

TO: Planning Commission

FROM: Olivia Dias, Current Planning Manager for
Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director and
Planning Administrator

DATE: August 10, 2021

SUBJECT: **Tentative Subdivision and Class 2 Adjustment No. SUB-ADJ21-05 – 2230
Doaks Ferry Road NW; Open Record**

On July 20, 2021, the Planning Commission held a public hearing to consider an appeal of the Planning Administrator's Approval of a Tentative Subdivision and Class 2 Adjustment (Case No. SUB-ADJ21-05) for property located at 2230 Doaks Ferry Road NW. The hearing was closed, and the Planning Commission voted to approve the application.

After reviewing the July 20, 2021 Planning Commission meeting, it was determined that new testimony may have been presented during the applicant's final rebuttal, regarding a map on the Glenn Gibson Watershed website. The record for Case No. SUB-ADJ21-05 was opened to provide an opportunity to submit written rebuttal testimony on evidence that was presented during the applicant's rebuttal portion of the Salem Planning Commission meeting. Testimony was strictly limited to rebuttal of the applicant's display of the Glenn Gibson Watershed Council map and applicant's testimony concerning it as identified in the YouTube link sent to those parties who participated.

Parties had until August 5, 2021 at 5:00 p.m. for anyone to submit additional written testimony. The applicant had until August 12, 2021 at 5:00 p.m. to submit final written rebuttal.

In addition, comments and written testimony entered into the record on July 20, 2021 was sent to the Planning Commission on July 29, 2021 for review. This included the following documents;

1. July 20, 2021 email from E.M. Easterly with attachment – Submitted during the hearing on July 20, 2021, but not previously provided to the commission.
2. Emails from E.M. Easterly – regarding procedural issues.
3. Emails from/to City Attorney, E.M. Easterly, Steve Anderson, et.al. – regarding procedural issues (two attachments).

Three comments were submitted during the open record period for the application, ending August 5th, 2021. The rebuttal (**Attachment A**) are from West Salem Neighborhood Association (Appellant), Glenn Gibson Creek Watershed Council (Appellant), EM Easterly and Linda Bierly.

The applicant's written rebuttal is due to city staff by 5:00 p.m. on August 12, 2021 and will be forwarded to the Planning Commission and those who submitted rebuttal testimony.

The Planning Commission should take action on the Order and Facts and Findings from the July 20, 2021 hearing. At the July 20, 2021 public hearing the Planning Commission voted to modify the Planning Administrator's decision and approve the applications. The Order No. SUB-ADJ21-05 and the supporting Facts and Finding are included as **Attachment B**, which should reflect all written and oral testimony and written and oral rebuttal.

Staff Recommendation:

Staff recommends that the Planning Commission ADOPT Order 2021-05 and Facts and Findings approving the Tentative Subdivision and Class 2 Adjustment requests.

Attachments:

- A. Comments submitted during open record
- B. Order SUB-ADJ21-05



Glenn - Gibson Watershed Council

August 3, 2021

During the July 20, 2021 City of Salem Planning Commission the applicant (Mr. Mark C. Hoyt) for Case No. SUB-ADJ21-05 for 2230 Doaks Ferry Road NW displayed a screen shot of an image from the Glenn Gibson Creeks Watershed Council website and testified as to it's relevance to the proposed decision by the Planning Commission.

Background

Mr. Mark Hoyt suggested that because the large-scale aerial photographic image on the watershed council website affirmed his view there were no waterways other than the mainstem of Wilark Brook. I would like to provide some perspective based on my personal knowledge and experience in Local Wetland Inventories and stream mapping.

The entire reason for Local Wetlands Inventories was to prevent the situation brought to light in this application. Reliance on the National Wetlands Inventory simply is too large a scale (such as the image provided by Mr. Hoyt) to provide good information for site planning or for effective land use planning decisions. The image on the Watershed Council website is not determinative of anything but the lack of detail available from generic sources that cover large areas and the need for detailed information for site planning purposes.

Remaining Concern

Mr. Hoyt was accurate in that for the purposes of SRC 808 (Preservation of Trees and Vegetation), SRC 808.005 defines a "waterway" for the purposes of the City code to protect riparian areas. The definition includes those waterbodies "as designated by the director" of Public Works. There is however a broader issue associated with the requirements of SRC 205.010 (8) and (9) that the subdivision "takes into account the topography and vegetation of the site" to result in the "least disruption of site topography and vegetation". Mr. Hoyt testified that there were tributary drainages to Wilark Brook (Salem Planning Commission recording at 2:04:17 to 2:05:45). I have walked the property and have documented by personal observation that there are two tributary streams flowing into Wilark Brook.

Simply because the tributary streams are not designated by the Public Works director does not relieve the City from finding that the development proposal to affect riparian vegetation (actual vegetation, not just the area designated around City identified "waterways"). The proposed development plan includes a building envelop (Lot 6) across the west side tributary. As shown on the presentation from the Watershed Council (power point slide 9). If the lot is developed as proposed there will be direct impacts to the tributary and subsequent effects on Wilark Brook. City Code at SRC 65.070. States "

- (a) No fill shall obstruct a natural drainage course unless provisions for an alternative drainage method are made and approved by the Oregon Division of State Lands and the Director".

It is difficult to see how the current proposal meets the requirement of "least disruption of site topography and vegetation" or the prohibition on filling in "natural drainages".

It is also important to understand that the Removal Fill Law of Oregon applies to all "waters of the state", not simply wetlands. Had the Local Wetlands Inventory process been completed for all properties in the City there is a high likelihood that the tributaries would have been identified as

streams capable of being designated “waterways” by the Public Works director. Our argument is that impact of the development plan and proposed subdivision should consider all features of the site. Placing building envelopes within watercourses and permitting direct discharges to a waterway do not meet the standard of “least disruption”.

Ken Bierly, Chair
Glenn Gibson Creeks Watershed Council

To: City of Salem Planning Commission

Re: Open Record / Written Rebuttal Opportunity

Fr: Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

Written Rebuttal to Applicant's introduction of new evidence into the hearing before the Planning Commission during his rebuttal to the testimony in the appeal of the Planning Administrator's approval of **Case No. SUB-ADJ21-05 (2230 Doaks Ferry Rd NW)**

Heart of the Matter

At issue is the approval of the Planning Administrator's decision to allow conflicting Goal 5 uses (building lots and removal of vegetation/trees) within the riparian buffer area of Wilark Brook and its tributaries. This decision is contrary to State of Oregon laws and regulations. Specifically, it does not ensure the protection of Goal 5 resources by local governments.

The unique elements of this tentative subdivision decision are:

- the Planning Administrator's affirmation, and
- the Planning Commission's affirmation

allowing building sites and the removal of vegetation/trees (lots 6, 8, 9 & 12) within the 50-foot riparian corridor of Wilark Brook and its tributaries contrary to State of Oregon laws and regulations (though Mr. Hoyt testified that there were very few trees to be removed as evidence this removal is acceptable).

Mr. Hoyt's Rebuttal Testimony

Mr. Hoyt asserts that there are **no waterways** to Wilark Brook citing SRC 808.005. This "waterways" designation is a procedural matter dependent upon the action of the Salem Public Works Director to so designate. Absences this action, Mr. Hoyt asserts that Wilark Brook and its tributaries are not eligible to have a riparian corridor. No evidence offered as to how this supersedes, if at all, the local government's obligation under State of Oregon laws and regulations to protect the Goal 5 resources of Wilark Brook and its tributaries, waters of the state. In fact, evidence offered per Bryce Bishop's testimony (Salem Planning Department) in a June 2021 workshop of the Salem Planning Commission was that the City of Salem is currently not in compliance with its Goal 5 obligations (Note: this currently part of the testimony and record in this case). This ignoring here of their statutory responsibility as local government to ensure the protection of the Goal 5 resources within the riparian corridor buffer area of Wilark Brook and its tributaries does not correct this Goal 5 non-compliance matter; it only adds additional non-compliance to it.

The reliance upon the SRC 808.005 citation is at best weak evidence to state that the Goal 5 resources of Wilark Brook and its tributaries do not qualify for protection (absent this waterway designation decision from the Salem Public Works Director). There are eyewitness observations and testimony of the existence of flowing water and streamside riparian vegetation in the tributaries to Wilark Brook. This is an especially important presentation of facts as these observations were made in June of this year, a drought year. Even Mr. Hoyt

testified that geological depressions on the site **do funnel water** into Wilark Brook. He acknowledged that water does flow from tributaries into Wilark Brook.

Why is this important? The introduction of the existence of flowing water and streamside riparian vegetation in Wilark Brook and its tributaries evokes and affirms the need of local government obligations to affirm compliance with all State of Oregon laws and regulations (particularly Oregon Administrative Rules, all of Chapter 660 Division 23 *Procedures and Requirements for Complying with Goal 5* including OAR 660-023-0090 *Riparian Areas*). The applicant has offered no evidence as to this compliance. They have introduced no investigations, inventories, and categorization as to quantity and quality of Goal 5 resources at the site. All necessary to prove their compliance with applicable State of Oregon laws and regulations.

Mr. Hoyt seeks a dismissal of this local government obligation and applicant's burden of proof on a procedural issue (lack of a determination by the Salem Public Works Director). This is not supportable. Specifically, using this procedural argument as justification to not have to comply with the State of Oregon definition of a stream, a higher regulatory requirement directly applicable here for determining the local government obligations to ensure protection of the Goal 5 resources of Wilark Brook and its tributaries.

OAR 660-023-0090(1)(e) *Stream flowing surface water including perennial streams and intermittent streams with defined channels*

And in,

OAR 660-23-0090(4) Riparian Areas, we find this:

(4) When following the standard inventory process in OAR 660-023-0030, local governments shall collect information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors.

Please note that “local governments **shall collect information** regarding all water areas, fish habitat, riparian areas, and wetlands **within the riparian corridors.**”

The local government **has an obligation** to determine the precise location of riparian areas, quality and quantity of Goal 5 resources located in the riparian areas before it can proceed to address specifically this local permit application requesting permits to locate building lots within the 50-foot riparian corridor of Wilark Brook and its tributaries and removal of vegetation/trees there in, specifically lots 6, 8, 9 and 12.

No evidence offered demonstrating that the **water areas** of Wilark Brook and its tributaries received the required attention. Without such investigative work and evidence, including the specific identification of the precise riparian area of Wilark Brook and its tributaries, quantity, and quality of these Goal 5 resources, there is substantial lack of evidence in this

case. No affirmative statement as to the protection of the Goal 5 resources of Wilark Brook and its tributaries is legally possible.

The Planning Administrator's decision specific designation of building sites and removal of vegetation/trees alongside Wilark Brook and its tributaries, which are identified water areas per OAR 660-023-0090(1)(e) *Stream*, brings a level of uncertainty and lack of evidence as to this decision's compliance with all City codes and State laws and regulations. This bears thoughtful consideration by the Salem Planning Commission.

As there is no evidence offered to affirm that the local government has met its obligation to protect the Goal 5 resources of Wilark Brook and its tributaries, or that the applicant's proposed tentative subdivision plan will protect the Goal 5 resources of Wilark Brook and its tributaries, no affirmative Planning Commission decision can legally be made. Until these Goal 5 deficiencies are corrected, the Planning Administrator's decision should not be affirmed.

- The applicant has not met their burden of proof.
- There is no evidence of how the Goal 5 resources of Wilark Brook and its tributaries can be protected by approval of this tentative subdivision and its provisions to site building lots in, and remove vegetation/trees, within the 50-foot riparian corridor.
- Therefore, there is no legal basis for the Salem Planning Commission to approve the Planning Administrator's Record of Decision.

The subdivision, as currently proposed, does however:

- Allows conflicting Goal 5 uses and activities within the riparian corridor of Wilark Brook and its tributaries.
- Does Not protect Goal 5 resources within the riparian corridor of Wilark Brook and its tributaries.
- Does Not comply with State of Oregon law and regulations protecting Goal 5 resources.
- Confirms Bryce Bishop (City of Salem Planning Department) testimony to the Planning Commission that the City of Salem is not in compliance with its local government Goal 5 obligations.
- That it will continue this City of Salem Goal 5 issue of non-compliance, if approved, counter to Salem's local government obligation to protect the Goal 5 resources of Wilark Brook and its tributaries.

Concluding thoughts and Remarks

There is overwhelming evidence that the applicant has not met their burden of proof to affirm and document that the proposed subdivision will protect Goal 5 resources at the site, including Wilark Brook and its tributaries, in compliance with State of Oregon laws and regulations.

The West Salem Neighborhood Association has offered compelling evidence that Mr. Hoyt's introduction of new evidence in his rebuttal testimony has not met the standard within State of Oregon laws and regulations for the protection of the Goal 5 resources of Wilark Brook and its tributaries.

We respectfully request the Salem Planning Commission to deny the Planning Administrators Record of Decision until at such time that these lack of Goal 5 resources protections for Wilark Brook and its tributaries are remedied.

Please consider seriously your obligation regarding approval of this tentative subdivision application. Is your affirmation decision based upon evidence demonstrating compliance with State of Oregon laws and regulations and your obligations under state law?

Simply, the preponderance of evidence supports not approving / allowing the location of building lots and the removal of vegetation/trees within the 50-foot riparian corridor of Wilark Brook and its tributaries (lots 6, 8, 9 & 12).

Thank you.

From: Linda Bierly, Ward 8

Attn: ODias@cityofsalem.net

To: City of Salem Planning Commission

Re: Open Record / Written Rebuttal Opportunity - Case No. SUB-ADJ21-05 for 2230 Doaks Ferry Road NW

Written Rebuttal to Applicant's introduction of new evidence into the hearing before the Planning Commission during his rebuttal to the testimony in the appeal of the Planning Administrator's approval of **Case No. SUB-ADJ21-05**

Response to Mr. Hoyt's rebuttal testimony:

During the appeal hearing before the Planning Commission, Mr. Mark C. Hoyt, spokesperson for the applicant, makes the point during his rebuttal that while land contours exist that drain to Wilark Brook, these do not constitute waterways because they do not meet the definition of a waterway as stated in SRC 808.005. He buttresses his statement by citing the Glenn and Gibson Creek's own map used on their website that does not identify these tributaries.

