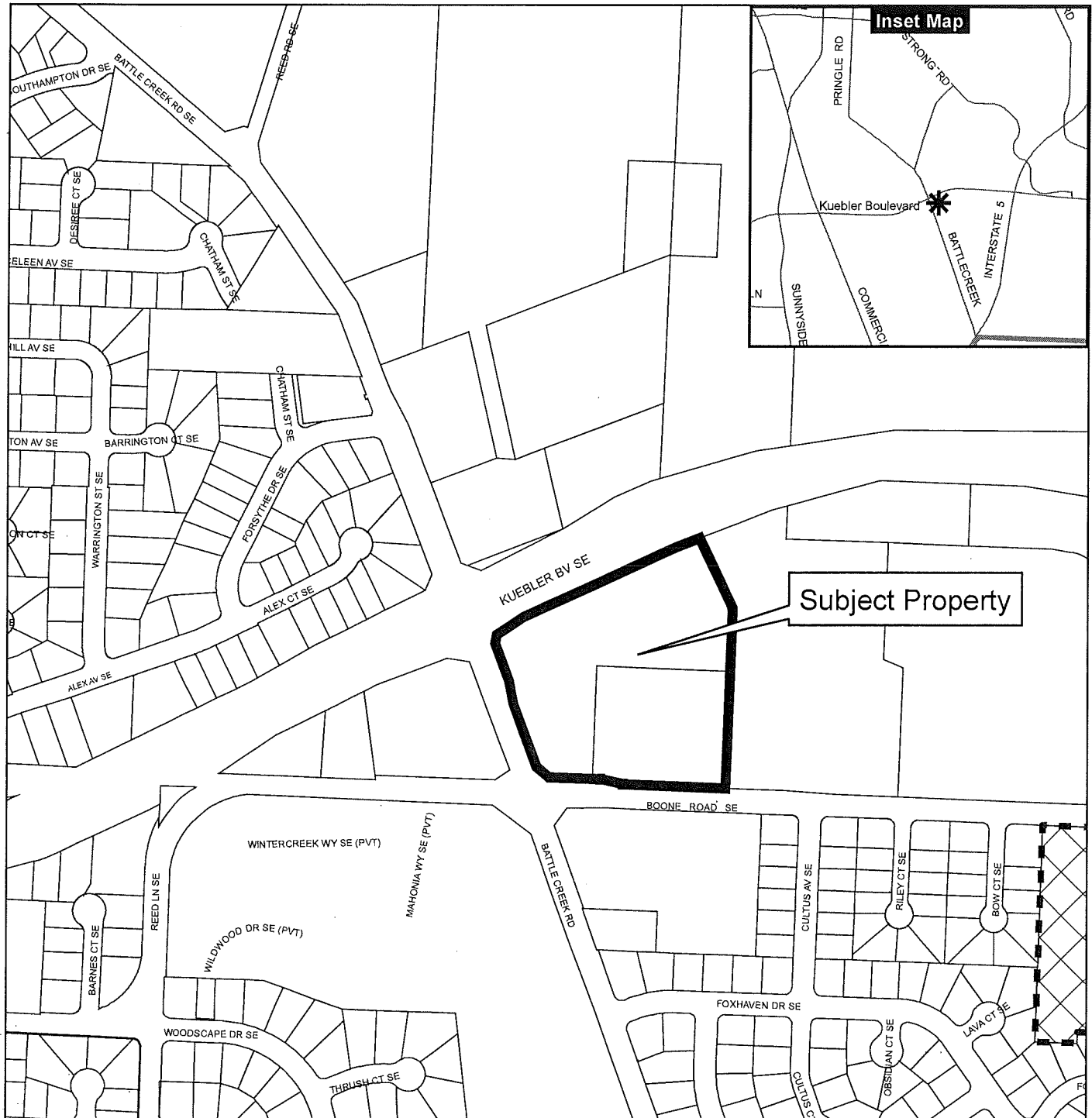


NO POSTAGE
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Vicinity Map

2521 & 2531 Boone Road SE



Legend

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

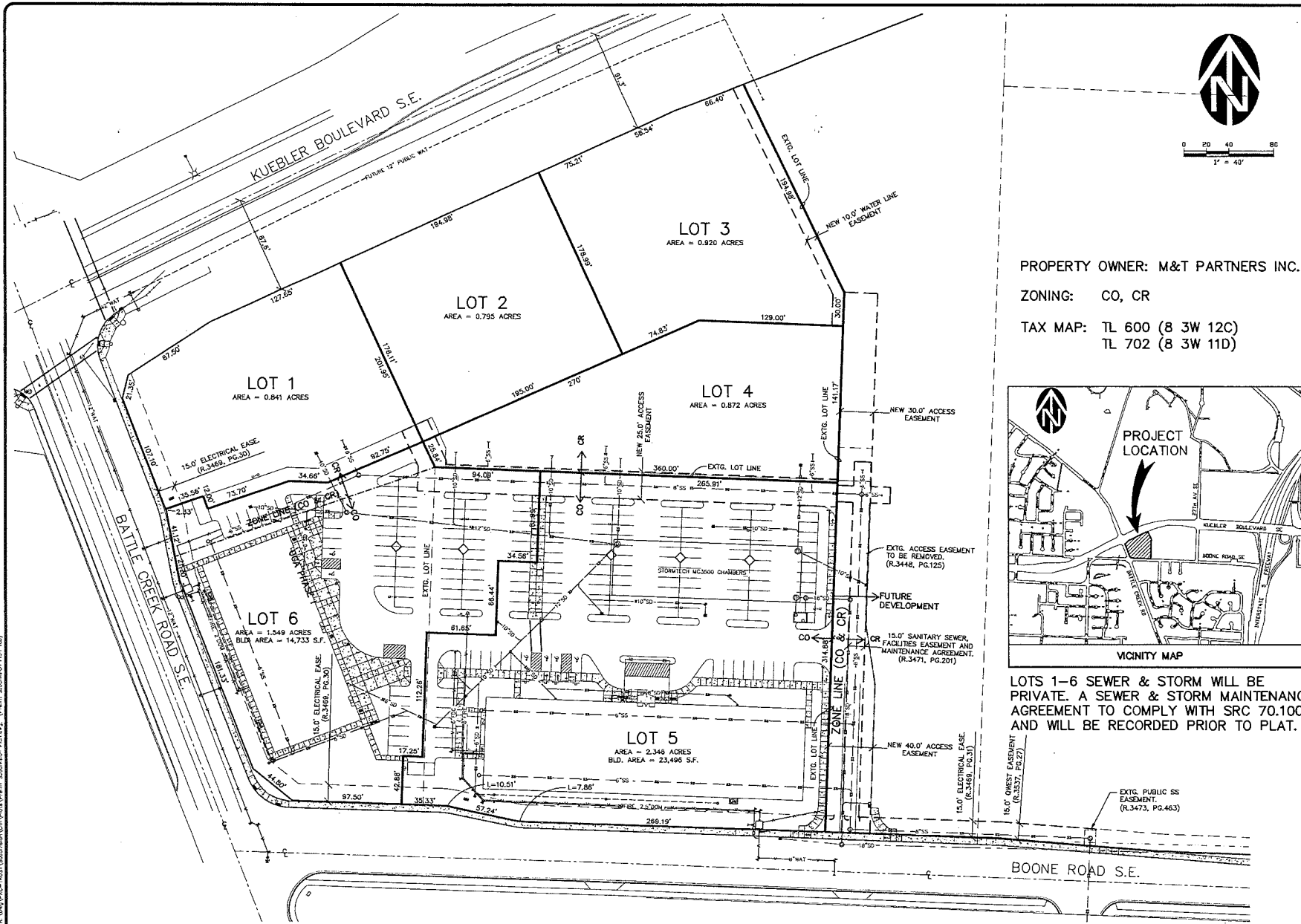
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CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

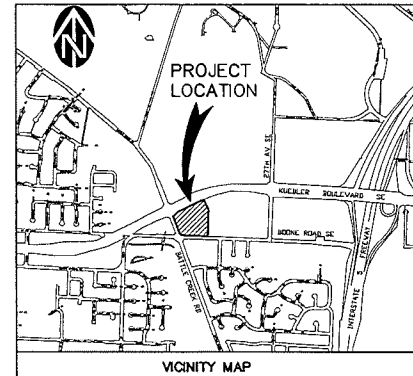
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1/10/2014 10:41:37 AM
C:\Users\jmc\Documents\Subdivision\Kuebler\Kuebler.dwg (Print, Subdivision Plan, 100)



0 20 40 80
1" = 40'

PROPERTY OWNER: M&T PARTNERS INC.
ZONING: CO, CR
TAX MAP: TL 600 (8 3W 12C)
TL 702 (8 3W 11D)



LOTS 1-6 SEWER & STORM WILL BE PRIVATE. A SEWER & STORM MAINTENANCE AGREEMENT TO COMPLY WITH SRC 70.100 AND WILL BE RECORDED PRIOR TO PLAT.

