

TO: PLANNING COMMISSION

**FROM: LISA ANDERSON-OGILVIE, AICP
DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING
ADMINISTRATOR**

**SUBJECT: APPEAL OF PLANNING ADMINISTRATOR DECISION ON PARTITION
CASE NO. PAR20-13 FOR PROPERTY LOCATED AT 4204 KURTH
STREET S**

ISSUE

Should the Planning Commission affirm, modify, or reverse the Planning Administrator's decision approving a tentative partition plan to divide approximately 0.35 acres into two parcels, with Parcel 1 consisting of 9,130 square feet and Parcel 2 consisting of 5,299 square feet. The subject property is approximately 0.35 acres in size, zoned RS (Single Family Residential), and located at 4204 Kurth Street S (Marion County Assessors Map and Tax Lot number 083W09BB / 10900).

RECOMMENDATION

Affirm the Planning Administrator's decision and APPROVE the tentative partition plan with modified conditions of approval, the findings contained herein.

SUMMARY OF RECORD

The following items are submitted to the record and are available upon request: All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; any materials and comments from public agencies, City Departments, neighborhood associations, and the public; and all documents referenced in this report.

SUMMARY AND BACKGROUND

A vicinity map of the subject property is included as **Attachment 1**.

The Planning Administrator issued a decision on November 19, 2020 approving a proposed two-parcel partition of property located at 4204 Kurth Street S (**Attachment 2**). The subject property totals 0.35 acres in size with frontage on Kurth Street S to the east, and Warren Street S to the north. The property is zoned RS (Single Family Residential) and is currently developed with a single-family dwelling.

Prior to the expiration of the appeal deadline for the decision on December 3, 2020, Brandie Dalton, on behalf of the applicants Todd and Audrey Dollinger filed an appeal of the Planning Administrator's decision (**Attachment 3**).

1. Public and Neighborhood Association Comments.

No comments from the public were received during the initial comment period or on appeal, as of the date of this staff report.

The subject property is located within the Sunnyslope Neighborhood Association (Sunnyslope). No comments were received from the neighborhood association during the initial review of the application however, comments in opposition to the appeal were received. (**Attachment 5**).

Sunnyslope's comments include opposition to changing the conditions, discussion of errors in the applicant's original submittal and lack of evidence or testimony to support the appeal or claims of proportionality. Their comments included their estimated costs for the required improvements in relation to the number of future dwellings which could potentially be located on the subject property.

Staff Response: The applicant's original application, support for the appeal and proportionality is addressed below in **Section 3** of the report. Sunnyslope did provide their own estimated costs associated with the proposed street improvements. Those cost estimates do not take into consideration the current grade of the property, engineering costs and the cost to relocate the existing aboveground utilities. Staff and the applicant's engineer estimate that the costs of the improvements are much greater than Sunnyslope's estimates.

The overall proportionality of the project is addressed below and cannot take into consideration any potential dwelling units for the subject property since the current Salem Revised Code does not allow for additional units. The subject property on the corner would be allowed a duplex and the proposed current lot would allow for a single-family dwelling currently. The application can only be evaluated on the current Salem Revised Code and cannot take into consideration future changes that may increase the density. In addition, the future changes to the permitted uses, as required under House Bill 2001, expressly prohibit the City from requiring more of middle housing developments than single-family developments.

2. Appeal.

Prior to the expiration of the December 4, 2020 appeal deadline, Brandie Dalton, on behalf of the applicants Todd and Audrey Dollinger filed an appeal of the Planning Administrator's decision (**Attachment 3**). A summary and response to the issues raised in the appeal is provided below.

Condition 6 and 7 and not proportional to the impacts of the proposed two parcel partition.

Condition 6: Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.

Condition 7: Obtain an improvement agreement or construct a minimum of 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.

The appellant argues that the conditions (number 6 and 7) are not “proportional to the impacts of the proposed two parcel partition. Both those conditions are expensive and timely for such a small partition. Conditions 6 and 7 are extreme conditions and do not flow with Housing needs within the state of Oregon.”

Staff response:

As part of the land division application, the applicant submitted a proposed application, tentative partition plan and findings. The street improvements discussed in Conditions 6 and 7 were shown on the applicant’s tentative partition plan and findings, which indicated that the street standards of Salem Revised Code Chapter 803 would be met. Since the application did not provide adequate evidence or information regarding proportionality related to a request for a lesser street improvement than the standard and the tentative partition plan shows the entire street improvement, the conditions were developed to grant the applicant approval of the application, as submitted.

The applicant has appealed the partition decision citing the conditions of approval as not proportional to the proposal, which means that the applicant is stating that their own proposal is not proportional as the conditions merely required the applicant to build what they proposed to build. Improvements are based on, and proportional to, the proposed development, which could include a half-street, full-street, or turnpike improvement, or any combination of these as needed to serve the development(s), pursuant to the streets and right-of-way improvement standards set forth in SRC Chapter 803.

The proportionality will be based on the proposed partition generation of approximately ten additional trips per day on the Salem Transportation System. The applicant is now proposing to construct a pedestrian access route along the entire frontage of Warren Street, install street trees to the maximum extent feasible along Kurth Street and Warren Street and a curb ramp on the west side of Kurth Street S.

Kurth Street S abuts the subject property and does not meet the current standard for a Collector street. Warren Street S abuts the subject property and does not meet the current standard for a Local street. The original decision required right-of-way dedication along the frontage of Kurth Street S and half-street improvements along the frontage of both Kurth Street S and Warren Street S pursuant to SRC 803.040. The applicant appealed those conditions of approval because of proportionality considerations.

In conjunction with filing the appeal, the applicant has initiated discussions with Public Works staff regarding available options for mitigating transportation impacts along both Kurth Street S and Warren Street S. The proposed partition generates a limited vehicular impact, approximately 10 additional vehicle trips per day on the transportation system. Both Warren Street S and Kurth Street S have sufficient

width to accommodate two-way vehicular traffic. Warren Street S lacks pedestrian facilities; Kurth Street S includes a sidewalk on the west side of the street.

Pursuant to Public Works Department Policy GM4-11, the applicant's proportional dedication of right-of-way along the frontage of Kurth Street S is limited to 4 feet. The applicant's engineer has demonstrated that improvements (with the exception of street trees to the maximum extent feasible) along the east side of Kurth Street S are cost prohibitive because of topography and utility conflicts and are not proportional to the impacts of development. In lieu of improvements, the applicant has proposed to provide street trees to the maximum extent feasible and convey approximately 10 feet of land along Kurth Street to meet the collector street standard of 30 feet (see existing Condition 5). Dedication of additional right-of-way is beneficial to the City and the public as it will allow the City to construct Kurth improvements in the future without having to purchase this right-of-way.

The applicant has proposed construction of a pedestrian access route along the entire frontage of Warren Street S and a curb ramp on the west side of Kurth Street S. This property line sidewalk and curb ramp improves pedestrian safety commensurate with the transportation impacts of the proposed development.

With these mitigating improvements above, the existing street system is adequate to provide for the safe, orderly, and efficient circulation of traffic for the proposed development pursuant to SRC 205.005(d)(4) and SRC 205.005(d)(5). Therefore, the Conditions 6 and 7 are recommended to be changed to the following:

Condition 6: ~~Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.~~ **Obtain an improvement agreement for, or construct street trees to the maximum extent feasible along the entire frontage of Kurth Street S and a curb ramp along the west side of Kurth Street S opposite the property line sidewalk being constructed under Condition 7.**

Condition 7: ~~Obtain an improvement agreement or construct a minimum of 15-foot-wide half street improvement along the frontage of Warren Street S to Local street standards.~~ **Obtain an improvement agreement for, or construct a 5-foot-wide property line sidewalk and street trees along the frontage of Warren Street S.**

FACTS AND FINDINGS

Procedural Findings

- a. On May 11, 2020, an application for a Tentative Partition Plan was filed proposing to divide a 0.35 acres property at 4204 Kurth Street S into two parcels.
- b. After additional information was provided by the applicant, the application was deemed complete for processing and notice of filing of the application was sent, pursuant to Salem Revised Code requirements, on October 29, 2020.

- c. On November 19, 2020, the Planning Administrator issued a decision approving the Partition (**Attachment 2**).
- d. On December 3, 2020, an appeal of the decision was filed by Brandie Dalton on behalf of Todd and Audrey Dollinger. The appeal was timely filed.
- e. On December 23, 2020, notice of the appeal public hearing was sent to the appellant, applicant, property owners, the neighborhood association, and owners and tenants of surrounding property pursuant to SRC requirements.
- f. On December 28, 2020, the subject property was posted pursuant to SRC 300.1040(b)(2).
- g. The appeal public hearing before the Planning Commission is scheduled for January 12, 2021.
- h. After the applicant's extension, the state-mandated final local decision deadline for this application is March 5, 2021.

Substantive Findings

As provided in the November 19, 2020, decision approving the partition (**Attachment 2**), the proposed development satisfies the applicable approval criteria. Findings establishing the development's conformance with applicable tentative partition plan approval criteria are included under Section 7 on pages 5-13 of the tentative partition decision.

3. Conclusion.

The proposed Partition satisfies the applicable approval criteria of SRC 205.005(d).

Based on the facts and findings presented above, and included within the November 19, 2020 decision, staff recommends the Planning Commission **MODIFY** the Planning Administrator's decision and:

- A. **APPROVE** the tentative partition plan subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

Condition 1: Prior to final plat approval, the applicant shall remove the existing shed on Parcel 2.

Condition 2: Connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan.

Condition 3: Provide private sewer easement for new sewer service located on Parcel 2 to serve Parcel 1.

Condition 4: Obtain permits for installation of water services to serve Parcel 2.

