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## REPLAT / CLASS 2 ADJUSTMENT / CLASS 2 DRIVEWAY APPROACH

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### I. Applicant/Representative Information

Property Owner/Applicant: JENRAE INC  
P.O. Box 20756  
Keizer, OR 97303  
Don Jensen, Member  
JENRAE INC

Applicant's Representative: Udell Engineering and Land Surveying, LLC  
63 E. Ash Street  
Lebanon, OR 97355  
Laura LaRoque  
[laura@udelleng.com](mailto:laura@udelleng.com) / (541) 990-8661

Civil Engineer: Udell Engineering and Land Surveying, LLC  
63 E. Ash Street  
Lebanon, OR 97355  
Brian Vandetta, PE, PLS  
[brian@udelleng.com](mailto:brian@udelleng.com) / (541) 451-5125

### II. Proposal

A consolidated application including a six-lot subdivision (replat) with associated site improvements; Class 2 driveway approval permit to allow two new driveway encroachments onto Park Avenue; Class 2 adjustment to allow the maximum number of flag lots allowed within the subdivision to exceed 15 percent; and a Tree Conservation Plan permit review.

The subject property is approximately 0.82-acres in size, zoned RS (Single Family Residential), and located at 1800 and 1861 Park Avenue NE (Marion County Assessor's Map No. 073W24BA Tax Lots 8000 and 8100).

### III. Substantive Findings

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

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Single Family Residential". The subject property is within the Urban Growth Boundary and inside of the Urban Service Area.

#### 2. Zoning and Surrounding Land Uses

The subject property is zoned RS (Single Family Residential). Zoning designation and surrounding land uses are as follows:



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Surrounding Zoning: North: Single Family Residential (RS)  
South: Single Family Residential (RS)  
East: Single Family Residential (RS)  
West: Single Family Residential (RS)

Surrounding Uses North: Single Family Residential  
South: Single Family Residential  
East: Single Family Residential  
West: Single Family Residential

### 3. Site Analysis

The subject property consists of lot 39 of the Evergreen Acres Subdivision and entirely within the Single Family Residential (RS) zoning district. The subject property is approximately 0.82-acres in size and is identified by 1800 and 1861 Park Avenue NE (Marion County Assessor's Map No. 073W24BA Tax Lots 8000 and 8100. Park Avenue NE, a designated local street within the Salem Transportation System Plan (TSP), abuts the property along the site's east property line.

### IV. Neighborhood Association and Public Comment

The subject property is located within the boundaries of the North Lancaster Neighborhood Association.

Neighborhood Association Contact. SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), Tentative Replat require neighborhood association contact. On April 13, 2023, the applicant contacted the North Lancaster Neighborhood Association to provide details about the proposal; thereby satisfying the requirements of SRC 300.310.

A response was received on June 6, 2023, from Chairperson, Deanna Garcia, stating concerns over tree removal and availability of off-street parking.

### V. Review Criteria

Salem Revised Code (SRC) Chapters 205.025(d) – replat; 250.005(d)(2) – Class 2 Adjustment; 804.025(d) – Class 2 Driveway Approach Permit; 808.035(d) – Tree Conservation Plan

### VI. Salem Revised Code (SRC) Chapters 200.025(d) & (e) – Urban Growth Preliminary Declaration; 220.005(f)(3) – Class 3 Site Plan Review; 250.005(d)(2) – Class 2 Adjustment; 804.025(d) – Class 2 Driveway Approach Permit; 225.005(e)(1) – Class 1 Design Review **Analysis of Tentative Replat Approval Criteria**

SRC Chapter 205.025(d) sets forth the following criteria that must be met before approval can be granted to a tentative subdivision plan. The following subsections are organized with approval

criteria shown in bold, followed by findings of fact evaluating the proposal for conformance with the criteria.

### **Criterion 1**

**The tentative replat does not propose to vacate any public street or road, or any recorded covenants or restrictions.**

Finding: The Tentative Replat is to divide the approximately 0.82-acres site into six lots. As shown in the tentative replat, no vacations of rights-of-way or recorded covenants or restrictions are proposed. Therefore, this criterion is met.

### **Criterion 2**

**The tentative replat will not create nonconforming units of land or non-conforming development or increase the degree of nonconformity in existing units of land or development.**

Finding: The size and use of the subject property is conforming. As explained under Criterion 3 below, the proposal will not create any nonconforming units of land or development. Therefore, this criterion is met.

### **Criterion 3**

**The tentative replat complies with the standards of this chapter and with all applicable provisions of the UDC.**

Finding: Finding: The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The subject property is zoned RS (Single Family Residential).