REVISIONS	
NO.	DATE
1	DEC. 2013

DRAWING	
1	
JOB NUMBER	
2672.7000.0	

PROPOSED PRELIMINARY SUBDIVISION PLAN
KUEBLER GATEWAY
TENTATIVE SUBDIVISION PLAN

M & T PARTNERS

REVIEWER'S SIGNATURE: [Signature]
DATE: 12/10/2013
PROJECT: KUEBLER GATEWAY
SUBDIVISION: KUEBLER GATEWAY
SHEET: 1 OF 1

DATE: DEC. 2013

**APPLICANT'S STATEMENT FOR M&T PARTNERS, INC. -
KUEBLER GATEWAY COMMERCIAL PROJECT SUBDIVISION**

Background

M&T Partners, Inc. (M&T) proposes to subdivide its 7.32 acre property located along the east side of Battle Creek Road, between Kuebler Blvd. and Boone Road. The M&T property makes up the western end of the Kuebler Gateway commercial project, which consists of a 28 acre tract situated between Kuebler Blvd., Boone Road, 27th Avenue, and Battle Creek Road. The contiguous Kuebler Gateway site is planned and zoned for a commercial retail and office center. M&T Partners, Inc. is a wholly-owned subsidiary of Pacific Realty Associates, L.P., which owns the rest of the commercial property adjacent to the east of M&T. The first phase of the development, consisting of two office buildings, has been built on the M&T property. One of the buildings is occupied by Salem Clinic.

The M&T property currently exists as two contiguous Tax Lots, identified as Tax Lot 600 on Assessor's map T8S-R3W-Section 11D, and Tax Lot 702 on map -12C. Tax Lot 600 is 4.73 acres and has frontage along Battle Creek Road, Boone Road, and Kuebler Blvd. Tax Lot 702 is 2.59 acres and has frontage along Boone Road. The parcels currently share two common property boundaries, a north-south line that constitutes an eastern/western boundary, and an east-west line that constitutes a northern/southern boundary.

The M&T property is zoned CO and CR (Zone Change Case 09-3). The CO zoning borders Boone Road, and includes Tax Lot 702 and the southern part of Tax Lot 600. The two office buildings are within the CO zoned area of the property. The remaining land to the north, which is all within Tax Lot 600 and borders Kuebler Blvd., is zoned CR and is vacant.

Access to the property is provided by a driveway to Boone Road, which runs along the east side of the property. This driveway will also serve as an access in common with the adjoining commercial land to the east, in keeping with a condition of approval adopted at the time of zoning approval, Comp Plan Amendment/Zone Change Case 06-6.

Subdivision Preliminary Plan

The purpose of the proposed subdivision is to create future building lots for the next stage of the site's development. The proposal is to divide the property into six lots, two of which will contain the existing buildings. As shown on the preliminary subdivision plan provided by Westech Engineering, the Project Engineer, Lot 1 is at the corner of Battle Creek Road and Kuebler; Lots 2 and 3 are located along the Kuebler frontage; Lot 4 is situated in between Lots 2 and 3 on the north, Lot 5 on the south, and the common access drive; Lot 5 is located along the Boone Road frontage and is the site of the Salem Clinic Building, and Lot 6 borders Boone Road and Battle Creek Road, and includes the second office building.

The size, zoning, and existing condition of each proposed lot is as follows:

Lot 1	.841 acre/36,634 squ. ft.	CR	vacant
Lot 2	.795 acre/34,630 squ. ft.	CR	vacant
Lot 3	.920 acre/42,835 squ. ft.	CR	vacant
Lot 4	.872 acre/37,984 squ. ft.	CR	vacant
Lot 5	2.346 acres/102,192 squ. ft.	CO	developed, Salem Clinic
Lot 6	1.549 acres/67,474 squ. ft.	CO/ CR (northern edge),	developed, office building

There is no minimum lot size in the CR zone. The minimum lot size for most non-residential uses in the CO zone is 6,000 squ. ft. The proposed lots satisfy the applicable lot size requirements.