While he is correct that these waterways are not labeled on the website map, this is due to (a) map scale, and (b) the site's non-inclusion in the Salem Local Wetland Inventory, not lack of existence. These streams exist and function in the Wilark Brook system and they and their riparian corridors need to be protected, not to be defined out of existence.

I have seen, felt, and waded in these waterways on two occasions during the driest June on record in a drought year. It would be difficult to convince the average person viewing these streams that these two streams flowing into Wilark Brook are not waterways. At this stage in the watershed, all these streams are about the same size. It is only by wading down Tributary A until it flows into Wilark Brook that it becomes clear that this is a tributary stream and not Wilark Brook itself. Following Wilark Brook after the confluence with Tributary A for a short distance, the confluence of Tributary B and Wilark Brook is encountered.

The Glenn and Gibson Creek Watershed Council's written testimony has included photographs of these two streams and their riparian corridors to document their characteristics.

Further, these tributaries are part and parcel of Wilark Brook. From the time they enter Wilark Brook, they determine the characteristics of the creek. The temperature and chemical signature of these streams are unique, and they will influence Wilark Brook. This is how fish find and return to their place of origin to spawn. These tributary streams affect the main stem of Wilark Brook for better or for worse. Changes to the streams will change Wilark Brook. The health of these tributary streams and their riparian corridors are necessary for the health of Wilark Brook. Just as peripheral human circulation is crucial for the health of the entire organism, so it is with riverine systems.

Resolution of Case No. SUB-ADJ21-05 should not move forward until this issue is resolved.

Even if the tributaries are not yet officially acknowledged by the Public Works Director, by Mr. Hoyt's admission during his rebuttal, they are watercourses that channel water into Wilark Brook. By doing so, they become part of the City of Salem's stormwater system. From the applicant's information, it is

unclear how the runoff from the lots not channeled into the detention basin will comply with SRC 802.030 Watercourses¹

or meet the City's stormwater design standards² and erosion control design standards³.

Thank you,

Linda Bierly, Ward 8

¹ Sec. 802.030. - Watercourses.

(a) Any modification to a watercourse shall conform to SRC chapter 601 and the Public Works Design Standards.

(b) Public improvement and maintenance easements for watercourses may be required. The easements shall, at a minimum, extend 15 feet in each direction from the waterway centerline, ten feet from the top of a recognizable bank, or a sufficient width to pass ten-year flood flows or to accommodate the 100-year floodway on a FEMA regulated stream, whichever is greater. Such easements shall be of a width sufficient to allow both initial improvements and future maintenance and operations. Larger widths may be required.

² <https://www.cityofsalem.net/CityDocuments/pw-standard-plans200.pdf>

³ <https://www.cityofsalem.net/CityDocuments/pw-standard-plans900.pdf>

To: Salem Planning Commission
From: E.M. Easterly, Ward 8
Re: Surrebuttal Mark Hoyt July 20th rebuttal testimony
Date: August 04, 2021

Via: odiaz@cityofsalem.net

Submitted in response to Mr. Mark Hoyt's July 20th rebuttal testimony and the legal consequences of his declaration regarding the absence of a Salem Public Works Director "waterway" designation, for Wilark Brook and tributaries, I invite the Salem Planning Commission to review and consider water related terminology within the Salem Revised Code. See Appendix A.

Consistent with the State of Oregon definitions the Salem Revised Code affirms the following:

"Waters of the State means the receiving streams or *waters*, which are contained within, flow through, or border upon the State, or any portion thereof, including, but not limited to, all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of *water*, surface or underground, natural or artificial, public or private."

CHAPTER 74. - PRETREATMENT PROVISIONS
Sec. 74.030. - Definitions.

The two underlined synonym terms are further defined in the Salem Revised Code. Two slightly different definitions are offered for waterways. Watercourse is defined but once.

"Waterway means any perennial river, stream, or creek within the City designated by the Director."

CHAPTER 65. - EXCAVATIONS AND FILLS
Sec. 65.020. - Definitions.

"Waterway means any river, stream, or creek within the City, designated by the Director."

CHAPTER 75. - EROSION PREVENTION AND SEDIMENT CONTROL
Sec. 75.020. - Definitions.

"Waterway means any river, perennial stream, or creek within the City as designated by the Director."

CHAPTER 808. - PRESERVATION OF TREES AND VEGETATION
Sec. 808.005. - Definitions.

"Watercourse means the route, up to and including the top of bank, formed by natural processes or constructed by humans, generally consisting of a channel with a bed, banks, or sides, in which water flows. By way of illustration, but not of limitation, as used in this *chapter*, watercourse includes perennial and intermittent streams and creeks, swales, drainage ditches, and culverts. As used in this *chapter*, watercourse does not include the Willamette River."

CHAPTER 802. - PUBLIC IMPROVEMENTS
Sec. 802.005. - Definitions.

With the exception of the Willamette River the Salem "watercourse" definition appears to parallel the "waters of the state" definition. In contrast, Salem "waterway" is a procedural designation dependent upon an act by the Public Works Director. Apparently, no watercourse is a waterway until so designated by the Salem Public Works Director. That being the case, Mr. Hoyt testified during his July 20th rebuttal testimony that Wilark Brook tributaries had not been identified as "waterways" by the Salem Public Works Director raises several questions. For example, it is not clear from Mr. Hoyt's testimony why watercourses are not riparian corridor

eligible or whether Wilark Brook within the 2230 Doaks Ferry NW site was ever designated a waterway by the Director even though throughout the July 13th report staff repeatedly assumes that the Director has designated Wilark Brook a “waterway”.

This latter issue can easily be resolved by the Salem Public Works Director providing historical written evidence to the Planning Commission that he or his predecessors did designate, in compliance with the requirements of OAR 660-23-0090, Wilark Brook a “waterway”. It seems the waterway designation was adopted in conjunction with the initial Salem Local Wetlands Inventory process that did not include the 2230 Doaks Ferry property.

Absent evidence that the Public Works Director has designated Wilark Brook and any other watercourses within the SUB-ADJ21-05 site “waterways”, the designation of a riparian corridor along Wilark Brook is premature. The Salem Unified Development Code definition of a “riparian corridor” restricts its application to waterways.

“Riparian corridor means the area adjacent to a *waterway*, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.”

CHAPTER 111. - DEFINITIONS
Sec. 111.001. - Definitions, generally.

The complexity associated with the Salem procedural separation of watercourses and waterways and the subsequent limitation of restricting riparian corridors to “waterways” is further exasperated by the apparent interchangeable use of the two terms in SRC 802.030.

“(a) Any modification to a watercourse shall conform to SRC chapter 601 and the Public Works Design Standards.

(b) Public improvement and maintenance easements for watercourses may be required. The easements shall, at a minimum, extend 15 feet in each direction from the waterway centerline, ten feet from the top of a recognizable bank, or a sufficient width to pass ten-year flood flows or to accommodate the 100-year floodway on a FEMA regulated stream, whichever is greater. Such easements shall be of a width sufficient to allow both initial improvements and future maintenance and operations. Larger widths may be required.”

CHAPTER 802. - PUBLIC IMPROVEMENTS
Sec. 802.030. - Definitions.

Nowhere in the Planning Administrator's post July 20th proposed findings is reference to the issue of waterways versus watercourses. The overlap of the two terms is highlighted in 802.030(b) cited above. Watercourses may be designated as waterways, but for the Public Works Director to effectuate such a decision he/she must first know whether there are watercourses within the proposed SUB-ADJ21-05 development site. The Record of Decision assumes Wilark Brook is a waterway. However, no evidence, only assumptions has been provided that the Salem Public Works Director has in the past designated Wilark Brook a “waterway”.

The record and Mr. Hoyt's testimony confirm that the applicant did not provide watercourse evidence in the 2230 Doaks Ferry subdivision application.

Absent a determination by the Public Works Director that Wilark Brook and its tributaries are or are not waterways as stipulated in SRC 802.030, there is no legal basis for the Salem Planning Commission to approve the Planning Administrator's Record of Decision affirming a riparian corridor designation and/or the accuracy of that designation within SUB-ADJ21-05.

BEFORE THE PLANNING COMISSION OF THE CITY OF SALEM

**IN THE MATTER OF APROVAL OF) ORDER NO. SUB-ADJ21-05
CONSOLIDATED TENTATIVE)
SUBDIVISION AND CLASS 2) TENTATIVE SUBDIVISION AND
ADJUSTMENT CASE NO. SUB-) CLASS 2 ADJUSTMENT CASE
ADJ21-05 FOR PROPERTY) NO. 21-05
LOCATED AT 2230 DOAKS FERRY)
ROAD NW**

This matter having come regularly for hearing before the Planning Commission, at its July 20, 2021 meeting, and the Planning Commission, having received evidence and heard testimony, makes the following findings and adopts the following order affirming the decision of the Planning Administrator and approving the applications for a Tentative Subdivision and Class 2 Adjustment Case No. SUB-ADJ21-05 with a modified condition 12.

PROCEDURAL FINDINGS:

- (a) On April 12, 2021, a consolidated application for a Subdivision Tentative Plan, and Class 2 Adjustment applications were filed for a proposal to divide an approximately nine-acre property at 2230 Doaks Ferry Road NW into 27 lots. The applications were deemed complete for processing on April 16, 2021.
- (b) Notice to surrounding property owners, tenants and Neighborhood Association was sent on April 16, 2021. On June 1, 2021, the Planning Administrator issued a decision approving the Subdivision Tentative Plan, and Class 2 Adjustment applications. An appeal of the decision was filed by Glen and Gibson Creeks Watershed Council on June 15, 2021 and by West Salem Neighborhood Association on June 16, 2021.
- (c) On July 20, 2021, upon proper notice being provided by the City, the Salem Planning Commission conducted a hearing on appeal of the application and received testimony and evidence regarding the application. The Planning Commission closed the public hearing, conducted deliberations, and voted to modify the Planning Administrator's decision approving the Subdivision Tentative Plan, and Class 2 Adjustment with modified Condition 12.
- (d) On July 29, 2021, upon discovery of possible new evidence submitted during the applicant's final rebuttal, parties whom participated in the July 20, 2021 public hearing were provided the opportunity to rebut the new evidence submitted. Parties had until August 5, 2021 to submit written rebuttal limited to the applicant's display of the Glenn and Gibson Watershed Council map and applicant's testimony concerning it. The applicant was provided until August 12, 2021 to submit final written rebuttal.
- (e) The Facts and Findings attached hereto as "Exhibit 1", are incorporated herein by this reference.
- (f) The 120-day State mandated final local decision deadline for this application is September 11, 2021.

SUBSTANTIVE FINDINGS:

The Planning Commission adopts the following as findings for this decision:

- (a) The applicable criteria for approval of a Subdivision Tentative Plan is: SRC 205.015(d)
- (b) The applicable criteria for approval of a Class 2 Adjustment is: SRC 250.005(d)(2).
- (c) The Planning Administrator's June 1, 2021 decision approving the applications is based on the application meeting SRC 205.015(d) and SRC 250.005(d)(2).
- (d) Testimony and evidence provided by the appellants and members of the public was received by the Planning Commission.
- (e) Upon the appellant's additional evidence and testimony; testimony submitted by members of the public and evidence and testimony submitted by the applicant, the Planning Commission finds that the criterion is met. The Planning Commission modified Condition 12 as requested by the applicant. Complete findings are included in Exhibit 1. The Planning Commission reviewed all written submittals, rebuttal submitted after the hearing and the applicant's final written rebuttal.

The Planning Commission finds that the application does meet the applicable criterion for approval of a Subdivision Tentative Plan, and Class 2 Adjustment.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:

Section 1. The Salem Planning Commission modifies the decision of the Planning Administrator and APPROVES Subdivision Tentative Plan, and Class 2 Adjustment Case 21-05.

Section 2. This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date the notice of this decision is mailed to persons with standing to appeal.

Exhibit 1: Facts and Findings for SUB-ADJ21-05

ADOPTED by the Salem Planning Commission this 17th day of August 2021.

Brian McKinley, Vice President
Salem Planning Commission

Case Manager: Olivia Dias, Current Planning Manager

FACTS & FINDINGS**TENTATIVE SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO. SUB-ADJ21-05****JULY 20, 2021****PROCEDURAL FINDINGS**

1. On April 12, 2021, a consolidated application for a Subdivision Tentative Plan, and Class 2 Adjustment applications were filed for a proposal to divide an approximately nine-acre property at 2230 Doaks Ferry Road NW (Attachment 1 and 2) into 27 lots. After the applicant submitted additional information, the applications were deemed complete for processing on April 16, 2021. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on April 16, 2021. The property was posted pursuant to SRC 300.
2. On June 1, 2021, the Planning Administrator issued a decision approving the 27-lot Tentative Subdivision and Class 2 Zoning Adjustment. On June 15, 2021, the Glen and Gibson Creeks Watershed Council filed a timely appeal of the decision (**included in Attachment 3**). On June 16, 2021, the West Salem Neighborhood Association filed a timely appeal of the decision (**included in Attachment 3**).
3. The appeal public hearing before the Planning Commission is scheduled for July 20, 2021. On June 30, 2021, notice of appeal hearing was sent to the appellants, applicant, property owners, the neighborhood association, individuals who submitted testimony for the record, and all others entitled to notice pursuant to Salem Revised Code (SRC) requirements. The subject property is not part of a Home Owners Association (HOA). Notice of the appeal hearing was posted on the subject property on July 6, 2021.
4. The Planning Commission held a public hearing on July 20, 2021 and received testimony from the applicant, appellants and members of the public. The Planning Commission closed the public hearing, conducted deliberations, and voted to modify the Planning Administrator's decision to approve the application with modifications to condition 12.
5. On July 29, 2021, upon discovery of possible new evidence submitted during the applicant's final rebuttal, parties who participated in the July 20, 2021 public hearing were provided the opportunity to rebut the new evidence submitted. Parties had until August 5, 2021 to submit written rebuttal limited to the applicant's display of the Glenn and Gibson Watershed Council map and applicant's testimony concerning it. The applicant was provided until August 12, 2021 to submit final written rebuttal.
6. The state-mandated 120-day local decision deadline for the application is September 11, 2021.