The proposed tentative subdivision plan complies with the applicable standards of the RS zone, and all other applicable provisions of the UDC, as required by this approval criterion, as follows:

#### *SRC Chapter 205 (Land Division and Reconfiguration)*

The intent of SRC Chapter 205 is to provide for orderly land development through the application of appropriate standards and regulations. The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. All application submittal requirements necessary for adequate review of the proposed subdivision have been submitted.

#### *SRC Chapter 511 (RS Zone)*

The subject property is zoned RS (Single Family Residential). The standards of the RS zone that are applicable to the proposed subdivision are as follows:

- Uses:

Allowed uses in the RS zone are listed under SRC 511.005(a), Table 551-1. Within the RS zone single-family detached and two-family dwellings are outright permitted. Townhouses, zero side yard, three family, four family, and cottage cluster dwellings are special permitted uses.

- Development Standards:

Lot size and dimension standards within the RS zone are established under SRC 511.010(b), Table 511-2.

A summary of the lot size and dimension standards applicable to single family dwellings within the RS zones is provided in the following table:

Table 511-2. Lot Standards		
Requirements	Standard	Limitations & Qualifications
Single family	Min. 1,500 sf.	Applicable to townhouses
	Min 4,000 sf.	Applicable to all other single family
Two Family	Min. 4,000 sf	
Three Family	Min. 5,000 sf	
Four Family and Multi-Family	Min 7,000 sf	
Infill lot – “a residential flag lot created by the partition of land after February 8, 2006.”	Min. 5,500 sf	Applicable to all infill lots, unless a greater minimum lot area is required for the specific use.
Lot Width		
Single-Family	Min. 20	Applicable to townhouses
	Min. 40 ft.	Applicable to all other single family.
All other uses	Min. 40 ft.	
Lot Depth		
Single Family	Min. 70 ft.	
	Min. 120 ft.	Applicable to double frontage lots

	No Max	Applicable to townhouses
	Max 300% of average lot width	Applicable to all other single family
Two Family	Min. 70 ft.	
	Min. 120 ft.	Applicable to double frontage lots
	Max 300% of average lot width	
All other uses	Min. 80 ft.	
	Min. 120 ft.	Applicable to double frontage lots
	Max 300% of average lot width	
<b>Street Frontage</b>		
Single Family	Min. 20 ft.	Applicable to townhouses.
	Min. 40 ft.	Applicable to all other single family
	Min. 30 ft.	Applicable to all other single family, excluding townhouses, when located on lots fronting on the turnaround of a cul-de-sac street or the outside curve of a curved street having a radius of 200 feet or less and a direction change of 60 degrees or more.  In no case shall the lot width be less than 40 ft. at the front building setback line.
Two family, three family, four family, and multiple family	Min. 40 ft.	
	Min. 30 ft.	Applicable to lots fronting on the turnaround of a cul-de-sac street or the outside curve of a curved street having a radius of 200 feet or less and a direction change of 60 degrees or more.  In no case shall the lot width be less than 40 ft. at the front building setback line.
All other uses	Min. 40 ft.	

As shown on the tentative subdivision plan (Attachment B), Lots 1 and 6 will have frontage on Park Avenue NE; and Lots 2 – 5 are flag lots with access to/from Park Avenue NE via a proposed shared flag lot accessway.

As identified on the tentative subdivision plan, the lot sizes of the proposed six lots within the subdivision range from approximately 6,761 square feet to 5,589 square feet. However, because Lots 2-5 are served by a flag lot accessway, the minimum lot area and dimension requirements for these lots must be met exclusive of the flag lot accessway. The resulting net lot areas of Lots 1-3, exclusive of the flag lot accessway, range from approximately 4,006 square feet to 4,078 square feet. Each of the proposed lots within the subdivision exceeds the minimum lot size requirements for single-family detached and two-family development in the RS zone.

All the proposed lots within the subdivision similarly exceed the lot dimension and street frontage standards of both the RS zone and are of sufficient size and dimension to permit development of single-family detached and two-family development within the zone.

Lot 1 will be improved with either a single-family detached or two-family dwelling. Lot 1 will have a net area (exclusive of the accessway) of 4,006 square feet; 87.5-foot lot depth; 45.79-foot lot width and frontage (exclusive of the accessway) along Park Avenue.

Lot 2 will be improved with a single-family detached dwelling. Lot 2 will have a net area (exclusive of the accessway) of 4,007 square feet; 87.5-foot lot depth; 45.79-foot lot width (exclusive of the accessway).

