

NOTICE OF DECISION

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



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

DECISION OF THE PLANNING ADMINISTRATOR

SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ19-07

APPLICATION NO.: 19-115728-LD / 19-117588-ZO

NOTICE OF DECISION DATE: OCTOBER 2, 2019

SUMMARY: Request for a five lot Subdivision of approximately seven acres and Adjustments to setbacks between property lines and vehicle use areas.

REQUEST: A request for a five lot Subdivision to create Lot 1 at 2.16 acres, Lot 2 at 2.93 acres, Lot 3 at 0.88-acre, Lot 4 at 0.42 acre and Lot 5 at 0.55-acre. Proposed Lot 1, Lot 3-5 are developed as a single commercial development with three buildings and vehicle use areas. A Class 2 Adjustment is requested to reduce vehicle use area setbacks from 5-feet abutting new property lines to zero in several locations. The subject property with a combined size of approximately seven acres, zoned CR (Retail Commercial), and located at 5775 Commercial Street SE - 97306 (Marion County Assessors Map and Tax Lot numbers: 083W14CD/ 1000, 083W14CD / 700, 083W14CD/ 400, 083W14CD / 500 and 083W14CD / 300).

APPLICANT: Brandie Dalton, Multi Tech Engineering Services, on behalf of Bo Rushing.

LOCATION: 5775 Commercial Street SE

CRITERIA: Salem Revised Code (SRC) Chapters SRC 205.010(d), SRC250.005(d)(2)

FINDINGS: The findings are in the attached Decision dated October 2, 2019.

DECISION: The **Planning Administrator APPROVED** Subdivision SUB-ADJ19-07 subject to the following conditions of approval:

Condition 1: Prior to final plat, the applicant shall obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property.

Condition 2: Prior to final plat, the applicant shall design and construct water, sewer, and stormwater systems and provide access and utility easements to serve all proposed lots in compliance with PWDS and ORS 92.090.

Condition 3: Prior to final plat, the applicant shall provide a street tree plan that demonstrates the provision of street trees to the maximum extent feasible along all street frontages.

Condition 4: Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

Condition 5: Prior to plat, a permanent irrevocable easement is recorded for access and parking to serve all lots.

Condition 6: Prior to plat, provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries.

Condition 7: Prior to final plat, the applicant shall provide a parking and access agreement for all five lots.

Condition 8: Prior to final plat, the applicant shall provide and receive approval from the Planning Division for a landscaping plan including required landscaping and additional 252 plant units.

Condition 9: Prior to final plat, the applicant shall install all landscaping as shown on approved landscaping plan.

The rights granted by the attached decision must be exercised, or an extension granted, by October 18, 2021 or this approval shall be null and void.

Application Deemed Complete:	<u>September 4, 2019</u>
Notice of Decision Mailing Date:	<u>October 2, 2019</u>
Decision Effective Date:	<u>October 18, 2019</u>
State Mandated Decision Date:	<u>January 2, 2020</u>

Case Manager: Olivia Glantz, OGlantz@cityofsalem.net, 503.540.2343

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than 5:00 p.m., October 18, 2019. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapters 205 and 250. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**BEFORE THE PLANNING ADMINISTRATOR
OF THE CITY OF SALEM
(SUBDIVISION PLAT NO. 19-04)**

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

IN THE MATTER OF THE)	FINDINGS AND ORDER
TENTATIVE APPROVAL OF)	
CONSOLIDATED SUBDIVISION PLAT)	
AND CLASS 2 ADJUSTMENT NO. 19-07;)	
5775 COMMERCIAL STREET SE)	October 2, 2019

REQUEST

In the matter of the application for Subdivision submitted by the applicant Rushing Commercial Crossing LLC and represented by Mark Grenz P.E., Multi-Tech Engineering, Inc., the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

Application Summary: A request for a five lot Subdivision of approximately seven acres and Adjustments to setbacks between property lines and vehicle use areas.

Request: A request for a five lot Subdivision to create Lot 1 at 2.16 acres, Lot 2 at 2.93 acres, Lot 3 at 0.88 acre, Lot 4 at 0.42 acre and Lot 5 at 0.55-acre. Proposed Lot 1, Lot 3-5 are developed as a single commercial development with three buildings and vehicle use areas. A Class 2 Adjustment is request to reduce vehicle use area setbacks from 5-feet abutting new property lines to zero in several locations. The subject property with a combined size of approximately seven acres, zoned CR (Retail Commercial), and located at 5775 Commercial Street SE - 97306 (Marion County Assessor's Map and Tax Lot numbers: 083W14CD/ 1000, 083W14CD / 700, 083W14CD/ 400, 083W14CD / 500 and 083W14CD / 300).

DECISION

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

- Condition 1:** Prior to final plat, the applicant shall obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property.
- Condition 2:** Prior to final plat, the applicant shall design and construct water, sewer, and stormwater systems and provide access and utility easements to serve all proposed lots in compliance with PWDS and ORS 92.090.

- Condition 3:** Prior to final plat, the applicant shall provide a street tree plan that demonstrates the provision of street trees to the maximum extent feasible along all street frontages.
- Condition 4:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.
- Condition 5:** Prior to plat, a permanent irrevocable easement is recorded for access and parking to serve all lots.
- Condition 6:** Prior to plat, provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries.
- Condition 7:** Prior to final plat, the applicant shall provide a parking and access agreement for all five lots.
- Condition 8:** Prior to final plat, the applicant shall provide and receive approval from the Planning Division for a landscaping plan including required landscaping and additional 252 plant units.
- Condition 9:** Prior to final plat, the applicant shall install all landscaping as shown on approved landscaping plan.