- Condition 5:** Convey land for dedication of right-of-way along the entire frontage of Kurth Street S to equal 30 feet from centerline, including a 25-foot radius at the intersection with Warren Street S.
- Condition 6:** ~~Obtain an improvement agreement or construct a minimum of 17-foot wide half street improvement along the frontage of Kurth Street S to Collector street standards.~~ **Obtain an improvement agreement for, or construct street trees to the maximum extent feasible along the entire frontage of Kurth Street S and a curb ramp along the west side of Kurth Street S opposite the property line sidewalk being constructed under Condition 7.**
- Condition 7:** ~~Obtain an improvement agreement or construct a minimum of 15-foot wide half street improvement along the frontage of Warren Street S to Local street standards.~~ **Obtain an improvement agreement for, or construct a 5-foot-wide property line sidewalk and street trees along the frontage of Warren Street S.**
- Condition 8:** Dedicate a 10-foot public utility easement (PUE) along the entire frontage of Kurth Street S and Warren Street S.
- Condition 9:** Design stormwater systems to serve all proposed parcels in compliance with PWDS. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces of Parcel 2.
- Condition 10:** Provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main.
- Condition 11:** Construct stormwater facilities that are proposed in the right-of-way.

ALTERNATIVES

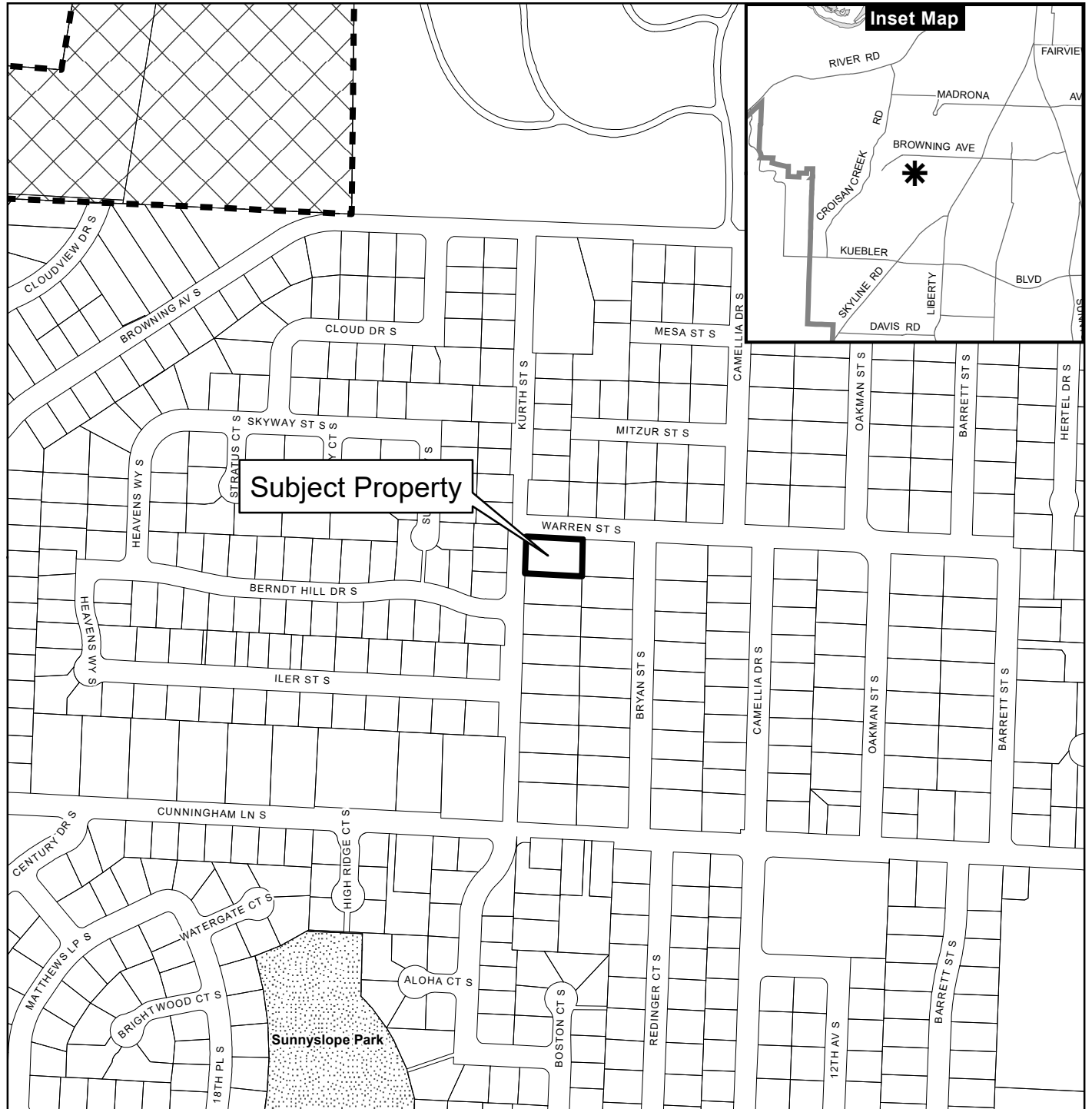
The Planning Commission may take one of the following actions:

- I. **AFFIRM** the November 19, 2020 decision for PAR20-13.
- II. **MODIFY** the November 19, 2020 decision for PAR20-13.
- III. **DENY** the application.








- Attachments:
1. Vicinity Map
 2. Planning Administrator's Decision for Partition Case No. PAR20-13 (November 19, 2020)
 3. Appeal Submitted by Brandie Dalton
 4. Public Works Memo
 5. Sunnyslope Comments

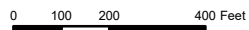
Prepared by Olivia Dias, Current Planning Manager

Vicinity Map 4204 Kurth Street S



Legend

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



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503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

PARTITION CASE NO.: PAR20-13

APPLICATION NO.: 20-108056-LD

NOTICE OF DECISION DATE: November 19, 2020

REQUEST: A tentative partition plan to divide approximately 0.35 acres into two parcels, with Parcel 1 consisting of 9,130 square feet and Parcel 2 consisting of 5,299 square feet. The subject property is approximately 0.35 acres in size, zoned RS (Single Family Residential), and located at 4204 Kurth Street S (Marion County Assessors Map and Tax Lot number 083W09BB / 10900).

APPLICANT: Brandie Dalton, Multi-Tech Engineering, on behalf of Todd Dollinger

LOCATION: 4204 Kurth Street S, Salem OR 97302

CRITERIA: Salem Revised Code (SRC) Chapter 205.005(d) - Partition

FINDINGS: The findings are in the attached Decision dated November 19, 2020.

DECISION: The **Planning Administrator APPROVED** Partition PAR20-13 subject to the following conditions of approval:

- Condition 1:** Prior to final plat approval, the applicant shall remove the existing shed on Parcel 2.
- Condition 2:** Connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan.
- Condition 3:** Provide private sewer easement for new sewer service located on Parcel 2 to serve Parcel 1.
- Condition 4:** Obtain permits for installation of water services to serve Parcel 2.
- Condition 5:** Convey land for dedication of right-of-way along the entire frontage of Kurth Street S to equal 30 feet from centerline, including a 25-foot radius at the intersection with Warren Street S.
- Condition 6:** Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.
- Condition 7:** Obtain an improvement agreement or construct a minimum of 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.
- Condition 8:** Dedicate a 10-foot public utility easement (PUE) along the entire frontage of Kurth Street S and Warren Street S.

NOTICE OF DECISION

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



- Condition 9:** Design stormwater systems to serve all proposed parcels in compliance with PWDS. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces of Parcel 2.
- Condition 10:** Provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main.
- Condition 11:** Construct stormwater facilities that are proposed in the right-of-way.

The rights granted by the attached decision must be exercised, or an extension granted, by December 5, 2022, or this approval shall be null and void.

Application Deemed Complete:	<u>October 29, 2020</u>
Notice of Decision Mailing Date:	<u>November 19, 2020</u>
Decision Effective Date:	<u>December 5, 2020</u>
State Mandate Date:	<u>February 26, 2021</u>

Case Manager: Olivia Dias, Current Planning Manager, odias@cityofsalem.net, 503-540-2343

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m., Friday, December 4, 2020. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 205. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Planning Commission review the appeal at a public hearing. After the hearing, the Salem Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**BEFORE THE PLANNING ADMINISTRATOR
OF THE CITY OF SALEM
(PARTITION PLAT NO. 20-13)**

*Si necesita ayuda para comprender esta información, por favor llame 503-588-6173.
<http://www.cityofsalem.net/planning>*

IN THE MATTER OF THE)	FINDINGS AND ORDER
TENTATIVE APPROVAL OF)	
PARTITION PLAT NO. 20-13;)	
4204 KURTH STREET S)	NOVEMBER 19, 2020

REQUEST

A tentative partition plan to divide approximately 0.35 acres into two parcels, with Parcel 1 consisting of 9,130 square feet and Parcel 2 consisting of 5,299 square feet.

The subject property is approximately 0.35 acres in size, zoned RS (Single Family Residential), and located at 4204 Kurth Street S (Marion County Assessors Map and Tax Lot number 083W09BB / 10900).

DECISION

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

- Condition 1:** Prior to final plat approval, the applicant shall remove the existing shed on Parcel 2.
- Condition 2:** Connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan.
- Condition 3:** Provide private sewer easement for new sewer service located on Parcel 2 to serve Parcel 1.
- Condition 4:** Obtain permits for installation of water services to serve Parcel 2.
- Condition 5:** Convey land for dedication of right-of-way along the entire frontage of Kurth Street S to equal 30 feet from centerline, including a 25-foot radius at the intersection with Warren Street S.
- Condition 6:** Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.
- Condition 7:** Obtain an improvement agreement or construct a minimum of 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.

