

Tentative Subdivision Plan and Tree Conservation Plan

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Submitted To: City of Salem Planning

Project Location: Lot numbers 083W09BB01600 and
083W09BB00300
Salem, OR

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Arial View of Subject Property and Existing Development



Section 1: Property Background and Request

The applicant is presenting a consolidated application for a six-lot subdivision and tree conservation plan.

The subject property is located at the corner of Kurth Street S and Browning Avenue S, as shown on the arial image provided above. The properties can also be identified as Marion County Map and Tax Lot Numbers 083W09BB / 1600 and 083W09BB 300. As stated previously, the proposal is for a six-lot subdivision and includes some tree removal. A tree conservation plan has been provided with this submittal. A portion of the property has historically been used for a rehabilitation center. The existing structures on the site will be removed to prepare the site for the future development of single-family dwellings. The applicant has prepared this narrative to respond to each applicable criterion and has satisfied the burden of proof that the request is approvable.

Section 2: Existing Conditions

The development site is approximately 1.52 acres in size total and is described as Marion County Map and Tax Lot Numbers 083W09BB / 1600 and 083W09BB 300, a Marion County Tax Map is included as Exhibit A.

The site is located within corporate city limits of the City of Salem. The Salem Area Comprehensive Plan (SACP) map designates the subject property as “Single Family”. Additionally, the property is located within the City’s Urban Service Area (USA) making an Urban Growth Area Development Permit unnecessary.

The Comprehensive Plan designations of surrounding properties include:

North: Across Browning Avenue S, CSC “Community Serviced Cemetery”

South: SF “Single Family”

East: SF “Single Family”

West: Across Kurth Street S, SF “Single Family”

The subject property is zoned RS (Single Family Residential). Surrounding properties are zoned as follows:

North: Across Browning Avenue S, PC (Public/Private Cemetery)

South: RS (Single Family Residential)

East: RS (Single Family Residential)

West: Across Kurth Street S, RA (Residential Agriculture)

Section 3: Applicable Zoning Codes

Salem Revised Code Chapter 205 – Land Division and Reconfiguration

Section 205.010 – Subdivision Tentative Plan

Section 205.030 – Additional Submittal Requirements

Section 205.035 – Final Plat

Section 205.050 – Expedited Land Division

Salem Revised Code Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals

Section 300.001 – Purpose

Section 300.010 – Scope and Applicability

Section 300.020 – General Rule

Section 300.100 – Procedure Types

Section 300.110 – Review Authorities

Section 300.120 – Procedures for Review of Multiple Applications

Section 300.200 – Initiation of Applications

Section 300.210 – Application Submittal

Section 300.220 – Completeness Review

Section 300.230 – Withdrawal of Application

Section 300.300 – Pre-application Conference

Section 300.310 – Neighborhood Association Contact

Section 300.500 – General Description

Section 300.510 – Type II Applications

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Section 300.800 – Public Notice Compliance; Waiver of Notice

Section 300.810 – State Mandated Decision Date

Section 300.820 – Conditions of Approval

Section 300.830 – Amended Decisions

Section 300.840 – Issuance; Effective Date

Section 300.850 – Expiration and Extensions

Section 300.860 – Revocation of Approval

Salem Revised Code Chapter 511 – RS – Single Family Residential

Section 511.001 – Purpose

Section 511.005 – Uses

Section 511.010 – Development Standards

Salem Revised Code Chapter 800 – General Development Standards

Section 800.015 – Lot Standards, Generally

Section 800.020 – Designation of Lot Lines

Section 800.035 – Setbacks

Section 800.040 – Special Setbacks

Section 800.045 – Height

Salem Revised Code Chapter 802 – Public Improvements

Section 802.001 – Purpose

Section 802.010 – Design Standards and Specifications

Section 802.015 – Development to be Served by City Utilities

Section 802.020 – Easements

Section 802.025 – Utilities to be Placed Underground

Salem Revised Code Chapter 803 – Streets and Right-of-Way Improvements

Section 803.010 – Streets, Generally

Section 803.015 – Traffic Impact Analysis

Section 803.020 – Public and Private Streets

Section 803.025 – Right-of-Way and Pavement Widths

Section 803.030 – Street Spacing

Section 803.035 – Street Standards

Section 803.040 – Boundary Streets

Section 803.045 – Monuments

Section 803.050 – Public Accessways

Section 803.055 – Traffic Control, Parking Regulation, and Street Signs and Pavement Markings

Section 803.060 – Conveyance by Dedication

Section 803.065 – Alternative Street Standards

Section 803.070 – Deferral of Construction of Certain Improvements

Salem Revised Code Chapter 808 – Preservation of Trees and Vegetation

Section 808.001 – Purpose

Section 808.015 – Significant Trees

Section 808.020 – Trees and Native Vegetation in Riparian Corridors

Section 808.025 – Trees on Lots or Parcels 20,000 Square Feet or Greater

Section 808.035 – Tree Conservation Plans

Section 808.046 – Protection Measures During Construction

Section 808.050 – Tree Planting Requirements

Section 4: Findings Applicable to Administrative Procedures

Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals

Section 300.001 – Purpose

The purpose of this chapter is to establish uniform procedures for the review and processing of land use applications, and to establish procedures for legislative land use proposals. This chapter is intended to make the land use application review process clear and understandable for applicants; to facilitate timely review of land use applications by the City; and to enable the public to effectively participate in the local land use decision making process.

Applicant's Findings: *The applicant understands the purpose of Chapter 300 and has provided findings in response to each applicable criterion to satisfy the burden of proof for approvability of the requested validation application.*

Section 300.010 – Scope and Applicability

This chapter applies to all land use actions and all legislative land use proceedings under the UDC.

Applicant's Findings: *The applicant understands the provisions of SRC Chapter 300 are applicable to the tentative subdivision plan and tree conservation plan being proposed.*

Section 300.020 – General Rule

No person shall engage in or cause development, as defined under SRC chapter 111, to occur without first obtaining the necessary land use approvals required by, and according to the procedures in, this chapter.

Applicant's Findings: *The applicant understands they may not proceed with any development prior to obtaining land use approval.*

Section 300.100 – Procedure Types

- (a) Unless otherwise provided in the UDC, land use actions required under the UDC are classified as one of four procedure types set forth in Table 300-1. The procedure type governs the decision-making process for the specific land use application.

Applicant's Findings: *The applicant understands Table 300-1 sets forth the four procedure types for land use actions within the City of Salem. The applications will be reviewed using Type II procedures. Type II applications are administrative, and the decision authority is the planning administrator. "Type II procedure is used when the standards and criteria require limited discretion or legal judgement in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed."*

- (b) The specific procedure type assigned to a land use application is specified in Table 300-2.

Applicant's Findings: *This application is a consolidated request for a tentative subdivision plan and tree conservation plan. In accordance with Table 300-2, the consolidated submittal will be processed using Type II procedures.*

- (c) When the procedure type for a land use application is not identified in Table 300-2, specified elsewhere in the UDC, or otherwise required by law, the Planning Administrator shall determine the applicable procedure based on the guidelines in this subsection. Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

- (1) Type I procedures shall be used when the land use action will be based on standards and criteria that do not require interpretation or the exercise of policy or legal judgment.
- (2) Type II procedures shall be used when the land use action will be based on standards or criteria that require only limited discretion or legal judgment.
- (3) Type III procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment.
- (4) Type IV procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment, and where the land use application must first be referred to an advisory body for review and recommendation to the Council, which then makes the decision.

Applicant's Findings: *The review type for the application submitted is identified in Table 300-2, this criterion is not applicable.*

- (d) Notwithstanding any other provision in this section, and upon payment of the applicable fee, an applicant may choose to process a land use application that would be a Type I procedure as a Type II or Type III procedure, or to process a land use application that would be a Type II procedure as a Type III procedure.

Applicant's Findings: *The applicant is not choosing to process the application with a different procedure type. The application will be processed using Type II procedures as indicated in Table 300-2. This criterion is not applicable.*

Section 300.110 – Review Authorities

- (a) *Review authorities, generally.* Review authorities are those designated individuals or bodies that make recommendations or decisions regarding land use actions. The applicable Review Authorities for specific land use actions are identified under Table 300-2. The Review Authority shall review an application following the applicable procedure type for the application and according to the applicable approval standards and criteria.

Applicant's Findings: *The applicant understands the review authority in this case to be city staff as the consolidated application will be reviewed using the Type II process.*

- (b) *Review Authority hierarchy.* Review authorities are organized under the following hierarchy, from lowest to highest:
- (1) Staff, including, but not limited to, the Planning Administrator, Community Development Director, Public Works Director, and Building Official;
 - (2) Historic Landmarks Commission;
 - (3) Hearings Officer;
 - (4) Planning Commission;
 - (5) Council.

Applicant's Findings: *The applicant understands the hierarchy of review authorities.*

- (c) *Historic Landmarks Commission jurisdiction over certain applications.* Notwithstanding any other provision of this section, the Historic Landmarks Commission shall have exclusive jurisdiction over those land use applications under SRC chapter 230 requiring Historic Landmarks Commission review.

Applicant's Findings: *The subject property is not historic, and the Historic Landmarks Commission (HLC) does not have review authority in this case.*

Section 300.120 – Procedures for Review of Multiple Applications

When multiple land use actions are required or proposed by an applicant, the applications may be processed individually in sequence, concurrently, or through the consolidated procedure

provided in this section. The applicant shall elect how the land use applications are to be processed, except where a specific review process or sequence is otherwise required or where the land use applications are subject to the same procedure type and decided upon by the same Review Authority. When multiple land use applications are subject to the same procedure type and decided upon by the same Review Authority, the land use applications shall be consolidated.

Applicant's Findings: *This application is for a consolidated review of a tentative subdivision plan and a tree conservation plan. The tree conservation plan, when processed alone, is processed using Type I procedures. However, the application is consolidated making the review procedures Type II.*

- (a) *Applications processed individually in sequence.* Multiple applications processed individually require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed sequentially, as follows:
 - (1) Applications with the highest numbered procedure type must be processed first;
 - (2) Notwithstanding any other provision in this subsection, where a particular sequence for the review of land use applications is established by another section of the UDC, the applications shall be processed in that sequence; and
 - (3) Notwithstanding any other provision in this subsection, where one land use application is dependent upon the approval of another land use application (e.g., conditional use permit is subject to prior approval of a zone change), the land use application upon which the other is dependent shall be processed first.

Applicant's Findings: *The application is consolidated; this criterion is not applicable.*

- (b) *Applications processed concurrently.* Multiple applications processed concurrently require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed simultaneously.

Applicant's Findings: *The application is consolidated; this criterion is not applicable.*

- (c) *Consolidated applications.* When multiple applications are consolidated, a single application is filed for all land use actions. The application shall be accompanied by the information and supporting documentation required for each individual land use action. Review of the application shall be according to the highest numbered procedure type required for any of the land use applications. The Review Authority shall be the highest applicable Review Authority under the highest numbered procedure type required for any of the land use applications. Notwithstanding the provisions of this subsection, where multiple applications that are proposed to be consolidated include an application

subject to review by the Historic Landmarks Commission, the application that is subject to Historic Landmarks Commission review shall be processed individually or concurrently.

Applicant's Findings: As stated previously, this application is for a tentative subdivision plan and tree conservation plan under a consolidated review. In an effort to keep the record clear and demonstrate that the burden of proof has been met, the applicant is providing a narrative which is broken up into sections responding to applicable criteria for each of the applications under review.

Section 300.200 – Initiation of Applications

- (a) Type I, Type II, Type III, and Type IV land use applications may be submitted by one or more of the following persons:
 - (1) The owner of the subject property;
 - (2) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;
 - (3) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
 - (4) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by subsection (a)(1), (2) or (3) of this section and accompanied by proof of the agent's authority.

Applicant's Findings: The applicant in this case is the owner of the subject property.

- (b) Type III applications may be initiated by the City where identified in the UDC for specific application type.

Applicant's Findings: The application is Type II; this criterion is not applicable.

- (c) Type IV applications may be initiated by the City.

Applicant's Findings: The application is Type II; this criterion is not applicable.

Section 300.210 – Application Submittal

- (a) Land use applications shall be submitted on forms prescribed by the Planning Administrator. A land use application shall not be accepted in partial submittals. All of the following must be submitted to initiate completeness review under SRC 300.220. All information supplied on the application form and accompanying the application shall be complete and correct as to the applicable facts.
 - (1) A completed application form. The application form shall contain, at a minimum, the following information:

- (A) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
- (B) The address or location of the subject property and its assessor's map and tax lot number;
- (C) The size of the subject property;
- (D) The comprehensive plan designation and zoning of the subject property;
- (E) The type of application(s);
- (F) A brief description of the proposal; and
- (G) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).

Applicant's Findings: *The required forms and information has been included with this application submittal for review by city staff.*

- (2) Recorded deed/land sales contract with legal description;

Applicant's Findings: *The recorded deed has been supplied along with this application submittal.*

- (3) Any information that would give rise to an actual or potential conflict of interest under state or local ethics laws for any member of a Review Authority that will or could make a decision on the application;

Applicant's Findings: *The applicant sees no reason city staff would have a conflict of interest under any state or local ethics laws. This section is not applicable.*

- (4) Pre-application conference written summary, if a pre-application conference was required under SRC 300.310(a) and Table 300-2; or copy of the approved pre-application conference waiver, if such approval was granted pursuant to SRC 300.310(b);

Applicant's Findings: *In accordance with Table 300-2, pre-application conferences are not required for a tentative subdivision plan or tree conservation plan. This criterion is not applicable.*

- (5) A statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact and who it was with (e.g., phone conversation with neighborhood

association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;

Applicant's Findings: *In accordance with Table 300-2, contact with the neighborhood association is required for a tentative partition plan application. The letter sent to the neighborhood association is included as Exhibit C.*

- (6) For applications requiring neighborhood association contact under SRC 300.310, a copy of the required e-mail or letter to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent;

Applicant's Findings: *A copy of the letter sent to the neighborhood association as well as a copy of the email, is included as Exhibit C.*

- (7) For applications requiring an open house under SRC 300.320:

- (A) A copy of the sign-in sheet for the open house and a summary of the comments provided; or
- (B) When a neighborhood association meeting has been substituted for a required open house, a summary of the comments provided at the neighborhood association meeting;

Applicant's Findings: *Pursuant to SRC 300.320, an open house is not required for this submittal.*

- (8) A statement as to whether the Salem-Keizer Transit District was contacted in advance of filing the application; and if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact, who it was with, and the result;

Applicant's Findings: *Salem-Keizer Transit District was not contacted in advance of filing the application.*

- (9) A written statement addressing each applicable approval criterion and standard;

Applicant's Findings: *This narrative includes findings and responses to each applicable approval criterion and standard.*

- (10) For Type II, Type III, and applicant-initiated Type IV applications involving property subject to an active and duly incorporated Homeowner's Association (HOA) registered with the Oregon Secretary of State which includes an identified registered agent, the HOA name and mailing address for the registered agent.

Applicant's Findings: *The subject property is not incorporated into an HOA that is registered with the Oregon Secretary of State. This section is not applicable.*

- (11) For applications for affordable multiple family housing where a 100-day state mandated decision date is sought, a draft copy of the covenant required under ORS 197.311 restricting the owner, and each successive owner, of the development or a residential unit within the development from selling or renting any of the identified affordable residential units as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

Applicant's Findings: *This application is not for affordable multiple family housing. This section is not applicable.*

- (12) Any additional information required under the UDC for the specific land use action sought;

Applicant's Findings: *The applicant believes no additional information will be required to be submitted and staff will be able to move forward and write a favorable decision.*

- (13) Any additional information, as determined by the Planning Administrator, that may be required by another provision, or for any other permit elsewhere, in the UDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

Applicant's Findings: *The applicant believes no additional information will be required to be submitted and staff will be able to move forward and write a favorable decision.*

- (14) Payment of the applicable application fee(s) pursuant to SRC 110.090.

Applicant's Findings: *Upon population of the applicable application fees, the applicant will pay them within 5 days. This criterion will be met.*

- (b) The Planning Administrator may waive any submittal requirement if the Planning Administrator determines that the specific requirement would not provide evidence needed to satisfy any of the applicable criteria.

Applicant's Findings: *The applicant understands that the planning administrator has the authority to waive any submittal requirement. However, a thorough and complete application is being submitted to city staff for review and it is not anticipated any requirement will be waived.*

- (c) Each application, when received, shall be date-stamped with the date the application was received, and designated with a receipt number and a notation of the staff person who received the application.

Applicant's Findings: *The applicant understands this requirement of city staff for processing applications.*

Section 300.220 – Completeness Review

- (a) Except as otherwise provided under ORS 227.178, the Planning Administrator shall review an application for completeness within 30 days of its receipt.

Applicant's Findings: *The applicant understands the 30-day completeness review rule pursuant to ORS 227.178. The applicant anticipates having satisfied all of the code requirements for the proposal.*

- (b) Determination of completeness shall be based upon the information required under SRC 300.210 and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

Applicant's Findings: *The applicant understands the provisions for determining completeness of this application. The applicant believes this application is able to be deemed complete and a favorable decision will be rendered.*

- (c) If an application is determined to be complete, review of the application shall commence.