Lots 2-5 will be improved with single-family detached dwellings. Lots 3 – 5 will have 4,078 square feet, 4,286 square feet, and 4,952 square feet, respectively of net area. Lot 3 will have a lot depth of 78.84 feet and lot width of 70.8 feet. Lot 4 will have a lot depth of 70.69 feet and lot width of 95.63 feet. Lot 5 will have a lot depth of 70.7 feet and lot width of 70 feet.

Lot 6 is improved with single-family detached dwelling, which will be retained. Lot 6 will have a 6,246 square foot area, 88.19-foot depth, and 70.79-foot lot width and frontage along Park Avenue.

- Setbacks:  
for buildings and accessory structures within the RS zone are established under SRC 511.010(d), Table 511-3.

Table 511-3. Setbacks		
Requirements	Standard	Limitations & Qualifications
Abutting Street		
Multiple Family	Min. 10 ft.	

All other uses	Min. 12 ft	
	Min. 20 ft.	Applicable along collector or arterial streets
Accessory Structures		
Multiple Family	Min. 10 ft.	
Accessory to all other uses	None	Applicable to accessory structures not more than 4 ft. in height
	Min. 12 ft.	Applicable to accessory structures greater than 4 ft. in height
	Min. 20 ft.	Applicable to accessory structures greater than 4 ft. in height, when located in a yard adjacent to a collector or arterial street.
Interior Front		
Buildings		
Multiple Family	Min. 10 ft.	
All other uses	Min. 12 ft	
Accessory Structures		
Multiple Family	Min. 10 ft.	
All other uses	None	Applicable to accessory structures not more than 4 ft. in height
	Min. 12 ft.	Applicable to accessory structures greater than 4 ft. in height
Interior Side		
Buildings		
Single Family	Min. 5 ft.	Applicable to new buildings, other than zero side yard dwellings and townhouses.
	Min. 3 ft.	Applicable to existing buildings, other than zero side yard dwellings and townhouses.

	Per SRC 700.085	Applicable to townhouses.
	Per SRC 700.095	Applicable to zero side yard dwellings.
Two family, three family, four family, and multiple family	Min. 5 ft.	Applicable to new buildings.
	Min. 3 ft.	Applicable to existing buildings.
All other uses	Min. 5 ft.	Applicable to buildings not more than 35 ft. in height.
	Min. 3 ft.	Applicable to buildings greater than 35 ft. in height.
Infill Lot	Min. 10 ft.	Applicable to buildings not more than 35 ft. in height where the interior side setback abuts lots zoned RA and RS
	Min. 10 ft., plus 1 ft. for each 1 ft. of height over 35 ft. but need not exceed 20 ft. in depth.	Applicable to buildings greater than 35 ft. in height where the interior side setback abuts lots zoned RA or RS.
	Min. 5 ft.	Applicable to buildings not more than 35 ft. in height where the interior side setback abuts lots zoned other than RA or RS.
	Min. 5 ft., plus 1 ft. for each 1 ft. of height over 35 ft. but need not exceed 20 ft. in depth.	Applicable to buildings greater than 35 ft. in height where the interior side setback abuts lots zoned other than RA or RS.
Accessory Structures		
Accessory to all uses; infill lot	none	Applicable to accessory structures having at least 1 wall which is an integral part of a fence.
	Min. 5 ft.	Applicable to all other accessory structures.
Interior Rear		
Buildings		
Multiple family	Min. 10 ft.	Applicable to new buildings.



All other uses	Min. 14 ft.	Applicable to any portion of a building not more than 1 story in height.
	Min. 20 ft.	Applicable to any portion of a building greater than 1 story in height.
Accessory Structures		
Multiple Family	Min. 10 ft.	
Accessory to all other uses	Min. 10 ft.	Applicable to accessory structures not more than 9 ft. in height.
	Min. 1 ft. for each 1 ft. of height over 9 ft.	Applicable to accessory structures greater than 9 ft. in height.
	Min. 1 ft.	Applicable to accessory structures adjacent to an alley unless a greater setback is required based on the height of the accessory structure.

Garage Setback: In addition to the setbacks identified above, SRC 806.025(b) requires garages facing a street or flag lot accessway to be setback a minimum of 20 feet to accommodate a driveway and enough space for vehicles to park on the driveway without projecting into the street right-of-way or flag lot accessway.

The Preliminary Site Plan shows setbacks and the buildable area of each lot, which can reasonably accommodate single-family detached and two-family development. Future development of proposed Lots 1-5 will be reviewed for conformance with the applicable setback requirements of the RS zone when building permit applications are submitted for development of those lots.

- Lot Coverage; Height:

Maximum lot coverage and height for buildings and accessory structures within the RS zone are established under SRC 511.010(d), Table 511-4.