- Condition 8:** Dedicate a 10-foot public utility easement (PUE) along the entire frontage of Kurth Street S and Warren Street S.
- Condition 9:** Design stormwater systems to serve all proposed parcels in compliance with PWDS. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces of Parcel 2.
- Condition 10:** Provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main.
- Condition 11:** Construct stormwater facilities that are proposed in the right-of-way.

PROCEDURAL FINDINGS

1. On May 11, 2020, an application for a Tentative Partition Plan was filed proposing to divide a 0.35-acre property at 4204 Kurth Street S (Attachment B) into two parcels.
2. The application was deemed complete for processing on October 29, 2020. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on October 29, 2020. The state-mandated local decision deadline is February 26, 2021.

SUBSTANTIVE FINDINGS

1. Proposal

The tentative plan proposes to divide the property into two parcels, with Parcel 1 containing the existing residence and Parcel 2 for new residential development (Attachment B). The proposed parcel 1 will access to Kurth Street S and proposed Parcel 2 would take access from Warren Street S. The two parcels within the tentative partition plan are proposed as follows:

PROPOSED PARCEL 1

Parcel Size: 9,130 square feet
Parcel Dimensions: Approximately 100 feet in width and 90 feet in depth

PROPOSED PARCEL 2

Parcel Size: 5,299 square feet
Parcel Dimensions: Approximately 53 feet in width and 100 feet in depth

Access and Circulation: The subject property has frontage located on Kurth Street S, a local street within the Salem Transportation System Plan (TSP) and Warren Street S, which is designated as a local street within the Salem Transportation System Plan (TSP).

2. Existing Conditions

Site and Vicinity

The subject property is a rectangular lot, with 100 feet of frontage on Kurth Street S along its western boundary and approximately 145 feet of frontage on Warren Street S. The property is approximately 100 feet wide and approximately 145 feet in depth from east to west. An existing house, constructed in 1956, is situated on the western portion of the subject property. The applicant proposes to retain the existing house after the partition.

Salem Area Comprehensive Plan (SACP) Designation

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

Comprehensive Plan Map: The subject property is designated “Single Family Residential” on the Salem Area Comprehensive Plan (SACP) Map. The surrounding properties are designated as follows:

North: (Across Warren Street S) Single Family Residential

South: Single Family Residential

West: (Across Kurth Street S) Single Family Residential

East: Single Family Residential

Zoning and Surrounding Land Use

The subject property is zoned RS (Single Family Residential) and is currently occupied by a single-family residence. The surrounding properties are zoned and used as follows:

North: (Across Warren Street) RS (Single Family Residential); single family dwelling

South: RS (Single Family Residential); single family dwelling

East: (Across Kurth Street S) RS (Single Family Residential); single family dwelling

West: RS (Single Family Residential); single family dwelling

Relationship to Urban Service Area

The subject property is within the City’s Urban Service Area.

Infrastructure

Water: The subject property is located within the S-3 water service level. An 8-inch S-3 water main is located in Warren Street S.

The existing water service to Parcel 1 is connected to a 6-inch S-3 water main located in Kurth Street S.

A 12-inch S-2 water main is located in Kurth Street S. This main is not available to serve the proposed S-3 development.

Sewer: There is an 8-inch sewer main located in Kurth Street S.

There are 8-inch sewer main located on the eastern property line of the subject property. This sewer main is located within an existing easement dedicated to the City of Salem, which does not meet the width requirement of the Public Works Design Standards (PWDS).

Storm Drainage: There is an existing 10-inch storm main is located in Warren Street S approximately 80 feet east of the subject property.

There is an existing 12-inch storm main is located in the Kurth Street S and Warren Street intersection. This main is not available to serve the entire development due to topographic constraints.

Streets: Kurth Street S abuts the eastern boundary of the subject property and is designated as a Collector street in the Salem Transportation System Plan (TSP).

- The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way.
- The abutting portion of Kurth Street S currently has an approximately 30-foot wide turnpike improvement within a 50-foot-wide right-of-way.

Warren Street S abuts the northern boundary of the subject property, and is designated as a Local street in the Salem Transportation System Plan (TSP).

- The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way.
- The abutting portion of Warren Street S currently has an approximately 20-foot wide turnpike improvement within a 60-foot-wide right-of-way.

3. Public and Private Agency Review

Public Works Department – The City of Salem Public Works Department, Development Services Section, reviewed the proposal and has provided their

comments and recommendation for plat approval. Their memorandum is included as Attachment D.

Salem Fire Department – Salem Fire Department reviewed the proposal and does not have any concerns with the Partition.

Salem Building and Safety Division – Salem Building and Safety Division reviewed the proposal and does not have any concerns with the Partition. New sewer from existing house will require an easement across the new lot.

Salem-Keizer Public Schools – Planning and Property Services staff for the school district reviewed the proposal and submitted comments indicating that sufficient school capacity exists at the elementary, middle school, and high school levels to serve future development within the proposed partition. The school district indicated that students residing at the subject property would be eligible for school transportation services for elementary and middle schools. The area is within the “walk zone” of the assigned high school.

Neighborhood Association Comments and Public Comments

The subject property is located within the Sunnyslope Neighborhood Association (Sunnyslope). The applicant contacted Sunnyslope on May 20, 2020 to provide notice of the proposed two-parcel partition, meeting the requirements of SRC 300.310. Notice of the application was provided to the neighborhood association, pursuant to SRC 300.520(b)(1)(B)(iii), which requires public notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. Sunnyslope Neighborhood Association did not provide comments.

All property owners and tenants within 250 feet of the subject property were mailed notification of the proposed partition. No comments from surrounding property owners or tenants were submitted prior to the close of the public comment period deadline.

4. Criteria for Granting a Tentative Partition

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 partition process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created parcels at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final partition plat.

SRC Chapter 205.005(d) sets forth the criteria that must be met before approval can be granted to a tentative partition plan. The following subsections are organized with approval criteria shown in bold, followed by findings of fact upon which the Planning

Administrator’s decision is based. The requirements of SRC 205.005(d) are addressed within the specific findings which evaluate the proposal's conformance with the applicable criteria. Lack of compliance with the following criteria is grounds for denial of tentative plan or for the issuance of conditions of approval to more fully satisfy the criteria.

SRC 205.005(d)(1): The tentative partition 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.

SRC Chapter 511 (Single Family Residential): The proposed partition would divide the 0.34-acre property into two parcels with no remainder. The subject property is currently zoned RS (Single Family Residential). The minimum lot area requirements of the RS zone are established under SRC 511.010(a) as follows:

Lot Standards for RS zone (Single Family) (see SRC Chapter 511, Table 511-2)

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Infill Lot ¹	5,500 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Street Frontage	40 feet

Proposed lots in the partition are 9,130 square feet and 5,299 square feet in size, both abutting a street. The proposed lots exceed minimum lot area, dimension, and frontage requirements and therefore conform to the applicable standards. The proposed lots within the partition are also of sufficient size and dimension to permit future development of uses allowed within the zone.

SRC 511.010(a) requires each lot used for single family residences to have an average depth between the front and rear lot lines of not more than 300 percent of the average width between the side lot lines. The proposal meets this standard.

Setback Requirements: SRC Chapter 511 establishes the following setback standards for development within an RS (Single Family Residential) zone:

Front Yards and Yards Adjacent to Streets:

¹ Infill lot: A residential flag lot created by the partition of land after February 8, 2006.

- 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
- Minimum 10 feet (Infill Lot)

Proposed Parcel 1 will meet all required setbacks to newly established lines. Setback requirements for the proposed Parcels 1 and 2 will be reviewed at the time of application for building permits.

Lot Coverage: Maximum lot coverage requirements within the RS zone are established under SRC 511.010(c), Table 511-4. The RS zone limits the total maximum lot coverage for buildings and accessory structures to 60 percent. The proposed parcel 1 is approximately 9,130 square feet. The existing dwelling is less than 60% of the proposed parcel. Future development of Parcel 2 will be reviewed for conformance with the development standards of SRC 511 at the time of building permit review.

The proposal meets the requirements of SRC Chapter 511.

SRC Chapter 800 (General Development Standards):

SRC 800.015(a) (Buildings to be on a Lot): Pursuant to SRC 800.015(a), every building or structure shall be entirely located on a lot. The existing residence and carport are proposed to remain and is shown on the site plan entirely within the boundaries of proposed Parcel 1, in compliance with this standard. The site plan indicates an existing shed on Parcel 2, which is an accessory structure to the dwelling. Since the proposal is to create separate parcel the accessory structure on Parcel 2 shall be removed prior to final plat. To ensure compliance with the Salem Revised Code the following condition applies:

Condition 1: Prior to final plat approval, the applicant shall remove the existing shed on Parcel 2.

SRC 800.025 (Flag Lots): Lots can be created without the minimum required frontage on a public street when flag lot accessways conforming to the standards of Table 800-1 are provided. Flag lot accessways shall be privately and not publicly maintained.

Finding: The proposal does not propose a flag lot accessway, both parcels have frontage on a public street.

The proposal conforms to the requirements of SRC Chapter 800.

SRC Chapter 806 (Off-Street Parking, Loading, and Driveways)

SRC 806.015(a) (Minimum Required Off-Street Parking): An existing single-family residence currently occupies the subject property, with off-street parking provided by an existing garage. SRC 806.015(a) requires all Single Family and Two Family dwellings outside of the Central Salem Development Program (CSDP) Area to provide a minimum of two off-street parking spaces. The subject property is located outside of the CSDP, and the proposed partition would create two parcels for residential development (proposed Parcels 2), with an existing single-family residence remaining on proposed Parcel 1.

Off-street parking requirements for the proposed Parcel 2 will be reviewed at the time of application for building permits.

Finding: The proposal meets the requirements of SRC Chapter 806.

(B) City Infrastructure Standards.