Applicant's Findings: *The applicant anticipates the application submitted is complete and review of the application can proceed. However, it is understood staff will need a review period to examine the materials being submitted.*

- (d) If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete upon initial filing shall be deemed complete for purposes of this section upon receipt of:

- (1) All of the missing information;
- (2) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (3) Written notice from the applicant that none of the missing information will be provided.

Applicant's Findings: *The applicant understands written notice of an incomplete application will be provided, if applicable. The applicant also understands the three actions they must take to satisfy completeness.*

- (e) If an application was complete at the time, it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.

Applicant's Findings: *The applicant understands if there is a code amendment to the approval criteria during the review process of the application, the code in effect at the time the application was submitted will be used to determine approval.*

- (f) An application shall be deemed void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (d) of this section.

Applicant's Findings: *The applicant understands if the 180-days is surpassed and completeness is not satisfied, the application will be void.*

Section 300.300 – Pre-Application Conference

- (a) *Purpose.* Pre-application conferences are intended to familiarize applicants with the requirements of the UDC; to provide applicants with an opportunity to meet with city staff to discuss proposed projects in detail; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use process but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

Applicant's Findings: *The applicant understands the purpose of pre-application conferences. A pre-application conference is not required for the applications under review in this submittal and the provisions of this section do not apply.*

Section 300.310 – Neighborhood Association Contact

- (a) *Purpose.* The purpose of neighborhood association contact is to provide an opportunity for neighborhood associations to learn of upcoming land use applications involving land within or adjacent to their boundaries in advance of applications being submitted. This encourages dialogue and provides opportunities for feedback and resolution of potential issues prior to filing.

Applicant's Findings: *The applicant understands the purpose of requiring neighborhood association contact.*

- (b) *Applicability.*
 - (1) Neighborhood association contact, as provided in this section, is required for those land use applications identified under Table 300-2 as requiring neighborhood association contact.

Applicant's Findings: As mentioned previously, Table 300-2 requires neighborhood association contact for tentative subdivision plan applications. The applicant's representative prepared a letter and sent it to the chair and land use chair of the neighborhood associations. The letter was sent via email. The email and the letter is included in Exhibit C.

- (2) When multiple land use applications are consolidated into a single application and one or more of the applications involved include a requirement for neighborhood association contact and the other applications do not require neighborhood association contact, the entire consolidated application shall require neighborhood association contact.

Applicant's Findings: The applicant understands because the application is consolidated, neighborhood association contact is required for the tree conservation plan. As demonstrated by the contact materials provided in Exhibit C, the applicant notified the chair and land use chair of all applications being requested. This criterion is met.

- (3) Nothing in this section shall be construed to preclude additional contact between an applicant and neighborhood association beyond the requirements of this section, or an applicant from contacting a neighborhood association where no neighborhood association contact is required.

Applicant's Findings: The applicant understands nothing in this section shall preclude additional contact between the applicant and neighborhood association.

- (c) *Process.* Prior to submitting a land use application requiring neighborhood association contact, the applicant shall contact the City-recognized neighborhood association(s) whose boundaries include, or are adjacent to, the subject property via e-mail or mailed letter. The e-mail or mailed letter shall:

- (1) Be sent to the chair(s) and land use chair(s) of the applicable neighborhood association(s) prior to submitting the land use application; and
- (2) Contain the following information:
 - (A) The name, telephone number, and e-mail address of the applicant;
 - (B) The address of the subject property;
 - (C) A summary of the proposal;
 - (D) A conceptual site plan, if applicable, that includes the proposed development; and
 - (E) The date on which the e-mail or letter is being sent;

Applicant's Findings: The city-recognized neighborhood association in this case is the Sunnyslope Neighborhood Association. The applicant emailed a letter with information relating to the proposal to both the chair and land use chair. The development site is adjacent to the

SWAN Neighborhood Association, so the application also notified the chair and land use chair of that association. The letter included all of the required information listed above. This criterion is met.

- (d) *Effect on subsequent land use application submittal.* A land use application requiring neighborhood association contact shall not be accepted, as provided under SRC 300.210, unless it is accompanied by a copy of the e-mail or letter that was sent to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent.

Applicant's Findings: *The applicant understands the city is unable to accept applications requiring neighborhood association contact prior to contact being made. However, the applicant has demonstrated satisfying this criterion prior to submittal.*

Section 300.500 – General description

Type II applications are administrative in nature and involve land use actions governed by approval criteria and standards which require the exercise of limited discretion. Impacts on nearby properties associated with the land use action may require imposition of conditions of approval to minimize those impacts or to ensure compliance with the UDC. A Type II application is an administrative review process where the Review Authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type II process is illustrated in Figure 300-2.

Section 300.510 – Type II Applications

The following land use actions are Type II applications:

- (a) Those identified in Table 300-2 as Type II applications;
- (b) Those identified in the UDC as Type II applications; or
- (c) Those identified by the Planning Administrator as Type II applications based upon the guidelines for classification of applications under SRC 300.100(c).

Applicant's Findings: *The review type for the application submitted is identified in Table 300-2. Type II application procedures will be used to review the application package.*

Section 300.520 – Type II Procedure

- (a) *Application requirements.*
 - (1) *Application form.* Type II applications shall be made on forms provided by the Planning Administrator.
 - (2) *Submittal requirements.* Type II applications shall include the information required under SRC 300.210.

Applicant's Findings: *This submittal includes the required application forms provided by the city. Each submittal requirement is provided, and the applicant has demonstrated how the proposal meets each criterion.*

(b) *Public notice and comment.* Public notice is required for Type II applications. Public notice shall be by first class mail. Posted notice on the subject property is required for subdivisions, Class 2 wireless communications facilities siting, manufactured dwelling park permits, and Class 1 greenway development permits. All Type II applications include a comment period of 14 days from the date notice is mailed.

(1) *Mailed notice.* Mailed notice shall be provided as follows:

(A) The City shall mail notice of the application within ten days after the application is deemed complete. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice of the application shall be mailed to:

- (i) The applicant(s) and/or the applicant's authorized representative(s);
- (ii) The owner(s) or contract purchaser(s) of record of the subject property;
- (iii) The address of the subject property, based on the City's current addressing records;
- (iv) Any active and duly incorporated Homeowner's Association (HOA) involving the subject property that is registered with the Oregon Secretary of State and which includes an identified registered agent. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the registered agent of the HOA utilizing the contact information provided by the applicant;
- (v) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (vi) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (vii) Addresses, based on the City's current addressing records, within 250 feet of the subject property.
- (viii) The Salem Area Mass Transit District

- (ix) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
- (x) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City.

(C) Mailed notice shall include:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the land use action;
- (iii) The proposed site plan;
- (iv) The street address, or other easily understood geographical reference, for the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the approval criteria by name and code section;
- (vii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
- (viii) A brief summary of the decision making process for the application;
- (ix) The place, date, and time that written comments are due, and the person to whom the comments should be addressed;
- (x) A statement that comments received after the close of the public comment period will not be considered;
- (xi) A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and Review Authority to respond to the issue;

(xii) A statement that subsequent to the closing of the public comment period a decision will be issued and mailed to the applicant, property owner, everyone entitled to the initial notice of the application, anyone who submitted written comments on the application, and to any other persons otherwise legally entitled to notice of the decision; and

(xiii) The name and contact information for the staff case manager.

(2) *Posted notice.* Posted notice shall be provided, when required, as follows:

(A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14-day comment period. The notice shall remain in place through the end of the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file.

(B) Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.

(C) Posted notice shall be provided on signs as prescribed by the Planning Administrator.

(D) The applicant shall remove and return the signs within seven days after the end of the comment period.

Applicant's Findings: *The applicant understands the noticing procedures required under this section. Posting notice on the subject property is required for the requested application and the procedures outlined above will be followed.*

(c) *Application review.* The Review Authority shall review the application, all written comments submitted during the public comment period, and the applicant's response to the comments, if any. Written comments received after the expiration of the public comment period shall not be considered by the Review Authority.

Applicant's Findings: *The applicant's representative, BRAND Land Use, will respond to any written comments received during the comment period. No comments received after the close of the comment period should be included in the official record or responded to.*

- (d) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision of the Review Authority shall be a written order containing findings that explain the criteria and standards applicable to the decision, stating the facts relied upon in rendering the decision, and explaining the justification for the decision.

Applicant's Findings: *The applicant understands the review authority's options to approve, conditionally approve, or deny the application. Based on the information submitted, it is anticipated the decision will be approved with minimal conditions.*

- (e) *Notice of decision.* Notice of the decision shall be mailed within five days after the decision is signed. An affidavit of mailing shall be prepared and made part of the file.

(1) Notice of the decision shall be mailed to:

- (A) The applicant(s) and/or authorized representative(s);
- (B) The owner(s) or contract purchaser(s) of record of the subject property;
- (C) The address of the subject property, based on the City's current addressing records;
- (D) Any active and duly incorporated Homeowner's Association (HOA) involving the subject property that is registered with the Oregon Secretary of State and which includes an identified registered agent. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the registered agent of the HOA utilizing the contact information provided by the applicant;
- (E) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (F) Any group or individual who submitted written comments during the comment period;
- (G) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (H) Addresses, based on the City's current addressing records, within 250 feet of the subject property;
- (I) The Salem Area Mass Transit District;
- (J) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any

governmental agency which submitted written comments during the comment period; and

- (K) Any community organizations, agencies, or individuals who have submitted written requests to the City for notice of the decision.

(2) Notice of the decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;
- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date and time by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- (G) A statement that all persons entitled to notice of the decision may appeal the decision; and
- (H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

Applicant's Findings: *The applicant understands the procedures surrounding notice of decision.*

(f) *Appeal and review.*

- (1) Unless appealed pursuant to SRC 300.1010, or review is initiated by the Council pursuant to SRC 300.1050, the decision of the Review Authority on a Type II application shall be the final decision of the City.
- (2) Only the applicant, persons who provided comments during the public comment period, and persons entitled to notice of the decision have standing to appeal the decision.
- (3) The Review Authorities for appeals are identified under Table 300-2. The decision of the Review Authority on appeal, or, if review is initiated by the Council, the Council on review, shall be the final decision of the City.
- (4) *Exceptions.* Notwithstanding any other provision of this subsection:
 - (A) The decision on a Class 3 site plan review or modification of a Class 3 site plan review is not eligible for Council review unless

appealed. Upon receipt of an appeal of a decision on a Class 3 site plan review or modification of a Class 3 site plan review, notice of the appeal shall be provided to the Council at its next regular meeting. The Council may, pursuant to SRC 300.1050, assume jurisdiction for review pursuant to SRC 300.1040. If the Council does not assume jurisdiction, then the decision of the Review Authority on the appeal is the final decision of the City.

- (B) The decision on a Class 1 adjustment, modification of a Class 1 adjustment, Class 2 adjustment, modification of a Class 2 adjustment, Class 2 design review, modification of a Class 2 design review, Class 2 driveway approach permit, Class 2 minor historic design review, Class 2 temporary use permit, PUD final plan, modification of a PUD final plan, or sign adjustment is not subject to Council review.

(5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

Applicant's Findings: *The applicant acknowledges and understands the rules surrounding and appeal and review of an appeal.*

- (g) *Expiration of approval.* Approval of a Type II application expires automatically as provided by SRC 300.850(a).

Applicant's Findings: *The applicant has reviewed and understands the provisions surrounding expiration of approval. Additionally, the applicant understands that although the application is consolidated, each requested application will have its own expiration date.*

Section 300.800 – Public Notice Compliance; Waiver of Notice

Notice of land use approval under the procedures of this chapter shall be deemed to have been satisfied as follows:

- (a) *Compliance.* The requirements for notice shall be deemed satisfied for any person who, prior to the public hearing and in any manner, obtains actual knowledge of the date, time, place, and subject matter of the hearing. Requirements for the provision of mailed, posted or published public hearing notice shall be deemed satisfied as follows:
- (1) *Mailed notice.* Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was deposited in the mail.
 - (2) *Posted notice.* Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign

by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.

- (3) *Published notice.* Published notice shall be deemed to have been provided upon the date when the notice appears within a newspaper of general circulation within the City.

Applicant's Findings: *The applicant understands the public notice requirements including mailed, posted, and published notice.*

- (b) *Waiver of notice.* The appearance or provision of testimony or comments on an application by any person subsequent to the initiation of the application or prior to the close of the record after a public hearing shall be deemed a waiver of such person to any claim of defect in the provision of notice.

Applicant's Findings: *The applicant understands the provisions of waiver of notice in accordance with this section.*

Section 300.810 – State Mandated Decision Date

- (a) Except as otherwise provided in this section, the City shall take final action on land use applications subject to ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides written request or consent to an extension of such period pursuant to ORS 227.178(5).

Applicant's Findings: *The applicant understands the city must take final action on land use actions subject to ORS 227.178, including the resolution of appeals, within 120 days after the application has been deemed complete. The applicant understands they have the right to grant an extension to the 120-day rule.*

- (b) The City shall take final action on an application for affordable multiple family housing, including resolution of all local appeals, within 100 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides a written request or consent to an extension pursuant to ORS 227.178(5).

Applicant's Findings: *This application is not for affordable multiple family housing and therefore does not apply.*

Section 300.820 – Conditions of Approval

- (a) *Imposition of conditions, generally.* The Review Authority may impose conditions on land use actions to the extent allowed by law in order to protect the public and adjacent property owners from adverse impacts resulting from the proposed development, to fulfill an identified need for public services or infrastructure caused by or required for

the proposed development, or to ensure conformance with the applicable development standards and criteria in the UDC. A condition of approval shall be valid and enforceable from and after the date the decision becomes effective.

- (1) Conditions of approval should be stated in clear and unambiguous terms; be reasonably related to the public health, safety, and welfare; and be designed to reasonably effectuate the intended purpose.

Applicant's Findings: *The applicant understands the review authority may impose conditions on the land use application included in this submittal, but the conditions of approval should be clear, unambiguous, and related to the public health, safety, and welfare and designed in a manner to effectuate the intended purpose.*

- (2) The Review Authority shall not impose any permanent condition which would limit use of the subject property to one particular owner, tenant, or business. Permanent conditions may limit the subject property as to use but shall not be so restrictive that other occupants who might devote the property to the same or substantially similar use would be unable to reasonably comply with the conditions.

Applicant's Findings: *The applicant understands the limits imposed on permanent conditions.*

- (b) *Effect of conditions.* Conditions of approval shall be construed and enforced, in all respects, as provisions of the UDC relating to the use and development of land.

Applicant's Findings: *The applicant understands the effect of conditions in accordance with this section.*

- (c) *Imposition of conditions on applications for housing developments.*

- (1) Except as otherwise provided in this subsection, the Review Authority may impose conditions on applications for housing developments. The Review Authority may not, however:

- (A) Impose a condition on an application for a housing development reducing its density if:

- (i) The density applied for is at or below the maximum density allowed; and
- (ii) At least 75 percent of the floor area applied for is reserved for housing.

- (B) Impose a condition on an application for a housing development reducing its height if:

- (i) The height applied for is at or below the maximum height allowed;

- (ii) At least 75 percent of the floor area applied for is reserved for housing; and
 - (iii) Reducing the height would have the effect of reducing the proposed density.
- (2) Notwithstanding paragraph (1) of this subsection, the Review Authority may impose a condition on an application for a housing development reducing its density or height if the reduction is necessary to resolve a health, safety, or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

Applicant's Findings: *The application is for a six-lot subdivision for the future development of homes. The applicant understands the limitation on conditions for housing developments in accordance with this section.*

Section 300.830 – Amended Decisions

- (a) After notice of a decision on a land use action has been provided, an amended decision may be issued correcting typographical errors, rectifying inadvertent omissions, and/or making other minor changes that do not materially alter the decision if the amended decision is issued prior to the expiration of the appeal period of the original decision, but in no event beyond the state mandated decision date set forth under ORS 227.178 unless the applicant otherwise agrees to and requests an extension pursuant to ORS 227.178(5).

Applicant's Findings: *The applicant understands an amended decision may be issued within the appeal period in accordance with the limitations listed in this section.*

- (b) Notice of an amended decision shall be given using the same mailing and distribution list as for the original notice of the decision.

Applicant's Findings: *If an amended decision is issued, it is understood it will be distributed to the same interested parties the original decision was distributed to.*

- (c) A new appeal period equal to that of the original decision shall be provided from the date of mailing the amended decision.

Applicant's Findings: *The applicant understands with an amended decision a new appeal period would be required.*

Section 300.840 – Issuance; Effective Date

- (a) Each decision shall be specific as to the approval granted and shall be subject to the standards and conditions set forth in UDC, including any variances or conditions authorized pursuant to the UDC.