BACKGROUND

The subject property is located at 2230 Doaks Ferry Road NW, a vicinity map showing the subject property is included as **Attachment 1** and proposed subdivision layout is included as **Attachment 2**.

On June 1, 2021, the Planning Administrator issued a decision approving a request for a 27-lot subdivision. An appeal of the decision was filed by Glen and Gibson Creeks Watershed Council and West Salem Neighborhood Association on June 15, 2021 and June 16, 2021, respectively. The City Council did not elect to review the Planning Administrator's decision; therefore, the review authority was the Planning Commission.

PROPOSAL

A Tentative Subdivision and Class 2 Zoning Adjustment for Case No. SUB-ADJ21-05 to allow a 27 lot subdivision with an alternative street standard to allow the grade of Buzz Street to exceed 12%, exceed the 600-foot maximum block length and to reduce the street width from 60-feet to 50-feet and a Class 2 Adjustments to exceed the maximum lot width to depth of 300 percent to 500 percent for Lot 12 and to allow Lot 3 to reduce the minimum lot depth for a double frontage lot from 120 feet to 112 feet, for property approximately nine acres in size and zoned RA (Residential Agriculture).

APPLICANT'S PLANS AND STATEMENT

Land use applications must include a statement addressing the applicable approval criteria and be supported by proof they conform to all applicable standards and criteria of the Salem Revised Code. The applicant's proposed site plans are included as **Attachment 2**, and the applicant's statement addressing the applicable approval criteria for the consolidated request is included in **Attachment 3**.

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.

SUBSTANTIVE FINDINGS

1. Salem Area Comprehensive Plan (SACP)

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 "Developing Residential" on the Salem Area Comprehensive Plan (SACP) Map. The surrounding properties are designated as follows:

North:	Single Family Residential
South:	Developing Residential
East:	Developing Residential
West:	(Across Doaks Ferry Road); Single Family Residential and Polk County Urban Reserve

2. Zoning

The subject property is zoned RA (Residential Agriculture) and is currently contains a single family dwelling. The surrounding properties are zoned and used as follows:

North: RS (Single Family Residential) single family subdivision
South: RA (Residential Agriculture); large lot residential
East: RA (Residential Agriculture); Existing Elementary School.
West: (Across Doaks Ferry Road NW); RA (Residential Agriculture) and Polk County SR (Suburban Residential); large lot residential

Scope of Findings

The evidence and argument in this matter often cited multiple approval criteria in a single argument or used a single piece of evidence to support multiple arguments related to multiple criteria. Accordingly, the Findings adopted often address multiple arguments or pieces of evidence. To avoid needless repetition, a Finding that may apply to multiple arguments and support compliance with multiple criteria is not always repeated. Every finding contained herein, whether specifically set forth here or adopted by referenced, is designed to apply to every criterion applicable to the application to which it is relevant, and respond to any argument or cited evidence to which it is relevant. The inclusion of a finding under a specific heading shall not limit that finding to issues related to that heading. Further, multiple arguments have been asserted at different times during this application process. The Planning Administrator made Findings in the initial Approval, and staff made suggested findings in response to issues asserted prior to the issuance of the July 13, 2021 staff report. The Findings of the Planning Administrator, and those proposed Findings, sometimes labeled Staff Response, in the staff report are adopted as if set forth in full herein. To the extent there is a conflict between any Finding set forth herein and any prior Finding, the Finding set forth herein shall control.

Neighborhood Association Comments

The subject property is located within the boundaries of the West Salem Neighborhood Association. West Salem Neighborhood Association appealed the Planning Administration's decision.

Pursuant to SRC 300.310, the applicant is required for a land use application, to contact the neighborhood association. On August 27, 2020, the applicant sent an email, including building plans, to the Neighborhood Association. The applicant has demonstrated adherence with the requirements of SRC 300.310.

3. Public Comments

All property owners and tenants within 250 feet of the subject property were mailed notice of the proposal on March 16, 2021. Notice of public hearing was also posted on the subject property. Seven comments were received from members of the public prior to the public hearing and are addressed in the findings below. Comments in opposition submitted prior to the Planning Administrator's decision are addressed in **Attachment 3**.

A. Wildlife: Construction would impact the existing wildlife in the area.

Findings: Regarding impacts to wildlife habitat, the subject property has not been identified as a significant wildlife habitat by state wildlife management agencies or by the City. The subject property is located within the Urban Growth Boundary and incorporated limits of the City of Salem and has been designated on the City of Salem Comprehensive Plan Map as “Single Family Residential,” which anticipates existing or future residential development similar to the subdivision proposed by the applicant. Loss of wildlife habitat that has not been identified as significant is not a criterion under the Salem Revised Code for granting or denying a phased tentative subdivision approval.

As noted in the decision, no portion of the site has been identified as a significant wildlife habitat by state wildlife management agencies or the city. The subject properties located within the urban growth boundary, and incorporated within the city limits of Salem, and is designated in the City of Salem Comprehensive Plan as single-family residential. Designation as single-family residential anticipates existing or future residential development similar to subdivision proposed by the applicant. Loss of wildlife habitat that has not been identify as significant is not a criterion under Salem Revised Code for granting or denying a phase tentative plan subdivision approval. Further, SRC Chapter 809, ties evaluation of wetlands for significance to, in part, indigenous salmonids “which are listed as sensitive threatened or endangered by a federal or state authority.” Appellants concede cutthroat trout and sculpin are not listed as threatened or endangered. There is no evidence that the property is a habitat for any threatened or endangered species. Accordingly, there is no indication of any significant habitat present on site or of any impact to any identified habitat, and the criteria is satisfied.

Oral and written testimony was provided during the appeal period and at the Planning Commission hearing, contending the property provides habitat for cutthroat trout and sculpin, and habitat for nesting birds and animals.

B. Soil Contamination. The previous use could have contaminated the soils and stream. Oral and written testimony that was presented during the appeal contending that the site had been previously contaminated by agricultural uses.

Findings: A soil analysis is not required by Code for previously used farmland. The Oregon Department of Environmental Quality (DEQ) would regulate any contamination and/or clean up if necessary. The City has not received any written comments or concerns from DEQ on this issue.

Testimony was provided during the hearing that a level 1 environmental assessment was obtained, and no contamination was found on the property. Further, no evidence was presented by appellants to support the contention that there is contamination on the property, or that development of the property could transmit contaminants by water or air. In the absence of any evidence of contamination on the property, and in the presence of a level 1 environmental assessment confirming the absence of contamination on the property, there is no evidence in the record to indicate any environmental contamination exists. Therefore, no environmental contamination mitigation measures are necessary.

C. Stormwater and Erosion. Comments raised concerns about groundwater in relation to adjacent properties. Concerns with possible permeable concrete for driveways and the effects on the stormwater system. Comments include a request for more information in the stormwater final report and need more details.

Findings: Applicable development standards and conditions of approval require that the applicant design stormwater facilities in compliance with the Public Works Stormwater Management Design Standards prior to final plat approval, addressing feasibility for onsite drainage disposal and any necessary offsite facilities. The Stormwater Management Design Standards require the applicant's engineer to submit infiltration test results, an Engineering Method Report, and a preliminary site plan showing the building envelope and tentative location of stormwater facilities. If the proposed parcel dimensions are not adequate to provide onsite stormwater facilities, in compliance with PWDS, a restricted building envelope or alternate engineering analysis will be required. In addition to required onsite stormwater facilities, the applicant is required to identify an approved overflow disposal point to accommodate large volumes of stormwater during high volume rain events.

The proposed development is subject to the requirements of Salem Revised Code Chapter 75 (Erosion Prevention and Sedimentation Control) and Chapter 82 (Clearing and Grading). Permits are required for grading work that exceeds minimum thresholds, and all grading work shall meet prescribed codes and standards.

D. Tree Removal: Concerns about the removal of trees, especially those within the Riparian Corridor, on the subject property. Concerns about future site work and the preservation of the trees on site, especially those near Wilark Brook.

Staff Response: According to the applicant's Tree Conservation Plan application and site plan, two 20-inch Oregon White Oak trees within the riparian corridor are proposed to be removed. One within the future right-of-way of Doaks Ferry Road and the other would be within the building footprint of a new single-family dwelling. The applicant is proposing to remove two trees and minimal native vegetation within the 50-foot riparian area abutting Wilark Brook. The application, as conditioned, will preserve a minimum of 25% of the total amount of trees located on the subject property, which meets the Salem Revised Code for preservation. Removal of trees and vegetation will be mitigated as detailed below.

E. Wilark Brook and Wetlands: Comments were submitted providing great concern with the building footprint of Lots 8, 9 and 12, in relation to Wilark Brook. Concerns about the need to fill the Brook/wetland for development was emphasized with a requested condition of approval for a setback for all structures to be equal to the depth of the brook. In addition, comments related to the direct impacts to Wilark Brook abutting the proposed development due to slope instability and indirect impacts to Wilark Brook downstream of the proposed development due to potential hydromodification. Additional comments were received and discussed concerning Goldcoast Creek and the similarity to Wilark Brook. Oral and written testimony was submitted during the appeal period and Planning Commission hearing contending Applicant did not identify topographic features related to ditches, waterways, creeks,

and drainage ways, as required by SRC 205.030(a)(10) and (11) and SRC 250.005(c).

Findings: Regarding direct impacts to Wilark Brook, the applicant submitted a geological assessment and geotechnical report that concludes the following: “Based on the results of our field explorations, laboratory testing, and engineering analyses, it is our opinion that the site is presently stable and suitable for the proposed new Doaks Ferry Road Subdivision single-family residential development and its associated site improvements provided that the recommendations contained within this report are properly incorporated into the design and construction of the project.” Compliance with the report is required pursuant to SRC Chapter 810.

Regarding indirect impacts downstream, the applicant is required to mitigate downstream impacts by complying with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

The request for a condition of approval for setbacks of structures within the riparian area cannot be applied. The Salem Revised Code has provisions for activity and use within the riparian area, which is 50-feet from the top of bank of Wilark Brook, and those standards and requirements do not limit structures to be built in the area. The applicant has proposed to remove two trees within the 50-foot riparian area and as a condition of approval additional plantings are required.

As noted in the original decision, wetlands are present on the site, and the notice required by SRC 809.025 was provided to the Department of State Lands (DSL). Providing notice to DSL, assures compliance with applicable wetland regulations regardless of whether any portion of the property is listed on the Local Wetland Inventory.

Identification of any wetland that exists on the property is assured through the condition of approval requiring delineation of the wetlands and DSL concurrence. Further compliance with development restrictions associated with the presence of wetlands is assured through the condition requiring any DSL, or Corps of Engineers required permits be obtained and complied with. ~~Additional conditions are not authorized.~~

SRC 809.010 charges the director with the obligation to identify locally significant and nonsignificant wetlands and sets forth the criteria to be used in determining whether a wetland is significant. A property cannot be added to the local wetland inventory without notice to the property owner, and the opportunity to be heard. No such notice, or opportunity has been provided to the Applicant.

SRC Chapter 809 provides that grading and construction activities within wetland are regulated by DSL and US Army Corps of Engineers. Notice was sent to DSL of the application, and submission of a wetlands inventory, and DSL concurrence are required as a condition of approval of the application. Accordingly, compliance with DSL and Army Corps requirements is assured through condition of approval, and the criteria is satisfied.

SRC 205.030(a)(10) requires, as relevant to the appeal, the application identify canals, ditches, and waterways on the property indicating which will remain and which will be removed or decommissioned. Similarly, SRC 205.030(a)(11) requires the application to show topographic features on the subject property “including but not limited to creeks, drainage ways as shown on the most recent USGS maps, wetlands as shown on the local wetland inventory, and flood plains.” Finally, because Applicant seeks an adjustment, SRC 250.005(c)(2)(d) requires the application for an adjustment to depict drainage patterns and courses.

The application materials contain all the required information. Applicant’s lot grading and tree conservation plan reflects the topographic features on the site, and depicts Wilark Brook and the riparian corridor along Wilark Brook, as well as topographic features to the west and east of Wilark Brook, which direct any surface water on the site into low areas, ultimately passing it to Wilark Brook. SRC 808.005 defines a waterway as “any river, perennial stream or creek within the city as designated by the Director.” Only Wilark Brook has been designated as a waterway. Accordingly, Applicant has depicted the only waterway on the premises, and the topographic information provided by Applicant reflects the topographic features which would direct water to low points and to Wilark Brook. Thus, the application identifies canals, ditches, and waterways on the property indicating as required by SRC 205.030(a)(10).

SRC 205.030(a)(11), further requires that the applicant identify natural features including creeks, drainage ways as shown on the most recent USGS maps, and wetlands as shown on the local wetland inventory. No portion of the property is reflected in the local wetland inventory.¹ The only drainage way shown on USGS maps is Wilark Brook, which is depicted on the lot grading and tree conservation plan provided by Applicant. Finally, because Applicant seeks an adjustment, SRC 250.005(c)(2)(d), requires that the information submitted identify drainage patterns and courses on the property. SRC 75.020 defines a drainage course as “any land surface, ditch, waterway, or other feature which serves as a course for the transmission of surface water and storm water.” As discussed above, Applicant’s lot grading and tree conservation plan depicts topographic low points on the property which would serve to transmit surface water to Wilark Brook. Accordingly, all required drainage patterns and courses are depicted.

Appellant’s contend the topographic features depicted on Applicants lot grading and tree preservation plan are waterways which must be depicted on the application, together with their associated riparian corridors. The two topographic depressions have not been designated as a waterway by the Director as required by SRC 808.005, are not reflected as a drainage way on the most recent USGS maps, and are not reflected on any available on-line source reviewed as a waterway. Riparian Corridors are defined in SRC 111.001 as “area adjacent to a waterway”. As the

¹ As discussed in relation to wetlands, as a condition of approval, applicant is required to conduct a wetlands inventory, and obtain concurrence from DSL as well as any resulting required permits. Accordingly, any wetlands located on the property will be identified, and protected as required by state law, as a condition of approval. Thus, the absence of designation of the property on the local wetland inventory does not relieve applicant of the burden of identifying or protecting wetlands on the site. Conditions applied to the application require wetlands inventory be performed and DSL concurrence, and any resulting permits, be obtained and complied with.

topographic features are not waterways as defined by code, there is no riparian corridor. The topographic features are depicted as required.