The Public Works Department reviewed the proposal for compliance with the City's public facility plans pertaining to provision of water, sewer, and storm drainage facilities. While SRC Chapter 205 does not require submission of utility construction plans prior to tentative partition plan approval, it is the responsibility of the applicant to design and construct adequate City water, sewer, and storm drainage facilities to serve the proposed development prior to final plat approval without impeding service to the surrounding area.

SRC Chapter 200 (Urban Growth Management): The Urban Growth Management Program requires that an Urban Growth Area (UGA) Development Permit must be obtained prior to development of property outside the Salem Urban Service Area. The subject property is inside of the Urban Service Area. Therefore, a UGA permit is not required and the proposal conforms to the requirements of SRC Chapter 200.

SRC Chapter 802 (Public Improvements): Comments from the Public Works Department indicate that water and sewer infrastructure is available along the perimeter of the site and appears to be adequate to serve the proposed partition. Specifications for required public improvements are summarized in the Public Works Department memo dated November 17, 2020 (Attachment D).

SRC 802.015 (Development to be Served by City Utilities). Water, sewer and stormwater services must be provided to each of the proposed parcels, consistent with Public Works Design Standards (PWDS). In order to ensure water, sewer and

stormwater service are provided in compliance with the requirements of SRC Chapter 802 and the PWDS, the following conditions shall apply:

- Condition 2:** Connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan.
- Condition 3:** Provide private sewer easement for new sewer service located on Parcel 2 to serve Parcel 1.
- Condition 4:** Obtain permits for installation of water services to serve Parcel 2.

As conditioned, the proposal meets the requirements of SRC Chapter 802.

SRC Chapter 803 (Streets and Right-of-Way Improvements):

SRC 803.015 (Traffic Impact Analysis): The proposed two parcel partition generates less than 1,000 average daily vehicle trips to Kurth Street S, designated as a collector and less than 200 average daily vehicle trips to Warren Street S, designated as a local street. Therefore, a Traffic Impact Analysis is not required as part of the proposed partition submittal.

SRC 803.020 (Public and Private Streets): There are no internal streets proposed within the partition. The subject property has frontages on Kurth Street S and Warrant Street S, which are public streets.

SRC 803.025 (Right-of-Way and Pavement Widths): The abutting portions of Kurth Street S is designated as a collector street in the TSP. The abutting portion of Kurth Street S has an approximate 30-foot-wide turnpike improvement within a 50-foot-wide right-of-way and does not meet the current standard for a collector street. Currently, Kurth Street S is a turnpike improvement with no curbs or sidewalks for at least 200 feet in either direction from the subject property. Pursuant to SRC 803.040, the applicant is required to convey land for dedication of right-of-way to equal 30-feet from centerline along the entire frontage of Kurth Street S and construct a minimum of a 17-foot-wide half-street improvement to meet collector street standards.

The abutting portions of Warren Street S is designated as a local street in the TSP. The abutting portion of Warren Street S has an approximate 20-foot-wide turnpike improvement within a 60-foot-wide right-of-way and does not meet the current standard for a local street. Currently, Warren Street S is a turnpike improvement with no curbs or sidewalks for at least 200 feet in either direction from the subject property. Pursuant to SRC 803.040, the applicant is required to construct a minimum of a 15-foot-wide half-street improvement to meet collector street standards.

As described below, boundary street improvements, along the frontage of Kurth Street S and Warren Street S, will include the construction of a half street improvements. Construction of a pedestrian access route mitigates traffic impacts of the proposed

development and contributes to the safe, orderly, and efficient circulation of traffic by reducing potential conflicts between motorists and pedestrians.

Condition 5: Convey land for dedication of right-of-way along the entire frontage of Kurth Street S to equal 30 feet from centerline, including a 25-foot radius at the intersection with Warren Street S.

Condition 6: Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.

Condition 7: Obtain an improvement agreement or construct a minimum of 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.

SRC 803.030 (Street Spacing): The proposed partition involves division of a 0.35-acre unit of land, within an established residential area where the network of streets has been in place for several decades. The limited size of the proposal and existing development on adjacent properties preclude development of further street connections as part of the proposal.

SRC 803.035 (Street Standards): Pursuant to subsection (n), public utility easements (PUEs) may be required for all streets. Comments from Portland General Electric, the franchise utility provider of electricity for the subject property, request a 10-foot-wide PUE on all street front lots. In order to ensure adequate access for the provision of electricity and other utilities, the following condition shall apply:

Condition 8: Dedicate a 10-foot public utility easement (PUE) along the entire frontage of Kurth Street S and Warren Street S.

As conditioned, the proposal conforms to applicable street standards.

SRC 803.040 (Boundary Streets): The abutting portions of Kurth Street is designated as a collector street in the TSP and has an approximate 20-foot-wide improvement within a 50-foot-wide right-of-way, which does not meet the current standard for a collector street.

The abutting portions of Warren Street S is designated as a local street in the TSP. The abutting portion of Warren Street S has an approximate 20-foot-wide turnpike improvement within a 60-foot-wide right-of-way and does not meet the current standard for a local street.

Pursuant to SRC 803.040, the applicant is required to convey land for dedication of right-of-way to equal 30-feet from centerline along the entire frontage of Kurth Street S to meet collector street standards. Boundary street improvements, including sidewalks, along the frontage of Kurth Street S and Warren Street S are required.

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

SRC Chapter 808 (Preservation of Trees and Vegetation): 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 the construction of single family or duplex dwelling units, if the development proposal will result in the removal of trees.

The applicant has submitted an application for tree conservation plan approval in conjunction with the partition application (TCP20-08). Tree preservation and removal in conjunction with proposed partition is regulated under the City's tree preservation ordinance (SRC Chapter 808). As required under SRC Chapter 808, the applicant submitted a tree conservation plan in conjunction with the proposed partition that identifies a total of 15 trees on the property. Of the 15 total trees existing on the property, the proposed tree conservation plan identifies 15 trees (100%) for preservation. There are no significant oaks identified for removal.

The proposed tree conservation plan preserves 100 percent of the existing trees on the property, therefore exceeding the minimum 25 percent preservation requirement under SRC Chapter 808.

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

The Salem-Keizer Local Wetland Inventory (LWI) does not identify any wetlands on the subject property. As proposed, the tentative partition plan conforms to all applicable SRC Chapter 809 requirements.

SRC Chapter 810 (Landslide Hazards): City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, there no areas of landslide susceptibility on the subject property.

SRC 205.005(d)(2): The tentative partition plan does not impede the future use or development of the property or adjacent land.

Finding: The proposed partition would divide a 0.35-acre property into two proposed parcels with no remainder. The proposed partition would not impede the future use or

development of any portion of the property. The adjoining properties are developed with single family dwellings and have access to public streets.

The proposed configuration of parcels allows for the future development of the site consistent with applicable zoning standards. The property's existing frontage on Kurth Street S and Warren Street S which are sufficient to provide access to each of the proposed parcels. The proposal does not adversely affect the safe and healthful development of adjacent properties. The proposal meets this criterion.

SRC 205.005(d)(3): Development within the tentative partition plan can be adequately served by City infrastructure.

Finding: The subject property is within the Urban Service Area. Public Works Department staff reviewed the proposal and determined that water and sewer infrastructure is available along the perimeter of the site and appears to be adequate to serve the property as shown on the applicant's preliminary partition plan. As specified in the conditions of approval, private water, sewer, and storm services shall be constructed to serve each lot as a condition of plat approval.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. To demonstrate the proposed parcels can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit 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. In order to ensure that stormwater systems within the proposed partition meet the requirements of SRC Chapter 71, the following condition shall apply:

Condition 9: Design stormwater systems to serve all proposed parcels in compliance with PWDS. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces of Parcel 2.

All public and private City infrastructure proposed to be located in the public right-of-way shall be constructed or secured per SRC 803.035(c)(6)(B) prior to final plat approval.

Any easements needed to serve the proposed parcels with City infrastructure shall be shown on the final plat.

Condition 10: Provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main.

As conditioned, the proposal meets this criterion.

SRC 205.005(d)(4): The street system in and adjacent to the tentative partition plan conforms to the Salem Transportation System Plan.

Finding: The abutting portions of Kurth Street S is designated as a collector street in the TSP. The abutting portion of Kurth Street S has an approximate 30-foot-wide turnpike improvement within a 50-foot-wide right-of-way and does not meet the current standard for a collector street. The abutting portions of Warren Street S is designated as a local street in the TSP. The abutting portion of Warren Street S has an approximate 20-foot-wide turnpike improvement within a 60-foot-wide right-of-way and does not meet the current standard for a local street. As described in findings above, pursuant to SRC 803.040, the applicant is required to convey land for dedication of right-of-way to equal 30-feet from centerline along the entire frontage of Kurth Street S to meet collector street standards. Boundary street improvements along the frontage of Kurth Street S and Warren Street S are required.

SRC 205.005(d)(5): The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

Finding: A 30-foot-wide right-of-way will be dedicated along the frontage of Kurth Street S. Boundary street improvements along the frontage of Kurth Street S and Warren Street S are required, which will provide for safe, orderly and efficient circulation of vehicle and pedestrian traffic.

The partition, as proposed and conditioned, is served with adequate transportation infrastructure. The street system adjacent to the partitioned property will provide for safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

SRC 205.005(d)(6): The tentative partition plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Finding: The proposed partition has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. The layout allows for reasonable development of all parcels within the partition without variances from the UDC. The site is essentially flat, sloping downward from the southwest corner to the northeast corner. The proposal meets this criterion.

SRC 205.005(d)(7): The layout, size, and dimensions of the parcels within the tentative partition plan take into account the topography and vegetation of the site, such that the least disruption of site, topography, and vegetation will occur from the reasonable development of the parcels.