Applicant's Findings: *The applicant understands each application, when granted, is subject to their own conditions and standards listed within the UDC.*

- (b) Decisions on land use actions become effective on:
 - (1) The day the decision is issued, if no appeal is allowed;
 - (2) The later occurring of either:
 - (A) The day after the appeal period expires, if an appeal is allowed, but no notice of appeal is timely filed; or
 - (B) The day after the decision appears on the City Council agenda, if the decision is eligible for Council Review pursuant to SRC 300.1050, but Council Review is not initiated;
 - (3) The day the decision is issued by the final appeal body, if an appeal is allowed and notice of appeal is timely filed;
 - (4) The day the decision is issued by the Council, if the decision is eligible for Council Review and Council Review is initiated pursuant to SRC 300.1050; or
 - (5) The effective date of the ordinance, if the written decision is issued by ordinance.

Applicant's Findings: *The applicant understands the provisions related to when the land use action becomes effective.*

Section 300.850 – Expiration and Extensions

- (a) *Approval expiration and termination.*
 - (1) Unless a different period of time is established in the UDC or in the decision, all approvals of land use actions shall expire automatically upon the dates set forth in Table 300-3 unless one of the following has occurred:
 - (A) Development has commenced in compliance with the land use approval;
 - (B) An extension has been granted pursuant to SRC 300.850(b); or
 - (C) The land use approval has been revoked as provided under SRC 300.860 or is otherwise invalidated by an administrative board or court of competent jurisdiction.
 - (2) Where the decision involves work for which a building permit is required, no exercise of the rights granted under the land use action shall be deemed to have commenced until a building permit has been issued. Unless otherwise extended, the approval of the land use action shall automatically expire if the approval has expired as set forth in Table 300-3, and all required building permits issued for the land use action have expired.

Applicant's Findings: *In accordance with Table 300-3, the approvals will be valid for two years and can be extended four times for two years each, for a total of 10 years. The applicant understands the provisions surrounding expiration standards.*

(b) *Extensions.*

(1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended for the times set forth in Table 300-3 through filing an application for extension prior to the expiration date.

(2) *Classes.*

(A) *Class 1 extension.* A Class 1 extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application.

(B) *Class 2 extension.* A Class 2 extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.

(3) *Procedure type.*

(A) A Class 1 extension is processed as a Type I procedure under SRC chapter 300.

(B) A Class 2 extension is processed as a Type II procedure under SRC chapter 300.

(4) *Criteria.*

(A) A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.

(B) A Class 2 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval.

(5) *Appeal and review.*

(A) The decision on a Class 1 extension may not be appealed, and is not subject to Council review.

(B) The decision on a Class 2 extension may be appealed, and is subject to Council review pursuant to SRC 300.1050. The Review Authority for an appeal of a Class 2 extension shall be the Hearings Officer.

(6) While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken

subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.

- (7) The decision granting an extension shall revive all rights under the original approval as they existed prior to the expiration of the original approval period.

Applicant's Findings: *As expressed previously under the administrative procedures, the applicant understands both the expiration and extension provisions for the application.*

Section 300.860 – Revocation of Approval

- (a) Unless otherwise provided under the UDC, the Director may revoke a permit or approval issued pursuant to the UDC when:

- (1) The permit or approval was issued on the basis erroneous or misleading information, or a material misrepresentation;
- (2) The development authorized under the permit or approval violates other applicable law;
- (3) The development violates the permit or approval, the UDC, or other applicable law;
- (4) The permittee failed to pay an administrative penalty for violations relating to the development authorized under the permit or approval;
- (5) The work is, or threatens to become, an imminent hazard to property or public safety; or
- (6) Prior to the development obtaining vested rights or nonconforming status, a change in the UDC, or the Salem Area Comprehensive Plan, has made the approved development unlawful or not permitted.

Applicant's Findings: *The applicant understands the director may revoke a permit or approval if such instances as those listed above exist to warrant a revocation.*

- (b) Revocation of a permit or approval shall follow a Type I procedure.

Applicant's Findings: *The applicant understands the revocation would follow a Type I procedure.*

- (c) Notice of revocation shall be given, in writing, to the applicant or the applicant's assigns or successors in interest, stating the grounds for revocation, the date upon which the revocation becomes effective, and the right to appeal.

Applicant's Findings: *The applicant understands the notice procedure required in conjunction with a revocation.*

- (d) Any person entitled to notice under subsection (c) of this section may appeal the revocation to the Hearings Officer by filing written notice of appeal with the Planning Administrator within ten days of the date the notice of revocation was mailed.

Applicant's Findings: *The applicant understands any person entitled to notice, as provided under subsection (c), would have the rights to appeal any revocation of decision within ten days of the date of mailing the notice.*

- (e) Revocation shall be effective immediately upon the mailing of notice. Unless otherwise provided in the notice, revocation terminates all rights to continue the use or development under the approval of the land use action. It is unlawful to continue any use or development for which approval has been revoked.

Applicant's Findings: *The applicant understands the effective date of a revocation is immediately upon the mailing of notice and that the revocation terminates and rights to continue the use or development.*

- (f) Revocation of approval of a land use action on the basis of false, inaccurate, or incomplete statements of material fact in the application shall not bar, nor otherwise prejudice the right of the applicant to resubmit a new application containing accurate and complete statements of material fact. Revocation on any other grounds shall be treated as a basis for denial of the application on its merits and resubmission of application shall be made as provided in SRC 300.870.

Applicant's Findings: *The applicant understands they may resubmit an application following a revocation with a revised set of information.*

- (g) Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

Applicant's Findings: *The applicant understands the provisions of this section and that revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy in regard to applications involving false or inaccurate information.*

Section 5: Findings Applicable to Tentative Subdivision

Chapter 205 – Land Division and Reconfiguration

Section 205.010 – Subdivision Tentative Plan

- (a) *Applicability.* No land shall be divided into four or more lots within a calendar without receiving tentative subdivision plan approval as set forth in this section.

Applicant's Findings: *The applicant is seeking approval of a tentative subdivision plan which will divide the subject property into six lots. The applicant understands a subdivision is required pursuant to the UDC and is submitting the required application and materials.*

- (b) *Procedure type.* A tentative subdivision plan is processed as a Type II procedure under SRC chapter 300.

Applicant's Findings: The applicant understands the Type II procedures which are required for processing the tentative subdivision plan and other consolidated applications in this proposal.

- (c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative subdivision plan shall include the information required in SRC 205.030.

Applicant's Findings: The applicant has provided each item required to accompany the application in accordance with this section and SRC Chapter 300.

- (d) *Criteria.* A tentative subdivision plan shall be approved if all of the following criteria are met:

- (1) The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to, the following:

- (A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage and designation of front and rear lot lines.

Applicant's Findings: The subject property is zoned RS (Single Family Residential) with a matching comprehensive plan designation of SF (Single Family). The proposed subdivision is subject to the provisions of SRC Chapter 511 for the RS zone. Within this section, the applicant has provided responses to all applicable standards including Chapters 511, 800, 802, 803, 805, 806, and 807. As demonstrated below, this criterion is met.

- (B) City infrastructure standards.

Applicant's Findings: The Urban Growth Management Program, detailed in SRC Chapter 200, requires an Urban Growth Area (UGA) Development Permit to be obtained prior to development of property outside the Salem Urban Service Area. However, the subject property is located within the USA. Therefore, a UGA permit is not required, and the proposal conforms to the requirements of SRC Chapter 200.

The applicant provided an existing conditions plan and an overall utility plan with this application submittal. As shown on the plans provided in Exhibit D: utility infrastructure is present in Kurth Street S abutting the westerly portion of the development site, utility infrastructure is present in Browning Avenue S abutting the northerly portion of the development site, and utility infrastructure is present in Mesa Street S abutting the easterly portion of the development site. As detailed on the overall utility plan, the existing infrastructure has capacity to serve the newly proposed six lots which will support future single-family dwellings. SRC Chapter 205 does require the submission of utility construction plans at this phase of development, however the applicant's engineer has provided utility information to

demonstrate services are available and will be extended in compliance with the Public Works Design Standards.

The applicant has provided responses to the provisions of SRC Chapter 802. Upon their review of the applicant's submittal, it is anticipated the Public Works Department will provide recommended conditions of approval to ensure the future development of infrastructure meets the public improvement requirements of SRC Chapter 802.

As demonstrated on the proposed plans provided with this application submittal, improvements to Browning Avenue S and Kurth Street along the development site frontage are proposed. Further in this narrative, the applicant demonstrates compliance with public improvement requirements. Mesa Street S will be extended to a cul-de-sac terminus at the east end of the site. To provide pedestrian connections from Mesa Street S to Kurth Street S, the applicant is proposing to plat Tract A which will be improved with a public sidewalk to ensure a complete pedestrian network is provided in the area. A TIA is not required for the proposal due to the limited number of trips generated onto the abutting Local and Collector streets.

As demonstrated by the findings included in this narrative and the plans attached, the proposal meets the city's infrastructure standards.

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

Applicant's Findings: *The applicant has provided full and complete findings to the applicable provisions of SRC Chapter 808 Preservation of Trees and Vegetation. Under the city's tree preservation ordinance, pursuant to SRC 808.035(a), tree conservation plans are required in conjunction with development proposals involving the creation of lots or parcels to be used for the construction of single family or duplex dwelling units, if the development proposal will result in the removal of trees. The applicant has provided a tree conservation plan included with this submittal demonstrating approximately 43 percent preservation of existing trees on site. Only trees falling within areas required for improvements and street extensions are proposed for removal.*

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 wetlands and hydric soils on the proposed subdivision site. The tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

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 and SRC Chapter 810 Landslide Hazards, there are no areas of landslide susceptibility on the subject property. Therefore, the proposed subdivision is classified as low landslide risk and does not require a geologic assessment. The proposal meets the applicable provisions of SRC Chapter 810.

- (2) The tentative subdivision plan does not impede the future use or development of the property or adjacent land.

Applicant's Findings: *The tentative subdivision plan will complete development within the immediate area. The subject property has both undeveloped areas and areas occupied by main structures and accessory structures. The proposal includes demolition of existing structures on site and the division of the property into six lots. The future lots will be prepared for single-family dwellings matching the existing development of adjacent properties. As proposed, the tentative subdivision plan will not impede the future use or development of the property or adjacent land. The lots within the proposed subdivision are of sufficient size to permit the future development of permitted, special, or conditional uses within the RS zone. There is no evidence that the subdivision and development of lots would adversely impact public service to any of the surrounding properties. This criterion is met.*

- (3) Development within the tentative subdivision plan can be adequately served by city infrastructure.

Applicant's Findings: *Water, sewer, and stormwater 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 partition plan. The applicant understands, private water, sewer, and storm services shall be constructed to serve each lot as a condition of plat approval unless the applicant enters into an improvement agreement with the city. The applicant understands their development is subject to SRC Chapter 71. At the time of construction, the applicant will demonstrate the proposed lots can meet the PWDS by submitting a stormwater design prior to final plat approval. All public and private city infrastructure proposed to be located in the public right-of-way will 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 will be shown on the final plat in compliance with the provisions of the UDC. This criterion will be met.*

- (4) The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.

Applicant's Findings: *As discussed throughout this narrative, the applicant is proposing proportional dedication and frontage improvements along all portions of the proposed subdivision to serve all six proposed lots. On the applicant's tentative plan, an extension of Mesa Street S proposed to be constructed to Local street standards with a new terminus into a cul-de-sac. The configuration does not meet maximum spacing standards of 600 feet along Kurth Street S between intersections of Kurth and Browning and Kurth and Warren. In lieu of providing a through street, the applicant has requested an alternative street standard. The tentative plan shows mid-block pedestrian connections between lots 3, 4, and 5.*

Pursuant to SRC 803.065(a), the director may authorize the use of one or more alternate street standards: (1) where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable; and (3) where topography or other conditions make the construction that conforms to the standards impossible or undesirable. In this case, a through street connection of Mesa to Kurth would result in a remnant property that does not meet the depth and width standards of the RS zone. As proposed, the applicant is resolving the bicycle and pedestrian connection issue from Mesa to Kurth while still serving all six lots and creating new properties which conform to the lot standards of the zone.

This criterion is met.

- (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, though, and out of the subdivision.

Applicant's Findings: *As discussed throughout this narrative, the applicant is proposing proportional dedication and frontage improvements along all portions of the proposed subdivision to serve all six proposed lots. On the applicant's tentative plan, an extension of Mesa Street S proposed to be constructed to Local street standards with a new terminus into a cul-de-sac. The configuration does not meet maximum spacing standards of 600 feet along Kurth Street S between intersections of Kurth and Browning and Kurth and Warren. In lieu of providing a through street, the applicant has requested an alternative street standard. The tentative plan shows mid-block pedestrian connections between lots 3, 4, and 5.*

Pursuant to SRC 803.065(a), the director may authorize the use of one or more alternate street standards: (1) where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable; and (3) where topography or other conditions make the construction that conforms to the standards impossible or undesirable. In this case, a through street connection of Mesa to Kurth would result in a remnant property that does not meet the depth and width standards of the RS zone. As proposed, the applicant is resolving the bicycle and pedestrian connection issue from Mesa to Kurth while still serving all six lots and creating new properties which conform to the lot standards of the zone.

This criterion is met.

- (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.

Applicant's Findings: *The development site is within half a mile of Sunnyslope City Park. The applicant is proposing to provide sidewalks along the entire frontage of the development site. Streets within the area are underimproved and in most places do not have sidewalks. Though the applicant cannot improve the entire path to the park with sidewalks for bicycle and pedestrian traffic, the addition of the development will provide a needed improvement along the development frontage. The applicant is also proposing to provide a mid-block pedestrian connection from the new cul-de-sac through to Kurth Street. The connection will allow for easier access to the park for bicycle and pedestrian traffic coming from the existing development to the east. This criterion is met by the proposal.*

- (7) The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved traffic impact analysis, where applicable.

Applicant's Findings: *As demonstrated in the applicants' findings for SRC Chapter 803, below, a TIA is not triggered by the proposed development. The applicant is proposing to extend Mesa Street S to a cul-de-sac meeting the PWDS for an appropriate vehicular turnaround. Additionally, the applicant is proposing right-of-way dedication and street improvements along Browning Avenue S and Kurth Street S which are proportional to the development size. The proposal will likely improve the functionality of the abutting streets and mitigates impacts to the transportation system. This criterion is met.*

- (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.

Applicant's Findings: *The applicant has taken adequate measures to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The configuration of lots on the subject property makes logical use of developable land. As described in findings, the lot configuration proposed by the applicant meet applicable development standards minimizing the need for any variances. 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.*

- (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.

Applicant's Findings: The applicant has taken adequate measures to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The configuration of lots on the subject property makes logical use of developable land. As described in findings, the lot configuration proposed by the applicant meets applicable development standards minimizing the need for any variances. No existing conditions of topography or vegetation have been identified on the site that 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.

- (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.

Applicant's Findings: An Urban Growth Preliminary Declaration is not required for this application, pursuant to SRC Chapter 200. This criterion is not applicable.

- (e) *Expiration.* Tentative subdivision plan approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

Applicant's Findings: The applicant understands the provisions surrounding expiration of tentative subdivision plan approval in accordance with SRC Chapter 300.850, as demonstrated in Section 4 of this narrative.

Section 205.050 – Expedited Land Division

An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions set forth in SRC chapter 300. When an applicant requests an expedited land division, the application shall be processed as provided in ORS 197.360 through ORS 197.380, in lieu of the procedures set forth in SRC chapter 300.

Applicant's Findings: The applicant is not seeking an expedited review of this land division. This criterion is not applicable.

Chapter 511 – RS – Single Family Residential

Section 511.001 – Purpose

The purpose of the Single Family Residential (RS) Zone is to implement the single-family residential designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The RS zone generally allows single family, two family, three family, and four family residential uses, along with a mix of other uses that are compatible with and/or provide support and services to the residential area.

Applicant's Findings: *The subject property is zoned RS, in accordance with City of Salem maps. The provisions of Chapter 511 are applicable to the proposed subdivision and the applicant has provided responses to applicable criteria below.*

Section 511.005 – Uses

- (a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the RS zone are set forth in Table 511-1.
- (b) Continued uses. Existing cottage housing within the RS zone constructed prior to May 15, 1979, but which would otherwise be made nonconforming by this chapter, is hereby deemed a continued use.
 - (1) Building or structures housing a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding complies with the standards set forth in SRC 511.010(f).
 - (2) Cease of occupancy of a building or structure for a continued use shall not preclude future use of the building or structure for that use; provided, however, conversion of the building or structure to another use shall thereafter prevent conversion back to that use.

Applicant's Findings: *The applicant is proposing a six-lot subdivision for the future development of single-family dwellings. Land divisions are permissible within the RS zone, subject to standards. Below the applicant is providing findings demonstrating compliance with the applicable standards.*

Section 511.010 – Development Standards

Development within the RS zone must comply with the development standards set forth in this section.

- (a) *Lot standards.* Lots within the RS zone shall conform to the standards set forth in Table 511-2.

Applicant's Findings: *The tentative plan proposes to divide the property into 6 lots. This will include one tract for public pedestrian access. Lots will range in size from 7,083 square feet to*

approximately 11,036 square feet. All lots within the subdivision are proposed to take access directly from existing public streets.