The primary access to all of the proposed lots is the common driveway to Boone Road. None of the lots have individual access to any of the bordering public streets. Reciprocal access easements will allow all six of the lots in this subdivision to access the common driveway to Boone Road, as well as lots created in the future from the commercial area to the east as it is developed. As more than four lots will have access to the easement; more than 15% of the lots in this subdivision will be "flag lots", and the length of the flag lot access easement will be greater than 400', Class 2 Adjustments to SRC 63.295(a) and (d) (ref Table 63-1) are required. The requirements for the Adjustments are addressed as part of this report.

Findings for Approval of a Subdivision, SRC 63.046

(b) Before approval of a tentative plan, the planning administrator shall make affirmative findings that :

(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 of any adjoining land or access thereto.

The proposed subdivision constitutes all of the land in the ownership of M&T Partners, Inc., at this location. The subdivision is proposed to create building lots that will promote and enhance the future use of the property. The development of the property is being coordinated with the future development of the commercial land to the east with regards to building placement, driveway access, parking and circulation, internal utility infrastructure, and public improvements, among other factors. Both the subject property and the adjoining commercial land to the east are subject to the conditions of approval adopted in the decision for CPC-ZC 06-6, which assures that incremental development provides for the future use of remaining portions of the 28 acre site. Because the development of the overall 28 acre site is coordinated by the conditions of approval with regards to on-site and off-site improvements, and these requirements are incorporated into the subdivision design, the future use of the M&T property will not be impeded, and the safe and healthful development of the remaining adjoining commercial land to the east, and the access to it, will not be adversely affected. Approval of the subdivision will benefit the future use and development of the contiguous property by including incremental development of facilities that will serve both properties.

(2) Provisions for water, sewer, streets, and storm drainage facilities comply with the City's public facility plan.

The water, sewer, street and storm drainage facilities have been designed by Westech Engineering, the Project Engineer, and permits for construction were issued by the City. As stated by the Project Engineer, during 2013 the applicant submitted private and public construction drawings that were reviewed and approved by the City of Salem. The private improvements consisted of two buildings, a parking lot, private sanitary sewer system, private water system, and a private storm drain system. The storm drain system included detention and stormwater quality treatment for a 7.57 acre site. The public improvements consisted of

widening Boone Road, Battle Creek Road SE and a portion of Kuebler Blvd., as well as public sanitary sewer, storm and water line infrastructure. After City plan approval the applicant constructed the private (PERMIT # 12-115538-CO et al) and public improvements (PERMIT # 12-107400-02-PC) later that year in 2013. To date, the City has accepted the public improvements, thereby acknowledging that the improvements were constructed per City standards. Improvements constructed during this project provide the necessary infrastructure consisting of private sanitary sewer, private storm sewer, and public water that are available to fully serve this proposed subdivision.

(3) The tentative plan complies with all applicable standards of this Code, including the Salem zoning ordinance, unless a variance or adjustment therefor has been obtained.

The subdivision property is zoned CO and CR. There is no minimum lot size in the CR zone. The minimum lot size for most non-residential uses in the CO zone is 6,000 square feet. The two proposed lots in the CO part of the property are substantially larger than 6,000 square feet, and they are developed. All applicable standards of the Code were met at the time of development. The proposed undeveloped lots also meet the applicable lot standards of 63.145. The subdivision borders the adjacent, vacant CR land to the east only along the east line of Lot 3. Because the proposed lot and the adjoining land are zoned CR it is expected that the bufferyard setback requirement will be minimal.

Three features of the subdivision require Adjustments. More than four lots will be served by an access easement; Lots 1, 2, 3, and 6 are flag lots; and the length of the accessway exceeds 400'. Class 2 Adjustments to the standards of SRC 63.295(a) and (d) and Table 63-1 are requested for these features, and the criteria of SRC 250.005(d)(2) are addressed below.

At the time the development of a lot is proposed, the site plan will be required to demonstrate compliance with the applicable standards for property line setbacks, parking, access, landscaping, etc.

(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.