Finding: As described in findings above, there is a slight elevation change from south to north across the subject property. The proposed layout distributes this grade change roughly equally across the two parcels, minimizing the need for substantial grading in any single area. The applicant proposes to retain the existing residence on a future parcel within the partition, alleviating the disruption to topography and vegetation that

would result from demolition, grading, and construction associated with redevelopment of this portion of the site.

The applicant has submitted an application for a tree conservation plan approval in conjunction with the partition application (TCP20-08). The applicant's proposal would retain 15 trees (100%) and remove zero trees, thus exceeding the 25% percent retention standard in SRC 808.035(d)(4). No heritage trees, riparian areas, or significant trees are identified on the tree conservation plan, and none are currently present on the subject property.

The proposal meets this criterion.

SRC 200.005(d)(8): When the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer:

- (A) The property is zoned residential;**
- (B) The property has received a favorable site evaluation from the county sanitarian for the installation of an on-site sewage disposal system; and**
- (C) The proposed parcels are at least 5 acres in size and, except for flag lots, have no dimension that is less than 100 feet.**

Finding: The site is served by available sewer and water. Therefore, this criterion does not apply.

9. Conclusion

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

IT IS HEREBY ORDERED

That Tentative Partition Plan Case No. 20-13, to divide a 0.34 acres into two parcels, with Parcel 1 consisting of 9,130 square feet, and Parcel 2 consisting of 5,299 square feet, for property zoned RS (Single Family Residential) and located at 4204 Kurth Street S is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the conditions of approval listed below, which must be completed prior to final plat approval, unless otherwise indicated:

Condition 1: Prior to final plat approval, the applicant shall remove the existing shed on Parcel 2.

- Condition 2:** Connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan.
- Condition 3:** Provide private sewer easement for new sewer service located on Parcel 2 to serve Parcel 1.
- Condition 4:** Obtain permits for installation of water services to serve Parcel 2.
- Condition 5:** Convey land for dedication of right-of-way along the entire frontage of Kurth Street S to equal 30 feet from centerline, including a 25-foot radius at the intersection with Warren Street S.
- Condition 6:** Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.
- Condition 7:** Obtain an improvement agreement or construct a minimum of 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.
- Condition 8:** Dedicate a 10-foot public utility easement (PUE) along the entire frontage of Kurth Street S and Warren Street S.
- Condition 9:** Design stormwater systems to serve all proposed parcels in compliance with PWDS. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces of Parcel 2.
- Condition 10:** Provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main.
- Condition 11:** Construct stormwater facilities that are proposed in the right-of-way.










Olivia Dias, Current Planning Manager, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

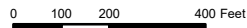
- Attachments: A. Vicinity Map
B. Applicant's Tentative Partition Plan
C. Applicant's Written Statement on Tentative Partition Plan
D. City of Salem Public Works Department Comments

Vicinity Map 4204 Kurth Street S

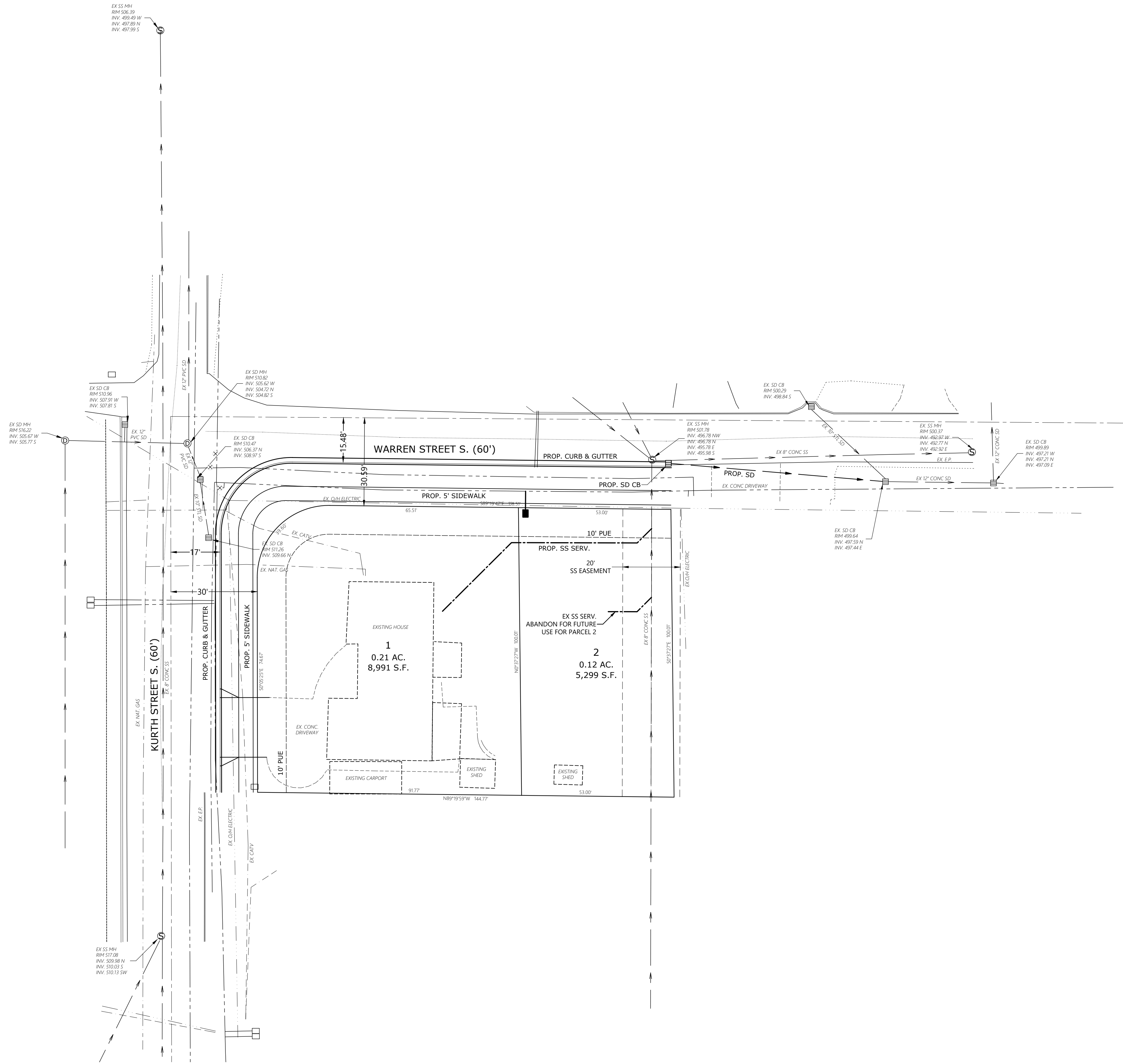


Legend

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



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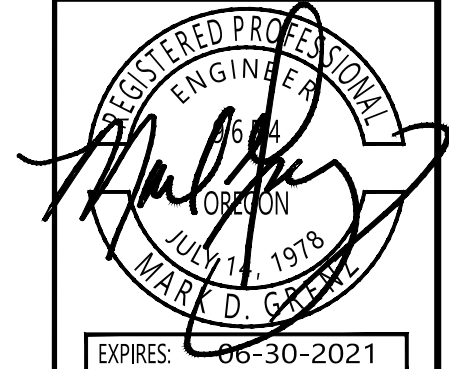


PROPOSED SITE PLAN

KURTH STREET PARTITION

NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER. DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

Design: M.D.G.
 Drawn: T.N.S.
 Checked: J.L.G.
 Date: OCT 2020
 Scale: AS SHOWN



JOB # 7007

C1.3

Kurth Street

Partition

Proposal:

The subject property is located at 4204 Kurth Street on the corner of Warren Street and Kurth Street (083W09BB10900).

The subject property is 0.35 acres (15,246sq. ft) in size and zoned RS (Single Family Residential). The applicant is requesting to partition the site into two parcels as shown on the site plans.

*Parcel 1=0.21 acres (9,130sq. ft)

*Parcel 2=0.12 acres (5,299sq. ft)

SITE VICINITY and CHARACTERISTICS:

All existing single-family dwelling on Parcel 1 will remain.

The site is bounded on the north by Warren Street and the west by Kurth Street. The surrounding land uses within the vicinity are zoned and used as follows and as shown.

North: Across Warren Street, RS (Single Family Residential); existing single-family dwellings

East: RS (Single Family Residential); existing single-family dwellings

South: RS (Single Family Residential); existing single-family dwellings

West: Across Kurth Street, RS (Single Family Residential); existing single-family dwellings

CRITERIA AND APPLICANT'S REASONS ADDRESSING UDC 205.005(d):

The decision criteria for partitions without a concurrent variance under UDC Chapter 205.005(d) must be found to exist before an affirmative decision may be made for a partition application.

UDC 205.005(d)(1):

Front Lot Line:

Parcel 1-West Lot Line

Parcel 2-North Lot Line

Side Lot Line:

Parcel 1-South Lot Line/North Lot Line

Parcel 2-East Lot Line/West Lot Line

Rear Lot Line:

Parcel 1-East Lot Line

Parcel 2-South Lot Line

Lot area-

*Parcel 1=0.21 acres

*Parcel 2=0.12 acres

Lot width/Lot frontage-

*Parcel 1=100' (west property line)

*Parcel 2=53' (north property line)

Lot depth-

*Parcel 1=90.84' (north property line)

*Parcel 2=100.01' (west property line)

City Infrastructure standards- Water, sewer, storm drainage plans will be submitted to the Public Works Department for final plat and construction plan approval at the final plat stage. The tentative site plan illustrates the location of the public utility lines. The proposal meets applicable Salem Area Comprehensive Plan Policies for properties within the Urban Growth Boundary. The proposal encourages the efficient use of developable commercial land. Public facilities and services are or will be available to serve the site, including services such as water, sanitary and storm sewer and fire/life/safety services.