Table 511-4. Lot Coverage; Height		
Requirements	Standard	Limitations & Qualifications
Lot Coverage		
Building and Accessory Structures		
Single family, two family, three family, and four family	Max. 60%	

Rear Yard Coverage		
Buildings		
All uses	n/a	
Accessory Structures		
Accessory to single family and two family	Max 25%	
Height		
Buildings		
Single family, two family, three family, and four family	Max. 35 ft	Applicable to new buildings
	Max. 28 ft or existing buildings height, whichever is greater	Applicable to existing buildings
Accessory Structures		
Accessory to all uses	Max. 15 ft.	

Future development of proposed Lots 1-5 will be reviewed for conformance with the applicable lot coverage and height requirements of the RS zone when building permit applications are submitted for development of those lots.

*SRC Chapter 800 (General Development Standards)*

- Designation of Lot Lines.

SRC 800.020 establishes standards for the designation of front, side, and rear lot lines for interior lots, corner lots, double frontage lots, flag lots, and all other lots. Four of the proposed lots within the subdivision are flag lots (Lots 2 - 5). To ensure that these four proposed lots meet the minimum lot dimension requirements of the RS zone, the following condition of approval is recommended:

Condition: The front lot line designation for Lots 2 and 3 shall be the east property line and the front lot line designation for Lots 4 and 5 shall be the north property line abutting the of the proposed flag lot accessway.

Lots 1 and 6 will have frontage on a street. Because Lots 1 and 6 have frontage on a street, they are considered interior lots. Pursuant to SRC 800.020(a)(1), the designated front lot line of an interior lot is required to be the property line abutting the street.

- Flag Lots.



SRC 800.025 establishes standards for flag lots and the flag lot accessways that serve them. As shown on the tentative subdivision plan, four lots are flag lots and proposed to be served by a flag lot accessway.

SRC 800.025(c) establishes the following standards for the development of flag lots accessways: a) *Lot area*. The lot area of a flag lot shall conform to the lot area standards of the UDC. Lot area shall be calculated exclusive of the flag lot accessway; b) *Lot dimensions*. The lot dimensions of a flag lot shall conform to the lot dimension standards of the UDC. Lot dimensions shall be calculated exclusive of the flag lot accessway; c) *Flag lot accessways*. Flag lot accessways shall be developed and maintained in conformance with the standards set forth in Table 800-1 and this subsection.

Table 800-1. Flag Lot Accessway Standards			
Number of Lots Served by Accessway	Maximum Length	Total Width	Paved Width
1-2 units (residential zoned property )	150 ft. <sup>(1)</sup>	Min. 20 ft.	Min. 15 ft.
3-4 units (residential zoned property )	400 ft. <sup>(1)</sup>	Min. 25 ft.	Min. 20 ft.
<p><b><u>Limitations and Qualifications</u></b></p> <p><sup>(1)</sup> Maximum flag lot accessway length shall not apply where geographic features make it impractical, and when approved by the Planning Administrator following review and recommendation by the Fire Marshal.</p>			

- (1) *Maximum development served by flag lot accessway*. A maximum of four lots may be served by a flag lot accessway. For residential lots created after November 28, 2022, a maximum of four residential units may be served by the flag lot accessway.
- (2) *Flag lot accessway grade*. Flag lot accessway grade shall conform to the Salem Fire Prevention Code.
- (3) *Fire Department access and flag lot accessway turnarounds*.
  - a. Unobstructed fire apparatus access shall be provided to within 150 feet of any facility, building, or portion of a building, unless the building is equipped with an approved automatic fire sprinkler system or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshal.
  - b. Flag lot accessways greater than 150 feet in length shall include a turnaround meeting Salem Fire Prevention Code standard, unless the buildings served by the flag lot accessway are equipped with approved automatic fire sprinkler systems



or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshal.

- (4) *Parking prohibited on flag lot accessways.* Parking shall be prohibited on flag lot accessways. No parking signs shall be posted and maintained on both sides of the accessway. The signs shall read "NO PARKING"; provided, however, where parking is prohibited because of a fire lane, the signs shall read "NO PARKING - FIRE LANE" and shall be installed in accordance with Salem Fire Prevention Code standards.

As shown on the tentative subdivision plan, the proposed flag lot accessway serving Lots 2- 5 conforms to the requirements of SRC 800.025(c). The accessway does not serve more than four lots and is proposed to be 25-foot-wide with a pavement width of 20 feet.