PROCEDURAL FINDINGS

1. On July 11, 2019, Multi-Tech Engineering, on behalf of Rushing Commercial Crossing, LLC (Lori Souza and Bonita Rushing), filed an application for a Tentative Subdivision Plan and Class 2 Adjustment proposing to divide a seven-acre property at the 5775 Commercial Street SE (Attachment B) into five lots.
2. After the applicant submitted additional required information, the application was deemed complete for processing on September 4, 2019. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on September 4, 2019.
3. The state-mandated local decision deadline is January 2, 2020.

SUBSTANTIVE FINDINGS

1. Proposal

The tentative plan proposes to divide the property, which consists of four tax lots, into five lots (Attachment B). The lots range in size from approximately 0.42 acres to approximately 2.93 acres. All lots take access directly from public streets and Lot 1,

Lots 3-5 are developed as a commercial shopping center (development site). Lot 2 is currently vacant.

The applicant has not proposed any specific phasing for the subdivision or development.

2. Existing Conditions

Site and Vicinity

The subject property is relatively flat with Waln Creek located along the western edge of the property. The property is located at the northwest corner of Commercial Street SE and Wiltsey Road SE, which serves several commercial developments currently located on the property. Environmental resources show Waln Creek but no floodplains on the subject property. The property is located within a landslide hazard area, which is addressed below.

Salem Area Comprehensive Plan (SACP) Designation

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

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

North: Commercial

South: (Across Wiltsey Road S) Multiple Family Residential

East: (Across Commercial Street SE) Commercial & Multiple Family Residential

West: Industrial Commercial

Zoning and Surrounding Land Use

The subject property is zoned CR (Retail Commercial) and is occupied by several commercial developments. The surrounding properties are zoned and used as follows:

North: CG (General Commercial); vacant land

South: (Across Wiltsey Road S) RM-II (Multiple Family Residential); apartments

East: (Across Commercial Street SE) CG (General Commercial) & CR (Retail Commercial); commercial nursery and vacant land.

West: IC Industrial Commercial; self-service storage

Relationship to Urban Service Area

The subject property is located inside of the Urban Service Area.

Infrastructure

Water: The subject property is located within the S-2 water service level.

Existing 12-inch public water mains is in Commercial Street SE

Existing 8-inch public water main is in Wiltsey Road SE

Sewer: Existing 8-inch public sewer mains are in Commercial Street SE and Wiltsey Road SE.

Storm Drainage: Existing 12-inch storm main is in Wiltsey Road SE.

An 18-inch storm main is in Commercial Street SE.

A private onsite detention system is located on the subject property.

Streets: Commercial Street SE currently abuts the subject property along the eastern boundary. This segment of Commercial Street SE is designated as a Major Arterial street in the Salem Transportation System Plan (TSP). Commercial Street SE has a special right-of-way and improvement width requirement pursuant to Table G-1 in the Salem TSP.

- The standard for this street classification is a 68-foot improvement within a 100-foot right-of-way.
- The abutting portion of Commercial Street SE is currently having an approximate 58-foot-wide improvement within a 100-foot-wide right-of-way.

Wiltsey Road SE currently abuts the subject property along the southern boundary. This segment of Wiltsey Road SE is designated as a Collector street in the Salem Transportation System Plan (TSP).

- The standard for this street classification is a 36-foot improvement within a 60-foot right-of-way.
- The existing portion of Wiltsey Road SE is currently an approximate 36-foot improvement within a varying 55 to 64-foot right-of-way.

3. Land Use History

REP05-03: Replat to reconfigure property lines. (Expired)

REP12-05: Replat to reconfigure property lines. (Expired)

CU15-10: Conditional use permit for mixed use building (Expired)

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 D.

Fire Department - The Salem Fire Department submitted comments indicating no concerns.

5. Neighborhood Association Comments

The subject property is within the Sunnyslope 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 within 250 feet of the subject property were mailed notification of the proposed subdivision. No comments from property owners within the vicinity of the subject property were submitted prior to the close of the public comment period deadline.

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 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 522 (Retail Commercial): The proposed subdivision would divide the approximately seven acre property into five lots. The subject property is currently zoned CR (Retail Commercial).

The minimum lot area requirements of the CR zone are established under SRC 522.010(a) as follows:

Lot Standards for CR zone (see SRC Chapter 522, Table 522-2)

Requirement	Minimum Standard
Lot Area	None
Lot Width	None
Lot Depth	None
Street Frontage (All other uses)	16 feet

Proposed lots in the subdivision range from approximately 0.42 acres to 2.93 acres. 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 522 establishes the following setback standards for development within an CR (Retail Commercial) zone:

Front Yards and Yards Adjacent to Streets:

- Minimum 5 feet for buildings and accessory structures

- Minimum 10 feet for vehicle use areas (SRC 806)

Rear Yards:

- Zero setback abutting commercial zones for buildings and accessory structures; or
- Minimum 5 feet abutting Industrial Commercial zone for buildings and accessory structures. (west property line of Lots 1-2)
- 5-foot setback to property line for vehicle use areas.

Interior Side Yards:

- Zero feet abutting commercial zones for buildings and accessory structures; or
- Minimum 5 feet abutting Industrial Commercial zone for buildings and accessory structures. (west property line of Lots 1-2)
- 5-foot setback to property line for vehicle use areas.

Lot 1 and Lots 3-5 will contain an existing commercial development that share access and parking areas. The proposed lot line will not meet the standards for landscaping and setbacks to property lines from vehicle use areas. The applicant has applied for a Class 2 Adjustment, which is addressed below in Section 8.