The subject property is located within the UGB and inside the Urban Service Area (USA). Therefore, an Urban Growth Preliminary Declaration is not needed. This criterion has been met.

Proposed Storm Water Management System:

An LID (low impact development) Storm water technique will be used to mitigate the increase in pollutants contributed from development. The exact system will be determined at the time of design. If required, any proposed technique will meet City of Salem Stormwater Management standards in means and methods to provide all aspects of Storm water management.

Special development standards-The subject property is not located within any overlay, wetlands, floodplain, or vision clearance issues on the site. There are no special development standards that apply to this site.

No landslide hazards exist on the property.

UDC 205.005(d)(2): "The tentative partition plan does not impede the future use or development of the property or adjacent land."

Approval of the proposed partition does not impede future use of the remainder of the subject property or adjoining lands. The proposal will divide the entire site into two parcels, with Parcel 1 being 0.21 acres in size and Parcel 2 is 0.12 acres in size. The subject and adjoining properties have access to the existing system that is currently in place.

Both Parcels along with surrounding parcels have access and/or will have access when developed. Therefore, the approval does not impede future use of the remainder. The proposal provides for further development of the site consistent with current zoning standards.

UDC 205.005(d)(3): "Development within the tentative partition plan can be adequately served by City infrastructure."

The property is inside the Urban Services Area (USA), therefore, partitioning the property doesn't require a UGA Preliminary Declaration.

The Public Works Department is responsible for reviewing the proposal to determine the public facility construction and other requirements necessary to serve the development and provide for future development of any adjoining properties. The City's adopted facility plans and construction requirements

are the basis for the provision of facilities and any conditions of approval imposed on the development to meet service requirements.

City of Salem water and sewer service is available to the proposed parcels. The improvement of the access ways will facilitate vehicle and pedestrian access to the public street system. The Salem-Keizer School District and the Salem-Keizer Transit District serve the site.

UTDC 205.005(d)(4): "The street system in and adjacent to the tentative partition plan conforms to the Salem Transportation System Plan."

General Circulation: The proposed partition will result in the creation of two parcels. Vehicular access to the proposed parcels will be taken from Warren Street to the north and Kurth Street to the west of the property. The existing streets will provide safe and efficient access to the parcels and the existing street system, by providing direct access to the site.

Boundary Streets: There are two streets abutting the subject properties, Warren Street, running along the north side of the property and Kurth Street running along the west side of the property. Boundary street improvements will be determined with and met by the Conditions of Approval at the time of development of the site.

Internal Streets: There are no internal public streets proposed or required in conjunction with the proposed partition.

Transportation Planning Rule Review:

The City of Salem's TPR encourages a reduction in automobile trips by capitalizing on transit opportunities and by creating an environment that encourages people to walk. The proposed partition is a "limited land use decision" pursuant to Oregon Revised Statute (ORS) 197.015, and has therefore been reviewed for consistency with the State's TPR multi-modal connectivity requirements, and is consistent as follows:

- (a) Mass Transit: The nearest transit service near the site is provided via Route 14 (Sunnyridge) on Kurth Street to the west of the site.

As an infill proposal, the transportation network in the area is already established or continuing to be established with new development. Connections to the existing system are provided by existing streets and access to serve the new parcels. The subject property, as proposed and conditioned, is served with adequate transportation infrastructure, and the street system adjacent to the property provides for safe, orderly, and efficient circulation of traffic into and out of the property.

The major street network in the area has been established and is consistent with the Salem Transportation System Plan which implements the Comprehensive Plan. Public Works Department will address any applicable requirements for right-of-way conveyance that might be required because of this partition.

Warren Street is a 'local' street and Kurth Street is a 'collector' street. Both streets provide connections to the street system that serves the area.

The partition is served with other adequate transportation infrastructure, and the street system adjacent the property will conform to the Salem Transportation System Plan and provide for safe, orderly, and efficient circulation of traffic into, through, and out of the subject property once the access ways are hard-surfaced and physically connected to the public street system.

UDC 205.005(d)(5): "The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition."

The major street network in the area has been established and is consistent with the Salem Transportation System Plan which implements the Comprehensive Plan. Public Works Department will address any applicable requirements for right-of-way conveyance that might be required because of this partition.

The partition is served with other adequate transportation infrastructure, and the street system adjacent the property will conform to the Salem Transportation System Plan and provide for safe, orderly, and efficient circulation of traffic into, through, and out of the subject property once the access ways are hard-surfaced and physically connected to the public street system.

UDC 205.005(d)(6): "The tentative partition plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable."

The subdivision code requires City approval of lots be suitable for the general purpose for which they are likely to be developed. No lots can be of such a size or configuration that is detrimental to public health, safety, or welfare or sanitary needs of users of the parcel or lot.

The partition plan takes into consideration the topography and vegetation of the site. There is one tree located within the boundary of the property. This tree will be removed.

The proposed lots are of sufficient size and dimensions to permit future development. The lot dimensions are illustrated on the tentative site plan and are in conformance to the minimum standards in UDC 510 and 511. The subdivision code regulates minimum lot sizes. Final conformance to minimum lot size and buildable lot area will be confirmed when the final plat is submitted to the City for review and approval.

The layout of the lots takes into consideration the topography and vegetation of the site. All lots and streets are in compliance with the UDC. Therefore, this criteria has been met.

UDC 205.005(d)(7): "The layout, size, and dimensions of the parcels within the tentative partition plan take into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will occur from the reasonable development of the parcels."

The subdivision code, requires City approval of lots be suitable for the general purpose for which they are likely to be developed. No lots can be of such a size or configuration that is detrimental to public health, safety, or welfare or sanitary needs of users of the parcel or lot.

The proposed parcels are of sufficient size and dimensions to permit future development of single family dwellings on the new parcels. The parcel dimensions are illustrated on the tentative site plan and are in conformance to the minimum standards in UDC 510 and 511. The subdivision and zone codes regulate minimum lot sizes. Final conformance to minimum lot size and buildable lot area will be confirmed when the final plat is submitted to the City for review and approval.

The existing single-family dwelling on Parcel 1 will remain. The existing single-family dwelling meets the setback requirements as shown on the site plan.

Parcel 1:
Front Setback-24'
Side Setback Along Warren Street-26'
Side Setback-11'
Rear Setback-29'

Tree Conservation Plan:

There are 15 trees located within the boundary of the property. All 15 trees are proposed for preservation. There are no significant trees located on the subject property.

This concludes the applicant's summary addressing the requirements of the code for partitioning approval to create two parcels. If you have any questions or need additional information, please call Brandie Dalton, Land-Use Consultant at Multi/Tech Engineering, Inc., Salem, OR at (503) 363-9227.



MEMO

TO: Olivia Dias, Current Planning Manager
Community Development Department

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

DATE: November 19, 2020

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS
PAR20-13 (20-108056)
4204 KURTH STREET S
2-PARCEL PARTITION**

PROPOSAL

To divide approximately 0.35 acres into 2 parcels in an RS (Single Family Residential) zone at 4204 Kurth Street S (Marion County Assessor's Map and Tax Lot number 083W09BB 10900).

RECOMMENDED CONDITIONS OF PLAT APPROVAL

1. The following conditions of approval shall be completed prior to final plat approval:
 - a. Convey land for dedication of right-of-way along Kurth Street S to equal 30 feet from the centerline, including a 25-foot radius at the intersection with Warren Street S.
 - b. Connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan.
 - c. Provide private sewer easement for new sewer service located on Parcel 2 to serve Parcel 1.
 - d. Obtain a permit for installation of a water service to serve Parcel 2.
 - e. Design stormwater systems to serve all proposed parcels in compliance with PWDS. The stormwater systems shall be tentatively designed to accommodate future impervious surfaces on parcel 2.
 - f. Provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main.

- g. Provide a 10-foot-wide public utility easement along the entire frontages of Kurth Street S and Warren Street S.
2. The following conditions of approval shall be completed prior to final plat approval, or delayed pursuant to an Improvement Agreement:
 - a. Construct a minimum 17-foot-wide half-street improvement along the frontage of Kurth Street S to Collector street standards.
 - b. Construct a minimum 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.
 - c. Construct stormwater facilities that are proposed in the public right-of-way.

FACTS

1. Kurth Street S
 - a. Standard—This street is designated as a Collector street in the Salem TSP. The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way.
 - b. Existing Conditions—This street has an approximate 30-foot-wide turnpike improvement within a 50-foot-wide right-of-way abutting the subject property.
 - c. Special Setback—The frontage of the subject property has a special setback equal to 30 feet from centerline of Kurth Street S.
2. Warren Street S
 - a. Standard—This street is designated as a Local street in the Salem TSP. The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way.
 - b. Existing Conditions—This street has an approximate 20-foot-wide turnpike improvement within a 60-foot-wide right-of-way abutting the subject property.

Storm Drainage

1. Existing Conditions
 - a. A 10-inch storm main is located in Warren Street S approximately 80 feet east of the subject property.

- b. A 12-inch storm main is located in the Kurth/Warren intersection. This main is not available to serve the entire development due to topographic constraints.

Water

1. Existing Conditions

- a. The subject property is located in the S-3 water service level.
- b. The existing water service to Parcel 1 is connected to a 6-inch S-3 water main located in Kurth Street S.
- c. An 8-inch S-3 water main is located in Warren Street S.
- d. A 12-inch S-2 water main is located in Kurth Street S. This main is not available to serve the proposed S-3 development.

Sanitary Sewer

1. Existing Sewer

- a. An 8-inch sewer main is located in Kurth Street S.
- b. An 8-inch sewer main is located along the east property line within the subject property. City records shows that the existing main is located within a public sewer easement that is narrower than required by PWDS.