800.025(e) limits the maximum number of flag lots allowed within a subdivision to 15 percent. Based on the six lots proposed, the maximum number of flag lots allowed within the subdivision is one. However, as shown on the tentative subdivision plan, the proposal includes four flag lots (Lots 2 - 5). Because the number of proposed flag lots within the subdivision exceeds the maximum allowed 15 percent, the applicant has requested a Class 2 Adjustment to this standard to increase the maximum number of flag lots allowed from one to four. Analysis of the Class 2 Adjustment request and findings demonstrating conformance with the Class 2 Adjustment approval criteria are included in Section VII of this report.

*SRC Chapter 601 (Floodplain Overlay Zone)*

According to FEMA FIRM Map no. 41047C0375G and 41047C0334H, the subject property is in Zone X, outside of the Special Flood Hazard area.

*SRC Chapters 71, 802, and 803 (City Infrastructure Standards)*

The proposal conforms to the requirements of SRC Chapter 71 (Stormwater), SRC Chapter 802 (Public Improvements), SRC Chapter 803 (Streets and Right-of-Way Improvements), and the Public Works Design Standards (PWDS). While SRC Chapter 205 does not require submission of public construction plans for City infrastructure prior to tentative subdivision plan approval, it is the responsibility of the applicant to design, and construct required City infrastructure to serve the proposed development prior to final plat approval without impeding service to the surrounding area.

A summary of the existing and required City infrastructure improvements are as follows:

*SRC Chapter 71 (Stormwater)*

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004.

A 10-inch storm main is located near the intersection of Park Avenue and Market Street NE. An 8-inch storm main is located at the intersection of Park Avenue NE and Sunnyview Road NE.

To demonstrate the proposed parcels can meet the PWDS, the applicant has submitted a tentative stormwater design. The tentative stormwater design includes an infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities.

To ensure the proposed development can be served by storm water facilities in compliance with SRC Chapter 71 and the PWDS, the following condition of approval is recommended:

- Condition: Construct stormwater facilities pursuant to SRC 71 and PWDS to accommodate new impervious surfaces in rights-of-way and future impervious surfaces on all proposed lots.

*SRC Chapter 802 (Public Improvements)*

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 subject property is located inside the City's Urban Service Area and adequate facilities are available. 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 tentative plan.

The subject property is currently served by the following existing water and sewer facilities:

- Water: A 24-inch and 6-inch water mains are in Park Avenue NE.
- Sewer: A 30-inch sewer main is in Park Avenue NE.

To ensure that required City infrastructure is provided to serve the proposed subdivision in conformance with the requirements of SRC Chapter 802, the following conditions of approval shall apply:

- Condition: All necessary (existing and proposed) access and utility easements shall be shown and recorded on the final plat.

As conditioned, the proposed subdivision conforms to the public improvement standards of SRC Chapter 802.

*SRC Chapter 803 (Street and Right-of-Way Improvements)*

The subject property has frontage on Park Avenue NE to the east. Park Avenue NE is designated as a local street under the City's TSP. The standard for this classification of street is a 30-foot-wide improvement within a 60-foot-wide right-of-way. Park Avenue currently has an approximate 30-foot-wide improvement within a 50-foot-wide right-of-way abutting the subject property. Therefore, a right-of-way dedication of 5-feet and half street improvements to Park Avenue NE along the frontage of the subject property will be required as a condition of approval.

The proposed subdivision meets the requirements of SRC Chapter 803.

*SRC Chapter 808 (Preservation of Trees and Vegetation)*

SRC Chapter 808 (Preservation of Trees and Vegetation) requires tree conservation plans in conjunction with development proposals involving 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. The tree preservation ordinance defines "tree" as, "any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves."

Under the City's tree preservation ordinance, tree conservation plans are required to preserve all heritage trees, significant trees, trees and native vegetation within riparian corridors, and a minimum of 30 percent of all the trees on the property. If less than 30 percent of the existing trees on the property are proposed for preservation, the applicant must demonstrate that there are no reasonable design alternatives that would enable preservation of such trees and that for each tree removed more than 70 percent, the mitigation measures required under SRC 808.035(e) are satisfied.

Similarly, if significant trees and trees within a riparian corridor are proposed for removal, the applicant must show that there are no reasonable design alternatives to enable preservation of those trees.

There are existing trees located on the subject property. Pursuant to SRC 808.035, the applicant submitted a tree conservation plan for concurrent review with the residential subdivision application.

The tree conservation plan submitted by the applicant identifies a total of 11 trees on the subject property, 5 (45%) of which are proposed to be removed.

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

Less than 30 percent of all trees located on the property are designated for preservation. As stated above, two trees are proposed to be removed: (1) 24" cedar with 12" diameter; (2) 12" cedar with 12" diameter; (3) 32" cedar with 12" diameter; (4) 24" cedar tree with 15" diameter and (5) 42" Cedar with 25" diameter.