There are no residential areas adjacent to the proposed subdivision, and no neighborhood activity centers within a half-mile. The nearest residential area is located to the north-east, across Boone Road. An internal driveway along the east side of the subdivision provides access to Boone Road. This driveway will also serve as access to the adjoining commercial land to the east of the subdivision. Easements will provide access to each proposed lot, as well as future lots. Bicycle and pedestrian access will be available along Boone Road, and along the internal driveway providing access to the subdivision. Boone Road is a public street, and sidewalks and a bike lane will be located along Boone Road. By providing a direct link to Boone Road, the public street that serves the nearest residential area, safe and convenient bicycle and pedestrian access will be available from within the subdivision.

Adjustments, SRC Chapter 250

Class 2 Adjustments are requested to allow more than four lots to be served by the accessway, to allow the number of flag lots in the subdivision to exceed 15%, and to allow the length of the access to the flag lots to be greater than 400'. The criteria for a Class 2 Adjustment in SRC 250.005(d)(2) are addressed as follows:

(2) An application for a Class 2 adjustment shall be granted if all of the following criteria are met:

- (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*

The application satisfies (A)(ii). The property is subject to the conditions of approval of CPC/ZC 06-6, which apply to the entire contiguous 28 acres. Those conditions limit the number and the location of the driveways that can provide access to the public streets. These are one driveway to Boone Road, one driveway to 27th Avenue (at the far east end of the 28 acre site), and one right-in only from Kuebler Blvd. The limited number and specific location of the driveways makes it necessary to serve the development property with reciprocal easements for access to the driveways. In addition, the size and dimensions of the subdivision, in particular its depth to the west of the Boone Road driveway, results in the necessity for four flag lots, and an accessway length that exceeds 400'.

The large size of the property is a geographic feature that makes it impractical to limit the length of the accessway to 400' (ref Table 63-1 footnote 4). There will be adequate turn-around space for emergency vehicles at the end of the accessway within each lot. The conditions of approval that limited the number of driveways to the public street, and specified their locations, was adopted to assure adequate access to the contiguous development and efficient flow of traffic on the public streets. The proposed access to the lots and the property provides them with appropriate access to the common driveway, as required by the conditions of approval. For these reasons, the purpose underlying the three specific development standards proposed for adjustment are equally or better met by the proposed development, and this criterion is satisfied.

(B) (This criterion applies only to property located in a residential zone. The subject property is zoned CR. Therefore, this criterion does not apply.)

(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. Three Adjustments are requested; to allow more than four lots to be served by the accessway, to allow more than 15% of the lots to be flag lots, and to allow the length of the accessway to exceed 400'. The purpose of the zone in this case was established through the zone change cases that applied the CR and CO zones, CPC/ ZC 06-6 and ZC 09-3. The purpose was to enable a consolidated, coordinated retail and office center on the contiguous 28 acre site. Conditions of approval specify how aspects of the development, including access to the public street, are to be coordinated. The requested Adjustments fulfill the requirements of those conditions by providing internal access to the property from the common driveway that will access the public street. The proposed flag lots lie greater than 400' distant from the common driveway as a result of the size of the property. However, the project remains consistent with the overall purpose of limiting access to the public street to the specified number and location of common driveways. Therefore, the cumulative effect of the three requested Adjustments results in a project that conforms to the zoning conditions of approval, and which is still consistent with the overall purpose of the zone. These factors satisfy this criterion.

Summary

The land to be subdivided is part of the larger, approved, commercial center project. The subdivision organizes the future development of this part of the overall commercial site, and it coordinates future development with the provision of public services. It will have no effect on off-site properties and it will not change the relationship of the commercial center to adjoining properties. The exterior boundaries of the larger, approved, project site will not change as a result of the subdivision. Access to the subdivision lots from the external streets will remain as specified in the project conditions of approval. The proposed subdivision covers all of the property in the M&T ownership and there is no remainder that is not part of the subdivision. The subdivision will not adversely affect the safe and healthful development of the remaining commercial land within the project site to the east, or affect its access. The provisions made for water, sewer, streets, and storm drainage facilities for the subdivision comply with the City's public facility plan. The tentative subdivision plan addresses the applicable standards of the Zone Code, through compliance with the standards and by showing how the three requested Adjustments are equally consistent with the standards. The subdivision provides for all private and public facilities needed to serve the project.

For the facts and reasons presented, the subdivision addresses and satisfies the criteria for approval.