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 Lot 5 is a corner lot. The existing building was constructed with Commercial Street SE as the front property line, which will remain the front.

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 has not demonstrated that the proposed stormwater facility meets the sizing requirement needed to serve the proposed development, and its adjustment may affect adjacent lot sizes. To demonstrate the proposed parcels can meet the PWDS, the applicant shall provide an engineered stormwater design to accommodate future impervious surface on all proposed lots, including new street improvements.

SRC Chapter 200 (Urban Growth Management): The Urban Growth Management Program requires that an Urban Growth Area (UGA) Development Permit must be obtained prior to development of property outside the Salem Urban Service Area. The subject property is located inside of the Urban Service Area.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that sewer and storm infrastructure is available along the perimeter of the site and appears to be adequate to serve the proposed subdivision. Developments are required to extend public utility services to serve upstream and neighboring properties; the tentative utility plan appears to meet that requirement.

The subject property has previously abandoned a sewer main located within the subject property. The easement for the main is still shown on the subject property. In order to eliminate the easement, the applicant shall obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property.

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. 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). 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.

Condition 1: Prior to final plat, the applicant shall obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property.

Condition 2: Prior to final plat, the applicant shall design and construct water, sewer, and stormwater systems and provide access and utility easements to serve all proposed lots in compliance with PWDS and ORS 92.090.

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 five-lot subdivision generates less than 1,000 average daily vehicle trips to Commercial Street SE, a major arterial street. Therefore, a TIA is not required as part of the proposed subdivision submittal.

SRC 803.020 (Public and Private Streets): The applicant is not proposing internal streets within the subdivision.

SRC 803.025 (Right-of-Way and Pavement Widths): Commercial Street SE, designated as a Major Arterial street in the TSP, abuts the eastern boundary of the subject property. The abutting section of Commercial Street SE has adequate right-of-way, but does not have adequate half-width street improvement pursuant to the Salem TSP. However, this section of Commercial Street SE has been approved for an alternative street standard pursuant to SRC 803.065(a)(3) because of existing mature street trees along a portion of the frontage that make construction conforming to the standards undesirable. The street is finished with curb, gutter, and sidewalk improvements along the entire frontage of the property. Pursuant to SRC 86.015(e), the applicant shall provide additional street trees to the maximum extent feasible along all street frontages.

Wiltsey Road SE, designated as a Collector street in the TSP, abuts the southern boundary of the subject property. The abutting portion of Wiltsey Road SE has an adequate half-width right-of-way of 30 feet on the development side and is fully improved and meets the current standard for a Collector street. No improvements are warranted as a condition of subdivision approval.

Condition 3: Provide a street tree plan that demonstrates the provision of street trees to the maximum extent feasible along all street frontages.

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 4: 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): Commercial Street SE, designated as a Major Arterial street in the TSP, abuts the eastern boundary of the subject property. The abutting section of Commercial Street SE has adequate right-of-way, but does not have adequate half-width street improvement pursuant to the Salem TSP. However, this section of Commercial Street SE has been approved for an alternative street standard pursuant to SRC 803.065(a)(3) because of existing mature street trees along a portion of the frontage that make construction conforming to the standards undesirable. The street is finished with curb, gutter, and sidewalk improvements along the entire frontage

of the property. Pursuant to SRC 86.015(e), the applicant shall provide additional street trees to the maximum extent feasible along all street frontages.

Wiltsey Road SE, designated as a Collector street in the TSP, abuts the southern boundary of the subject property. The abutting portion of Wiltsey Road SE has an adequate half-width right-of-way of 30 feet on the development side and is fully improved and meets the current standard for a Collector street. No improvements are warranted as a condition of subdivision approval.

The proposal meets the requirements of SRC 803.040.

SRC Chapter 804 (Driveway Approaches):

SRC 804.045 (Shared access): The proposed five-lot subdivision will be sharing two existing driveway locations. Proposed Lot 5 will have frontage along Commercial Street SE and Wiltsey Road SE and Proposed Lots 3 and 4 have frontage along Commercial Street but all three lots will not have access to said streets. New access to Commercial Street SE, a Major Arterial are limited, and the applicant is proposing to share access and parking as part of the development site. Since the applicant is proposing shared access and to ensure all lots have adequate access and parking, the following condition is required:

Condition 5: Prior to plat, a permanent irrevocable easement is recorded for access and parking to serve all lots.

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

SRC Chapter 601 (Floodplain Overlay Zone):

Waln Creek is located within the subject property. This portion of the creek was not analyzed in conjunction with the Flood Insurance Study. The proposed subdivision is greater than 5 acres; therefore, the applicant shall provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries pursuant to SRC 601.110(a)(5).

Condition 6: Prior to plat, provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries.

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 proposed

subdivision is for commercial development, therefore a Tree Conservation Plan is not applicable.

The applicant submitted a written statement describing that no tree removal is proposed. At the time of development of Lot 1, any removal of vegetation or trees within the riparian corridor would require a removal permit. 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) identify wetlands on the subject property. As proposed, Lots 1 and 2 of 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.

The landslide hazard susceptibility points are from a small area of slope-induced hazard within the banks of Waln Creek. Because no activity is proposed within Waln Creek, the proposed development has a low landslide hazard risk and will not adversely affect the stability and slide susceptibility of the subject property pursuant to SRC 810.001(a).

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 seven acre property into five lots. Access to lots within the proposed subdivision is provided by existing public right of way. Most of the subject property is developed with a commercial shopping center. The proposal provides pedestrian connections to shopping and could provide interior access to the northern commercially zoned property. The remaining property lines either have property which is developed or are existing public streets. 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 commercial development or other

SRC Chapter 522 "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: The subject property is located inside of the designated Urban Service Area. 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 and conditioned above. 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 a park.