(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: (aa) Riparian corridors, provided the riparian corridor is not graded or developed; (bb) Areas of the site with slopes exceeding 25 percent, provided such areas are not graded or developed; and (cc) Open space that will preserve significant natural features, provided the perpetual maintenance and operation of the open space is provided by a home owners' association.

(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.

The trees proposed to be removed are unable to be retained due to the location of needed access and utilities to serve future residential lots as well as to meet minimum dwelling density of 5.5 dwelling units per acre. Electric vehicle changing stations will be provided as denoted on the tree conservation plan.

#### *SRC Chapter 809 (Wetlands)*

Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetlands laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures. SRC Chapter 809 establishes requirements for notification of DSL when an application for development is received in an area designated as a wetland on the official wetlands map.

The Salem-Keizer Local Wetlands Inventory (LWI) does not show any wetlands and/or hydric soils mapped on the property. Regardless, wetland notice will be sent to the Oregon Department of State Lands pursuant to SRC 809.025.

#### *SRC Chapter 810 (Landslide Hazards)*

The City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, the subject property is not located within a landslide hazard area. A geologic assessment is therefore not required for development of the subject property.

#### **Criterion 4**

**The tentative replat complies with all applicable provisions of ORS Chapter 92.**

Finding: Oregon Revised Statutes Chapter 92, Sections 92.180 – 92.192 are applicable to this application, which are implemented by the adopted Title X of the SRC. Additionally, per ORS 92.060(7), a survey, complying with ORS 209.250, must be filed with the county surveyor. This requirement may be included as a condition of approval.



### **Criterion 5**

**The tentative replat is not prohibited by any existing City land use approval or previous condition of approval, affecting one or both of the units of land.**

Finding: There are no known previous land use approvals affecting the subject property. Therefore, this criterion is not applicable.

### **Criterion 6**

**The tentative replat does not adversely affect the availability of, or access to, city infrastructure or public or private utilities or streets.**

Finding:

#### *Utilities*

A preliminary utility plan is included in the application submittal. As shown in the overall utility plan, water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development. Connections to the existing water main located in Park Avenue NE for both fire and domestic service are proposed. Separate taps to the existing main will be needed for each service. Connections to the sewer main located in Park Avenue NE are also proposed.

A preliminary stormwater report is also included in the application submittal, which demonstrates compliance of City of Salem Administrative Rules Chapter 109, Division 004, Public Works Department Stormwater Standards, including the requirement to provide Green Stormwater Infrastructure to the Maximum Extent Possible.

The applicant shall design and construct all utilities (sewer, water, and storm drainage) according to PWDS and to the satisfaction of the Public Works Director.

#### *Access*

Park Avenue NE, a designated local street within the Salem Transportation System Plan (TSP), abuts the property along the site's east property line.

A total of two accessways are proposed in association with this request: 1) an existing driveway serving Lot 1; 2) a new share accessway serving Lots 2-5.

According to SRC 804.045 shared access may be provided at the request of an application, must conform to SRC Chapter 804 and the Public Works Design Standard, and be provided by permanent irrevocable easement that is record with Marion County.

SRC 804.030 states that a lot or parcel is entitled to one driveway approach and that each driveway approach onto a local or collector street must comply with the vision clearance requirements set forth in SRC Chapter 805.

SRC 805.005(b) includes vision clearance areas at intersections of streets and driveways, streets, and flag lot accessways. The vision clearance standards for driveways serving single family and two family uses and flag lot accessways serving single family and two-family uses are as follows: a vision clearance area must be provided on each side of the driveway. The vision clearance area shall have ten-foot legs along each side of the driveway, and ten-foot legs along the intersecting street or alley (see Figures 805-4 and 805-6).

SRC 804.050, Table 804-1 includes the driveway approach width for single-family, two-family, and four family uses based on number of parking spaces served. In this case, the minimum and maximum width standards are 18-foot and 36-foot, respectively since the access will serve three or more parking spaces.

#### *Trips*

The proposed six-lot subdivision will generate less than 200 average daily vehicle trips onto the local street system. Because the number of trips estimated to be generated by the proposed subdivision fall below the minimum threshold to require a transportation impact analysis (TIA), a TIA is not required in conjunction with the proposed subdivision.

#### *Streets*

Park Avenue NE, a designated local street within the Salem Transportation System Plan (TSP), abuts the property along the site's east property line.