4. City Department Comments

The Building and Safety Division reviewed the proposal and did not indicate any concerns with the proposal.

The Fire Department reviewed the proposal and provided comments indicating street grades shall not exceed 15 percent and grades over 12% for more than 200-feet in length will require fire sprinklers in all abutting structures. Fire hydrants are required to be provided within 600 feet of all portions of the structures (as measured along an approved path). An approved Fire Department turnaround is required where fire department access exceeds 150 feet and is a dead end. All measurements are made along an approved route as determined by the fire code official.

The Public Works Department reviewed the proposal and provided comments regarding street and City utility improvements required to serve the development and recommended conditions of approval to ensure conformance with the applicable requirements of the SRC. Comments from the Public Works Department are included in the Planning Administrator's decision is attached to **Attachment 3** of this report.

5. FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR TENTATIVE SUBDIVISION PLAN

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 Salem Area Comprehensive Plan is acknowledged and implements state land use planning goals. Compliance with the SRC, which is enacted to implement the Salem Area Comprehensive Plan, which is enacted to implement state land use planning goals, demonstrates compliance with state land use goals. The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created lots at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final subdivision plat for each respective phase.

SRC Chapter 205.015(d) sets forth the criteria that must be met before approval can be granted to a phased subdivision request. The following subsections are organized with approval criteria shown in bold, followed by findings of fact upon which the Planning Administrator's decision is based. The requirements of SRC 205.015(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 205.015(d)(1): The tentative phased subdivision meets all of the criteria for tentative subdivision plan approval set forth in SRC 205.010(d).

Finding: Compliance with the criteria for tentative subdivision plan approval, as set forth in SRC 205.010(d), is addressed within the findings below.

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

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

SRC Chapter 511 (Single Family Residential): The proposed subdivision would divide the 9.35-acre property into 29 lots and a public facility for stormwater treatment, with no remainder. The subject property is currently zoned RA (Residential Agriculture). SRC Chapter 265.015 provides that any land within an RA zone district that is subject to a subdivision approval shall automatically be re-classified to an RS zone district on the date the subdivision plat is recorded. This provision applies to the subject property. Because the zoning of the subject property will be changed to RS with the recording of the final plat for each respective phase, the following analysis of the subdivision for conformance with the requirements of the UDC is based upon the property being rezoned to 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 (see SRC Chapter 511, Table 511-2)

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Lot Depth (Double frontage lots)	120 feet
Street Frontage	40 feet

Proposed lots in the subdivision range from approximately 4,945 square feet to 59,217 square feet in size. The applicant requested an adjustment for two lots. Lot 25 is proposed lots exceed maximum lot depth standards and Lot 3 is proposed to reduce the minimum lot depth for a double frontage lot, set forth in SRC Chapter 511, Table 511-2. The applicant has requested a Class 2 Adjustment which is addressed below.

The remaining proposed lots exceed minimum lot area, dimension, and frontage requirements and therefore conform to the applicable standards. The proposed lots within the subdivision are also of sufficient size and dimension to permit future development of uses allowed within the zone.

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

Front Yards and Yards Adjacent to Streets:

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

Rear Yards:

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

Interior Side Yards:

- Minimum 5 feet

The applicant has proposed to not remove any vegetation or trees within the riparian corridor, except two Fir trees on Lot 9. Since the applicant isn't proposing to remove any trees or native vegetation within the riparian corridor, Lots 8, 9 and 12 will be limited in their building envelope for a single-family dwelling. At building permit the applicant will have to provide evidence that the grading required for the buildings will not remove any native vegetation nor trees within the Riparian Corridor while still maintaining setback of the RS zone to property lines.

Single Family Residential is arguable the most wasteful Land Use category, especially in situations like this proposal." The appellant argues multiple family developments would be better suited.

The subject property is zoned Residential Agriculture and has a Comprehensive Plan designation of Developing Residential. The applicant has not proposed a zone change to a higher density residential zone. The application that was submitted was for a single-family residential subdivision. Staff and Planning Commission is limited to the decision criteria of the application submitted. Changing the proposed use or zoning is not part of the submitted application.

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

SRC Chapter 800 (General Development Standards):

SRC 800.020 (Designation of Lot Lines): SRC 800.020 establishes front lot line designation requirements for corner lots, double frontage lots, flag lots, and all other lots. Corner lots are lots located at the intersection of two streets, typically with street frontage on two sides. Four of the proposed lots in the subdivision are corner lots. Provided that lot dimension requirements are met, the front lot line for a corner lot shall be the property line abutting a street provided by the building permit applicant.

Those lots abutting Doaks Ferry Road NW will not have access to the existing major arterial and will be required to access to the local street.

The proposal conforms to the requirements of SRC Chapter 800.

Flag Lots:

SRC 800.025 establishes the following development standards for flag lot accessways serving residentially zoned lots:

Flag Lot Accessway Standards (<i>Residential Zones</i>)		
	1 to 2 Lots Served by Accessway	3 to 4 Lots Served by Accessway
Length	150 ft. Max.	400 ft. Max.
Width	Min. 20 ft.	25 ft. Min.
Paved Width	Min. 15 ft.	20 ft. Min.
Parking	Not Allowed	Not Allowed
Turnaround	Required for flag lot accessways greater than 150 feet in length. <i>(Unless the buildings served by the flag lot accessway are equipped with approved automatic fire sprinkler systems or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshal)</i>	

Lots 14, 18, 19 and 20 are flag lots. As shown on the applicant’s tentative subdivision plan, the flag lot accessway serving Lots 18, 19 and 20 is approximately 144 feet in length, and located within a 25-foot wide easement, in conformance with the standards for flag lot accessways serving up to four lots.

In order to ensure the proposed flag lot accessway serving Lots 18, 19 and 20 conforms to the requirements of SRC 800.205, the following condition of approval shall apply:

Condition 1: The flag lot accessway shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1. "NO PARKING—FIRE LANE" signs shall be posted on both sides of that segment of the flag lot accessway that is a fire apparatus roadway and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.

Subsection (c) establishes standards for flag lots and flag lot accessways. Pursuant to SRC Chapter 800, Table 800-1, flag lot accessways serving 3 to 4 lots must be a minimum of 25 feet in overall width and must be paved to a minimum width of 20 feet.

(B) City Infrastructure Standards.

The Public Works Department reviewed the proposal for compliance with the City’s public facility plans pertaining to provision of water, sewer, and storm drainage facilities. While

SRC Chapter 205 does not require submission of utility construction plans prior to tentative subdivision plan approval, it is the responsibility of the applicant to design and construct adequate City water, sewer, and storm drainage facilities to serve the proposed development prior to final plat approval without impeding service to the surrounding area.

SRC Chapter 71 (Stormwater): The proposed subdivision is subject to the stormwater requirements of SRC Chapter 71 and the revised Public Works Design Standards as adopted in Administrative Rule 109, Division 004. To demonstrate that the proposed parcels can meet the PWDS, the applicant shall provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots.

Pursuant to SRC 71.085, all proposed lots shall be designed and constructed with green stormwater infrastructure. In order to ensure that the subdivision can accommodate required stormwater facilities, the following condition of plat approval shall apply:

Condition 2: Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

Oral and written testimony during the appeal period and at the Planning Commission hearing challenged compliance with SRC Chapter 71. The first contention was that there was not sufficient evidence that the application, as submitted, and conditioned, complies with the objectives of SRC Section 71.001(b) and (d). These cited provisions set forth objectives of SRC Section 71, reading as follows:

“(b) protect, to the greatest and practical, life, property, receiving waters, aquatic life, and an environment from lost, injury, derogation, or damage by pollution, or erosion, low flows, excessive flows, flooding landslides, and other potential hazards, whether from nature causes or from human activity; . . .

(d) meet the requirements of state and federal law and the City’s National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit.”

Finding: Compliance with the objectives set forth in SRC 71.001 is obtained through requiring compliance with the specific design and construction requirements of SRC Chapter 71, and other related code provisions, which require review and determination of predevelopment stormwater conditions, and management of stormwater in a project’s post-development condition in compliance with applicable development standards, and stormwater management requirements. Compliance with the Salem Revised Codes and associated design standard requirements for stormwater study, design, construction and management, assures compliance with the objections of SRC 71.001(b) and (d). Applicants provided an engineered tentative of stormwater design, demonstrating compliance with the applicable standards, thereby assuring compliance with the cited objectives. The application is conditioned on construction of stormwater management facilities in compliance with the requirements of SRC Chapter 71, thereby assuring compliance with the objectives. Further, the opposition testimony cites no evidence in support of the contention that the objectives of SRC 71.001(b) and (d), are not satisfied by the application. Opponent’s only question the sufficiency of evidence submitted by the Applicant. The Applicants’ tentative engineered stormwater design provides the required evidence and the conditions of approval requiring design and construction in compliance

with applicable storm water management standards and requirements assure compliance with the objectives of SRC Chapter 71. Accordingly, substantial evidence in the record supports the finding that the objectives of SRC 71.001(b), and (d), are satisfied.

Appeal testimony both written and oral, further question whether SRC 71.015(a)(1)(B) would be violated by the approval of the application as conditioned. SRC 71.015(a)(1)(B), authorizes the director to impose more stringent or additional or best management practices, if a discharge into a public stormwater system would cause or contribute to causing a prohibited discharge or known or likely violation of water quality standards or a known or likely violation of the City's NPDES Municipal Stormwater Permit.

Finding: The Appellants offer no evidence, or testimony, that impermissible, or inappropriate discharge will occur or that the subdivision, as approved and conditioned, will result in any discharge that will cause or contribute to any prohibited discharge, or that will require more stringent, or additional best management practices.

Applicants submitted an engineered tentative stormwater design, demonstrating storm water facilities can be constructed in compliance with applicable requirements and appropriately manage storm water runoff resulting from construction of the subdivision. There is no evidence the tentative design is not accurate or will not result in compliance with applicable standards. Further, there is no evidence that the stormwater management system required as a result of conditions applied to the application will result in any of the conditions requiring more stringent or additional best management practices. The conditions applied to the application require compliance with City stormwater management standards, and the storm water management system must be designed and constructed to meet all applicable requirements. As a result, as conditioned, the project will comply with required design standards, and no additional best management practices requirements are necessary. No contrary evidence was presented in the record. Accordingly, criteria are satisfied.

Oral and written appeal testimony further challenged whether the application, as approved and conditioned, complies with SRC 71.050. SRC 71.050 prohibits discharge of pollutants into public and private stormwater systems, or receiving waters within the City's corporate limits.

Finding: The Appellants provide no evidence development of the site will result in any discharge of pollutants into a stormwater system, or a private stormwater management system or evidence that any pollutant would be discharged into a receiving water located within the City's corporate limits. The Applicants' engineered tentative stormwater plan demonstrates appropriate retention, detention and treatment of stormwater to prevent discharge of pollutants into any public or private stormwater management system, or receiving waters within with the City's limits. Accordingly, there is no evidence to support any violation of SRC 71.050 will result from development of the property. Further, the tentative engineered stormwater plan, together with conditions of approval requiring compliance with all City stormwater management standards, and requirements, assures appropriate management and treatment of stormwater, and prevention of discharge of pollutants to the City stormwater system. Accordingly, the criteria are satisfied.

Oral and written testimony also question how runoff from the right-away, and driveways serving Lots 6,7, and 8 would be directed to the subdivision detention facility.

Finding: No evidence was submitted into the record by Appellants to demonstrate that there would be any impermissible discharge from the access way to Lots 6,7, and 8, or from driveways located on those properties. Further, nothing requires all stormwater from the site to be channeled to the primary stormwater facility. Individual lots, and individual improvements can be provided with stormwater management and treatment facilities separate from the central storm water management system on the property. Further, if individual lots are provided individual stormwater treatment facilities, covenants requiring continued maintenance of the facilities, and providing the City direct enforcement rights of the obligation to maintain the system will be applied. Applicant's engineered tentative stormwater management plan, together with conditions requiring compliance with all applicable City stormwater management design and construction standards and requirements, assure stormwater from all areas of the site, will be appropriately managed as required by City standards and requirements. The tentative stormwater management plan, together with the conditions requiring compliance with all applicable stormwater management standards, assures any and all runoff from the driveway, and development of Lots 6,7, and 8, will be appropriately managed as required by City code. Accordingly, the criteria are satisfied.

As conditioned, the proposal meets the requirements of SRC Chapter 71.

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

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 subdivision. Specifications for required public improvements are summarized in the Public Works Department memo (Attachment 3).

SRC 802.015 requires development to be served by City utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards. The Schematic Utility Plan included in the proposal as application shows that each individual lot can be served by City utilities designed and constructed according to the applicable provisions of the SRC and PWDS.

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

SRC 803.015 (Traffic Impact Analysis): Because the proposed subdivision is projected to less than 1,000 daily trips onto Doaks Ferry Road NW, a Major Arterial street, therefore a TIA is not required.

SRC 803.020 (Public and Private Streets): The applicant proposes for all internal streets within the subdivision to be public streets.

SRC 803.025 (Right-of-Way and Pavement Widths): The applicant is required to convey land for right-of-way along Doaks Ferry Road NW.

Finding: Doaks Ferry Road NW abuts the subject property and does not meet the current right-of-way or improvement width standards for a Major Arterial. In implementing boundary street requirements pursuant to SRC 803.040, conditions below require the applicant to dedicate additional right-of-way and convey 48-feet from centerline of Doaks Ferry Road NW. Since the surrounding area is mostly undeveloped, a Minor Arterial improvement width is sufficient to ensure safe and efficient travel in the area. With the Alternative Street standard of a 23-foot-wide half street travel width improvement, the ultimate location for sidewalks and street trees shall be installed to meet a Major Arterial Standard. The location of sidewalk and street trees in the ultimate location for the applicable street classification will ensure the pavement width can be expanded without jeopardizing the street trees and property line sidewalks.

In addition to the boundary improvement, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS.

Condition 3: Convey right of way to equal 48 feet from centerline entire frontage of Doaks Ferry Road NW.