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: Commercial Street SE abutting the subject property does not meet the improvement and right-of-way widths for a minor arterial classification as shown in the Salem Transportation System Plan (TSP). However, this section of Commercial Street SE has been approved for an alternative street standard pursuant to SRC 803.065(a)(3) because of existing mature street trees along a portion of the frontage that make construction conforming to the standards undesirable. The street is finished with curb, gutter, and sidewalk improvements along the entire frontage of the property. Pursuant to SRC 86.015(e), the applicant shall provide additional street trees to the maximum extent feasible along all street frontages.

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 proposed network of boundary streets serving the subdivision provides 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:

- Battle Creek Park, a 38.51-acre undeveloped park is located approximately 2,100 feet south of the closest lots within the proposed subdivision, near the intersection of Commercial Street SE and Waln Drive SE.
- Wiltsey Road Park, a 2.4-acre neighborhood park located approximately 1,800 feet west of the closest lots, near 1270 Wiltsey Road SE.

The nearest transit service available to the subject property is on across Wiltsey Road SE at Commercial Street SE, by way of Salem Keizer Transit's Route 21 bus line. There is continuous sidewalk access is available between the subject property, transit stops and parks, via existing streets and sidewalks.

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 five-lot subdivision will generate less than 1,000 average daily vehicle trips to Commercial Street SE, designated in the Transportation System Plan as a Major Arterial and less than 1,000 average daily vehicle trips to Wiltsey Road SE. designated Transportation System Plan as a Collector. 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 an adjustment for the existing vehicle use areas, which is addressed below.

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 tentative subdivision plan configures lots allow commercial development of the site while minimizing disruptions to topography and vegetation.

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 inside of the Urban Service Area and has applied for an Urban Growth Area Preliminary Declaration, therefore an Urban Growth Preliminary Declaration permit is not required.

8. Analysis of Class 2 Adjustment Approval Criteria

SRC Chapter 250.005(d)(2) provides that an applicant for a Class 2 Adjustment shall be granted if all the following criteria are met:

Criterion 1:

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: Reduce the landscape required per SRC 522.010(b) and Table 522-3 for a vehicle use area adjacent to a property line from 5 feet to zero feet.

The applicant states that the property is currently developed with a commercial shopping center, which shares parking and access. The purpose of the setback is to provide a buffer between properties. The reduction will not change the way the commercial shopping center currently operates or its appearance. The subdivision will add property lines in locations, which without the adjustment would require the parking areas reconfigure. The applicant has proposed to provide additional plant units in existing landscaped areas equal to those plant units required along the proposed property lines. To ensure the equally amount of plant unit is provided and adequate circulation the following conditions apply:

Condition 7: Prior to final plat, the applicant shall provide a parking and access agreement for all five lots.

Condition 8: Prior to final plat, the applicant shall provide and receive approval from the Planning Division for a landscaping plan including required landscaping and additional 252 plant units.

Condition 9: Prior to final plat, the applicant shall install all landscaping as shown on approved landscaping plan.

Criterion 2:

If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

Finding: The subject property is not located within a residential zone.

Criterion 3:

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: One adjustment is requested therefore this criterion is not applicable.

Any future development, beyond what is shown in the proposed plans, needs to conform to the driveway development requirements of SRC Chapter 804 and the vehicle use area setback requirements of SRC Chapter 806, unless adjusted through a future land use action. To ensure compliance with this requirement, Condition 7, as conditioned above, is necessary.

Criterion 2:

If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

Finding: The subject property is not located within a residential zone.

Criterion 3:

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: One adjustment is requested, therefore this criterion is not applicable.

Any future development, beyond what is shown in the proposed plans, needs to conform to the driveway development requirements of SRC Chapter 804 and the vehicle use area setback requirements of SRC Chapter 806, unless adjusted through a future land use action. To ensure compliance with this requirement, Condition 7, as conditioned above, is necessary.

9. Conclusion

Based upon review of SRC 205.005 and SRC 250.005, the findings contained under Section 7 and 8 above, and the comments described, the tentative subdivision plan and urban growth preliminary declaration complies with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

IT IS HEREBY ORDERED

That Tentative Subdivision Plan and Class 2 Adjustment Case No. 19-07, on property zoned CR (Retail Commercial), and located at 5775 Commercial Street SE - 97306 (Marion County Assessor's Map and Tax Lot numbers: 083W14CD/ 1000, 083W14CD / 700, 083W14CD/ 400, 083W14CD / 500 and 083W14CD / 300).), is **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

- Condition 1:** Prior to final plat, the applicant shall obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property.
- Condition 2:** Prior to final plat, the applicant shall design and construct water, sewer, and stormwater systems and provide access and utility easements to serve all proposed lots in compliance with PWDS and ORS 92.090.
- Condition 3:** Prior to final plat, the applicant shall provide a street tree plan that demonstrates the provision of street trees to the maximum extent feasible along all street frontages.
- Condition 4:** Dedicate a 10-foot public utility easement (PUE) along the street frontage of all internal streets.

- Condition 5:** Prior to plat, a permanent irrevocable easement is recorded for access and parking to serve all lots.
- Condition 6:** Prior to plat, provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries.
- Condition 7:** Prior to final plat, the applicant shall provide a parking and access agreement for all five lots.
- Condition 8:** Prior to final plat, the applicant shall provide and receive approval from the Planning Division for a landscaping plan including required landscaping and additional 252 plant units.
- Condition 9:** Prior to final plat, the applicant shall install all landscaping as shown on approved landscaping plan.