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Lot Area (All Other uses)	6,000 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Lot Depth (All Other uses)	80 feet
Lot Depth (Double Frontage Lots)	120 feet
Street Frontage	40 feet

The proposed lots meet or exceed minimum lot area, dimension, and frontage requirements. Therefore, they 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.

(b) *Setbacks.* Setbacks within the RS zone shall be provided as set forth in Table 511-3.

Applicant's Findings: SRC Chapter 511 establishes the following setback standards for development within an RS (Single Family Residential) zone:

Front Yards and Yards Adjacent to Streets:

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

Rear Yards:

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

Interior Side Yards:

- *Minimum 5 feet*

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

The proposal conforms to the requirements of SRC Chapter 511.

- (c) *Lot coverage; height.* Buildings and accessory structures within the RS zone shall conform to the lot coverage and height standards set forth in Table 511-4.
- (d) *Maximum square footage for all accessory structures.* In addition to the maximum coverage requirements established in Table 511-4, accessory structures to single family and two-family uses shall be limited to the maximum aggregate total square footage set forth in Table 511-5.
- (e) *Development standards for continued uses.* Buildings or structures housing a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding complies with the following standards:
 - (1) The altered, enlarged, or rebuilt building or structure shall conform to development standards set forth in this chapter, and to all other applicable provisions of the UDC.
 - (2) Any building or structure altered or enlarged shall not exceed the square footage and height of the original building or structure by more than 20 percent.
 - (3) Any building or structure rebuilt shall be located on the same location on the lot as the original building or structure, or in compliance with the setbacks set forth in Table 511-3. The square footage and height of the rebuilt building or structure shall not exceed the square footage and height of the original building or structure by more than 20 percent.

Applicant's Findings: *Standards c, d, and e above will be applicable and reviewed at the time of building permit submittal to develop the future single-family sites. At this time, these standards are not applicable.*

Chapter 800 – General Development Standards

Section 800.015 – Lot Standards, Generally

- (a) *Lot shape and size.* In addition to meeting all applicable lot standards of the UDC, all lots intended for development, as far as practicable, shall be of a size and configuration so that their net remaining area exclusive of required setbacks, easements, riparian corridors, and mapped floodplain/floodway boundaries and wetlands is buildable.

Applicant's Findings: *As demonstrated on the plans provided and the findings included above, the applicant is proposing lots of substantial size and shape adequate for the future development of single-family dwellings. This criterion is met.*

- (b) *Buildings to be on a lot.* Every building or structure shall be entirely located on an individual lot. Buildings that are attached at a common property line, but which otherwise meet all requirements of SRC chapter 56 as separate buildings shall be considered as separate buildings for purposes of this subsection.

Applicant's Findings: This criterion is applicable at the time of building permit submittal. At that time, the builder will provide a site plan demonstrating compliance with all setbacks. Each building permit application will be reviewed by staff to ensure proposed structures are entirely located on an individual lot. This criterion is not applicable at this time, as no structures are proposed.

- (c) *Side lot lines.* As far as is practicable, side lot lines shall run at right angles to the street upon which the lot faces, except that on curved streets they shall be radial to the curve.

Applicant's Findings: The development side is irregularly shaped, but all side lot lines, as far as practicable, run at right angles to the street which they face. This criterion is met.

Section 800.020 – Designation of Lot Lines

- (a) *Front lot line.* The front lot line shall be designated as set forth in this subsection (see Figure 800-1).
- (1) *Interior lot.* For an interior lot, the front lot line shall be the property line abutting the street.
 - (2) *Corner lot.* For a corner lot, the front lot line shall be the property line abutting a street designated by the building permit applicant; provided, however, that lot dimension standards are met.
 - (3) *Double frontage lot.* For a double frontage lot, the front lot line shall be the property line abutting a street designated by the building permit applicant; provided, however, that lot dimension requirements are met.
 - (4) *Flag lot.* For a flag lot, the front lot line shall be the outside property line that is an extension of the flag lot accessway or the property line separating the flag portion of the lot from the lot between it and the street from which access is provided to the flag lot, unless the Planning Administrator otherwise directs, in which case the front lot line shall be set forth in the conditions of approval for the tentative plan of the plat, which shall be recorded on deeds conveying lots.
 - (5) *Other lots.* In the case of any lot not covered by subsections (a)(1) through (4) of this section, the front lot line shall be the property line that the architecturally designed front of the building faces.
- (b) *Rear lot line.* The rear lot line shall be designated as set forth in this subsection (see Figure 800-2).
- (1) *Generally.* For all lots, except those identified in subsection (b)(2) of this section, the rear lot line shall be the property line that is opposite and most parallel to, and located the greatest distance from, the front lot line.
 - (2) *Trapezoidal, triangular, diamond, or other shaped lots.* For trapezoidal, triangular, diamond, or other shaped lots with a distance between the side lot lines at the rear of the lot of less than ten feet, the rear lot line for purposes of

determining required setbacks shall be a line ten feet in width drawn between the side lot lines and located parallel to and at the maximum distance from the front lot line (see Figure 800-3).

(c) *Side lot line.* A side lot line is any lot line which is not a front or rear lot line.

Applicant's Findings: SRC 800.020 establishes front lot line designation requirements for corner lots, double frontage lots, flag lots, and all other uncategorized lots. In accordance with this section, lots that have frontage on a public street, other than corner lots, require that 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. Provided that lot dimension requirements are met, the front lot line for a corner lot shall be the property line abutting a street provided by the building permit applicant. Those lots which do not meet the lot dimensions from both street frontages will be limited to the front property line setback being from the abutting street which meets the lot depth dimension. As demonstrated on the plans included, only lot 1 is a corner lot having frontage onto Kurth Street S and Browning Avenue S. In accordance with Public Works requirements, access must be taken from the abutting street with the lowest classification. In this case, Kurth Street S is a local street and Browning Avenue S is a collector street. Lot 1 will be required to take access from Kurth Street S. Lots 1 through 4 will all take access from Kurth Street S which they have adequate frontage. Lots 5 and 6 will take access from the newly proposed cul-de-sac extension of Mesa Street S. No double frontage or flag lots are proposed with this subdivision.

Section 800.035 – Setbacks

(a) *Setbacks to be unobstructed.* Except as otherwise provided under subsection (b) of this section, required setbacks shall be unobstructed.

Applicant's Findings: The applicant understands setbacks must be unobstructed with the exception of permitted projections outlined in Table 800-2. This application is for a tentative subdivision with six-lots for the future development of single-family dwellings. At this time, development is not being proposed. Setbacks will be reviewed when building permits are submitted for the future single-family dwellings. This criterion will be met.

Section 800.040 – Special Setbacks

- (a) *Generally.* To afford better light, air, and vision on public streets and to permit the eventual widening of streets without creating nonconforming structures, special setbacks are hereby established. No structures or paving, other than those identified under subsection (d) of this section, shall be placed within a special setback.
- (b) *Setback distance required; how measured.* The special setback shall equal one-half of the right-of-way width specified in the Salem Transportation System Plan for the street's applicable classification. Special setbacks shall be measured at right angles to the

centerline of the street, or, where there is no street, from the centerline of the right-of-way. Where the centerline is not designated, the Director shall designate the location of the centerline.

Applicant's Findings: *As shown on both the existing conditions plan and tentative subdivision plan included with this submittal, dedication and frontage improvements are proposed. The dedication and frontage improvements proposed are proportional to the development. Additionally, the dedication and improvement will complete the needed improvement to Kurth Street S and bring it up to local street standards in accordance with Salem's Transportation System Plan (TSP). Because the streets will be fully improved, no special setbacks are warranted. These criteria are not applicable to this project.*

Chapter 802 – Public Improvements

Section 802.001 – Purpose

The purpose of this chapter is to establish the means and standards whereby public improvements are provided for development within the City.

Applicant's Findings: *The applicant understands the purpose of Chapter 802 is to establish the standards for public improvements as they correlate to development within the city. The applicant has provided findings for each applicable criterion listed below.*

Section 802.010 – Design Standards and Specifications

The Director shall prepare and adopt by administrative rule design standards and specifications consistent with sound engineering principles for the construction, reconstruction, or repair of public improvements within areas under the City's jurisdiction. The design standards and specifications shall be kept on file in the office of the Director. All public improvements shall conform to the adopted design standards and specifications, and with any other adopted plans and policies adopted by the City.

Applicant's Findings: *Design standards for public improvements within the City of Salem have been adopted. The proposed improvements meet the requirements of the Public Works Design Standards. At time of design review to permit the proposed improvements, construction documents will be prepared and provided by the applicant's civil engineer. Preliminary drawings for the purpose of land use approval are provided with this submittal for initial review.*

Section 802.015 – Development to be Served by City Utilities

Except as provided under SRC 802.035 and 802.040, all development shall be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and the Public Works Design Standards.

Applicant's Findings: 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 Schematic Utility Plan included in the proposal demonstrates each individual proposed lot can be served by city utilities designed and constructed according to the applicable provisions of the SRC and PWDS. The applicant anticipates conditions of approval, typically imposed on subdivisions will be included in the decision for this subdivision in order to ensure appropriate public infrastructure is provided to each of the new lots created by the subdivision. This criterion is met.

Section 802.020 – Easements

Subject to any constitutional limitations, the conveyance or dedication of easements for city utilities may be required as conditions of development approval. Easements may be required that are necessary for the development of adjacent properties. Easements shall, where possible, be centered on, or abut property lines, and shall be not less than ten feet in width. No building, structure, tree, or other obstruction other than landscaping shall be located within an easement required by this section.

Applicant's Findings: The applicant understands Public Utility Easements (PUEs) are likely to be required along all public streets. It is anticipated the franchise utility provider in the area (PGE) will require a 10-foot-wide PUE on all street front lots (1 through 6). This will ensure adequate access to electrical services and other utilities. The applicant understands landscaping and structures must remain outside of the PUE and the PUE will appear on the final plat recorded with Marion County. This criterion can be met.

Section 802.025 – Utilities to be Placed Underground

- (a) Except as otherwise provided in this section, all utility service shall be provided by underground facilities.
- (b) In industrial and employment and commercial zones, electrical service may be provided by overhead wires where underground utility service is unavailable.
- (c) Stormwater management shall be provided by above ground and below ground facilities.

Applicant's Findings: The applicant understands in residential zones, utilities must be placed underground. The schematic utility plan proposes utility extensions which comply with this provision. This criterion will be met.

Chapter 803 – Streets and Right-of-Way Improvements

Section 803.010 – Streets, Generally

Except as otherwise provided in this chapter, all streets shall be improved to include the following: adequate right-of-way, paving, curbing, bike lanes (where required), sidewalks, street

lighting, stormwater facilities; utility easements, turnarounds, construction strips, landscape strips, parking lanes, adequate right-of-way geometry, paving width, grade, structural sections and monumentation, that conforms to the Public Works Design Standards.

Applicant's Findings: *The subject site abuts Kurth Street S along its westerly boundary. Kurth Street S is designated as a local street in accordance with the Salem TSP and requires a 60-foot right-of-way with two lane curbed improvements including parking and sidewalks. As depicted on the existing conditions plan provided with this application, dedication and frontage improvements are needed along the property frontage. The tentative partition plan demonstrates dedication and frontage improvements including curb-line sidewalks with the planter behind the walk.*

The site abuts Browning Avenue S along its northerly boundary. Browning Avenue is designated as a collector street in accordance with the Salem TSP and requires a Collector B improvement with two lane curbed improvements, bike lanes, one parking lane, and curb extensions at intersections and sidewalks. The tentative subdivision plan provided shows dedication and a proposed improvement along the frontage to collector standards.

The current terminus of Mesa Street S abuts the subject site along its easterly boundary. Mesa Street is designated as a local street in accordance with the Salem TSP. The applicant, as demonstrated on the tentative subdivision plan, is proposing to cul-de-sac Mesa Street and provide a pedestrian connection which would extend from the cul-de-sac bulb to Kurth Street S within proposed Tract A.

Each improvement proposed will conform to the PWDS and will be demonstrated on the construction plans provided by the applicant's engineer at the time of permit approval.

Section 803.015 – Traffic Impact Analysis

- (a) ***Purpose.*** The purpose of a traffic impact analysis is to ensure that development generating a significant amount of traffic provides the facilities necessary to accommodate the traffic impacts of the proposed development.

Applicant's Findings: *The applicant understands the purpose of some developments triggering a traffic impact analysis (TIA). However, as demonstrated below, the proposed development does not warrant a TIA based on assumed trip generation for the future single-family development on 6 lots.*

- (b) ***Applicability.*** An applicant shall provide a traffic impact analysis if one of the following conditions exists:
 - (1) The development will generate 200 or more daily vehicle trips onto a local street or alley, or 1,000 daily vehicle trips onto a collector, minor arterial, major arterial, or parkway. Trips shall be calculated using the adopted Institute of

Transportation Engineer's Trip Generation Manual. In developments involving a land division, the trips shall be calculated based on the proposed development that will occur on all lots that will be created by the land division.

Applicant's Findings: *In accordance with the adopted Institute of Transportation Engineer's Trip Generation Manual, the proposed subdivision will generate approximately 57 new average daily trips (ADT). Approximately 38 of those ADTs will be sent to Kurth Street S and 19 of those ADTs will be sent to Mesa Street S. This trip calculation is less than the 200-trip threshold and does not trigger a TIA.*

- (2) The increased traffic resulting from the development will contribute to documented traffic problems, based on current accident rates, traffic volumes or speeds, and identified locations where pedestrian and/or bicyclist safety is a concern.

Applicant's Findings: *There is not a documented traffic problem within the area. With the approval of the proposed development, Kurth Street S will be brought closer to local street standards with a half street improvement and sidewalks. Mesa Street S will be terminated in a cul-de-sac allowing for safer turnaround of vehicles. The development proposes to add pedestrian connections that do not currently exist in the area providing for safer circulation of persons traveling on foot within the area. The development will improve the road conditions in the area and does not trigger a TIA based on this criterion.*

- (3) The City has performed or reviewed traffic engineering analyses that indicate approval of the development will result in levels of service of the street system that do not meet adopted level of service standards.

Applicant's Findings: *There is not a documented traffic problem within the area. It is not anticipated the city has or will perform or review traffic engineering analyses that indicate approval of the development will result in levels of service of the street system that do not meet adopted level of service standards. As stated above, with the approval of the proposed development, Kurth Street S will be brought closer to local street standards with a half street improvement and sidewalks. Mesa Street S will be terminated in a cul-de-sac allowing for safer turnaround of vehicles. The development proposes to add pedestrian connections that do not currently exist in the area providing for safer circulation of persons traveling on foot within the area. The development will improve the road conditions in the area and does not trigger a TIA based on this criterion.*

- (c) *Improvements may be required.* On-site and off-site public or private improvements necessary to address the impacts identified in the traffic impact analysis may be required as conditions of development approval. Improvements include, but are not limited to, street and intersection improvements, sidewalks, bike lanes, traffic control

signs and signals, parking regulation, access controls, driveway approach location and design, and street lighting.

Applicant's Findings: *Based on the size and impact of the development, the frontage dedication and improvements shown on the tentative subdivision plans provided are proportional. Off site improvements would not be proportionate to the development being proposed. Based on the applicant's findings for subsection (b) above, a TIA is not required for this project. This criterion is not applicable.*

- (d) *Exception.* An exception to the requirement for a traffic impact analysis may be granted for development that generates more than the trips specified in subsection (b)(1) of this section if the Director determines the traffic impact analysis is not necessary to satisfy the purposes set forth in subsection (a) of this section.

Applicant's Findings: *As demonstrated above, a TIA is not triggered by the proposal. This criterion is not applicable.*

Section 803.020 – Public and Private Streets

- (a) *Public streets.* Except as provided in subsection (b) of this section, all streets shall be public streets.

Applicant's Findings: *The applicant's proposal does not include the creation of any new streets. In conjunction with the tentative subdivision plan, the applicant is proposing proportional improvements to the existing public streets along the frontage of the development site and will cul-de-sac Mesa Street S to provide for safe and orderly turnaround opportunities for vehicles. This criterion is met.*

Section 803.025 – Right-of-Way and Pavement Widths

- (a) Except as otherwise provided in this chapter, right-of-way width for streets and alleys shall conform to the standards set forth in Table 803-1.

Applicant's Findings: *The development site abuts two local streets (Kurth Street S and Mesa Street S) and one collector street (Browning Avenue S). Each improvement proposed meets the minimum dimensions for right-of-way width and pavement width in accordance with Table 803-1 and the Salem TSP. The improvements proposed are shown on the preliminary plans included with this application submittal. This criterion is met.*

- (b) Except as otherwise provided in this chapter, streets shall have an improved curb-to-curb pavement width as set forth in Table 803-2.

Applicant's Findings: *Each improvement proposed meets the minimum dimensions for right-of-way width and pavement width in accordance with Table 803-1 and the Salem TSP. The*

improvements proposed are shown on the preliminary plans included with this application submittal. This criterion is met.