Condition 4: The Doaks Ferry Road NW frontage of the subject property shall be constructed to a minimum 23-foot-wide half-street improvement to interim Minor Arterial standards. The Doaks Ferry Road NW improvements shall include a southbound-to-eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS.

The applicant is proposing 52-foot right of way instead of 60-foot right-of-way for one street within in the subdivision, Woody Court NW. A 52-foot right-of-way width minimizes the impact of the existing topography of the site while still allowing adequate width in the landscape strip for street trees and otherwise meets the street standard. Due to the topography of the site, Woody Court NW is authorized with an alternative street standard for a reduced right-of-way width to 52 feet pursuant to SRC 803.065(a)(3).

The applicant is proposing Buzz Street to exceed 12% grade. Due to the topography of the site, Buzz Street NW is authorized with an alternative street standard to increase the grade to a maximum of 15 percent pursuant to SRC 803.065(a)(3). The Salem Fire Department commented that they do not object to the increase in grade, although if any section of street exceeds 12% for more than 200 feet that all structures shall be installed with Fire Sprinklers. The section of Buzz Street will exceed 12% for more than 200 feet in length, therefore Lots 1 and 25-28 will require Fire Sprinklers to be installed at building permit.

Condition 5: Construct internal streets to Local Street standards, except proposed Buzz Street NW may exceed 12% grade and Woody Court NW may be 52-feet in width, pursuant to SRC 803.065(a)(3).

Condition 6: Fire Sprinklers shall be installed in all structures on Lots 1 and 25-28.

As conditioned, the proposal meets this requirement.

SRC 803.030 (Street Spacing): The street spacing requirements specifies maximum block lengths of 600 feet along one axis, and between 120 feet minimum and 400 feet maximum along the other axis. Street spacing may be increased based on one or more of the conditions set forth in subsection (b).

Finding: Due to existing steep topography and development, the proposed subdivision is precluded from meeting the 600-foot intervals for block length on both sides of Woody Court NW. The applicant is proposing to cul-de-sac Woody Court NW beyond the 600-foot block length. The proposal would not provide a cross street within in subdivision. The steep topography and street locations will meet the exemption of SRC 803.030(b)(1) to exceed the 600-foot intervals.

SRC 803.035 (Street Standards): Subsection (a) requires streets within the subdivision to provide connectivity to existing streets and undeveloped properties within the vicinity of the subject property. The abutting subdivision to the north has an existing right-of-way dedicated for a pedestrian path. The path appears to be an effort to meet the standards for block-length and connectivity to undeveloped properties. If a stub street was provided, the applicant would be required to continue the street, therefore, the applicant is proposing to connect to the pedestrian path in order to connect and create pedestrian connectivity.

Subsection (l) requires sidewalks to be constructed parallel to and one foot from the adjacent right-of-way and the construction of sidewalks as part of street improvement projects. The tentative subdivision shows all internal sidewalks will be constructed to meet the standard.

The tentative subdivision plat shows property line sidewalks, which is consistent with SRC 803.035(l). Generally, sidewalks along the frontage of lots platted for single family residential development are installed at the time of home construction. This allows eventual building permit applicants for single family dwellings to select driveway alignment and apron placement along the lot frontage prior to installing sidewalks.

Pursuant to subsection (n), public utility easements (PUEs) may be required for all streets. Comment 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 7: Dedicate a 10-foot-wide public utility easement (PUE) along the street frontage of all internal streets.

Condition 8: All necessary (existing and proposed) access and utility easements must be shown on the final plat and recorded on the deeds to individual lots affected by such easements.

SRC 803.040 (Boundary Streets): Doaks Ferry Road NW are boundary streets, running along the entire northern frontage of the subject property.

Finding: Doaks Ferry Road NW abuts the subject property and do not meet the current right-of-way or improvement width standards for a Major Arterial. In implementing boundary street requirements pursuant to SRC 803.040, conditions below require the applicant to dedicate additional right-of-way and convey 48-feet from centerline of Doaks Ferry Road NW. Since the surrounding area is mostly undeveloped, a Minor Arterial improvement width is warranted to ensure safe and efficient travel in the area. With the Alternative Street standard of a 23-foot-wide half street travel width improvement, the ultimate location for sidewalks and street trees shall be installed to meet a Major Arterial Standard. The location of sidewalk and street trees in the ultimate location for the applicable street classification will ensure the pavement width can be expanded without jeopardizing the street trees and property line sidewalks.

In addition to the boundary improvement, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS.

As conditioned, the proposal conforms to applicable boundary street requirements.

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

Oral and written testimony was submitted at the planning commission hearing contending the Planning Administrator's decision did not contain findings addressing compliance with SRC 205.101(d)(1)(c).

Finding: As noted in the staff report for meeting of July 20, 2021 at page 5, Findings regarding compliance with SRC 205.010(d)(1)(C) are found at pages 15-17 of the planning administrator's decision. Those findings are incorporated herein, and adopted as set forth in full.

The Appellants challenge further did not identify any area in which the findings were insufficient. Only that the finding did not contain appropriate labeling. Findings are set forth in the planning Administrator's decision and referred to in the staff report presented to the Planning Commission addressing compliance with SRC 205.010(d)(1)(C) and are adopted by the Planning Commission herein.

SRC Chapter 808 (Preservation of Trees and Vegetation): The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with

diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet.

In addition, SRC 808.035(a) requires a Tree Conservation Plan for a development proposal involving the creation of lots or parcels to be used for the construction of single-family dwelling units, where trees are proposed for removal. A Tree Conservation Plan (TCP20-09) was submitted in conjunction with the phased subdivision tentative plan. TCP20-09 identifies 733 trees on the subject property, with 181 trees proposed for preservation. The applicant is proposing to preserve 24.69% of the trees on-site. The applicant is proposing to remove 11 trees on the south side of Lot 9 and six trees on the south side of Lot 12. The south side of each of these lots would require crossing the wetland and is not part of the building envelope provided by the applicant. Therefore, the 11 trees on the south side of Lot 9 and the six trees on the south side of Lot 12 designated for removal shall be preserved. Adding these trees will increase the overall percentage preserved to 27%, or 198 trees designated for preservation.

Condition 9: The trees designated for removal on the south side of Wilark Brook on Lot 9 (11 trees) and Lot 12 (six trees) shall be preserved.

The applicant is proposing to remove two trees within the Riparian Area.

The subject property has extreme topographic features with an elevation change 86 feet in just 700 feet of width. It has an average slope from west to east of approximately 12% and isolated slopes in excess of 25%. The property is surrounded by development on the northern and east boundaries, with no street connections provided to it during those previous developments. With no previous street connections provided accessing the site requires a street connection to Doaks Ferry Road as well as the requirement to provide street connectivity to the undeveloped property to the south.

In order to minimize the impacts of site grading activities, the current site layout has large lots resulting in a low net density. Even with the current site layout, development of the property requires the use of alternative street standards, and several design exceptions to the Public Works Design Standards (PWDS) including: reduced centerline radius; street grade; and the elimination of an ADA crossing. The results of that analysis as well as multiple iterations of street design, is that the current development proposal results in the smallest impact to the site topography, riparian corridor, and other natural features of the site while utilizing the site for single family development.

The subject property is impacted by approximately 61,000 square feet of riparian corridor, which is completely within four proposed Lots (Lots 8, 9, 12 and 13). Under normal development constraints 61,000 square feet with an average development density of six lots per acre would result in eight single family lots. The combined proposed impact of approximately 1,500 square feet with the building footprints represents a mere 2.5% of that total riparian area. Considering all of the proposed impacts are within the outer 25' of the riparian corridor suggests that much of the proposed impacts will have no impact to native vegetation. With the proposed impact to the riparian corridor of 1,500 square feet, less than the average building footprint, spread over four lots. The applicant has proposed building and construction envelopes, which will provide for a boundary for all activities related to the development of a single-family dwelling. These activities include

but are not limited to, grading, storage of construction equipment, heavy equipment and other construction activities. As conditioned below, all activities related to construction will only occur within the building envelopes.

As mitigation for removal of native vegetation in the riparian corridor of Lot 8, which includes two Douglas Fir trees and a mix of native and non-native understory vegetation. The following shall be planted within the same lot: two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5) vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*).

The above mitigation is for removal of the two Douglas fir trees on Lot 8 indicated for removal in the "Lot Grading and Tree Conservation Plan" only. Any additional tree removal within the riparian corridor shall require a Tree Conservation Plan Adjustment and be review based on submittal and approval of an arborist report.

Condition 10: Prior to issuance of building permits on Lot 8, the applicant shall plant two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5) vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*). These trees and vegetation are in addition to requirements of SRC 808.050.

Condition 11: Any construction or grading on Lots 8, 9, 12 and 13 shall remain within the building footprints shown on the tentative subdivision plan.

The appellants argue that condition 11, above fails to comply with SRC 808.

The tentative subdivision application does include a permit under SRC 808. The purpose of the *Preservation of Tree and Vegetation* applies to several permits and standards. The applicant has applied for a Tree Conservation Plan, which provides decision criteria for the removal of trees and vegetation within the riparian zone, meeting that criteria is consistent with SRC 808.001. The Tree Conservation Plan criteria are reviewed after a final land use decision on the subdivision is rendered to ensure any additional mitigation required as conditions of approval is incorporated.

Oral and written testimony was submitted at the hearing contending requirements of SRC 808.035(d)(3), and (c)(2)(C), are not satisfied.

Finding: SRC 808.035(d)(3), requires that trees and native vegetation located in a Riparian Corridor not be removed, unless there are not reasonable design alternatives that will enable preservation of trees or native vegetation. The proposed subdivision layout was redesigned on multiple occasions, to modify the design to minimize impacts on the Riparian Corridor. As noted herein, impacts for Riparian Corridor are limited to its outer edge, with less than 2.5% of the total Riparian area on the site being impacted. The use of large lots, modified street designs, and modified accesses, together with restriction development activity to specific billing envelopes, results in a comparably low-density development of the nine (9) acres site. The site design modifications, and related adjustments, demonstrate that no reasonable design alternatives for development of

single-family residences as called for by the zoning applicable to the property are possible without the nominal impact to the Riparian Corridor.

Even with all the design modifications and modifications to standards to minimize impacts on the property and its features, the density proposed is far less than allowed under the zoning. Accordingly, the limited removal of native vegetation and trees within the Riparian Corridor is therefore allowable under the terms and conditions of Salem Revised Code as reasonable alternative designs allowing development of the property as zoned do not exist. Further, review of tree conservation criteria will be performed after the final land use decision is rendered, to ensure that additional mitigation as required by conditions of approval are incorporated in the required permits. Any replanting plan, as required by SRC 808.035(c)(2)(C), will be required and provided as part of the review, and submission of tree conservation plans as required by SRC Chapter 808. Further, impacts of any tree removal, are mitigated by conditions, requiring the planting of additional trees. Accordingly, the application, as conditioned, complies with the requirements of SRC Chapter 808.

In addition, opponents contend OAR 606-23-090(a) part of Oregon's goal 5, does not allow removal of vegetation in Riparian Corridors.

Finding: Salem's Revised Code is enacted as part of Salem's acknowledged Comprehensive Plan. Both Salem Comprehensive Plan and Revised Code include and incorporate required implementing measures of Goal 5 that provide required protections under the goal. Accordingly, compliance with the Salem Revised Code, demonstrates compliance with Goal 5. Compliance with the SRC, which was enacted pursuant to the Salem Comprehensive Plan, which was enacted to implement state land use planning goals, including Goal 5, demonstrates compliance with Goal 5 requirements.

Further, protection of resources, as generally required by Goal 5 is established by the limitation of construction activities within the Riparian Corridor, requirement of permits before any work is performed with any Riparian Corridors, and limitation of construction activities to specified building envelopes. Accordingly, as approved and conditioned, the application provides require protections of Goal 5.

Appellants state that the City does not comply with OAR 660-046-0010 regarding a 100-foot riparian setback for middle housing.

Finding: The City is required to adopt rules and regulations related to middle housing by June 30, 2022. Any statement that the City is out of compliance with middle housing rules is, therefore, inaccurate.

The requirements of OAR 660-046-0010 will only apply to newly constructed middle housing, as defined by state statute, and would be applied at the time of building permit. If the future lots in this subdivision are proposed to contain middle housing, then a 100-foot riparian setback would be applied to the building permit. Nothing in the cited OAR requires a city to broadly apply a 100-foot setback to newly created lots outside of the middle housing provisions.

Appellants further assert there is insufficient evidence regarding grading concepts for lot 8 of the proposed subdivision.

Finding: Final grading plans are not part of the subdivision process. The applicant submitted a geotechnical analysis that demonstrates grading on the sites can be performed safely if the recommendations of the geotechnical analysis are followed. Any grading activity that will impact the Riparian Corridor, must be subject to an application process that will be reviewed by the city at the time of submission. Details of grading will be reviewed by City and will be determined at that time. The geotechnical report requires further geotechnical evaluation in the event of significant cuts or fills, or grading work on the more severe slopes of the property. Thus, if any grading permit includes significant cuts or fills, or work on the more severe slopes of the property, the conditions of approval, which require all grading work be done in accordance with the recommendations in the geotechnical report, will require additional geotechnical investigation and documentation to demonstrate the work can be performed safely. If it cannot, work cannot proceed. Conditions for approval require all such permits be obtained. In addition, the conditions of approval limit construction activity to the building envelopes reflected on the subdivision plan. This limitation of the areas where work can be performed further limits impacts to conditions on site, and slopes on the property. Accordingly, as conditioned, the application meets requirements for providing information related to grading and satisfies requirements related to slope stability and excavation and similar related requirements.

Appellants further contend that cut and fill associated with driveway access to lot 8 will impact the Riparian Corridor.

Finding: Development activity within the Riparian Corridor is limited to the building envelopes identified as part of the subdivision plan. As conditioned, grading activities associated with construction of a driveway to Lot 8 cannot take place in the Riparian Corridor. Accordingly, grading activity relating to the driveway, will not impact the Riparian Corridor, and the criteria is satisfied.

Appellants further contend that the geographic depression on Lot 8, which channels water to Wilark Brook is not addressed to whether it is a waterway.