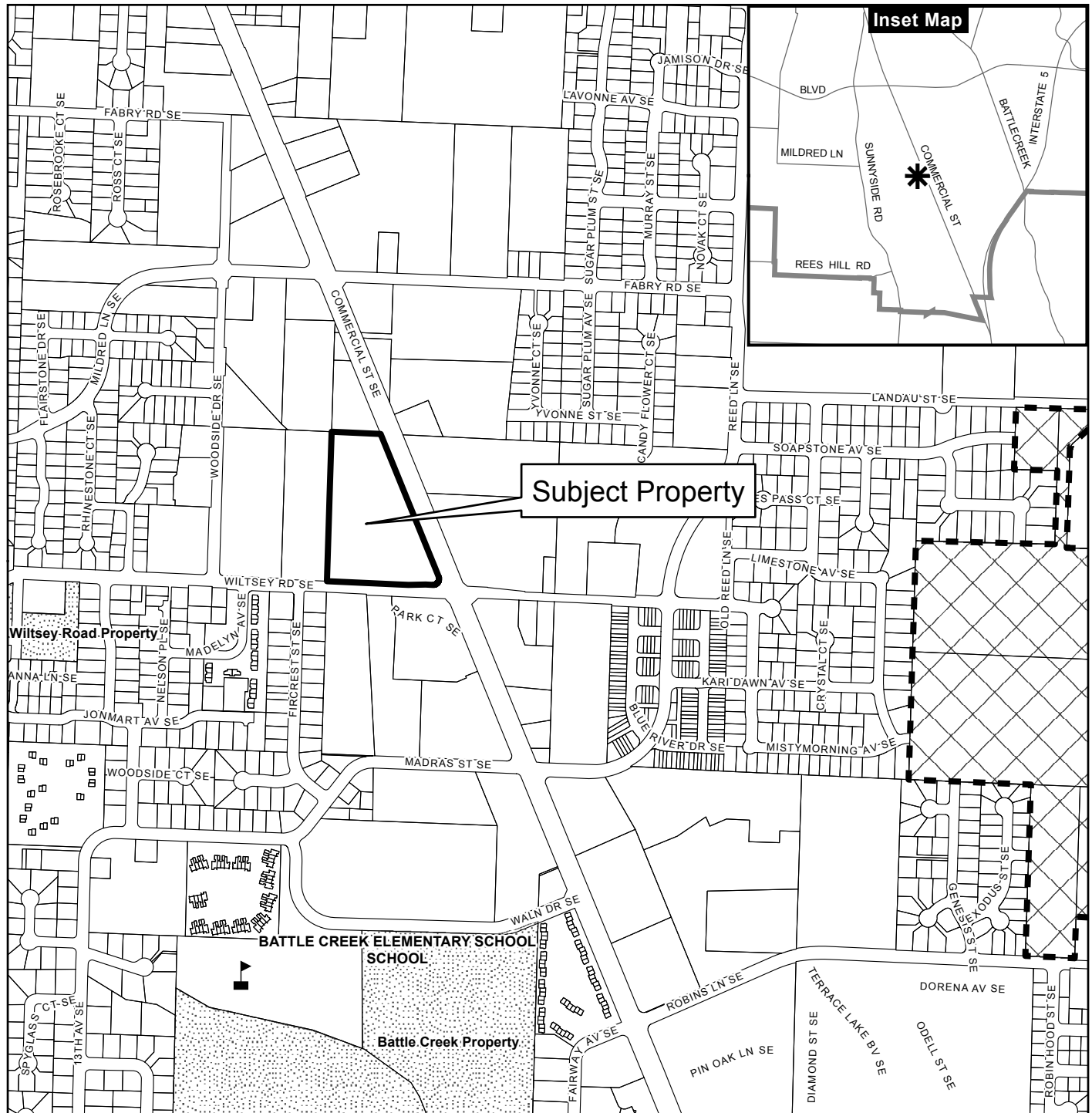


Olivia Glantz, Planner III, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

- Attachments: A. Vicinity Map
B. Tentative Subdivision Plan
C. Applicant's Written Statement on Tentative Subdivision Plan
D. City of Salem Public Works Department Comments