CRITERIA AND FINDINGS

SRC 205.005(d) indicates the criteria that must be found to exist before an affirmative decision may be made. The applicable criteria and the corresponding findings are as follows:

SRC 205.005(d)(1)—The tentative partition plan complies with the standards of this Chapter and with all applicable provisions of the Unified Development Code, including, but not limited to the following:

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

Findings—The applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes* (ORS) and SRC. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), 672.060(4), *Oregon Administrative Rules* 850-020-0015(4)&(10), 820-020-0020(2), and 820-020-0045(5).

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

A 10-foot-wide public utility easement is required along the entire frontage of Kurth Street S and Warren Street S pursuant to SRC 803.035(n).

According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas.

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property.

SRC 205.005(d)(3)—Development within the tentative partition plan can be adequately served by City infrastructure.

Findings—Water and sewer infrastructure are available along the perimeter of the site and appear to be adequate to serve the property as shown on the applicant's preliminary partition plan. As specified in the conditions of approval, private water, sewer, and storm services shall be constructed to serve each lot as a condition of plat approval. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B).

An existing public sewer main is located along the east property line within the subject property. City records shows that the existing main is located within a 10-foot-wide public sewer easement where a 20-foot-wide easement is required by PWDS. Because the easement is located along the east property line, the developer is able only to convey land from within the development. The applicant shall provide additional public sewer easement on Parcel 2 where needed to equal a minimum of 10 feet between the west easement line and the center of the existing public sewer main. In addition, the applicant shall connect the existing dwelling on Parcel 1 to a new sewer service as shown on the proposed utility plan and provide a private sewer easement for the new sewer service located on Parcel 2 to serve Parcel 1.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. To demonstrate the proposed parcels can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit 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.

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

SRC 205.005(d)(4) and SRC 205.005(d)(5)—The street system in and adjacent to the tentative partition plan conforms to the *Salem Transportation System Plan*. The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

Finding—Kurth Street S abuts the subject property and does not meet the current standard for a Collector street. Pursuant to SRC 803.040, the applicant is required to construct a minimum 17-foot-wide half-street improvement and convey land for dedication of right-of-way to equal 30 feet from centerline along the entire frontage of Kurth Street S.

Warren Street S abuts the subject property and does not meet the current standard for a Local street. Pursuant to SRC 803.040, the applicant is required to construct a minimum 15-foot-wide half-street improvement along the entire frontage of Warren Street S.

The existing street system is adequate to provide for the safe, orderly, and efficient circulation of traffic for the proposed development. Construction of facilities in the right-of-way is required prior to final plat except as authorized in an improvement agreement per SRC 205.035(c)(7)(B).

Prepared by: Jennifer Scott, Program Manager
cc: File

Kurth Street PAR 20-13 Appeal

BACKGROUND:

On November 19, 2020, the decision for Partition Case No. 20-13 was approved by the Planning Administrator with eleven (11) Conditions of Approval.

The applicant partition was Todd Dollinger and the applicant's representing agent was Brandie Dalton, Land-Use Planner. Therefore, the applicant and the applicant's representative have standing to appeal the PAR 201-3 decision.

APPEAL ISSUES:

The applicant is appeal Conditions 6 and 7:

Condition 6: Obtain an improvement agreement or construct a minimum of 17-foot-wide half street improvement along the frontage of Kurth Street S to Collector street standards.

Condition 7: Obtain an improvement agreement or construct a minimum of 15-foot-wide half-street improvement along the frontage of Warren Street S to Local street standards.

Applicant Response:

The proposed partition is to divide 0.35 acres into two parcels. Conditions 6 and 7 are no proportional to the impacts of the proposed two parcel partition. Both those conditions are expensive and timely for such a small partition. Conditions 6 and 7 are extreme conditions and do not flow with Housing Needs within the State of Oregon.

Therefore, the applicant is appealing the PAR 20-13 decision and requesting Conditions 6 and 7 be eliminated.



LAND USE APPEAL APPLICATION

1. **GENERAL DATA REQUIRED** (to be completed by the appellant)

PAR201-3 **November 19, 2020**
 Case # Being Appealed Decision Date
4204 Kurth Street SE
 Address of Subject Property
648 Rural Avenue S, Salem, Oregon 97302
 Appellants Mailing Address with zip code
tdwine1@gmail.com **503-931-3965**
 Appellant's E-mail Address Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

Brandie Dalton 1155 SE 13th Street, Salem, OR 97306
 Name Mailing Address with ZIP Code
bdalton@mtengineering.net **503-363-9227**
 E-Mail Address Day-time Phone / Cell Phone

2. **SIGNATURES OF ALL APPELLANTS**

Signature: *Todd Dollinger* Date: 12/1/2020
 Printed Name: Todd Dollinger
 Signature: *Audrey Dollinger* Date: 12/1/20
 Printed Name: Audrey Dollinger


3. **REASON FOR APPEAL** Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY		
Received By: _____	Date: _____	Receipt No _____
Appeal Deadline: _____	Case Manager: _____	



MEMO

TO: Olivia Dias, Current Planning Manager
Community Development Department

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

DATE: January 4, 2021

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS
APPEAL OF PAR20-13 (20-108056)
4204 KURTH STREET S
TWO-PARCEL PARTITION**

PROPOSAL

To divide approximately 0.35 acres into 2 parcels in an RS (Single Family Residential) zone at 4204 Kurth Street S (Marion County Assessor's Map and Tax Lot number 083W09BB 10900).

MODIFIED CONDITIONS OF PLAT APPROVAL

1. Modify Condition 6 to read as follows:

Obtain an improvement agreement for, or construct street trees to the maximum extent feasible along the entire frontage of Kurth Street S, and a curb ramp along the west side of Kurth Street S opposite the property line sidewalk being constructed under Condition 7.

2. Modify Condition 7 to read as follows:

Obtain an improvement agreement for, or construct a 5-foot-wide property line sidewalk and street trees along the frontage of Warren Street S.

FINDINGS

Kurth Street S abuts the subject property and does not meet the current standard for a Collector street. Warren Street S abuts the subject property and does not meet the current standard for a Local street. The original decision required right-of-way dedication along the frontage of Kurth Street S and half-street improvements along the frontage of both Kurth Street S and Warren Street S pursuant to SRC 803.040. The applicant appealed those conditions of approval because of proportionality considerations.

In conjunction with filing the appeal, the applicant has initiated discussions with Public Works staff regarding available options for mitigating transportation impacts along both Kurth Street S and Warren Street S. The proposed partition generates a limited vehicular impact, approximately 10 additional vehicle trips per day on the transportation system. Both Warren Street S and Kurth Street S have sufficient width to accommodate two-way vehicular traffic. Warren Street S lacks pedestrian facilities, and Kurth Street S includes a sidewalk on the west side of the street.

Pursuant to Public Works Department Policy GM4-11, the applicant's proportional dedication of right-of-way along the frontage of Kurth Street S is limited to 4 feet. The applicant's engineer has demonstrated that improvements (with the exception of street trees to the maximum extent feasible) along the east side of Kurth Street S are cost-prohibitive because of topography and utility conflicts and are not proportional to the impacts of development. In lieu of improvements, the applicant has proposed to provide street trees to the maximum extent feasible and convey approximately 10 feet of land along Kurth Street S to meet the Collector street standard of 30 feet.

The applicant has proposed construction of a property line sidewalk along the entire frontage of Warren Street S, including a curb ramp on the west side of Kurth Street S. This property line sidewalk and curb ramp improves pedestrian safety commensurate with the transportation impacts of the proposed development.

With the mitigating improvements above, the existing street system is adequate to provide for the safe, orderly, and efficient circulation of traffic for the proposed development pursuant to SRC 205.005(d)(4) and SRC 205.005(d)(5).

Prepared by Jennifer Scott, Program Manager
cc: File

Good day,

My name is William Davis and I am writing on behalf of the Sunnyslope Neighborhood Association in regards to the appeal for a lot partition at 4204 Kurth St S, Salem, OR 97302. Our position is that the appeal does not demonstrate sufficient grounds to overturn the ruling of the planning administrator and that Condition 6 and Condition 7 ought to be upheld.

There is no written evidence provided by the applicant that demonstrates how the Uniform Transportation Development Code 205.005(d)(4) is “extreme,” or that obtaining a street improvement agreement is “extreme.”

In their own application, on page 3 dated May 5, 2020, the applicant states that, “the street system adjacent the property will conform to the Salem Transportation System Plan and provide for safe, orderly, and efficient circulation of traffic into, through, and out of the subject property once the access ways are hard-surfaced and physically connected to the public street system.” The applicant also states on that same page that, “Boundary street improvements will be determined with and met by the Conditions of Approval at the time of development of the site.” The applicant’s statements then seem reasonable and concurrent with standards of development as codified in the UTDC, though seven months later the applicant now contends that their own applications stated position is extreme.

It should also be noted on page 3 of the original land use application, that the applicant states that transit service is adjacent to the site on Kurth street, however the nearest transit stop is on Liberty street in front of Roth’s

(Route 8 and Route 18), approximately 6/10ths of a mile from the intersection of Warren street and Kurth street. Route 14 that is stated in the application to serve the property, actually serves Windsor Island in Keizer.

Furthermore, on May 20th, 2020 in the City's review of the original land use application, the applicant was directed to address SRC 803.040 for both Kurth Street and Warren Street, so this requirement is not at all news to the applicant with this land use decision of the administrator. SRC 803.040(a)(2) provides that, "...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]: Partitions." As well, SRC 803.040(b) states that a, "Three-quarter street improvement [is required] 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."