Finding: Waterway is a defined term under Salem Revised Code 808.005. The geographical depression upon Lot 8, is not a waterway as defined by Salem Revised Code. Further, the waterway is not identified on Appellant Glenn Gibson Watershed counsel, as a waterway, nor is it identified by the Oregon Water Resources Department as a waterway, nor is it defined by the Department State Lands as a waterway. As noted previously, applicant identified all waterways on the site, and the geographic depression on Lot 8 is not a waterway. Accordingly, the geographic depression is appropriately not identified as a waterway.

Oral and written testimony was submitted during the appeal period and at the hearing contending that authorizing any removal of any trees or vegetation within the Riparian Corridor of Wilark Brook does not conform to the purpose of Chapter 808. Further, the testimony contended there is not adequate evidence to demonstrate compliance with SRC 808.001.

Finding: Appellants provided no evidence that support the contention. Chapter 808 does not prevent removal of trees or native vegetation from Riparian Corridor, but requires that the process is carefully reviewed and regulated, and appropriate permits obtained. Substantive provisions of SRC 808.001, implement its purpose. Compliance with the substantive requirements of SRC Chapter 808, implement the purpose of the ordinance. The permitting requirements, and associated standards and regulations, enact, and enforce the purpose of SRC 808. Conditions applied to the application require the developer obtain a permit for any work to be performed with the Riparian Corridor. This assures compliance with the requirements of SRC Chapter 808, assures compliance with its purpose, and assures compliance with its specific standards and regulations. Applicant's application materials demonstrate compliance with the applicable provisions of SRC 808. Accordingly, as conditioned, the application satisfies the requirement for SRC Chapter 808.

Appellant's contention that findings conclude that there is not native vegetation in the outer twenty-five (25) feet of the Riparian Corridor, mischaracterizes the findings. The findings conclude, that because the impacts are limited to the outer edge of the Riparian Corridor, impact with be minimal. Appropriate conditions, and requirements, for obtaining permits, demonstrate, that the minimal intrusion of the Riparian Corridor, as consistent with, and authorized by SRC Chapter 808 is authorized and complies with applicable requirements. Accordingly, criteria is satisfied.

Appellants further contend that approval of the application with violate SRC 808.030(a)(2)(N)(III).

Finding: SRC 808.030 is for Tree and Vegetation Removal permits for property not associated with a land division creating lots or parcels for single family or two family uses. The sited provision of SRC 808.030(a)(2)N(III) governs when a tree or vegetation removal permit is not required. Pursuant to SRC 808.030(2)(O), removal is exempt from a Tree and Vegetation Removal permit if a tree conservation plan, in conjunction with development proposals creating lots or parcels for single or two family uses.

This section clearly states that trees can be removed on a lot that is 20,000 square feet or greater through a Tree Conservation Plan, which is what the applicant applied for. A finding related to an exemption to a permit that the applicant was not required to obtain is inapplicable.

SRC 808.035, Tree Conservation Plans clearly applies to the property, since it is a "development proposal for the creation of lots or parcels to be used for single family or two family uses" where the development proposal "will result in the removal of trees." SRC 808.035(d)(1-3) lists the criteria for approval of a tree conservation plan, and states that "No trees or native vegetation in a riparian corridor are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees or native vegetation." The Tree Conservation Plan criterion clearly allow for trees and native vegetation to be removed after careful consideration of design alternatives. The appellants are incorrect in stating that a Tree Removal Permit would also be required.

Oral and written testimony was submitted contending that the tree conservation plan required by SRC 808.035 did not address reasonable design alternatives. Appellants question whether residential lots can be installed on the property due to geologic conditions, and question whether the design is consistent with Goal 5.

Finding: The subdivision has been through numerous design iterations, all meant to ensure that the lots that are created can be built upon without requiring disruption to the riparian corridor. The approved plan only allows the removal of 3 trees in the riparian corridor. The decision contains conditions requiring preservation of trees in the riparian corridor and limiting the development to the building envelopes shown in the applicant's site plan.

Additionally, the applicants submitted a geotechnical report, from a qualified geotechnical engineer indicating that the design of the project, can be constructed safely in the geological conditions on site if the recommendations of the report are followed. Conditions of approval require the recommendations in the report be followed throughout the course of development of the site. Accordingly, the alternative design adopted by applicant, which enhances lot sizes, reduces street sizes, and modifies manner of access to lots, in order to minimize impact on native vegetation and trees, can be safely constructed on the geologic conditions on the site. The geologic report provided by the applicant is unopposed by any evidence from Appellants. Based on the design alternatives provided by applicant, demonstrating the approved design, minimizes the impact on vegetation and trees on site and there are no reasonable alternatives for single-family development and the associate geotechnical report, criteria is satisfied.

As proposed, the tentative subdivision plan conforms to all applicable SRC Chapter 808 requirements.

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

The Salem-Keizer Local Wetland Inventory (LWI) does identify wetlands on the subject property. Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. State and Federal permits may be required. The Public Works Design Standards require that all applicable state and federal permits be acquired as a condition of permit approval. As conditioned below, the tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

The two appellants argued that an error "to identify two headwater streams tributary to Wilark Brook as required by SRC 205.030(a)(10) and (11)....." The appellant argues that the two tributary streams are within the building envelope of Lot 6 and that Lots 7 and 8 contain the riparian corridor of the tributary streams."

“The application does not include a wetland inventory....” And fail to identify or address all waterways on the site.

“The application fails to recognize the significant wetlands and seeps that border Wilark Brook providing water quality filtration. The decision fails to support the purpose of SRC 809 and misinterprets the Salem Keizer Local Wetlands Inventory.” The appellant argues that the property was not included in the Local Wetland Inventory from 1999.

“Wilark Brook provides habitat for native Cutthroat trout and Sculpin.” In addition, the appellant argues that Staff erred in finding that the property does not contain identified significant wildlife habitat by state wildlife management agencies or by the City. The appellant argues that Oregon Department of Fish and Wildlife conducted a fish survey (1999) that documents the presence of Cutthroat Trout in Wilark Brook and Gibson Creek is a DEQ 303(d) listed stream.

Finding: The application addresses the only tributary stream identified on the Local Wetland Inventory, Wilark Brook. The applicant is required to have a permit from the Department of State Land, which requires a delineation of the subject property. If the delineation identifies waterways and wetlands that would be impacted by the proposed development, they may need to redesign the subdivision to comply with state and federal permits and/or obtain a Tree Removal Permit for any additional vegetation and/or trees needed to be removed within 50-feet of delineated waterway.

The applicant is not required to submit a wetland inventory for review of a Tentative Subdivision application. Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. State and Federal permits may be required. The Public Works Design Standards require that all applicable state and federal permits be acquired as a condition of permit approval. As conditioned to obtain DSL permits, the tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. A delineation letter of concurrence from Department of State Lands is required and State and Federal permits may be required, which will include a delineation of the subject property.

Any changes to the waterway on-site will need to be reflected on the applicant's construction plans. If the additional vegetation and/or trees are needed to be removed within a newly delineated or existing riparian area, a Tree Removal Permit will be needed, as required by Condition 17, prior to commencement of development.

The subject property was located outside City limits when the City's local wetland inventory was generated in 1999. For properties annexed after 1999, City staff refer to the National Wetland Inventory and best available information to determine whether notification is warranted to the Oregon Department of State Lands. Notification was submitted to DSL for the proposed development, and DSL responded with a recommendation to perform a wetland delineation.

The waterway 'Wilark Brook' is regulated by State and Federal agencies, and native fish, including native Cutthroat trout and Sculpin are overseen by Oregon Department of Fish and Wildlife. The proposal is not building within the waterway and the Salem Revised Code does not restrict development within the riparian area. Appropriate State and Federal permits required for the applicant to obtain will address habitat of Wilark Brook.

The application addresses the only tributary stream identified on the Local Wetland Inventory, Wilark Brook. The applicant is required to have a permit from the Department of State Land, which requires a delineation of the subject property. If the delineation identifies waterways and wetlands that would be impacted by the proposed development, they may need to redesign the subdivision to comply with state and federal permits and/or obtain a Tree Removal Permit for any additional vegetation and/or trees needed to be removed within 50-feet of delineated waterway.

Figure B-4 of the Glenn/Gibson Basin Plan within the City's Stormwater Master Plan (Attachment 7) shows conveyance systems within the Glenn/Gibson watershed. Figure B-4 depicts Wilark Brook as a conveyance system through the subject property, but not any tributaries to Wilark Brook. The applicant's findings address Wilark Brook in compliance with the Stormwater Master Plan designation of conveyance systems within the subject property.

The subdivision applicable decision criteria states that topography, and vegetation should be taken into consideration for development while allowing for the reasonable development of lots. The proposed subdivision has several lots exceeding the minimum lot size of the Single-Family Residential zone. The applicant has provided a tentative subdivision plan that creates larger lots in order to preserve the vegetation and trees within the riparian zone and prevent crossing of Wilark Brook with a public street. The appellant has not demonstrated how allowing housing, outside of the riparian corridor, will negatively impact trout in the stream. The applicant, through conditions of approval, is required to obtain the necessary state and federal permits for this development. If the appropriate state and federal jurisdictions determine that the subdivision, as proposed, will negatively impact the waterway(s), wetland(s) and/or trout, then the applicant will have to comply with that determination, which may result in the redesign of the proposed subdivision. The tentative approval is the first step in a two-step process. In order for the applicant to complete the second step (final plat) they must present their state and federal permits and demonstrate how they are complying with them. The Planning Commission modified condition 12 to reflect the applicant's changes.

Condition 12: ~~Obtain applicable State and Federal permits as indicated by Department of State Lands (DSL).~~ Submit wetland lineation to the Department of State Lands and obtain concurrence. In the event any DSL, or federal permits are required as a result of the wetlands lineation, obtain and comply with the applicable state and federal permits.

The appellant argues that condition 12 of the planning administrator's decision does not comply with SRC 809.

The subject property was located outside City limits when the City's local wetland inventory was generated in 1999. For properties annexed after 1999, City staff refer to the National Wetland Inventory and best available information to determine whether notification is warranted to the Oregon Department of State Lands. Notification was submitted to DSL for the proposed development, and DSL responded with a recommendation to perform a wetland delineation. This process complies with the approval criteria in SRC 205.010(d).

Oral and written testimony presented during the appeal period and at the Planning Commission hearing contends that SRC 809.020(1)(a) and (b), are approval criteria related to the subdivision application.

Finding: SRC 809.020(a) and (b), are not approval criteria. They set forth the director's obligation to identify, and map wetlands within the City of Salem. Salem Revised Code requires notification to DLS of development of any property that may contain wetlands, so that DSL can apply, and require compliance with state, and federal laws, governing development impacts on wetlands. Notice was provided to DSL, approval of the application is condition upon providing a wetland lineation to DSL and obtaining DSL's concurrence. In the event that any wetlands are identified on site, and federal, or state permits are required in relation to development of this site as the result of the presence of wetland, the permits be obtained and complied with.

Accordingly, all approval criteria in SRC Chapter 809, are satisfied as the application is approved and conditioned.

That the Glen Gibson watershed council provided oral and written testimony contending that approval of the application should be deferred until a wetlands inventory and concurrence from DSL was obtained.

Finding: Salem's Revised Code does not require wetland delineation prior to approval of a subdivision application. Salem's Revised Code requires notice to DSL of a pending application on which wetlands are, or may be, present. The required notification was provided. The application is conditioned upon a delineation being performed, and Department of State Land ("DSL") concurring in the evaluation. In the event any activity on the site requires permitting in light of the delineation of wetlands, required permits must be obtained and complied with. Conditioning the application on submission of wetland delineation to Department of State Lands, satisfies the requirements of the Salem Revised Code, and there is no basis to delay approval of the application.

Oral and written testimony was presented during the appeal period and at the Planning Commission hearing, contending that all applicable waterways on the site, and applicable wetlands, were not identified and the activities within the Riparian Corridor, were not identified or appropriately addressed in the application.

Finding: Only one waterway exists on the site, Wilark Brook. Waterways are specifically defined term in the Salem Revised Code, and require identification by the director SRC 808.005. No other identified waterways exist on the site, nor are the waterways identified in Glenn Gibson Watersheds own materials identifying waterways on the site, the material of the Department of State Lands, or those of the Oregon Water Resources

Department. Applicant appropriately identified, and provided the associated Riparian Corridor, for the one waterway on site.

To the extent that there may be wetlands on site, an appropriate wetland lineation, and concurrency from DSL is required. If any resulting activities require permits from state or federal authorities for activities within wetland, they are required as well. Accordingly, as approved, and conditioned, the application satisfied the applicable criteria.

SRC Chapter 810 (Landslide Hazards): City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, there are areas on the subject property assigned two, three and five landslide hazard susceptibility points. The proposed subdivision adds three activity points to the proposal, which results in a total of eight points. Pursuant to SRC Chapter 810, Table 810-1E, the proposed subdivision is classified as a moderate landslide risk and requires a geologic assessment.

A geotechnical report dated October 30, 2020, by Redmond and Associates, was submitted with the subdivision application. This report states that the site is presently stable and suitable for the proposed development and its associated site improvements.

The appellants argue that the decision cites a geotechnical report that fails to fully anticipate impacts of the development of slope stability.

Finding: The applicant submitted a Geotechnical Investigation and Geological Hazard Assessment dated October 30, 2020. As required in SRC 810.030(a), the geological assessment includes information and data regarding the nature, distribution of underlying geology, and the physical and chemical properties of existing soils; an opinion as to stability of the site; and conclusions regarding the effect of geologic conditions on the proposed development. The report concludes, "based on the results of our field explorations, laboratory testing, and engineering analyses, it is our opinion that the site is presently stable and suitable for the proposed...development and its associated site improvements provided that the recommendations contained within this report are properly incorporated into the design and construction of the project." The appellant has not submitted any conflicting expert testimony or demonstrated how the geotechnical report fails to meet the standards for geotechnical reports.

Oral and written testimony was submitted during the appeal period and at the Planning Commission hearing contending that the scope of the geotechnical analysis was insufficient and challenge the findings of the geotechnical report that the proposed subdivision improvements and homesites can be constructed on the site so long as recommendations in the geotechnical report are followed.