According to SRC 803.025, Tables 803-1 and 803-2, the minimum right-of-way and pavement (i.e., Curb-to-curb) width of a local street is 60-foot and 30-foot, respectively. Park Avenue NE has a 50-foot-wide right of way with variable with pavement width and travel lane in either direction.

Per SRC 803.040, a 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; 4) the construction or enlargement of nay building or structure located on property abutting a boundary street that requires a building permit under SRC Chapter 56.

Park Avenue is not fully improved to city standards. A 5-foot-wide dedication and half-street right-of-way improvements along the frontage of the subject property are required to be constructed or deferred with a deferral agreement. Improvements or deferral agreements can be included as a condition of approval.

## **VII. Class II Adjustment Review Criteria**

SRC Chapter 250.005(d)(2) provides that:

A Class II Adjustment shall be approved if all the applicable criteria are met.

### **Criterion 1**

**SRC 250.005(d)(2)(A): The purpose underlying the specific development standard proposed for adjustment is: (i) Clearly inapplicable to the proposed development; or (ii) Equally or better met by the proposed development.**

Finding: A Class 2 adjustment is requested to allow the maximum number of flag lots allowed within the subdivision to exceed 15 percent (800.025(e)).

According to Section 800.025(e), within a subdivision, up to 15 percent of the lots may be flag lots. The purpose of this development standard is to limit the number of flag lots in a traditional greenfield subdivision proposal.

The proposal is to divide one existing lot of record into 6 lots. Two of the lot will have frontage along Park Avenue and direct street access. Four lots (i.e., Lots 2 – 5) will have a shared flag lot accessway. Increasing the number of flag lots with this replat will increase the overall residential density of the site and decrease the overall number of driveway encroachments.

### **Criterion 2**

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

Finding: The proposed adjustment to the maximum number of flag lots allowed within a subdivision will not detract from the livability or appearance of the residential area. Each of the flag lots will be developed with a residential single-family detached dwelling, like development on adjacent properties.

### **Criterion 3**

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

Finding: Only one adjustment is requested: A Class 2 adjustment to allow the maximum number of flag lots allowed within the subdivision to exceed 15 percent.

According to Section 511.001 the purpose of the RS zoning district is as follows: 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.

As shown on the preliminary site plan, single-family detached dwellings can reasonably be constructed in each of the lot's buildable areas and services can be provided to each. Therefore, the proposed development is still consistent with the overall purpose of the RS zoning district.

## VIII. Class II Driveway Approach Permit

### DRIVEWAY APPROACH PERMIT

Per SRC 804.015(a), a driveway approach permit shall be obtained prior to constructing any driveway approach. Per SRC 804.025 a Class II Driveway Approach Permit is required for an approach onto a local, collector, minor arterial, or parkway street providing access to other than single family, two family, three family, or four family development.

Analysis of the driveway approach based on relevant criteria in SRC 804.025(d) is as follows:

#### Criterion 1

#### **SRC 804.025(d)(1): The proposed driveway approach meets the standards of this chapter and the Public Works Design Standards;**

Finding: A total of two accessways are proposed in association with this request: 1) an existing driveway serving Lot 1; 2) a new share accessway serving Lots 2-5. Park Avenue NE, a designated local street within the Salem Transportation System Plan (TSP), abuts the property along the site's east property line.

SRC 804.039 includes access standards for local and collector roadways. Applicable standards from this section are provided below:

1. Number of driveway approaches. Except as otherwise provided in this chapter, a lot or parcel is entitled to one driveway approach onto a local or collector street. Additional driveway approaches from a single family, two family, three family, or four family use onto a local or collector street may be allowed through Class 1 driveway permit approval.

Findings: As shown on the site plan, a total of two new accessways are proposed in association with this request: 1) an existing driveway serving Lot 1; 2) a new share accessway serving Lots 2-5.

2. Driveway approaches onto local and collector streets shall only provide access to a permitted parking or vehicular use area (...).

Findings: According to Salem's Functional Street Classification, Park Avenue is classified as a Local Street. As shown on the site plan, the driveway approach will provide access parking for the proposed residential development.

3. Driveway approaches providing direct access to a collector street shall be located no less than 200 feet from intersections with major arterials or minor arterials, measured from centerline to centerline.

Findings: According to Salem's Functional Street Classification, Park Avenue is classified as a Local Street. Therefore, this criterion is not applicable.

4. Driveway approaches onto major and minor arterials shall comply with the vision clearance requirements set forth in SRC chapter 805.

Findings: SRC 805.005(A)(b)(1)(A) states driveways serving single family and two family uses. Driveways serving single family and two-family uses shall have a vision clearance area on each side of the driveway. The vision clearance area shall have ten-foot legs along each side of the driveway, and ten-foot legs along the intersecting street or alley (see Figure 805-4).