Vicinity Map

5775 Commercial Street SE



Legend



Taxlots



Urban Growth Boundary



City Limits



Outside Salem City Limits



Historic District



Schools



Parks



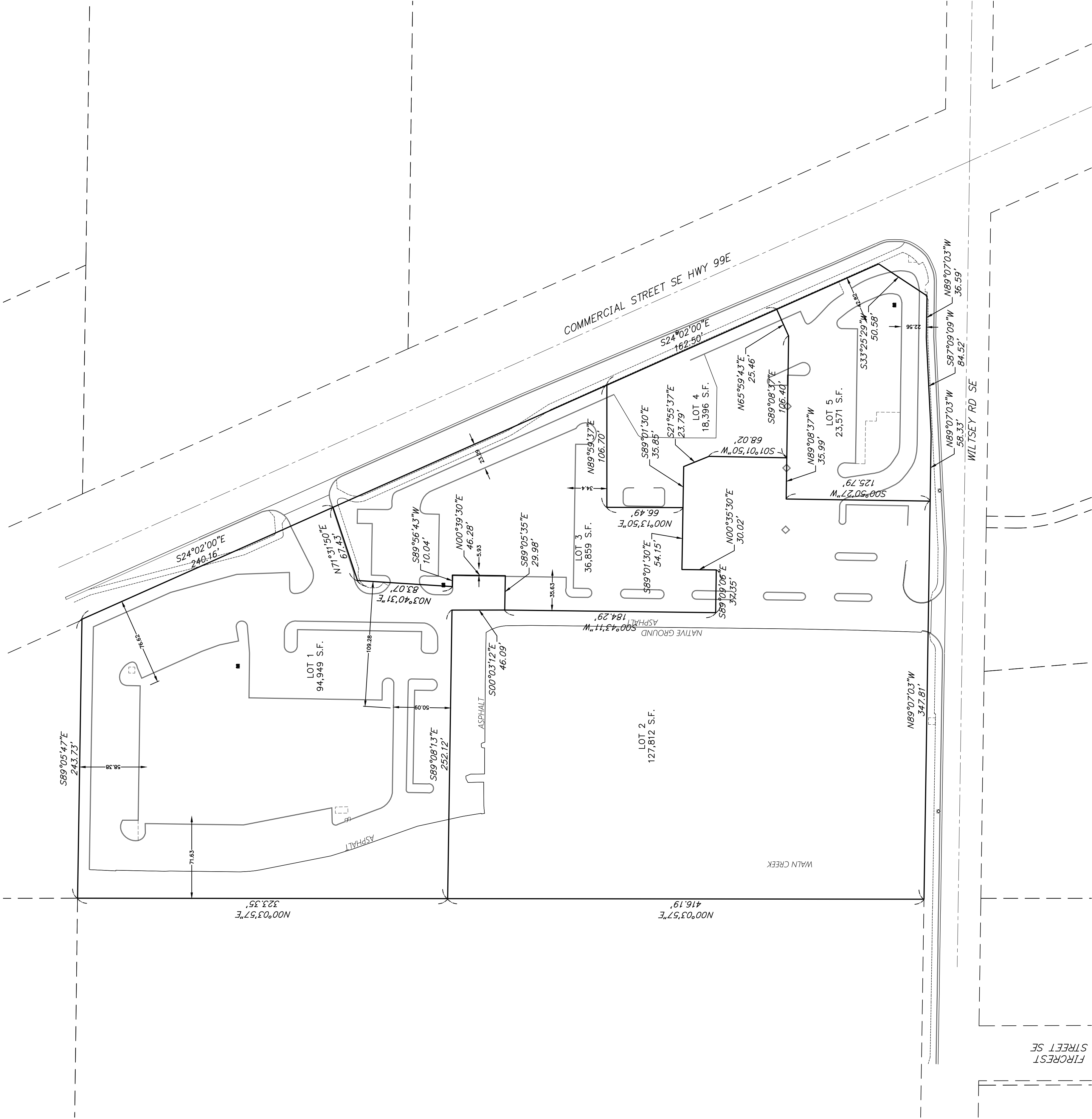
Community Development Dept.

This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

Owner/Developer:
BO RUSHING
4336 COMMERCIAL ST. S.E.
SALEM, OREGON 97302

ANTHONY'S PLACE

SEC. 14, T.8 S., R. 3 W., W.M.
CITY OF SALEM
MARION COUNTY, OREGON



Attachment B

ENGINEERING SERVICES, INC.

1155 13th ST. S.E. SALEM, OR. 97302

PH. (503) 363 - 9227 FAX (503) 364-1260

www.mtengineering.net office@mtengineering.net

MULTI/TECH

ENGINEERING

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

PRECEDENCE OVER GRAPHICAL REPRESENTATION.

NOT FOR CONSTRUCTION UNLESS STAMPED APPROVED HERE

MULTI/TECH ENGINEERING EXEMPT FROM LIABILITY IF NOT STAMPED APPROVED

Design: M.D.G.

Drawn: C.T.S.

Proj/Mgr: B.M.G.

Date: JULY 2019

Scale: AS SHOWN

As-Built:

SEAL

REGISTERED PROFESSIONAL ENGINEER

EXPIRES: 06-30-2021

JOB # 66377

3 of 5

Commercial Street

Revised: Adjustment Class-2

Background:

In 2015, Conditional Use 15-10 was approved for the subject property. The Conditional Use Approval was for a 61,500 square foot building consisting of 16,500 square feet of commercial use and 52 multi-family units.

On April 11, 2019, a Pre-Application Conference (PRE-AP19-36) was held with the City staff to discuss the development of properties located at 5775 Commercial Street SE (083W14CD/Tax Lots 300, 400, 700, 1000).

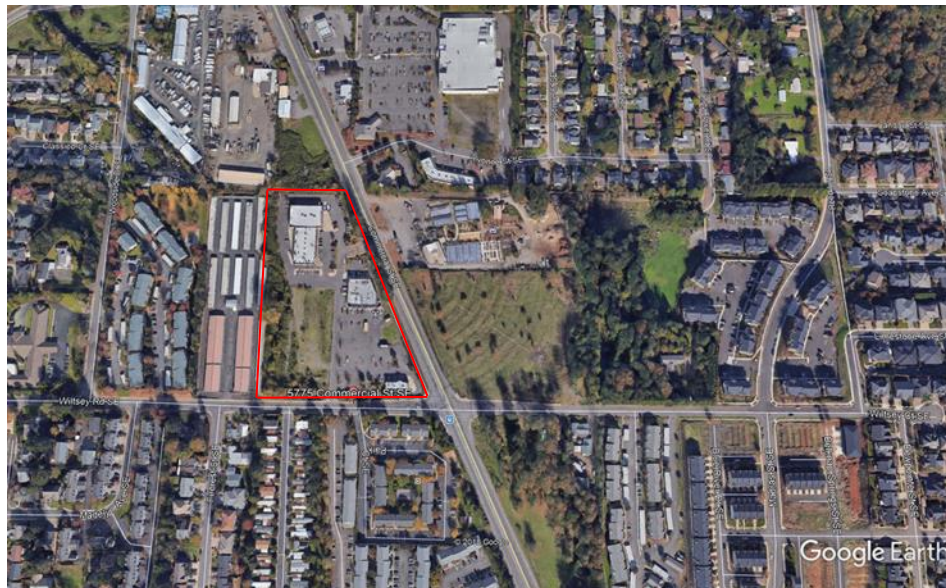
Proposal:

The subject properties are about 7 acres in size and zoned CR (Commercial Retail). The applicant is proposing to divide the subject property into 5 lots:

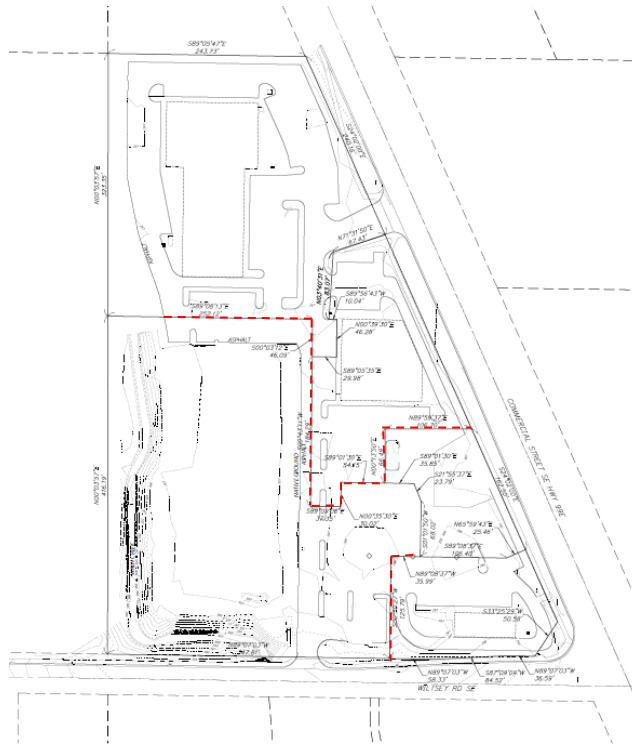
- Lot 1: 2.16 acres/existing commercial retail uses
- Lot 2: 2.93 acres/vacant
- Lot 3: 0.88 acres/existing commercial retail uses
- Lot 4: 0.42 acres/vacant
- Lot 5: 0.55 acres/existing Taco Bell

Site Vicinity and Characteristics:

The subject properties are located at 5775 Commercial Street and identified as 083W14CD/Tax Lot 300, 400, 700, and 1000.



As shown on the site plan, the proposed property lines run through the parking areas located within the development. Therefore, the applicant is requesting a Class 2-Adjustment to this standard.



Adjustment Criteria-SRC 250.005(d)(2) Criteria

- (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.*
- (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.*

Applicant Findings:

- (A) The applicant is requesting a greater than 20% zoning adjustment to SRC 806.035(C)(3), which would allow the applicant to eliminate the required 5-foot landscaped area between property lines and existing vehicle areas. The applicant will provide additional landscaping on the site to compensate for the removal of the 5-foot landscaped area.

The subject property is developed as commercial. The existing parking lots will be included in each lot. All parcels will continue to share parking and accessways, even newly created Parcels. All lots will share the parking spaces and have access throughout the parking lot. The property lines required to provide landscaped bufferyards are located within the parking area and access areas of parcels as shown on the site plan. Providing landscaped bufferyards adjacent these property lines is not feasible. Landscaped bufferyards would be in the middle of the driveway, parking areas, and maneuvering areas; therefore, making parking and maneuvering difficult to use.

The layout of the site, the shared parking, along with the location of the property lines within the parking areas creates a practical difficulty in the feasibility of the placement of landscape bufferyards with in this area. Eliminating this requirement and providing additional landscaping elsewhere on the site, is better for the development.

The applicant has agreed to provide an additional 252 plant units through out the site. This will provide additional landscaping in the areas along the front of the property adjacent Commercial Street and additional trees within the islands located within the parking areas. The additional landscaping will enhance the site while providing a total of about 9,300 square feet of landscaped area through the site. The additional landscaping will be better for the development since it will help to provide more grass and trees throughout the site.

In order to provide adequate parking and maneuvering area, this adjustment is necessary for safer and proper development of the properties. Therefore, the required 5-foot landscaped bufferyard within the center of parking areas and the accessways is not safe or feasible and the elimination of this standard is better met by providing additional landscaping throughout the site.

- (B) The subject property is not located within a residential zone. Therefore, this criterion is not applicable.
 - (C) There is only one adjustment being requested for this proposal.
-



MEMO

TO: Olivia Glantz, Planner III
Community Development Department

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

DATE: September 27, 2019

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS
SUB-ADJ19-07 (19-115728-LD)
5775 COMMERCIAL STREET SE
5-LOT SUBDIVISION**

PROPOSAL

A request for a five-lot Subdivision to create Lot 1 at 2.16 acres, Lot 2 at 2.93 acres, Lot 3 at 0.88 acre, Lot 4 at 0.42 acre, and Lot 5 at 0.55 acre. Proposed Lot 1 and Lots 3-5 are developed as a single commercial development with three buildings and vehicle use areas. The subject property has a combined size of approximately seven acres, is zoned CR (Retail Commercial), and is located at 5775 Commercial Street SE (Marion County Assessors Map and Tax Lot Numbers: 083W14CD 01000, 083W14CD 00700, 083W14CD 00400, 083W14CD 00500 and 083W14CD 00300).