Finding: Appellants provided no evidence or qualified geotechnical testimony that the scope of the report was inadequate. The scope evaluated the site as required by Salem's Revised Code, and contained findings and conclusions demonstrating that the improvements proposed for the site, as well as the homesites, can be constructed safely if the geotechnical requirements in the report are followed. The application is conditioned on compliance with the geotechnical report, and subsequent grading permits must be

provided to, and reviewed and approved by the city. Compliance with the applicable conditions, assure safe development of the site. Appellants provided no testimony or evidence to support their contention that the geotechnical report is not of an appropriate scope, or does not contain appropriate conclusions. Appellants make much of the recommendation in the report that in the event substantial cuts of fills are required, or grading work is proposed for the steeper slopes on the property, geotechnical evaluation should be provided. Contrary to appellants contention, this reference provides protection to the site as opposed to demonstrating insufficient scope of the report. Conditions of approval both limit areas where excavation can be done and require compliance with the recommendations of the geotechnical report. The limitation on areas where excavation can be done significantly limits excavation near steep slopes and will limit cuts and fills. If substantial cuts and fills are required, or work proposed near steep slopes, additional geotechnical investigation is required by the conditions of approval. That investigation will indicate whether the work can safely proceed, and if it cannot, it will not. Accordingly, the evidence in the record exclusively supports the conclusion and finding that the site can be safely developed if the geotechnical report is followed.

Appellants cite no geotechnical study, or geotechnical opinion, contrary to the geotechnical report submitted by Redmond & Associates, a recognized geotechnical engineering firm. Nor do Appellants cite any evidence from a qualified geotechnical engineer to indict that the scope of analysis, and conclusions set forth in the geotechnical analysis provided by applicant is insufficient, or fails to meet applicable criteria. The Appellants reference to areas of the site not studied, references areas of the sited not scheduled for development. The geotechnical study provided by applicant, is uncontradicted, and demonstrated compliance with applicable provisions of SRC Chapter 801.

The appellants argue that there are lack of finding address SRC205.010(d)(1)(C).

Findings above address said criterion.

SRC 205.010(d)(2): The tentative subdivision plan does not impede the future use or development of the property or adjacent land.

Finding: The lots within the proposed subdivision, as proposed and conditioned, are of sufficient size and dimensions to permit future development of one single family dwelling each, or development of other SRC Chapter 511 "permitted," "special," or "conditional" uses. There is no evidence that the subdivision and subsequent development of the lots will adversely affect public services to any surrounding properties. Approval of the subdivision does not impede future use of the subject property or access to abutting properties.

As conditioned, the proposal meets this criterion.

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

Finding: Water and sewer infrastructure is available along the perimeter of the site. Developments are required to extend public utility services to serve upstream and neighboring properties; the tentative utility plan appears to meet that requirement.

The subject property is located in both the G-0 and W-1 water service areas. W-1 water service is available in Doaks Ferry Road NW abutting the property. G-0 water service is available in Doaks Ferry Road NW approximately 300 feet north of the subject property. The applicant shall provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.

Condition 13: Provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.

The nearest sewer available to serve the proposed development is located on the Kalapuya Elementary School property on the easterly neighboring property. The applicant shall extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.

Condition 14: Extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.

Conditions of approval require construction of water and sewer systems to serve each lot, an engineered stormwater design to accommodate future impervious surfaces, and dedication of a public utility easement to allow installation and maintenance of private utility infrastructure.

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 provided an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Prior to final plat, the applicant shall provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate future impervious surface on all proposed lots, including stormwater facilities needed to serve new streets. Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

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)(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.

As conditioned above, the proposal meets this criterion.

SRC 205.010(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.

Finding: The applicant is required to dedicate right-of-way and construct half-street improvements on the Doaks Ferry Road NW frontage consistent with TSP standards for a Major Arterial street. The abutting section of Doaks Ferry Road NW is currently underdeveloped and the current demand on the street does not require a full Major Arterial street. Pursuant to SRC 803.065(a)(1), the current physical constraints would make a Major Arterial half street improvement unsafe until the remaining properties are developed. The applicant will be required to dedicate the entire half width for a Major Arterial, but an alternative street section is approved for the development of an interim minor arterial standard. The alternative street will provide for safe flow of traffic until the remaining area is developed, which will require the Major Arterial standard.

The proposed subdivision requires a boundary street improvement, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS, as conditioned above.

Due to topographic constraints the proposed subdivision is precluded from meeting the 600-foot intervals for block length on the east and west sides of Woody Court NW. Other internal streets, except Woody Court NW (discussed below), will meet the Local Street standard with 60-foot-wide rights-of-way and 30-foot-wide improvements.

The applicant is proposing 52-foot right of way instead of 60-foot right-of-way for one street within in the subdivision, Woody Court NW. A 52-foot right-of-way width minimizes the impact of the existing topography of the site while still allowing adequate width in the landscape strip for street trees and otherwise meets the street standard. Due to the topography of the site, Woody Court NW is authorized with an alternative street standard for a reduced right-of-way width to 52 feet pursuant to SRC 803.065(a)(3).

The applicant is proposing Buzz Street to exceed 12% grade, due to the topography of the site, Buzz Street NW is authorized with an alternative street standard to increase the grade to a maximum of 15 percent pursuant to SRC 803.065(a)(3). The Salem Fire Department commented that they do not object to the increase in grade, although if any section of street exceeds 12% for more than 200 feet that all structures shall be installed with Fire Sprinklers. The section of Buzz Street will exceed 12% for approximately 240 feet in length, therefore Lots 1 and 25-28 will require Fire Sprinklers to be installed at building permit.

All other standards for a local street shall be met.

As proposed and conditioned, the subdivision conforms to the TSP. The proposal meets this criterion.

SRC 205.010(d)(5): The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

Finding: Conditions above implement required boundary street improvements along the abutting portions of Doaks Ferry Road NW.

The proposed network of boundary and internal streets serving the subdivision provides direct access to all lots within the subdivision. The subdivision, as proposed and conditioned, is served with adequate transportation infrastructure. The street system adjacent to the subdivided property will conform to the Salem Transportation System Plan, and provide for safe, orderly, and efficient circulation of traffic into, through and out of the subdivision.

The proposal meets this criterion.

SRC 205.010(d)(6): The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.

Finding: The proposed subdivision is situated within one-half mile of two neighborhood activity centers:

- Straub Nature Park, a ten-acre public park located at 2087 Doaks Ferry Road NW, approximately 300 feet south of the subject property.
- Brush College Park, an eight acre public park located at 2015 Brush College Road, approximately 0.34-mile north of the subject property.
- Robert W Straub Middle School located 1920 Wilmington Avenue NW, abutting the subject property to the south.
- West Salem High School, located 1,500 feet south of the subject property at 1776 Titan Drive NW.
- Kalapuya Elementary School located 2085 Wilmington Avenue NW, abutting the subject property to east.
- Bus stop located at Doaks Ferry Road and Gibsonwoods Court and local routes along Doaks Ferry Road NW.

The subject property will provide internal streets with safe and convenient bicycle and pedestrian access and provide boundary street improvements connecting to existing bicycle and pedestrian facilities along Doaks Ferry Road.

Kalapuya Elementary School and Straub Middle School are located adjacent to the subject property to be accessed through a future pedestrian walkway connecting to Woodhaven Court NW as conditioned below. To ensure adequate access to the existing schools and expressed by Salem Keizer School District the following condition applies:

Condition 15: Design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. Construct the walkway from Woody Street NW to the north line of the subject property. The applicant has the option of constructing the walkway from the north line of the subject property to Woodhaven Street NW or paying a fee-in-lieu of improvements for the construction costs of the walkway.

The portion of the walkway outside the subject property (within Wilark Park West No. 7 subdivision) is eligible for fee-in-lieu of construction pursuant to SRC 200.415.

The proposal meets this criterion.

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

Finding: The proposed 29-lot subdivision generates less than 1,000 average daily vehicle trips to Doaks Ferry Road NW, a Major Arterial street. Therefore, a Traffic Impact Analysis is not required as part of the proposed subdivision submittal.

The proposal meets this criterion.

SRC 205.010(d)(8): The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Finding: The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. A number of existing natural and built conditions on the subject property are considered in the street and lot configuration proposed by the applicant. The lot lay outs of Lots 8 and 9 may require tree or vegetation removal in addition to potential grading and fill within the riparian corridor to build a dwelling. If a Tree Removal Permit is not approved a modification to the Subdivision approval or alternations to the development plan would be required. Comments were submitted that it would be detrimental to the existing wetland (Wilark Brook) to add soil or fill within the 50-foot riparian zone. The applicant has provided site plans and a tree conservation plan indicating no removal of vegetation or trees within the 50-foot riparian corridor beyond those previously discussed on Lot 8 and limiting any construction activity to the building envelopes depicted the subdivision plan. Since the applicant has not proposed any addition removal of trees and limited vegetation removal within 50-feet of the existing waterway to those limited areas in the building envelopes depicted on the subdivision plan for Lots 8, 9 and 12, the following condition applies:

Condition 16: Grading within the 50-foot riparian area shall not occur under the drip line of any tree designated for preservation. Grading plans shall provide fencing and protection for all native vegetation and trees, including under the drip line.

Condition 17: No trees or native vegetation within the riparian zone shall be removed through a Tree Conservation Plan Adjustment. Any future removal shall only be authorized through an approved Tree Removal Permit (SRC 808.030).

Salem Revised Code 808 protects vegetation and trees within 50-feet of the top of the bank, which would include the area listed above in a stormwater easement. The applicant

has proposed to remove three trees and native vegetation within the building envelopes shown on the plan under the concurrent tree conservation plan. Any further removal would require the applicant to obtain a tree removal permit pursuant to SRC 808 and modify the tree conservation plan.

As described in findings above and conditioned, the lot and street configuration proposed by the applicant meets applicable development standards, with the adjustments for maximum street grade as requested. Applicant's multiple street designs resulting in a configuration that recognizes and minimizes the impact to slopes and vegetation on the site, reduction of street widths, and modification of accesses to lots demonstrate the final proposed design takes into account the conditions and vegetation on site, and designed the improvements to minimize their impact. As conditioned, no existing conditions of topography or vegetation have been identified on the site which would necessitate further variances during future development of the property. The layout allows for reasonable development of all lots within the subdivision without variances from the UDC.

The proposal meets this criterion.

SRC 205.010(d)(9): The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

Finding: The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. A number of existing natural and built conditions on the subject property are considered in the street and lot configuration proposed by the applicant. The lot lay outs of Lots 8 and 9 may require tree or vegetation removal in addition to potential grading and fill within the riparian corridor to build a dwelling. Comments were submitted that it would be detrimental to the existing wetland (Wilark Brook) to add soil or fill within the 50-foot riparian zone. The applicant has provided site plans and a tree conservation plan indicating no removal of vegetation or trees within the 50-foot riparian corridor beyond those previously discussed on Lot 8 and limiting any construction activity to the building envelopes depicted the subdivision plan.

The use of modified street configurations, large lots, and modified methods of access, has allowed the design in the subdivision to minimize any impact on the Wilark Brook Riparian Corridor. Limited impacts are identified from the building envelopes associated with lots 8, 9 and 12. The impacts with result in removal of only three trees and native vegetation, without further submission of permits and resulting review and approval by the City. Further the geotechnical analysis of the site, demonstrates that the proposed construction can take place, without geotechnical risks if the recommendations in the report are followed, which include additional geotechnical investigation is substantial cuts or fills are proposed, or work is proposed on the steeper slopes on site. Compliance with the report in all phases of development is a condition of approval. The report is uncontradicted by any expert testimony. In addition to the design adjustments made by the applicant, to minimize impacts on the topography and vegetation of the site, conditions are imposed, that ensure minimal disruption to the site. Since the applicant

has not proposed any additional removal of trees beyond the three trees identified and limited vegetation removal within 50-feet of the existing waterway to predefined building envelopes shown on the subdivision plan, construction activity in the riparian corridor is limited to the predefined building envelopes and Applicants final design that incorporates multiple features to limit impacts on the site in light of its topography and vegetation, the conditions above ensure the least amount of disruption on site.

The appellant argues that the findings cited in SRC 205.010(d)(9) address topography, but do not address “least disruption of vegetation” on site.

The finding discusses the removal of vegetation within the 50-ft corridor and references to other sections of the decision, which discuss in detail how the proposal is impacting the least amount as possible while meeting other standards of the Salem Revised Code. In order to minimize the impacts of site grading activities, the current site layout has large lots resulting in a low net density. Even with the current site layout, development of the property requires the use of alternative street standards, and several design exceptions to the Public Works Design Standards (PWDS) including: reduced centerline radius; street grade; and the elimination of an ADA crossing. The results of that analysis as well as multiple iterations of street design, is that the current development proposal results in the smallest impact to the site topography, riparian corridor, and other natural features of the site while utilizing the site for single family development.

Oral and written testimony was submitted during the appeal period and at the Planning Commission hearing, challenging the findings of compliance with SRC 205. The Appellants contend geotechnical analysis did not reference site vegetation or its disruption, and challenged the scope of the geotechnical report provided. Appellants further contend, that because some vegetation in trees may be removed from the fifty (50) foot Riparian Corridor surrounding Wilark Brook the application should not be approved.

Finding: Salem’s Revised Code does not prohibit development within the fifty (50) foot Riparian Corridor, nor does it prohibit removal of native vegetation or trees. Rather, the code requires that permits be obtained, so that impacts on Riparian Corridors can be carefully regulated, and only conducted after rigorous permitting standards are met. The application includes a tree removal plan, which, as conditioned, is approved, and any further impacts on the Riparian Corridor, will be subject to further permitting requirements. Accordingly, the application as conditioned and approved, meets the requirements of SRC Chapter 205, to minimize disruption of native vegetation and trees.

Further, the geotechnical report, is not required to address the removal of vegetation and trees. Removal of vegetation and trees is address through other permitting requirements. The geotechnical report studied the site and contemplated impacts, and concluded the proposed scope of development can be safely performed on the site, if the geotechnical report recommendations are followed. No contrary testimony, or evidence was presented.

Further, applicants use of larger lots, with specifically identified building envelopes to which construction impacts are limited, allows development of the property for contemplated single-family residences while protecting the vegetation and trees

surrounding Wilark Brook. Accordingly, the application satisfies, the requirements of SRC Chapter 205.010(d)(9).