A half street improvement on Kurth street on the property frontage would seem to be sufficient to meet this standard, though on Warren street it seems like it'd be pretty close still with only a half-street improvement. If you're coming up to the property from the East on Warren street, the road narrows next to a row of large street trees just before reaching the property frontage, presumably for the health of the large trees. The result is a very narrow portion of Warren street along the property frontage that likely couldn't be widened much on the other side of the street for the health of the trees. With the high value we place on street trees, I've included a few photos to show how narrow Warren st is along the property frontage and why it narrows on the opposite side of the street. (photo on the next page)

(directly below: looking East on Warren street, property to the right of frame)



(photo on the next page)

(Directly below: Looking West on Warren street, property directly next to the sedan in street)



(photo on the next page)

(Directly below: looking East on Warren St, property out of frame, and showing where street narrows and why)

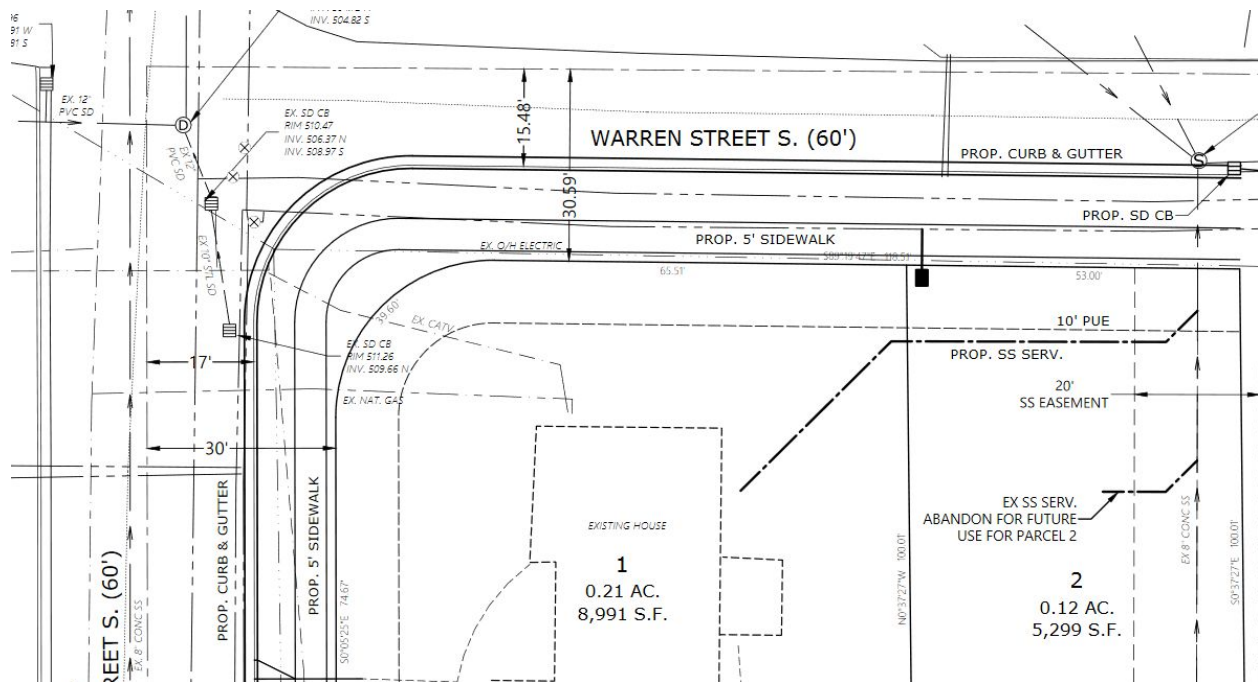


The narrow portion of Warren Street spans the entirety of the property frontage for this proposed development. The applicant's appeal includes a proposed site plan. To put a curb and gutter directly next to the narrow portion of Warren Street would not allow for:

1. Two lanes of traffic that are twelve feet wide as required by SRC and UTDC, for the site plan states that it will be little more than fifteen feet in total street width adjacent to the property.

(photo on next page)

(directly below: site plan from appeal submission by applicant)



2. A parcel or food service delivery truck that doesn't block the entire street, for if there is a curb, an 8ft wide truck is going to make the car drive in the neighbors yard to get by it.
3. A place to park a garbage can, while a garbage, commingled recycling, glass recycling, and yard debris truck is also going to block the entire road.
4. A place to park a car for a birthday party or barbeque, again without parking in the neighbors yards or blocking the street that will not be two lanes wide.

This is not a neighborhood where on-street parking is available around the block either for a service vehicle, friend, or family. Kurth Street just North of Warren Street is more narrow than Warren Street in it's most narrow section, as the City of Salem Public Works measured Kurth Street at 13ft in width within the last year. Providing at least the minimum level of a half street improvement directly adjacent to the property seems like a

reasonable expectation to comply with the UTDC & Salem TSP as the applicant claimed they would in their original application, and even that requirement carries the option for obtaining an improvement agreement in lieu if the planning administrator's decision is upheld.

The only other written element brought up in this appeal by the applicant is that, "Conditions 6 and 7 are no proportional to the impacts of the proposed two parcel partition. Both those conditions are expensive and timely for such a small partition." (sic) Also of note, at the bottom of page one in the appeal dated September 4, 2018, is the subtitle: "Boone Road Appeal #6640," which both the date and title seems to be erroneous from a previous document created by Multi-tech Engineering? Regardless, moving along, in this brief assertion there appear to be two parts: proportionality and costs.

In regards to costs, the engineering firm of the applicant, Multi-tech Engineering, argued at length for limits on call-ups and appeals as they are immensely costly, adding as much as \$150,000 to a development, as stated in testimony before a Salem City Council Meeting on January 27th, 2020, at 2:05:26-2:22:00 on the video recording of the meeting.

As well, in regards to costs, the home on the lot according to Zillow is far below market value of adjacent lots, with an estimated market value of \$235,298 or \$158.13 per square foot, whereas the two houses just south are both smaller and carry estimated values of \$321,059 (\$242.67 per sq ft) and \$312,244 (\$254.89 per sq ft) respectively. These lots are similar in size, have two bathrooms, 3-4 bedrooms, similar age and exterior condition, and the price difference is the value without an approved partition for another lot of buildable land. The \$100 price reduction per sq ft suggests two things: the property owner already got a major bargain on the land, as well as that the house probably isn't in great shape inside. As well, as shown in the photo on page 3 of this testimony, the t-posts that are holding up the galvanized fence adjacent to Warren Street

also suggest that upkeep of the property may not have been a huge priority. The argument here is that if the cost of improving the street is \$3.37 per square foot as Paving Pro Matcher states, the cost of providing the entire 15ft and 17ft requirement in pavement along the property frontage (ignoring the existing pavement already on the applicants half of the street to account for costs in sidewalks, ADA requirements, etc) it'd be an outlandish \$13,000 dollars as a worst case, not happening option, as the applicant wouldn't pave more than is required, and most the street width is already there. It is hardly a cost that will not be recovered in renewal and development with twice the density, even as single family homes.

Even as bare land, according the Marion County Assessors, 0.16 acres right across Warren St from the subject property is worth \$85,000 as bare land, meaning this partition would do little to lower the value of of an extremely undervalued original property for the neighborhood as a 9000sq ft lot with a home on it, but would add approximately \$80,000 in additional value to the land holdings with the 5000 square foot partition.

Furthermore, if this partition were approved without any street improvements, the applicant could decide to continue partnering with Multi-tech Engineering and utilize the new HB2001 initiated "Middle Housing" Oregon Administrative Rules just settled in December's meeting of the Land Conservation and Development Commission, that will soon be published and available in its final format; according to the video record of the meeting, little changed from the draft available at the following link:

https://www.oregon.gov/lcd/Commission/Documents/2020_12_Item-2-Attachments%20B_OAR%20660_046.pdf

Throughout the LCDC hearings on "middle housing," central to the discourse was the strict enforcement that cities **must** plan for middle housing "in areas" of single family zoning as directed by HB 2001, which soon became--to at least this writer--every area physically possible to allow three and four plexes,

townhouses with a 1500 square foot lot maximum, and cottage clusters of an unlimited number of units as long as they met the minimum design standards, all with a maximum parking requirement of 1 space on site, and less in certain conditions. Most all existing density standards and lot coverage maximums are voided by the new “middle housing” OARs. If a city would like to adopt any different minimum standards than the OARs, they must still allow:

1. Duplexes on 100% of lots
2. Triplexes on 80% of lots
3. Townhouses on 60% of lots
4. Cottage Clusters on 70% of lots

The underlying problem this creates is that no longer is single-family zoning simply a single-family home that carries with it the proportionality of one home. A city **must** plan for “middle housing” densities as it can no longer regulate where larger densities are located in single family neighborhoods. As a result of this statewide, legislative mandate, it carries with it a far different consideration for proportionality under the relevant case law as it is not just the will or whim of a municipality that may pass an actual “extreme” measure, rather than the reasonable UTDC and SRC codes for a half street improvement or other agreement in lieu. Instead, this state rule making changes the lens of proportionality in a way that--in my lay person’s reading of relevant case law discourse--is not very likely to be thrown out in a lawsuit by a higher court as it is state law mandating the municipalities planning decisions.

HB2001 would easily allow a fourplex permitting on the 9000 square foot lot without any further public input, although the larger density of a cottage cluster of an unknown size, six or as many as eight could readily be possible, that again would carry with it no further public input, comment or concern. The 5000 square foot lot could easily receive a tri-plex permit as a minimum under HB2001, possibly a cottage cluster as well. So, the point here is that this partition may end up being easily eleven units on these two lots, with a minimum of seven units if

chosen to be developed under HB2001, “at a later date” as stated by the applicant. The LCDC has been very clear, the city **must** plan for “middle housing.” Sunnyslope Neighborhood Association believes that the planning administrator’s decision should be upheld, as an absolute minimum.

Respectfully,

William Davis writing for

Sunnyslope Neighborhood Association