SRC 805.005(A)(b)(2)(A) states flag lot accessways serving single family and two family uses. Flag lot accessways serving single family and two-family uses shall have a vision clearance area on each side of the flag lot accessway. The vision clearance area shall have ten-foot legs along each side of the flag lot accessway, and ten-foot legs along the intersecting street (see Figure 805-6).

The vision clearance area is shown on the site plan. As shown, there is unobstructed clear field of vision at the driveway encroachment.

SRC 804.050 includes driveway approach development standards. Applicable standards from this section are provided below:

1. Per Table 804-1. Driveway approach width for single family, two family, three family, and four family uses as follows: 1 space, 10' minimum and 15' maximum; 2 spaces 14' minimum and 24' maximum; and 3 or more spaces 18' minimum and 36' maximum.

Findings: As shown on the site plan, the proposed driveway access is 25 feet wide with a 20-foot pavement width.

Standards for driveway approaches are found in Plan No. 301A of the City of Salem Department of Public Works Standard Drawings. Compliance with these standards will be reviewed in association with an encroachment permit.

#### **Criterion 2**

**SRC 804.025(d)(2): No site conditions prevent placing the driveway approach in the required location;**

Finding: There are no site conditions prohibiting the location of the proposed driveway.

#### **Criterion 3**

**SRC 804.025(d)(3): The number of driveway approaches onto an arterial are minimized;**

Finding: According to Salem's Functional Street Classification, Park Avenue is classified as a Local Street. Therefore, this criterion is not applicable.

#### **Criterion 4**

**SRC 804.025(d)(4): The proposed driveway approach, where possible: (A) Is shared with an adjacent property; or (B) Takes access from the lowest classification of street abutting the property;**

Finding: A total of two accessways are proposed in association with this request: 1) an existing driveway serving Lot 1; and 2) a new share accessway serving Lots 2-5. Park Avenue NE, a

designated local street within the Salem Transportation System Plan (TSP), abuts the property along the site's east property line.

#### **Criterion 5**

##### **SRC 804.025(d)(5): The proposed driveway approach meets vision clearance standards;**

Findings: SRC 805.005(A)(b)(1)(A) states driveways serving single family and two family uses. Driveways serving single family and two-family uses shall have a vision clearance area on each side of the driveway. The vision clearance area shall have ten-foot legs along each side of the driveway, and ten-foot legs along the intersecting street or alley (see Figure 805-4).

SRC 805.005(A)(b)(2)(A) states flag lot accessways serving single family and two family uses. Flag lot accessways serving single family and two-family uses shall have a vision clearance area on each side of the flag lot accessway. The vision clearance area shall have ten-foot legs along each side of the flag lot accessway, and ten-foot legs along the intersecting street (see Figure 805-6).

The vision clearance area is shown on the site plan. As shown, there is an unobstructed clear field of vision at the driveway encroachment.

#### **Criterion 6**

##### **SRC 804.025(d)(6): The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;**

Finding: The proposed driveway complies with the driveway approach permit review criteria with approval of the associated adjustment to the driveway spacing standards; therefore, it will not create a known traffic hazard and will provide for safe turning movements for access to the subject property.

#### **Criterion 7**

##### **SRC 804.025(d)(7): The proposed driveway approach does not result in significant adverse impacts to the vicinity;**

Finding: The proposed driveway complies with the driveway approach permit review criteria with approval of the associated adjustment to the driveway spacing standards; therefore, the location of the proposed driveway does not have any adverse impacts to the adjacent properties or streets.

#### **Criterion 8**

##### **SRC 804.025(d)(8): The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and**

Finding: The proposed driveway approach is located on a Local Street and does not have a significant impact on adjacent streets and intersections.

#### **Criterion 9**

##### **SRC 804.025(d)(9): The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.**

Finding: All abutting properties are developed residentially zoned properties, which have access to adjacent local streets. The proposed development abuts Park Avenue NE a Local Street. The driveway balances the adverse impacts to residentially zoned property and will not affect the functionality of the adjacent street system.

**IX. Overall Conclusion**

Based on the above analysis, the submitted applications meets all the applicable review criteria as outlined above.

**X. Exhibits**

A. Civil Plan Set

1. Tentative Plat, Sheet C100
2. Existing Conditions/Demo Plan, Sheet C102
3. Preliminary Site Plan, C103
4. Preliminary Tree Conservation Plan, Sheet C104
5. Preliminary Grading and Drainage Plan, Sheet C200
6. Preliminary Utility Plan, Sheet C400

B. Preliminary Stormwater Report, dated August 15, 2023