- (c) Additional right-of-way, easements, and improvements may be required to accommodate the design and construction of street improvement projects due to steep slopes, soils, water features, wetlands, transit bus bays, and other physical constraints.
- (d) Additional right-of-way and roadway improvements at the intersections of parkways, major arterial, minor arterial, and collector streets, and at intersections and access points for high traffic generators, including, but not limited to, shopping centers, schools, major recreational sites, and office complexes, may be required. The design of all intersections shall conform to the Public Works Design Standards.
- (e) When an area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant, dedication and improvement of streets to greater widths than those provided in subsection (a) of this section may be required.

Applicant's Findings: *No site conditions or constraints exist that would trigger additional right-of-way, easements, or other roadway improvements as outlined in subsections (c) and (d) above. These criteria are not applicable.*

Section 803.030 – Street Spacing

- (a) Streets shall have a maximum spacing of 600 feet from right-of-way line to right-of way line along one axis, and not less than 120 feet and not more than 400 feet from right-of-way line to right-of-way line along the other axis.
- (b) Street spacing may be increased where one or more of the following exist:
 - (1) Physical conditions preclude streets meeting the spacing requirements. Physical conditions include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes, or a resource protected by state or federal law.
 - (2) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude streets meeting the spacing requirements, considering the potential for redevelopment.
 - (3) An existing public street or streets terminating at the boundary of the development site exceed the spacing requirements or are situated such that the extension of the street or streets into the development site would create a block length exceeding the spacing requirements. In such cases, the block length shall be as close to the spacing requirements as practicable.
 - (4) Strict application of the spacing requirements would result in a street network that is no more beneficial to vehicular, pedestrian, or bicycle traffic than the proposed street network, and the proposed street network will accommodate necessary emergency access.

Applicant's Findings: The applicant is seeking an alternative street standard for the proposed development. The block length along Kurth Street S between Browning Avenue S to the north of the development site and Warren Street S to the south of the development site is approximately 785-feet, exceeding the 600-foot standard by 185-feet. As demonstrated on the plans provided with this submittal, the development site is irregularly shaped and is an infill development with existing development on three sides. The applicant is proposing to cul-de-sac Mesa Street S on the development site, just west of its current terminus. To address the street spacing standards, a mid-block pedestrian access between lots 3, 4, and 5. Had the applicant proposed to connect Mesa Street S to Kurth Street S, there would be a remnant property created to the south of the new right-of-way. The property would be approximately 35-feet wide by 102-feet in depth which does not meet the dimensional standards of the RS zone. The cul-de-sac proposed by the applicant, as demonstrated on the plans provided and the findings below, meets the standards for length and radius. By proposing a cul-de-sac, the applicant is able to provide 6 lots which all meet the dimensional standards of the RS zone for the future development of single-family dwellings. The proposed pedestrian connection meets an alternative street standard to exceed the 600-foot block length requirement of SRC 803.030. The pedestrian connection will be constructed to the Bike/Pedestrian Walkway specifications in the Public Works Design Standards.

Section 803.035 – Street Standards

All public and private streets shall be improved as follows:

- (a) **Connectivity.** Local streets shall be oriented or connected to existing or planned streets, existing or planned schools, parks, shopping areas, transit stops, and employment centers located within one-half-mile of the development. Local streets shall be extended to adjoining undeveloped properties for eventual connection with the existing street system. Connections to existing or planned streets and adjoining undeveloped properties for eventual connection with the existing street system shall be provided at no greater than 600-foot intervals unless one or more of the following conditions exist:
 - (1) Physical conditions or the topography, including, but not limited to, freeways, railroads, steep slopes, wetlands, or other bodies of water, make a street or public accessway connection impracticable.
 - (2) Existing development on adjacent property precludes a current or future connection, considering the potential and likelihood for redevelopment of the adjacent property; or
 - (3) The streets or public accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, that by their terms would preclude a current or future connection.

Applicant's Findings: 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 existing development or existing public rights-of-way on all sides. The development is infill and a redevelopment of property. As shown, the tentative subdivision plan proposes to provide connectivity by way of a bike/pedestrian connection off the Mesa Street S cul-de-sac connecting to Kurth Street S. Adjacent properties are already divided and cannot be further divided or developed. With the addition of the new bike/pedestrian access, a complete pedestrian and vehicular network will be provided with the new development and existing improvements in the vicinity.

- (b) *Improvements.* All street improvements, including sub-base, base, pavement, curbs, sidewalks, and surface drainage shall conform to all provisions of the Salem Revised Code and the Public Works Design Standards.
- (c) *Alignment and grade.* All streets shall be designed with a vertical alignment that conforms to the Public Works Design Standards. No grade of parkway, major arterial, or minor arterial shall exceed six percent. No grade of a collector street shall exceed eight percent. No grade of a local street shall exceed 12 percent.
- (d) *Dead-end streets.* When it appears necessary to provide connectivity into or through an abutting undeveloped area, a dead-end street shall be provided to the boundary of the undeveloped area. The street may be constructed, and right-of-way may be dedicated without a turnaround unless the Planning Administrator finds that a turnaround is necessary.
- (e) *Reserve blocks.* Reserve blocks controlling access to a street or alley may be required to be dedicated to address one or more of the following:
 - (1) To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.
 - (2) To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in SRC 803.025.
 - (3) To prevent access to land abutting a street of the development, but not within the development itself.
 - (4) To prevent access to land unsuitable for development.
 - (5) To prevent access prior to payment of street improvement assessments or connection charges.
 - (6) To prevent access to an arterial or collector street.

Applicant's Findings: All proposed street improvements have been designed to meet the Public Works Design Standards based on the street classification. At the time of construction permit for required improvements associated with the tentative partition, the applicant's engineer will

provide a construction drawing set for review and approval by city staff. No dead-end streets or reserve blocks are proposed. As applicable, these criteria will be met.

(f) *Cul-de-sacs.*

- (1) Cul-de-sacs shall not exceed 800 feet in length.

Applicant's Findings: *The proposed cul-de-sac for Mesa Street S does not exceed 800-feet, as shown on the preliminary plans provided. This criterion is met.*

- (2) No portion of a cul-de-sac shall be more than 400 feet from an intersecting street or cul-de-sac unless physical constraints make it impractical.

Applicant's Findings: *The most westerly portion of the newly proposed cul-de-sac for Mesa Street S is exactly 400-feet from the intersection of Camella Drive S. This measurement extends beyond the pavement and includes the 10-foot PUE. The proposal meets this criterion.*

- (3) Cul-de-sacs shall have a turnaround with a property line radius of not less than that specified in SRC 803.025(a) from the center of the turnaround to the property lines.

Applicant's Findings: *The width and radius of the proposed cul-de-sac extension of Mesa Street S meets the requirements of SRC 803.025 as demonstrated on the plans included with this application submittal.*

(g) *Intersections; property line radius.*

- (1) Intersections shall conform to the Public Works Design Standards; provided, however, additional right-of-way and roadway improvements at or adjacent to the intersections of parkways, major arterials, minor arterials, and collector streets may be required for intersections and access points for high traffic generators, including, but not limited to, shopping centers, schools, major recreational sites, and office complexes.

- (2) The property line radius at intersections shall be not less than the curblin radius as set forth in the Public Works Standards.

(h) *Cut and fill slopes.* Fill slopes shall begin no closer than two feet from the rear edge of the sidewalk, or if there is no sidewalk, from to the rear edge of the curb. Cut and fill slopes shall not exceed two horizontal to one vertical, provided that slopes not exceeding one to one may be approved upon certification by a qualified engineer or geologist that the slope will remain stable under foreseeable conditions.

(i) *Slope easements.* Slope easements shall be provided on both sides of the right-of-way where required by Public Works Design Standards.

(j) *Street alignment.* Consistent with good engineering practice, street alignment shall, so far as possible, avoid natural and constructed obstacles, including, but not limited to, mature trees.

Applicant's Findings: Subjections (g) through (j) above are met by the proposed development, as applicable. The applicant has provided preliminary utility and grading plans and demonstrated the proposed street improvements and right-of-way dedications will meet the requirements of the Public Works Design Standards. As applicable, the above criteria are satisfied by the proposed development.

- (k) *Street trees.* Development adjacent to public streets shall provide street trees that meet the standards and specifications set forth in SRC chapter 86.

Applicant's Findings: Street trees will be provided along all street frontages where they are lacking, in accordance with SRC Chapter 86. This criterion will be met.

(l) *Sidewalks.*

- (1) *Sidewalk construction required.* Sidewalks conforming to this chapter, the Public Works Design Standards, the Americans with Disabilities Act, the Salem Transportation System Plan, and SRC chapter 78 shall be constructed as a part of street improvement projects.

(2) *Sidewalk location; width.*

- (A) Sidewalks shall be located parallel to and one foot from the adjacent right-of-way; provided, however, on streets having a right-of-way of 50 feet or less, sidewalks shall be located parallel to and abutting the curb.
- (B) If topography or other conditions make the construction of a sidewalk impossible or undesirable in a location required by this subsection, a different location may be allowed.
- (C) Except as otherwise provided in this subsection, all sidewalks shall be a minimum of five feet in width.
- (D) Sidewalks connecting with the direct access to the primary entrance of a school shall be a minimum of eight feet in width along the right-of-way for a distance of 600 feet from the point of connection.
- (E) Sidewalks shall have an unobstructed four-foot-wide clearance around streetlights, signs, mailboxes, and other streetscape facilities.

Applicant's Findings: As shown on the plans provided, curb line sidewalks are proposed along Kurth Street S and the cul-de-sac for Mesa Street S. Property line sidewalks are proposed along the property frontage for Browning Avenue S. The purpose of proposing the sidewalk locations as shown is to conform with the slope requirements of both the Public Works Design Standards and the Americans with Disabilities Act. The sidewalks throughout the development, including the bicycle and pedestrian connection from the cul-de-sac to Kurth Street S meet or exceed the

minimum dimensional standards. As designed, a minimum of four feet in width will be maintained when sidewalks must clear streetscape facilities. None of the sidewalks within the development provide direct access to a school. As applicable, the above criteria are met.

- (m) *Bicycle facility standards.* Streets identified in the Salem Transportation System Plan Bicycle System Map as requiring a bicycle facility must conform to the designation of the Salem Transportation System Plan and the Public Works Design Standards.

Applicant's Findings: *The Salem Transportation System Plan identifies Broening Avenue S as a Tier 2 prioritized bicycle project area where it abuts the development site. Simultaneously, Browning Avenue S is categorized as a low priority for street improvement projects according to Map 3-5. The development site has approximately 105-feet of frontage onto Browning Avenue S. Along the property frontage, the applicant is proposing improvements to Browning Avenue including a bike lane as detailed in collector street standards. This criterion is met.*

- (n) *Utility easements.* Public utility easements may be required for all streets. Unless otherwise specified by the Director, public utility easements shall be a minimum of ten feet in width on each side of the right-of-way.

Applicant's Findings: *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (o) *Street lights.* All subdivisions and partitions, and all development on units of land for which site plan review is required, shall include underground electric service, light standards, wiring, and lamps for streetlights that conform to the Public Works Design Standards. The developer shall install such facilities. Upon the City's acceptance of improvements, the street lighting system shall become the property of the City.

Applicant's Findings: *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (p) *Landscape strips.* Landscape strips for signs, streetlights, and shade trees shall be provided that conform to the Public Works Design Standards.

Applicant's Findings: *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (q) *Landscaping.* Property owners shall cover at least 75 percent of the unimproved surface area within the right-of-way abutting the property with perennial living plant material which conforms to all other requirements of the UDC, and which is kept free of noxious vegetation.

Applicant's Findings: *As demonstrated by this narrative and the proposed plans provided, this criterion will be met as applicable.*

- (r) *Transit facilities.* Transit stops conforming to the applicable standards of the Salem Area Mass Transit District shall be constructed and right-of-way dedication, when necessary to accommodate the transit stop, shall be provided when a transit stop is identified as being needed by the Transit District in connection with a proposed development. Where a transit stop is required, on-street parking shall be restricted in the area of the stop as defined by the Transit District in order to ensure unobstructed access by transit.

Applicant's Findings: *This criterion is not applicable to the proposal.*

- (s) *Urban growth area street improvements.* Where a subdivision or partition is located in the Urban Growth Area or the Urban Service Area, and the construction of street improvements by the City has not yet occurred, the street improvements and dedications shall meet the requirements of SRC chapter 200.

Applicant's Findings: *This criterion is not applicable to the proposal.*

Section 803.040 – Boundary Streets

- (a) *General.* Except as otherwise provided in this section, dedication of right-of-way for, and construction or improvement of, boundary streets of up to one-half of the right-of-way and improvement width specified in SRC 803.025 shall be required as a condition of approval for the following:
- (1) Subdivisions;
 - (2) Partitions;
 - (3) Planned unit developments;
 - (4) Manufactured dwelling parks; and
 - (5) The construction or enlargement of any building or structure located on property abutting a boundary street and that requires a building permit under SRC chapter 56.
- (b) *Three-quarter street improvement.* If construction of a half-street improvement is insufficient to provide for a minimum of one 12-foot-wide travel lane in each direction or proper street grade, dedication of right-of-way for, and construction or improvement of, a three-quarter street improvement may be required.
- (c) *Additional right-of-way and improvements.* Dedication and improvement of streets to greater widths than those provided in SRC 803.025 may be required when:
- (1) An area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant.
 - (2) Topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way width or slope easements may be required to allow for all cut and fill slopes.
 - (3) Additional area is required for stormwater facilities located within the right-of-way.

(d) *Exceptions.* Notwithstanding subsections (a) and (b) of this section, the dedication of right-of-way for, and construction or improvement of, boundary streets is not required in the following circumstances:

- (1) Improvement of the boundary street abutting the property is a funded project in the Five Year Capital Improvement Program;
- (2) The construction of a new building or structure in a complex, if the new building or structure is less than 2,000 square feet. This exception shall be based on the extent of development existing on December 31, 1995;
- (3) The enlargement of any building or structure, if the enlargement results in less than a 50 percent increase in gross building area. This exception shall be based on the extent of development existing on December 31, 1995;
- (4) The construction or enlargement of any building or structure to be used entirely for agriculture, the keeping of livestock and other animals, or animal services, as defined in SRC chapter 400, and which involve no retail sales;
- (5) The conversion of, or addition to, an existing single-family detached dwelling to create a duplex, triplex, or quadplex; or
- (6) The construction or enlargement of any building or structure that will generate less than 20 new vehicle trips per day according to the Institute of Transportation Engineers' Trip Generation Manual.

(e) *Improvement.*

- (1) All boundary street improvements shall conform to this chapter and the Public Works Design Standards.
- (2) The maximum amount of street widening shall not exceed 17 feet on the development side, plus curb, gutters, sidewalks, bike lanes, stormwater facilities, streetlights, and signing where appropriate. The minimum requirement for the opposite side of the centerline is a 12-foot-wide paved travel lane. The boundary street improvement shall be provided along the full length of the boundary.
- (3) If development is proposed for only a portion of a development site or complex, the boundary street improvement shall be provided as follows:
 - (A) Where the area of development exceeds 25 percent of the total development site or complex area, the street improvements shall be the greater of either the actual street frontage of the phase being developed, or the percentage of street frontage equal to the percentage of area being developed.
 - (B) Where the area of development is equal to or less than 25 percent of the total development site or complex area, the street improvement shall be provided in accordance with the following formula:

- (i) Frontage of Required Street Improvement =
Proposed Area of Development ÷ Area of
Undeveloped Site x Total Street Frontage of Entire
Development Site or Complex.

(C) As used in this subsection, the term "area of development" means that area required for structures, setbacks, off-street parking, landscaping, and any special setbacks.

Applicant's Findings: The dedication and right-of-way improvements detailed on the applicants' proposed plans included with this submittal are proportional to the project. All abutting streets are underimproved in accordance with the City of Salem's Transportation System Plan. The applicant is proposing proportional dedication and half-street improvements as well as a cul-de-sac terminus for Mesa Street S. It is not anticipated any additional boundary street improvements will be required for the proposed six lot subdivision.

Section 803.045 – Monuments

Proper monuments that conform to the Public Works Design Standards shall be constructed with street improvements.

Applicant's Findings: During construction, monuments will be placed in accordance with Public Works Design Standards. This criterion will be met.

Section 803.050 – Public Accessways

- (a) When necessary for public convenience or safety, public accessways may be required to connect to cul-de-sac streets, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths creating access to schools, parks, shopping centers, mass transportation stops, or other community services, or where it appears necessary to continue the public walkway into a future subdivision or abutting property or streets.

Applicant's Findings: As shown on the plan provided with this submittal, the applicant is proposing a public accessway due to block length being in excess of 600-feet along Kurth Street S. The public accessway is proposed to be within Tract A and will connect from the cul-de-sac on the eastern portion of the development to Kurth Street S at the westerly property line of the development site.

- (b) Public accessways shall conform to the Public Works Design Standards, and have width and location as reasonably required to facilitate public use and, where possible, accommodate utility easements and facilities. Public accessways shall be dedicated on the plat.

Applicant's Findings: The public accessway is being proposed in conformity with the applicable Public Works Design Standards. The public accessway will be dedicated to the city through Tract A on the plat. This criterion will be met.