RECOMMENDED CONDITIONS OF APPROVAL

1. Provide street trees to the maximum extent feasible along all street frontages.
2. Dedicate a 10-foot public utility easement along all street frontages on the final plat.
3. Design and construct water, sewer, and stormwater systems and provide access and utility easements to serve all proposed lots in compliance with PWDS and ORS 92.090.
4. Obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property as determined by the Public Works Director.
5. Provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries.

FACTS

Streets

1. Commercial Street SE

- a. Standard—This street is designated as a Major Arterial street with a special right-of-way and improvement width requirement pursuant to Table G-1 in the Salem TSP. The standard for this street section is a 68-foot-wide improvement within a 100-foot-wide right-of-way.
- b. Existing Condition—This street has an approximate 58-foot improvement within a 100-foot-wide right-of-way abutting the subject property.

2. Wiltsey Road SE

- a. Standard—This street 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.
- b. Existing Condition—This street has an approximate 36-foot improvement within a varying 55- to 64-foot-wide right-of-way abutting the subject property.
- c. Special Setback—An adequate 30-foot-wide half-width right-of way exists along the frontage of the subject property. No special setback is required.

Storm Drainage

1. Existing Conditions

- a. An 18-inch storm main is located in Commercial Street SE.
- b. A 12-inch storm main is located in Wiltsey Road SE.
- c. A private onsite detention system is located on the subject property.

Water

1. Existing Conditions

- a. The subject property is located in the S-2 water service level.
- b. A 12-inch public water main is located in Commercial Street SE.

- c. An 8-inch public water main is located in Wiltsey Road SE.
- d. A private 10-inch water main is located on the northern half of the subject property.

Sanitary Sewer

1. Existing Sewer

- a. An 8-inch sewer main is located in Commercial Street SE.
- b. An 8-inch sewer main is located in Wiltsey Road SE.
- c. A 21-inch sewer main is located within an easement on the subject property.
- d. An abandoned sewer main is located within an existing easement on the subject property.

CRITERIA AND FINDINGS

SRC 205.010(d)(1)—The tentative subdivision plan complies with the standards of this Chapter and with all applicable provisions of the Unified Development Code, including, but not limited to the following:

- 1. 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;
- 2. City infrastructure standards; and
- 3. Any special development standards, including, but not limited to floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

Findings—With completion of the conditions above, the subject property meets all applicable standards of the following chapters of the UDC: 601—Floodplain; 802—Public Improvements; 803—Streets and Right-of-Way Improvements; 804—Driveway Approaches; 805—Vision Clearance; 809—Wetlands; and 810—Landslides.

The applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes (ORS)* and SRC.

Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject

property. The proposed subdivision is greater than 5 acres; therefore, the applicant shall provide an engineered analysis along Waln Creek abutting the subject property to determine the base flood elevations and floodway boundaries pursuant to SRC 601.110(a)(5).

The Salem-Keizer Local Wetland Inventory shows that there are wetland channels and/or hydric soils mapped on the property. Wetland notice was sent to the Oregon Department of State Lands (DSL) pursuant to SRC 809.025. The applicant should contact the Oregon DSL to verify if any permits are required for development or construction in the vicinity of the mapped wetland area(s).

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there is a small area of slope-induced hazard within the banks of Waln Creek. Because no activity is proposed within Waln Creek, the proposed development has a low landslide hazard risk and will not adversely affect the stability and slide susceptibility of the subject property pursuant to SRC 810.001(a).

SRC 205.010(d)(3)—Development within the tentative subdivision plan can be adequately served by City infrastructure.

Findings—Water and sewer infrastructure are available along the perimeter of the site and appear 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.

The proposed development is subject to SRC Chapter 71 and PWDS as adopted in Administrative Rule 109, Division 004. To demonstrate the proposed parcels can meet PWDS, the applicant shall provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots.

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. An existing abandoned sewer main is located within the subject property. The applicant shall obtain City approval for quitclaim of abandoned City infrastructure easements located on the subject property as determined by the Public Works Director.

SRC 205.010(d)(4) and SRC 205.0010(d)(5)—The street system in and adjacent to the tentative subdivision plan conforms to the *Salem Transportation System Plan*. 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—Commercial Street SE abuts the subject property and has adequate right-of-way, but not an adequate half-width street improvement pursuant to the Salem TSP. However, this section of Commercial Street SE has been approved for an alternative street standard pursuant to SRC 803.065(a)(3) because of existing mature street trees along a portion of the frontage that make construction conforming to the standards undesirable. The street is finished with curb, gutter, and sidewalk improvements along the entire frontage of the property. Pursuant to SRC 86.015(e), the applicant shall provide additional street trees to the maximum extent feasible along all street frontages.

Wiltsey Road SE abuts the subject property and has an adequate half-width right-of-way of 30 feet on the development side. This street is fully improved and meets the current standard for a Collector street. No improvements are warranted as a condition of subdivision approval.

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.

Findings—The Comprehensive Parks Master Plan Update shows that the subject property is served by undeveloped parks. Battle Creek Park is an undeveloped park approximately 1200 feet west of the proposed development, and pedestrian sidewalk connections are available from the subject property to the park. No park-related improvements are recommended as a condition of development.

SRC 205.010(d)(7)—The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis (TIA), where applicable.

Findings—The proposed 5-lot subdivision generates less than 1,000 average daily vehicle trips to Commercial Street SE. Therefore, a TIA was not required as part of the proposed subdivision submittal.

Prepared by: Jennifer Scott, Program Manager
cc: File