Section 803.055 – Traffic Control, Parking Regulation, and Street Signs and Pavement Markings

The developer shall install all required traffic control, parking regulation, street signs, and pavement markings for all paved blocks of streets within a subdivision or partition prior to final acceptance of the public streets by the City, or prior to the issuance of any building permit for construction within the subdivision or partition for private streets. All traffic control, parking regulation, and street signs and pavement markings shall conform to the Public Works Design Standards and shall be installed at the developer's expense.

Applicant's Findings: Improvements to existing streets abutting the development site is proposed with this six-lot subdivision. It's not anticipated that additional traffic control will be necessary in conjunction with the development. However, the applicant understands the city's traffic engineer will review the proposal and make a determination of concurrence with these findings. As applicable, this criterion will be met.

Section 803.060 – Conveyance by Dedication

All streets within subdivisions or partitions, other than private streets allowed under SRC 803.020, shall be dedicated to the City on the plat.

Applicant's Findings: The applicant's engineer and surveyor will prepare the plat dictating the dedication of right-of-way to the city on the plat as required by SRC 803.020. This criterion will be met.

Section 803.065 – Alternative Street Standards

- (a) The Director may authorize the use of one or more alternative street standards:
 - (1) Where existing development or physical constraints make compliance with the standards set forth in this chapter impracticable;
 - (2) Where the development site is served by fully developed streets that met the standards in effect at the time the streets were originally constructed; or
 - (3) Where topography or other conditions make the construction that conforms to the standards impossible or undesirable.
- (b) Authorization of an alternative street standard may require additional or alternative right-of-way width, easements, and improvements to accommodate the design and construction using the alternative standard.

Applicant's Findings: The applicant is seeking some alternatives to street standards as discussed throughout this narrative. The subject site falls within a fully developed area and is considered an infill project, or a redevelopment of existing property. The streets abutting the development

site likely met the standard at the time they were originally constructed, however the applicant is still proposing dedication and frontage improvements.

Section 803.070 – Deferral of Construction of Certain Improvements

(a) *Applicant initiated deferral.* An applicant may apply to defer the construction of the following improvements, upon filing an application and paying the application fee:

(1) *Boundary streets.*

(A) Construction of boundary streets may be deferred if:

- (i) The development site abuts a boundary street section, and the existing vertical or horizontal alignment for the street section neither meets nor can be constructed within the limits of the development site frontage in a manner that conforms to the Public Works Design Standards for future final street grades and alignment;
- (ii) The development site abuts a local street, the development site has less than 150 feet of frontage, and the use will generate 20 or less new vehicle trips per day;
- (iii) The development site abuts a local street and there is no improved street section or street improvement deferral for the boundary street within 150 feet of the property corners of the development site; or
- (iv) Unusual or special conditions exist that, in the opinion of the Director, would warrant a deferral of all or a part of the improvement.

(2) *Sidewalks.*

(A) Construction of sidewalks may be deferred if:

- (i) For property within all zones other than industrial and employment zones:
 - (a) The sidewalk is not on a collector street or arterial street; and
 - (b) Less than one-half of the required sidewalks on the side of the block where the sidewalk is to be constructed have already been constructed.
- (ii) For property within industrial and employment zones:

- (a) The sidewalk would not be part of a pedestrian route to a school, shopping center, park, church, or other pedestrian traffic generator, or identified in a local safe routes to school plan as a facility in need of improvement; and
 - (b) The deferral would not pose a threat to public safety and welfare, based upon review of pedestrian/vehicular traffic on the street, the width and condition of the street, and on-street parking.
- (B) Unless otherwise provided in the deferral agreement, when sidewalk construction has been deferred, the property owner shall:
 - (i) Grade and slope the area to the future sidewalk grade;
 - (ii) Avoid planting trees in the sidewalk area, or building fences, retaining walls, steps, or other impediments to the future sidewalk; and
 - (iii) Note on the plans for the development that a deferment has been granted but that sidewalk construction may be ordered by the City at any time.
- (b) *City required deferral.* The Director may require deferral of the construction of part or all of one or more of the improvements identified in subsection (a) of this section at any time. Deferral pursuant to this subsection shall be at no cost to the applicant.
- (c) *Deferral agreement.* When a deferral is allowed or required pursuant to this section, the applicant shall enter into a deferral agreement. The deferral agreement shall be in a form approved by the City Attorney, shall be filed in the deed records of the appropriate county, and shall provide that the required improvements will be constructed at such time as the Director determines or at such other time as may be specified by resolution of the Council.
- (d) *Notation on plat.* The deferral of any improvements shall be noted on the final plat.

Applicant's Findings: *It is not anticipated a deferral of improvements will be necessary for the proposed subdivision. However, the applicant is aware if a deferral is requested, it must conform to the provisions of this section. If applicable, these criteria will be met.*

Section 6: Findings Applicable to Tree Conservation Plan

Chapter 808 – Preservation of Trees and Vegetation

Section 808.001 – Purpose

The purpose of this chapter is to provide for the protection of heritage trees, significant trees, and trees and native vegetation in riparian corridors, as natural resources for the city, and to increase tree canopy over time by requiring tree preservation and planting of trees in all areas of the city.

Applicant's Findings: *The applicant understands the purpose of the provisions of this chapter and has provided findings to the applicable criteria below.*

Section 808.015 – Significant Trees

No person shall remove a significant tree, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045.

Applicant's Findings: *The applicant is proposing removal of 8 trees on site through a tree conservation plan in conjunction with the proposed subdivision application. This criterion is met.*

Section 808.020 – Trees and Native Vegetation in Riparian Corridors

No person shall remove a tree in a riparian corridor or native vegetation in a riparian corridor, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045. Roots, trunks, and branches of trees removed in riparian corridors shall remain within the riparian corridor, unless determined to be a potential hazard or impediment to stream flow by the Director.

Applicant's Findings: *There are no riparian corridors present on the subject site. This criterion is not applicable.*

Section 808.025 – Trees on Lots or Parcels 20,000 Square Feet or Greater

No person shall, prior to site plan review or building permit approval, remove a tree on a lot or parcel that is 20,000 square feet or greater, or on contiguous lots or parcels under the same ownership that total 20,000 square feet or greater, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045. Nothing in this section shall be construed to require the retention of trees, other than heritage trees, significant trees, and trees and vegetation in riparian corridors, beyond the date of site plan review or building permit approval, if the proposed

development is other than single family residential, two family residential, three family residential, four family residential, or a cottage cluster.

Applicant's Findings: *Tree removal has not taken place on site. The applicant is seeking approval to remove 8 trees on the subject property, the minimum necessary to facilitate efficient and orderly development of the subject site.*

Section 808.035 – Tree Conservation Plans

- (a) ***Applicability.*** A tree conservation plan is required in conjunction with any development proposal for the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters.

Applicant's Findings: *Tree removal is proposed in conjunction with the proposed subdivision plan, triggering the applicability of this section.*

- (b) ***Procedure type.*** A tree conservation plan is processed as a Type I procedure under SRC chapter 300.

Applicant's Findings: *Because the tree conservation plan is consolidated with the tentative subdivision plan, a Type II review is required for the consolidated submittal.*

- (c) ***Submittal requirements.*** In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a tree conservation plan shall include the following:

- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
 - (A) The total site area, dimensions, and orientation relative to north;
 - (B) Proposed lot or parcel lines;
 - (C) Site topography shown at two-foot contour intervals or, when grading of the property will be necessary to accommodate the proposed development, preliminary site grading shown at two-foot contour intervals;
 - (D) Identification of slopes greater than 25 percent;
 - (E) The location of any existing structures on the site;
 - (F) Identification of the type, size, location, and critical root zone of all existing trees on the property;
 - (G) Identification of those trees proposed for preservation and those designated for removal;
 - (H) The location of all utilities and other improvements;
 - (I) Required setbacks for the proposed lots or parcels;
 - (J) The locations and descriptions of staking or other protective devices to be used during construction; and

- (K) The site plan may contain a grid or clear delineation of phases that depict separate areas in which work is to be performed and identification of those trees proposed for preservation and those designated for removal with each phase.

Applicant's Findings: Each item listed above has been provided with the proposed tree conservation plan. This criterion is met.

- (2) In addition to the information required by subsection (c)(1) of this section, when a riparian corridor is located on the property, the tree conservation plan shall include:
 - (A) A delineation of the boundaries of the riparian corridor on the site plan;
 - (B) A description of the vegetation within the riparian corridor;
 - (C) A tree and native vegetation replanting plan, in compliance with the standards set forth in SRC 808.055, if trees and native vegetation within the riparian corridor are proposed for removal.

Applicant's Findings: There is no riparian corridor present on the subject site. This criterion is not applicable.

- (3) An arborist report identifying the critical root zone for any non-significant tree whose critical root zone is proposed to be determined by an arborist.

Applicant's Findings: An arborist report is not required to be supplied with the proposed tree conservation plan. This criterion is not applicable.

- (4) For tree conservation plans designating less than 30 percent of the trees on the property for preservation, an explanation of how the mitigation measures of SRC 808.035(e) will be met.

Applicant's Findings: As detailed on the tree conservation plan provided, the subject site has 14 trees. 8 trees have been identified as being removed and 6 trees preserved. The percentage of preservation is approximately 43 percent, exceeding the minimum 30 percent requirement.

(d) Approval criteria.

- (1) An application for a tree conservation plan shall be granted if the following criteria are met:
 - (A) No heritage trees are designated for removal.

Applicant's Findings: There are no heritage trees present on site. This criterion is not applicable.

- (B) No significant trees are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees.

Applicant's Findings: One significant tree is designated for removal. The tree is a 36-inch fir tree that falls within the required right-of-way improvement for Browning Avenue S. There are no reasonable design alternatives that would enable preservation of this tree. This criterion is met.

- (C) No trees or native vegetation in a riparian corridor are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees or native vegetation.

Applicant's Findings: No riparian corridors are present on the subject site. This criterion is not applicable.

- (D) Not less than 30 percent of all trees located on the property are designated for preservation, unless there are no reasonable design alternatives that would enable preservation of such trees.

Applicant's Findings: As detailed on the tree conservation plan provided, the subject site has 14 trees. 8 trees have been identified as being removed and 6 trees preserved. The percentage of preservation is approximately 43 percent, exceeding the minimum 30 percent requirement. The proposal meets this criterion.

- (E) When less than 30 percent of all trees located on the property are designated for preservation, the mitigation measures required under SRC 808.035(e) are met.

Applicant's Findings: As detailed on the tree conservation plan provided, the subject site has 14 trees. 8 trees have been identified as being removed and 6 trees preserved. The percentage of preservation is approximately 43 percent, exceeding the minimum 30 percent requirement. This criterion is not applicable.

- (2) When an approval criterion in this subsection requires a determination that there are no reasonable design alternatives that would enable preservation of a tree(s), the following factors, which include but are not limited to the following, shall be considered in making such determination:

- (A) *Streets.* The removal is necessary due to:

- (i) The location and alignment of existing streets extended to the boundary of the subject property;
- (ii) The planned alignment of a street identified in the Salem Transportation System Plan (TSP);

- (iii) A street required to meet connectivity standards, to serve property where a flag lot accessway is not possible, or where a cul-de-sac would exceed maximum allowed length;
 - (iv) Any relocation of the proposed street resulting in lots that do not meet lot standards;
 - (v) A required boundary street improvement.
- (B) *Utilities*. The removal is necessary due to existing or proposed utilities that cannot be relocated to an alternative location.
- (C) *Site topography*. The removal is necessary due to the topography of site which will require severe grading in the critical root zone of the tree in order to comply with maximum street or intersection grades, fire department access requirements, or Fair Housing Act or ADA accessibility standards.
- (D) *Dwelling unit density*. The removal is necessary in order to meet a minimum dwelling unit density of 5.5 dwelling units per acre. In consideration of this factor:
 - (i) Not more than 15 percent of the proposed dwelling units within the development shall be required to be designated for middle housing in order to meet density requirements and demonstrate there are no reasonable design alternatives enabling preservation of a tree(s); and
 - (ii) The following may be excluded from the total site area for purposes of calculating density:
 - (a) Riparian corridors, provided the riparian corridor is not graded or developed;
 - (b) Areas of the site with slopes exceeding 25 percent, provided such areas are not graded or developed; and
 - (c) Open space that will preserve significant natural features, provided the perpetual maintenance and operation of the open space is provided by a homeowners' association.

Applicant's Findings: Subsection (A) above is applicable to this proposal. One significant tree falls within the right-of-way and frontage improvement area for Browning Avenue. Because the TSP designates bicycle facilities as being required along this frontage, there is no reasonable alternative to preserve the tree.

(e) *Mitigation measures.* When less than 30 percent of all trees located on a property are designated for preservation under a tree conservation plan, any combination of one or more of the following mitigation measures shall be provided for each tree removed in excess of 70 percent:

- (1) *Residential density increase.* One middle housing dwelling unit or accessory dwelling unit shall be provided within the development for each tree removed. Any dwelling unit provided pursuant to this subsection is required in addition to the density requirements otherwise applicable in the zone. The lot(s) within the development that will be developed with the middle housing dwelling unit(s) or accessory dwelling unit(s) shall be specified in the conditions of the associated land division approval.
- (2) *Solar power off-set.* One 25-year 3-kilowatt solar array shall be provided for each tree removed. The lot(s) where the solar array(s) will be located shall be specified in the conditions of the associated land division approval.
- (3) *Electric vehicle charging.* One level 2 240-volt residential electric vehicle charging station shall be provided for each tree removed. The lot(s) where the charging stations will be located shall be specified in the conditions of the associated land division approval.
- (4) *Open space lot.* One or more lots within the development shall be designated as an open space lot planted at a minimum density of two trees for each tree removed. The replanted trees shall be of either a shade or evergreen variety with a minimum caliper of 1.5 inches. The lot(s) within the development that will be designated as an open space lot shall be specified in the conditions of the associated land division approval and shall be perpetually operated and maintained by a homeowners' association.

Applicant's Findings: The applicant is proposing 43 percent preservation, exceeding the minimum 30 percent required. Subsection (e) is not applicable to the proposal.

(f) *Conditions of approval.*

- (1) Conditions may be imposed on the approval of a tree conservation plan to ensure compliance with the approval criteria.
- (2) In addition to any conditions imposed under subsection (e)(1) of this section, every tree conservation plan shall include the following conditions:

- (A) All trees and native vegetation designated for preservation under the tree conservation plan shall [be] protected during construction as set for in SRC 808.046.
- (B) Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

Applicant's Findings: *The applicant understands the review authority may impose conditions on the development to ensure compliance with the approval criteria. However, the applicant believes they have demonstrated compliance and has shown the removal proposed is the minimum necessary to efficiently develop the subject property.*

- (g) *Expiration.* A tree conservation plan shall remain valid as long as the development proposal the tree conservation plan is issued in connection with remains valid.

Applicant's Findings: *The applicant understands the provisions surrounding expiration of an approved tree conservation plan.*

Section 808.046 – Protection Measures During Construction

Except where specific protection requirements are established elsewhere under the UDC, any trees or native vegetation required to be preserved or protected under the UDC shall be protected during construction as follows:

- (a) *Trees.* All trees shall be protected during construction with the installation of an above ground silt fence, or its equivalent.
 - (1) The above ground silt fence shall encompass 100 percent of the critical root zone of the tree.
 - (2) Within the area protected by the above ground silt fence, the tree's trunk, roots, branches, and soil shall be protected to ensure the health and stability of the tree; and there shall be no grading, placement of fill, storage of building materials, or parking of vehicles.
 - (3) Notwithstanding SRC 808.046(a)(2):
 - (A) Up to a maximum of 30 percent of the critical root zone of a tree may be disturbed in order to accommodate development of the property when a report from an arborist is submitted documenting that such disturbance will not compromise the long-term health and stability of the tree and all recommendations included in the report to minimize any impacts to the tree are followed.
 - (B) Fences, patios, landscaping and irrigation, and accessory and similar structures that do not require a building permit, may be placed or constructed within the critical root zone of a tree.

(b) *Native vegetation.* All native vegetation shall be protected during construction with the installation of an above ground silt fence, or its equivalent.

(1) The above ground silt fence shall be located around the perimeter of the native vegetation.

(2) Within the area protected by the above ground silt fence, native vegetation shall not be removed and there shall be no grading, placement of fill, storage of building materials, or parking of vehicles.

(c) *Duration.* Protection measures required under this section shall remain in place until issuance of notice of final completion for the dwelling unit(s) on the lot, or issuance of certificate of occupancy in all other cases.

Applicant's Findings: All tree protection measures outlined in this section will be followed during the construction phase of this project. These criteria will be met.

Section 808.050 – Tree Planting Requirements

(a) Within development proposals for the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters, each lot or parcel shall contain, at a minimum, the number of trees set forth in Table 808-1.

Applicant's Findings: At the time of building permit for the future single-family dwellings, site plans will be provided demonstrating replating requirements have been met as shown in Table 808-1.

(b) If there are insufficient existing trees on a lot or parcel to satisfy the number of trees required under Table 808-1, additional trees sufficient to meet the requirement shall be planted. The additional trees shall be a minimum 1.5-inch caliper.

Applicant's Findings: The applicant understands existing trees count toward the required number of trees outlined in Table 808-1 and additional trees may be required to meet the minimum trees required dependent on lot size. Additionally, the applicant understands the newly planted trees must be a minimum of 1.5-inch caliper. This criterion will be met.

(c) When a lot includes one or more significant trees that have been designated for preservation under a tree conservation plan, the number of trees required to be replanted on the lot may be reduced by a ratio of two trees for each significant tree preserved on the lot.

Applicant's Findings: None of the trees designated for preservation are significant. This provision is not applicable.

Section 7: Conclusion

Based on the facts and findings presented by the applicant within this detailed written narrative, the applicant believes they have satisfied the burden of proof and demonstrated how the proposed subdivision not only satisfies all applicable criteria but would also be a benefit to the community by providing a needed improvement to the area.

Section 8: Exhibits

Exhibit A – Marion County Tax Map

Exhibit B – Deed

Exhibit C – Neighborhood Contact

Exhibit D – Proposed Plans

Exhibit A – Marion County Tax Map

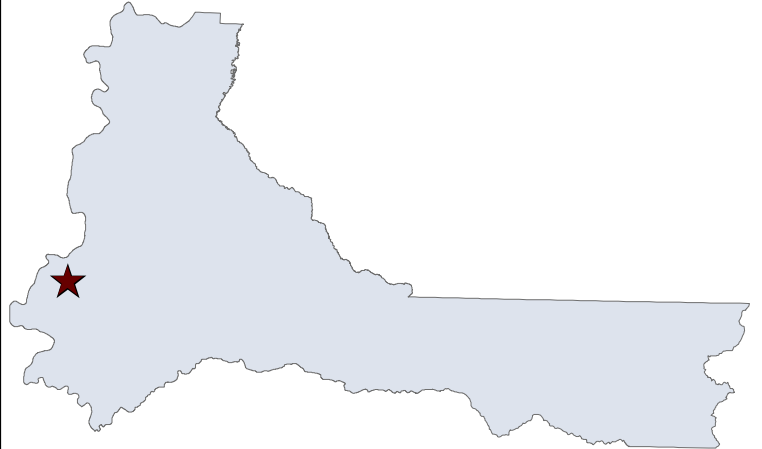
08 3W 09BB

SEE MAP
083W05DD

SEE MAP
083W04C

08 3W 09BB

SALEM



MARION COUNTY, OREGON
NW1/4 NW1/4 SEC9 T8S R3W W.M.
SCALE 1" = 100'

LEGEND

- LINE TYPES
- | | |
|--------------------------|-----------------------|
| Taxlot Boundary | Historical Boundary |
| Road Right-of-Way | Easement |
| Railroad Right-of-Way | Railroad Centerline |
| Private Road ROW | Taxcode Line |
| Subdivision/Plat Bndry | Map Boundary |
| Waterline - Taxlot Bndry | Waterline - Non Bndry |

- CORNER TYPES
- | | |
|-----------------------|------------------|
| + 1/16TH Section Cor. | 1/4 Section Cor. |
| ⊙ DLC Corner | Section Corner |

NUMBERS

Tax Code Number
00 00 0

Acreage
0.25 AC

All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES

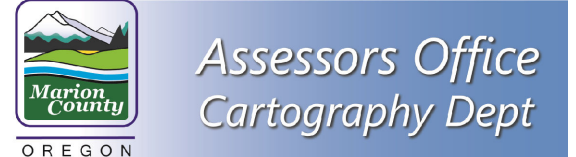
Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW

Scale: 1" = 100'

CANCELLED NUMBERS

1700			
1800			
3400			
3500			
7100			
8900			
9000			

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.marion.or.us

PLOT DATE: 10/16/2020

SALEM
08 3W 09BB

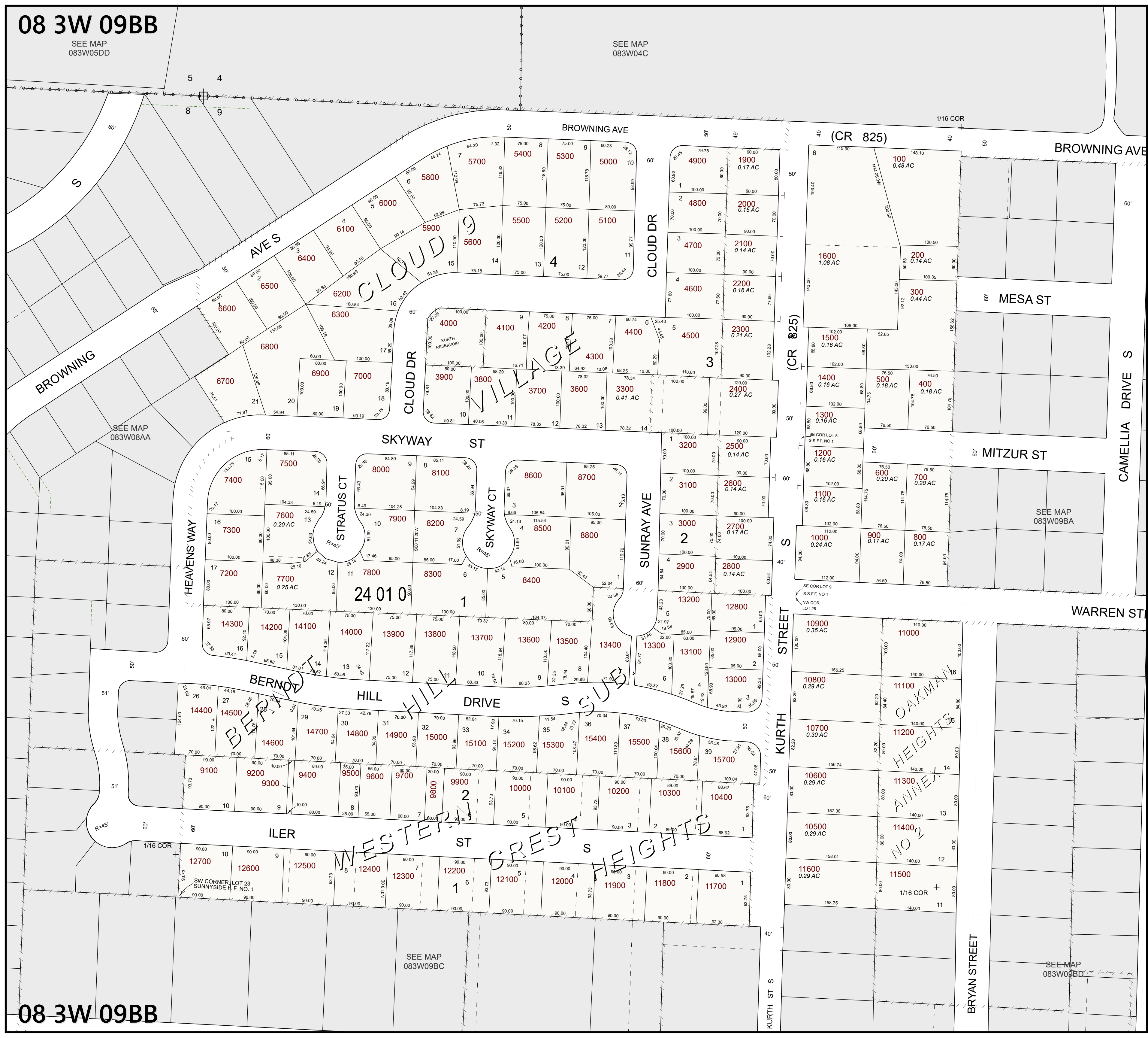


Exhibit B – Deed



Parcel Information

Parcel #:	593359
Tax Lot:	083W09BB01600
Site Address:	4120 Kurth St S
	Salem OR 97302 - 2724
Owner:	Mmh LLC
Owner2:	
Owner Address:	PO Box 2717
	Salem OR 97308 - 2717
Twtn/Range/Section:	08S / 03W / 09 / NW
Parcel Size:	1.08 Acres (47,045 SqFt)
Plat/Subdivision:	Sunnyside Fruit Farms
Lot:	6
Block:	
Census Tract/Block:	002202 / 1035
Waterfront:	

Tax Information

Levy Code Area:	24010
Levy Rate:	19.6609
Tax Year:	2021
Annual Tax:	\$3,604.18
Exempt Desc:	

Legal

SUNNYSIDE FRUIT FARMS #1 FR LOT 6 SOUTH SALEM CARE CENTER

Assessment Information

Market Value Land:	\$188,180.00
Market Value Impr:	\$0.00
Market Value Total:	\$188,180.00
Assessed Value:	\$188,180.00

Land

Zoning: RS - Single Family Residential	Cnty Bldg Use: Commercial
Cnty Land Use: 201 - Commercial improved	Neighborhood:
Std Land Use: CHOS - Hospitals, Convalescent	Recreation:
School District: 24J - Salem-Keizer	Primary School: SALEM HEIGHTS ELEMENTARY SCHOOL
Middle School: CROSSLER MIDDLE SCHOOL	High School: SPRAGUE HIGH SCHOOL

Improvement

Year Built: 1962	Stories: 1	Finished Area: 17,926
Bedrooms:	Bathrooms:	Garage:
Basement Fin:		

Transfer Information

Rec. Date: 01/20/2022	Sale Price: \$400,000.00	Doc Num: 45860434	Doc Type: Deed
Owner: Mmh LLC		Grantor: JPRE LLC	
Orig. Loan Amt:		Title Co:	
Finance Type:	Loan Type:	Lender:	

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

**Parcel Information**

Parcel #:	593361
Tax Lot:	083W09BB00300
Site Address:	
	Salem OR 97302
Owner:	Mmh LLC
Owner2:	
Owner Address:	
	Salem OR 97308
Twn/Range/Section:	08S / 03W / 09 / NW
Parcel Size:	0.44 Acres (19,166 SqFt)
Plat/Subdivision:	Sunnyside Fruit Farms
Lot:	6
Block:	
Census Tract/Block:	002202 / 1035
Waterfront:	

Tax Information

Levy Code Area:	24010
Levy Rate:	19.6609
Tax Year:	2021
Annual Tax:	\$971.44
Exempt Desc:	

Legal

SUNNYSIDE FRUIT FARMS NO 1 FR LOT 6

Assessment Information

Market Value Land:	\$96,800.00
Market Value Impr:	\$0.00
Market Value Total:	\$96,800.00
Assessed Value:	\$49,410.00

Land

Zoning: RS - Single Family Residential	Cnty Bldg Use: Commercial
Cnty Land Use: 201 - Commercial improved	Neighborhood:
Std Land Use: CHOS - Hospitals, Convalescent	Recreation:
School District: 24J - Salem-Keizer	Primary School: SALEM HEIGHTS ELEMENTARY SCHOOL
Middle School: CROSSLER MIDDLE SCHOOL	High School: SPRAGUE HIGH SCHOOL

Improvement

Year Built:	Stories:	Finished Area: 720
Bedrooms:	Bathrooms:	Garage:
Basement Fin:		

Transfer Information

Rec. Date: 01/20/2022	Sale Price: \$400,000.00	Doc Num: 45860434	Doc Type: Deed
Owner: Mmh LLC		Grantor: JPRE LLC	
Orig. Loan Amt:		Title Co:	
Finance Type:	Loan Type:	Lender:	

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

RECORDING REQUESTED BY

JPRE, LLC
6125 Belle Pond Way S
Salem, OR 97306

REEL 4586 PAGE 434

MARION COUNTY
BILL BURGESS, COUNTY CLERK
01-20-2022 01:48 pm.
Control Number 691109 \$ 91.00
Instrument 2022 00003069

**AFTER RECORDING RETURN TO
AND SEND TAX STATEMENTS TO:**

MMH, LLC
PO Box 2717
Salem, OR 97308

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, that JPRE, LLC, an Oregon Limited Liability Company (Grantors) do hereby grant, bargain, sell and convey to MMH, LLC (Grantee) all of the Grantors' rights, title and interests in and to that certain real property, more particularly described as follows (the "Property"),

Beginning at a point on the West line of Lot 6, SUNNYSIDE FRUIT FARMS, in County of Marion and State Oregon, with its intersection of the center-line of Browning Avenue; thence South 0°02' West 336.00 feet to a point which is North 0°02' East 468.00 feet from the Southwest corner of said Lot 6; thence South 89°12' East, parallel with the South line of said Lot, 165.00 feet; thence North 0°02' East, parallel with the West line of said Lot, 143.00 feet; thence North 14°08' West 200.50 feet to a point which is North 89°19' West from the East line of said Lot 6; thence North 89°19' West, along the center-line of Browning Avenue, 115.90 feet to the place of beginning.

ALSO: Beginning at an iron pipe on the Easterly line of Lot 6 of SUNNYSIDE FRUIT FARMS, Marion County and said iron pipe being 403.50 feet North 0°05' East from the Southeast corner of said Lot 6; thence North 89°10' West 153.0 feet; parallel with the South line of said Lot 6, to an iron pipe; thence North 0°05' West 64.50 feet, parallel with the East line of said Lot 6, to an iron pipe; thence South 89°10' East 52.65 feet to an iron pipe; thence North 0°05' West 92.12 feet, parallel with the East line of said Lot 6, to an iron pipe; thence South 89°10' East 100.35 feet; parallel with the South line of said Lot 6, to an iron pipe in the East line of said Lot 6; thence South 0°05' East 156.62 feet, along said East line, to the place of beginning.

Commonly known as: 4120 Kurth Street S, Salem OR 97302
APNs: 083W09BB01600 & 083W09BB00300

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS FOUR HUNDRED THOUSAND AND NO/100 DOLLARS [\$400,000] (See ORS 93.030).

The conveyance is subject to the following:


1. All easements, covenants, restrictions, conditions and encumbrances of record.

In construing this instrument and whenever the context so requires, the singular becomes the plural.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS

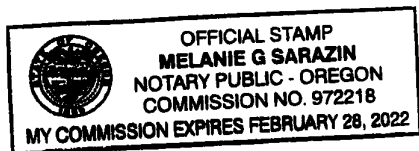
5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OF PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.030, 195.031 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.


Dated this 20 day of January, 2022.


John Wulf, Member of JPPE LLC

STATE OF OREGON)
)ss.
COUNTY OF MARION)

This instrument was acknowledged before me on the 20th day of January, 2022 by John Wulf, member
OF JPPE, LLC, who appeared before me having given satisfactory evidence of identification and executed this instrument of their own free will.




NOTARY PUBLIC FOR OREGON
My Commission Expires: 2/28/2022

REEL: 4586

PAGE: 434

January 20, 2022, 01:48 pm.

CONTROL #: 691109

State of Oregon
County of Marion

I hereby certify that the attached
instrument was received and duly
recorded by me in Marion County
records:

FEE: \$ 91.00

BILL BURGESS
COUNTY CLERK

THIS IS NOT AN INVOICE.

Exhibit C – Neighborhood Contact

BRAND

Notice of Land Use Application Submittal

July 11, 2022

Sunnyslope Neighborhood Association

Co-Chair

Alan Alexander

awa8025@aol.com

Co-Chair

Sally Cook

sally.cook@gmail.com

Land Use Chair

Evan White

epwhitehouse@comcast.net

Southwest Association of Neighbors (SWAN)

Chair

Ted Burney

burney.ted.tb@gmail.com

Land Use Chair

John Lattimer

jlattimer@gmail.com

RE: Tentative Subdivision Plan and Tree Conservation Plan – 4120 Kurth Street S, Salem 97302

Dear Sunnyslope and SWAN Chairs and Land Use Chairs,

We are reaching out to you regarding a project within the Sunnyslope Neighborhood Association and adjacent to SWAN.

The property owner is seeking land use approval for a six-lot subdivision and associated tree conservation plan, for property located at the corner of Kurth Street S and Browning Avenue S. The properties can also be identified as Marion County Map and Tax Lot Numbers 083W09BB / 1600 and 083W09BB 300.



The applicant is seeking to remove all existing structures on site and divide the property into six-lots for the future development of single-family dwellings. The applicant is also seeking approval of their tree conservation plan which proposes preservation of approximately 43 percent of the trees on site. The applicant is demonstrating compliance with all applicable criteria within the UDC. Frontage dedication and improvements are proposed for both Kurth Street S and Browning Avenue S. Mesa Street S is proposed to be extended from its current terminus at the east side of the site to a new cul-de-sac meeting standards for safe vehicular turnaround. To provide better pedestrian connections within the area, the applicant is proposing to construct a bicycle and pedestrian path from the end of the cul-de-sac for Mesa Street S to Kurth Street S. The pedestrian connection will allow a better flow for persons on foot or bicycle to access the public park less than half a mile southwest of the site. The tentative plans being submitted to the city for review and approval are attached to this letter to better demonstrate what is being proposed.

The property is zoned RS (Single Family Residential), and future single-family dwellings are outright permitted within the RS zone. The subdivision and tree conservation plan will be processed using Type II procedures, as outlined by Salem Revised Code (SRC) Chapter 300. The neighborhood association, property owners, and tenants within 250-feet of all portions of the property will receive notice of the application and have an opportunity to provide comments.

We hope that you find this letter and attached conceptual plans informative. If you have any questions regarding this notice, please feel free to contact the applicant's representative.

Thank you.

Applicant Information

MMH LLC | Charles Weathers
orreoproperties@gmail.com

Applicant Representative Information

BRAND Land Use, LLC | Britany Randall
Britany@brandlanduse.com
503-680-0949

Applicant Representative Information

Westech Engineering, Inc | Josh Wells
jwells@westech-eng.com
503-585-2474

Britany

From: Britany
Sent: Monday, July 11, 2022 10:42 AM
To: awa8025@aol.com; 'sally.cook@gmail.com'; epwhitehouse@comcast.net; 'burney.ted.tb@gmail.com'; 'jnlattimer@gmail.com'
Cc: Josh Wells; 'orreoproperties@gmail.com'
Subject: Notice of Land Use Application Submittal in Sunnyslope - Adjacent to SWAN
Attachments: Neighborhood Contact.pdf

Dear Sunnyslope and SWAN Chairs and Land Use Chairs,

We are reaching out to you regarding a project within the Sunnyslope Neighborhood Association and adjacent to SWAN. A letter containing information and conceptual drawings is attached. Please do not hesitate to reach out to me with any questions you may have.

Thank you,

Britany Randall

BRAND

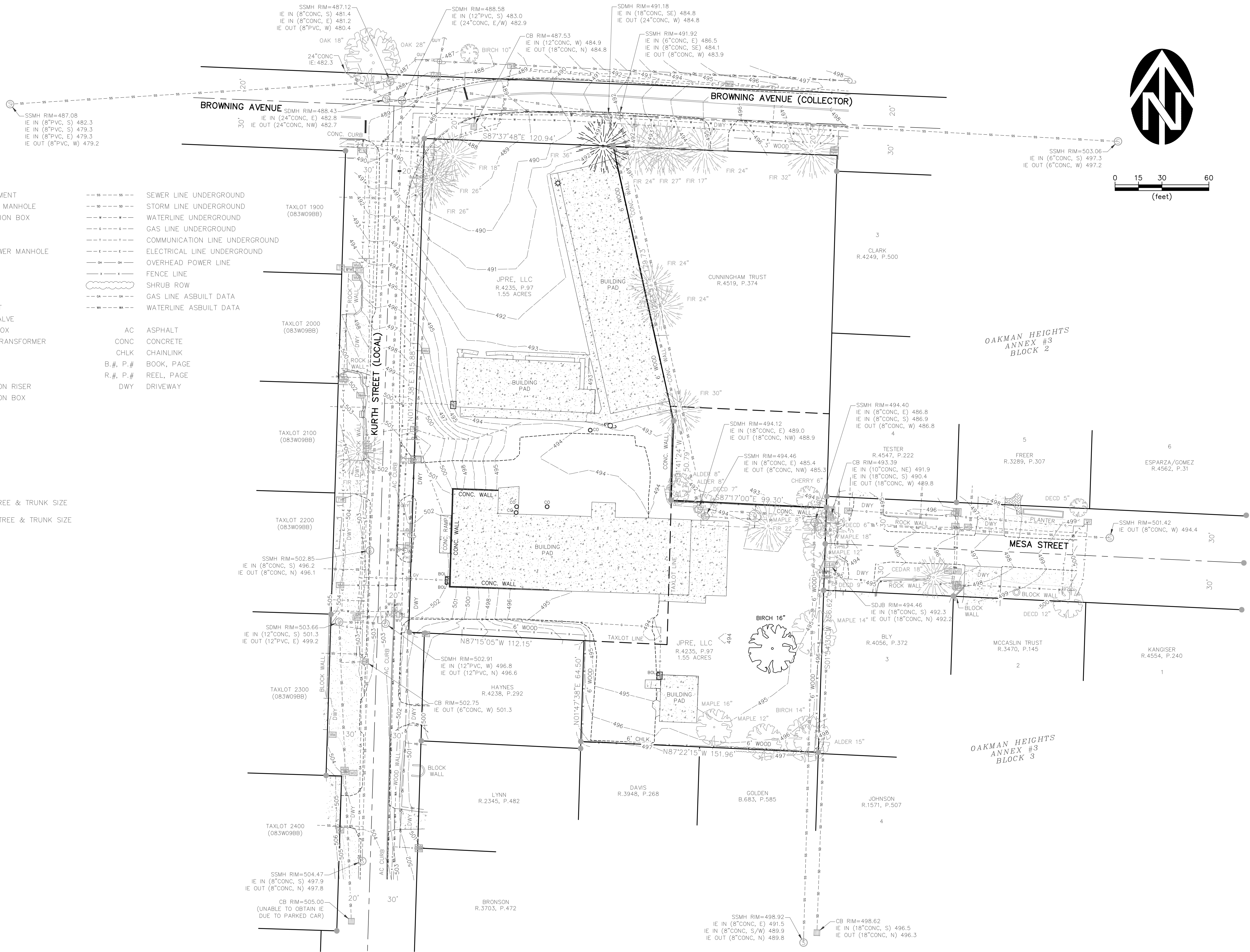
Principal Planner

Phone : (503)680-0949

Place : Salem, OR

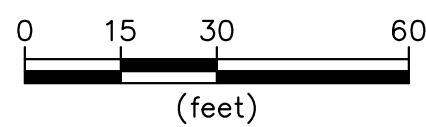
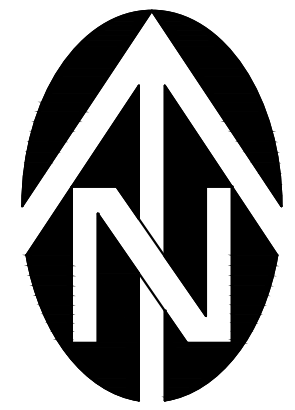
Web : brandlanduse.com

Exhibit D – Proposed Plans



LEGEND

- FOUND MONUMENT
- STORM DRAIN MANHOLE
- STORM JUNCTION BOX
- CATCH BASIN
- CULVERT
- SANITARY SEWER MANHOLE
- CLEANOUT
- WATER METER
- WATER VALVE
- WATER VAULT
- FIRE HYDRANT
- IRRIGATION VALVE
- ELECTRICAL BOX
- ELECTRICAL TRANSFORMER
- LIGHT POLE
- UTILITY POLE
- GUY WIRE
- COMMUNICATION RISER
- COMMUNICATION BOX
- GAS RISER
- GAS VALVE
- BOLLARD
- SIGN
- MAILBOX
- CONCRETE
- GRAVEL
- ASPHALT
- DECIDUOUS TREE & TRUNK SIZE
- CONIFEROUS TREE & TRUNK SIZE
- SEWER LINE UNDERGROUND
- STORM LINE UNDERGROUND
- WATERLINE UNDERGROUND
- GAS LINE UNDERGROUND
- COMMUNICATION LINE UNDERGROUND
- ELECTRICAL LINE UNDERGROUND
- OVERHEAD POWER LINE
- FENCE LINE
- SHRUB ROW
- GAS LINE ASBLT DATA
- WATERLINE ASBLT DATA
- AC ASPHALT
- CONC CONCRETE
- CHLK CHAINLINK
- B.#, P.# BOOK, PAGE
- R.#, P.# REEL, PAGE
- DWY DRIVEWAY



VERIFIED SCALE
1" = 30'
IF NOT ONE INCH ON
SHEET, SCALE
APPROXIMATELY

DATE	NO.	DESCRIPTION	BY
04/2022	1	REVISIONS	

PROFESSIONAL
ENGINEER
REG. NO. 12345
WILLIAM J. KELLS

REVIEW

REVISIONS: 6/30/2022

WESTECH ENGINEERING, INC.
CONSULTING ENGINEERS AND PLANNERS

WE

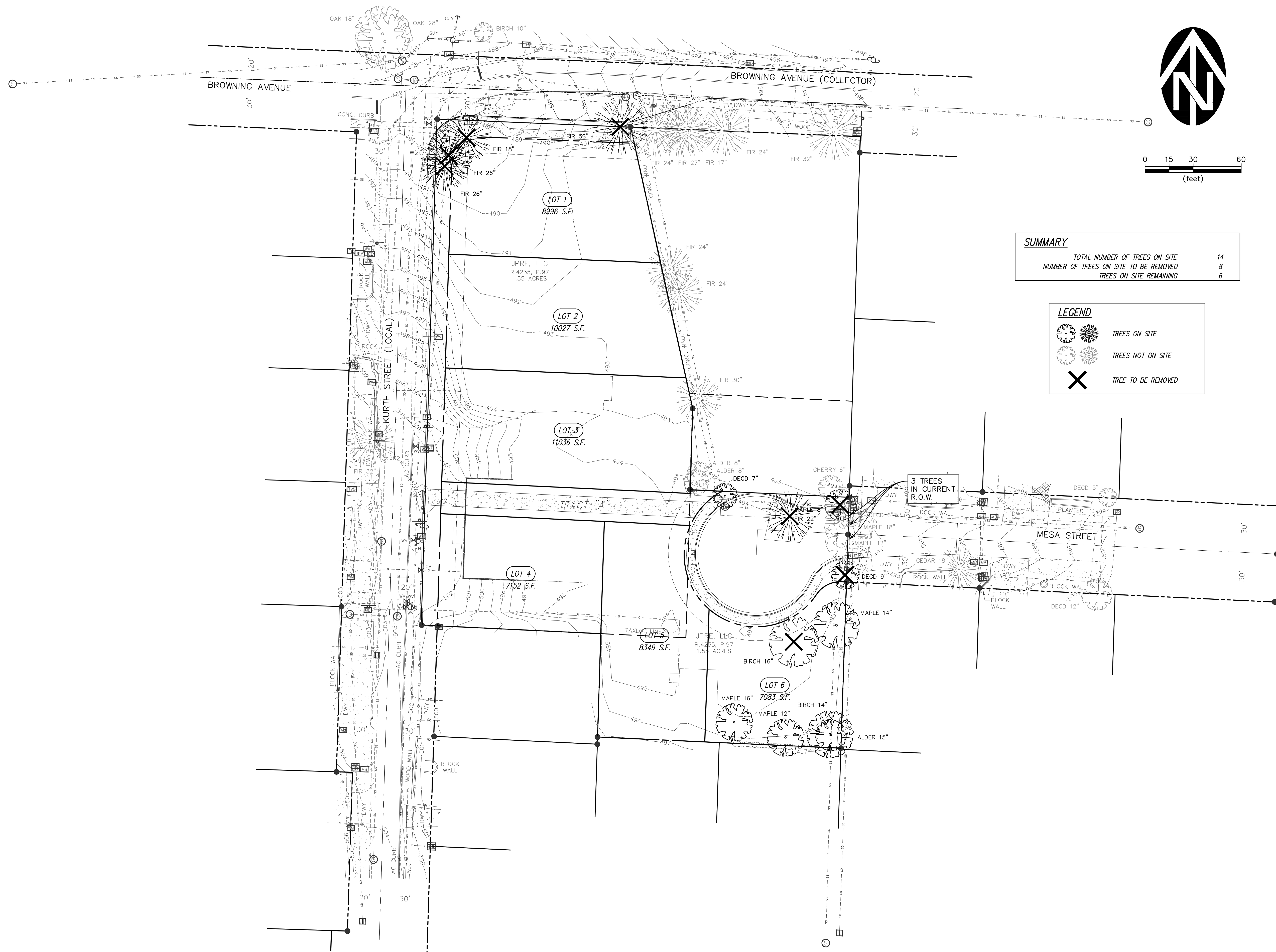
3841 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302
Phone: (503) 585-2474 Fax: (503) 585-3986
E-mail: westech@westech-eng.com

CHARLES WEATHERS
KURTH STREET SUBDIVISION

EXISTING CONDITIONS PLAN


DRAWING
C-1


JOB NUMBER
3362.0000




SUMMARY		
TOTAL NUMBER OF TREES ON SITE	14	
NUMBER OF TREES ON SITE TO BE REMOVED	8	
TREES ON SITE REMAINING	6	


LEGEND

 TREES ON SITE

 TREES NOT ON SITE


 TREE TO BE REMOVED

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1			



REVIEW

WILLIAM J. WILLIAMS
PROFESSIONAL ENGINEER
STATE OF OREGON
NO. 12,050
EXPIRATION DATE 12/31/2024



WESTECH ENGINEERING, INC.
CONSULTING ENGINEERS AND PLANNERS

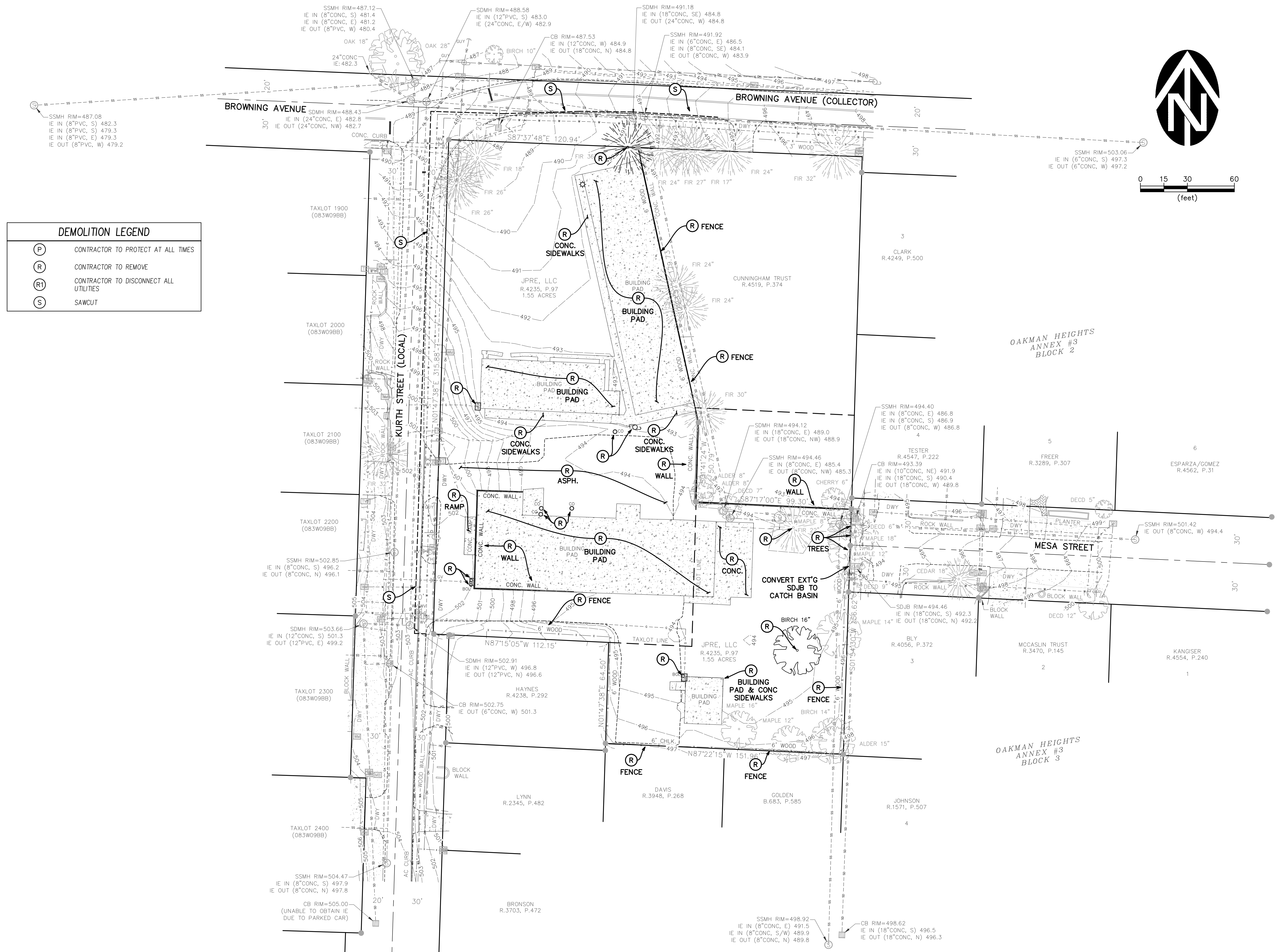
3841 Fairview Industrial Dr. S.E. Suite 100, Salem, OR 97302
Phone: (503) 585-2474 Fax: (503) 585-3986
E-mail: westech@westech-eng.com

CHARLES WEATHERS
KURTH STREET SUBDIVISION

**SITE TREE CONSERVATION
PLAN**

DRAWING
C-2

JOB NUMBER
3362.0000

[illegible]

WESTECH ENGINEERING, INC.
CONSULTING ENGINEERS AND PLANNERS

541 Fairview Industrial Dr., S.E., Suite 100, Salem, OR 97301
Phone: (503) 585-2474 Fax: (503) 585-3986
E-mail: westech@westech-eng.com

CHARLES WEATHERS
KURTH STREET SUBDIVISION
DEMOLITION PLAN

DRAWING
C-3

JOB NUMBER
3362.0000