Appellants further challenged staff's response to the contention that the application does not address properly the topography or vegetation on the site as required by SRC 205.010(d)(9). Appellants contend, staff response, contained in the July 13, 2021 staff report prepared for the July 22, 2021 hearing agenda item number 4.1, at page 5 paragraph 2, only reference of code sections.

Finding: Staff's response set forth at page 5 of the July 13, 2021 staff report, reference specific design adjustments, and changes, which revised the site design to minimize impact on vegetation on the site. The use of large lots, narrowed streets, alternative street designs, elimination of ADA crossings, and modified means of access, all reflect site designs used to minimize impact on vegetation and waterways on the site. Accordingly, the specific design criteria referenced by staff, design changes set forth in the application, as well as requirements for development be conducted in accordance with Salem Revised Codes requirements related to removal of trees and vegetation in Riparian Corridors in compliance with development standards, assures development will be conducted to accomplish the "least disruption of vegetation" on site.

SRC 205.010(d)(10): When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC Chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.

Finding: The subject property is located inside of the Urban Service Area. Compliance with the City's growth management plan and availability of infrastructure is addressed above in this report. This criterion has been met.

Other Appellant Assignment of Error

- *Conditions #2, 16 and 17 do not adequately address SRC Chapters 71, 82, 610 (sic 601), 808 and 809.*

Finding: The Planning Administrator's decision addresses Chapter 71 (Stormwater) on Page 12 of the decision (**included in Attachment 3**). The applicant's engineer submitted a preliminary drainage report dated August 24, 2020. The report concludes, "Based on the presented information, the proposed design will meet the water quality and quantity standards." The applicant is required, as conditioned, to address the impervious surface for the proposed subdivision.

SRC Chapter 82 (Clearing and Grading of Land) will be addressed by the applicant when permits for grading are submitted to the City of Salem. The applicant has not yet applied for a grading permit, which will be required prior to any development and reviewed pursuant to SRC 82. Grading permits will not be issued until DSL has issued a letter of concurrence.

The Planning Administrator's decision addresses Chapters 808 (Preservation of Trees and Vegetation) is addressed on Pages 15-17. The application and conditions 16 and 17 of the decision address the preservation of at least 25% of the trees on site. Trees and native vegetation in the riparian corridors shall not be removed unless a permit is issued, including a Tree Conservation Plan which the applicant has submitted. A tree conservation plan criterion does not allow for removal of trees of vegetation in riparian corridors, **unless there are no reasonable design alternatives that would enable the preservation.** The applicant has provided several designs of the subdivision, including the least impactful version, which includes the least amount of disturbance within the known riparian corridor (**Attachment 2**). The applicant is required to connect to the undeveloped property to the south. The applicant has created a flag lot accessway to prevent access from the public street to Lots 6-8 which would cross what the appellant is calling tributary a, reducing the impacts to potential wetlands in that area. Conditions 16 and 17 are mitigation to protect the remaining vegetation and preserved trees within the riparian corridor.

The Planning Administrator's decision addresses SRC 809 (Wetlands) on Page 17. SRC 205.030(a)(11) requires the application materials to show the location of any natural topographic features on the subject property, including, but not limited to, creeks, drainage ways as shown on the most recent USGS maps, wetlands as shown on the Local Wetland Inventory. SRC 809.025 requires that the City send a wetland land use notification form to the Department of State Lands of any application for development or land use in an area designated as a wetland on the official wetlands map. The Oregon Department of State Lands submitted a response recommending that the applicant complete a wetland delineation prior to performing ground disturbing activities on the site. The application has complied with the applicable codes related to wetland preservation.

Substantial testimony is provided comparing Wilark Brook to conditions on Goldcrest Brook.

Finding: Conditions on Goldcrest Brook are being studied by the City of Salem. Those studies indicate that pre-existing storm drainage requirements, which were far less stringent than those currently imposed, are the significant, if not controlling, factor in erosion along Goldcrest Brook. Efforts to repair and mitigate damage on Goldcrest Brook urge adoption of standards that are equal to the standards currently applicable under the Salem Revised Code to this project. Applicant is required to design the project to the Salem Revised Code current storm water drainage standards. Those storm drainage standards require the retention of storm water to pre-development levels for specified storm events. Requiring design, and construction of storm water improvements, to comply with existing Salem Revised Code standards addresses concerns related to the impacts on Wilark Brook that resulted in the conditions on Goldcrest Brook. Accordingly, as approved and conditioned, the application appropriately addressed storm water management retention, detention and treatment, and provides protections to Wilark Brook.

Testimony provided during the appeal period and at the Planning Commission hearing in writing and orally, challenge compliance with SRC Chapter 82 grading permit requirements. Appellants question the mechanism for obtaining the grading permits required for work within 50 feet of a waterway.

Finding: Lots 8, 9 and 12, contain proposed building envelopes that may have limited impacts on the Riparian Corridor of Wilark Brook. SRC Chapter 82, requires grading permits be obtained and compliance with all applicable standards be demonstrated, to obtain such permit. Appellants' first question, whether individual permits will be required for each lot, or overall encompassing grading permit will be required for the subdivision. A grading permit will be required for the general subdivision improvements. As each individual building envelope on the lots will present unique circumstances and unique impacts, an individual permit will be required for each building envelope. Work within the Riparian Corridor is authorized, so long as appropriate permits are obtained. The application as approved, and conditioned, requires obtaining grading permits before any work impacting the Riparian Corridor or can be performed. Requiring appropriate permits for grading be obtained prior to work being performed, assures compliance with the requirement of SRC Chapter 82. Accordingly, its criteria are satisfied.

Additional testimony was presented questioning whether grading permits can be issued in line with the requirement of Chapter 808 of the Salem Revised Codes.

Finding: Chapter 808 governs issuance of permits when trees or native vegetation may be impacted. The Chapter does not prohibit removal of trees or vegetation, however, strikes a balance between the critical need to maintain and preserve native vegetation, and important trees, while allowing development of land. The provisions of SRC Chapter 808 do not prohibit issuance of permits, so long as the requirements of the Chapter are satisfied. The application, as approved and conditioned require compliance with SRC Chapter 808. The criteria is satisfied.

6. FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR CLASS 2 ADJUSTMENT

Salem Revised Code (SRC) 250.005(d)(2) sets forth the following criteria that must be met before approval can be granted to an application for a Class 2 Adjustment. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Class 2 Adjustment application, or for the issuance of certain conditions to ensure the criteria are met.

(A) *The purpose underlying the specific development standard proposed for adjustment is:*

- (i) Clearly inapplicable to the proposed development; or***
- (ii) Equally or better met by the proposed development.***

Finding:

Maximum lot depth from 300 percent of average lot width:

The intent and purpose of the maximum lot depth standard is to provide for future buildable lots, which can maintain property line setbacks. The maximum lot depth is 300 percent of the average width of the lot, which prevents narrow lots which may not have adequate open space on the side yard, maintain side yard setback and to consider future development of potential lots.

Staff determined that Lot 12 does exceed the maximum 300% Lot Width, when measurements are taken pursuant to SRC 112.045, despite the applicant's assertion.

The existing configuration, existing waterway (Wilark Brook), topography of the property and required street connections of the area makes it difficult to meet the required maximum lot depth standard. The applicant's finding state that the lot would be 500 percent of the lots width, although when measurements are taken pursuant to SRC 112.045, proposed Lot 12 will be 315 percent. The configuration of the tract would provide for a dwelling to be built on the property and provide for less grading near the waterway. The lot are proposed to be greater than the minimum parcel size and provide for the single family residence to be located further away from a busy street (Doaks Ferry Road), the proposed configuration of Lot 12 equally or better meets the intent of the code.

The proposal meets this criterion.

Minimum lot depth from 120 feet for double frontage lot:

Within the RS (Single Family Residential) zone, double frontage lots with street frontage adjacent to both their front and rear property lines are required to have a minimum lot depth of 120 feet pursuant to SRC 511.010(a), Table 511-2. The underlying purpose of this standard is to ensure that lots that have street frontage adjacent to both their front and rear property lines have an increased lot depth to provide potential for additional privacy and separation from the street, which is of greater importance for lots abutting collector and arterial streets which convey greater levels of traffic.

Staff determined that Lot 3 has a 112-feet of lot depth, when measurements are taken pursuant to SRC 112.045, despite the applicant's assertion.

In the written statement provided by the applicant (**included in Attachment 3**) it is explained that in order to provide the required connections of streets and the existing grade in the area it is necessary based on the existing geometry.

Staff concurs with the findings included in the applicant's written statement. The requested adjustment is needed based on the proposed street configuration, which is influenced by the topography of the site and the location of existing streets on the perimeter of the property.

Lot 3 is a double frontage lot with frontage on two streets: Doaks Ferry Road adjacent to the rear and the proposed Buzz Street adjacent to the front. The reduced approximate 112-foot depth of Lot 3 satisfies the underlying purpose of the minimum 120-foot lot depth standard by providing a lot depth that, while not meeting the minimum 120-foot depth standard, still provides sufficient depth to allow for separation and privacy from Doaks Ferry Road.

The requested adjustment satisfies this approval criterion.

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

Finding: The proposed adjustment will not unreasonably impact the existing or potential uses or development in the surrounding area. The proposal is to create lots for a single-family dwelling. The existing configuration, topography and creek makes it difficult to meet the required maximum lot depth standard. The northern portion of the property is currently long and narrow. The proposed lots will accommodate a single-family dwelling and create additional buffer to Doaks Ferry Road.

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

Finding: The two adjustments requested by the applicant both relate to creation of two separate lots for single family and accommodate steep slopes in the vicinity. The adjustments allow the subject property to be developed with a single-family residential subdivision. Therefore, the cumulative effect of the adjustments is to allow development which is consistent with the overall purpose of the RA (Residential Agriculture) zone.

CONCLUSION

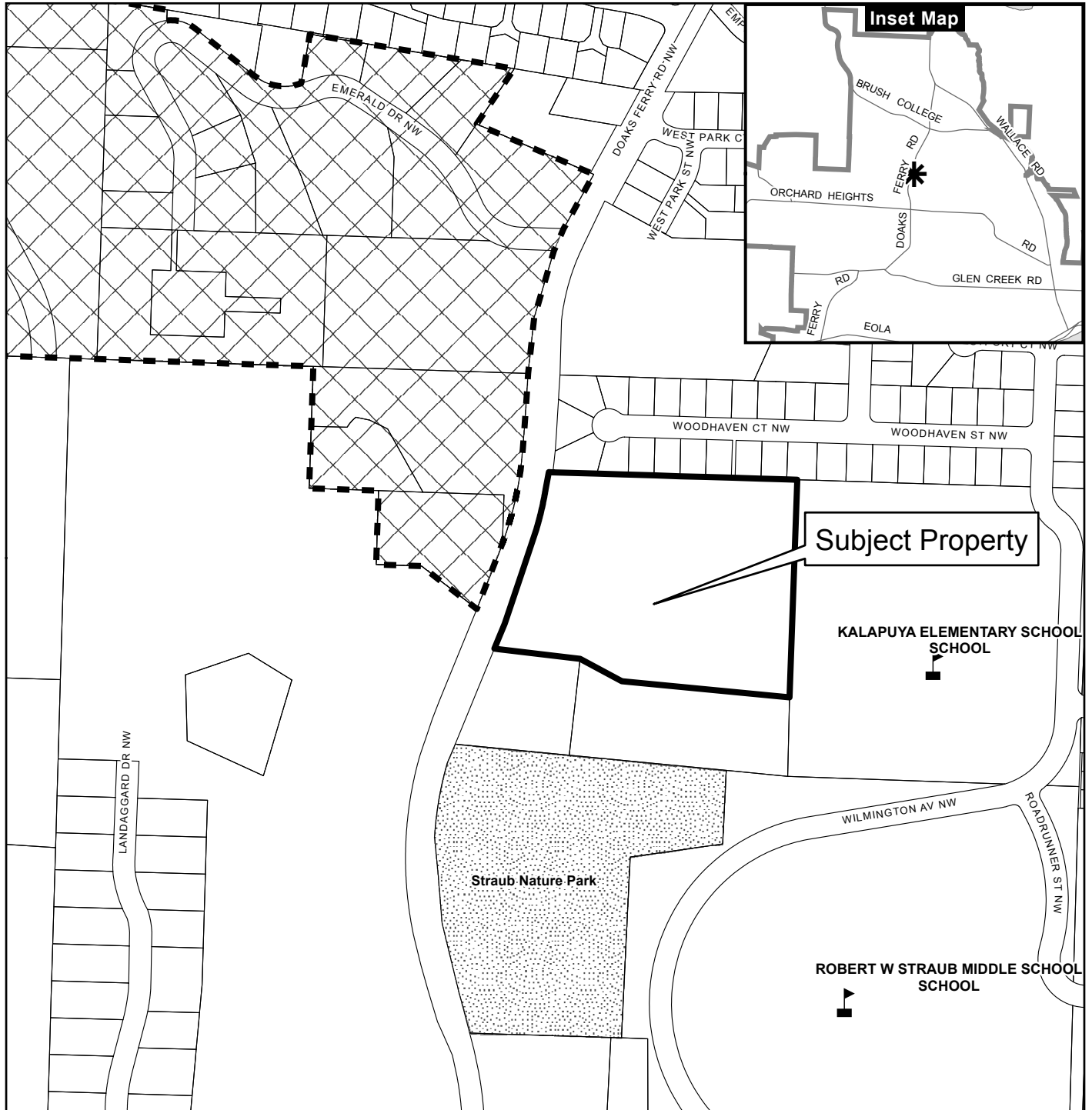
Based on the facts and findings presented herein, the Planning Commission concludes that the proposed Tentative Subdivision Plan, and Class 2 Adjustments, as recommended to be conditioned, satisfy the applicable criteria contained under SRC 205.010(d) and SRC 250.005(d)(2), for approval.

Attachments:








1. Vicinity Map
2. Tentative Subdivision Plan
3. Staff Report dated for the Planning Commission Meeting of July 20, 2021

Prepared by Olivia Dias, Current Planning Manager

Vicinity Map 2230 Doaks Ferry Road NW



Legend

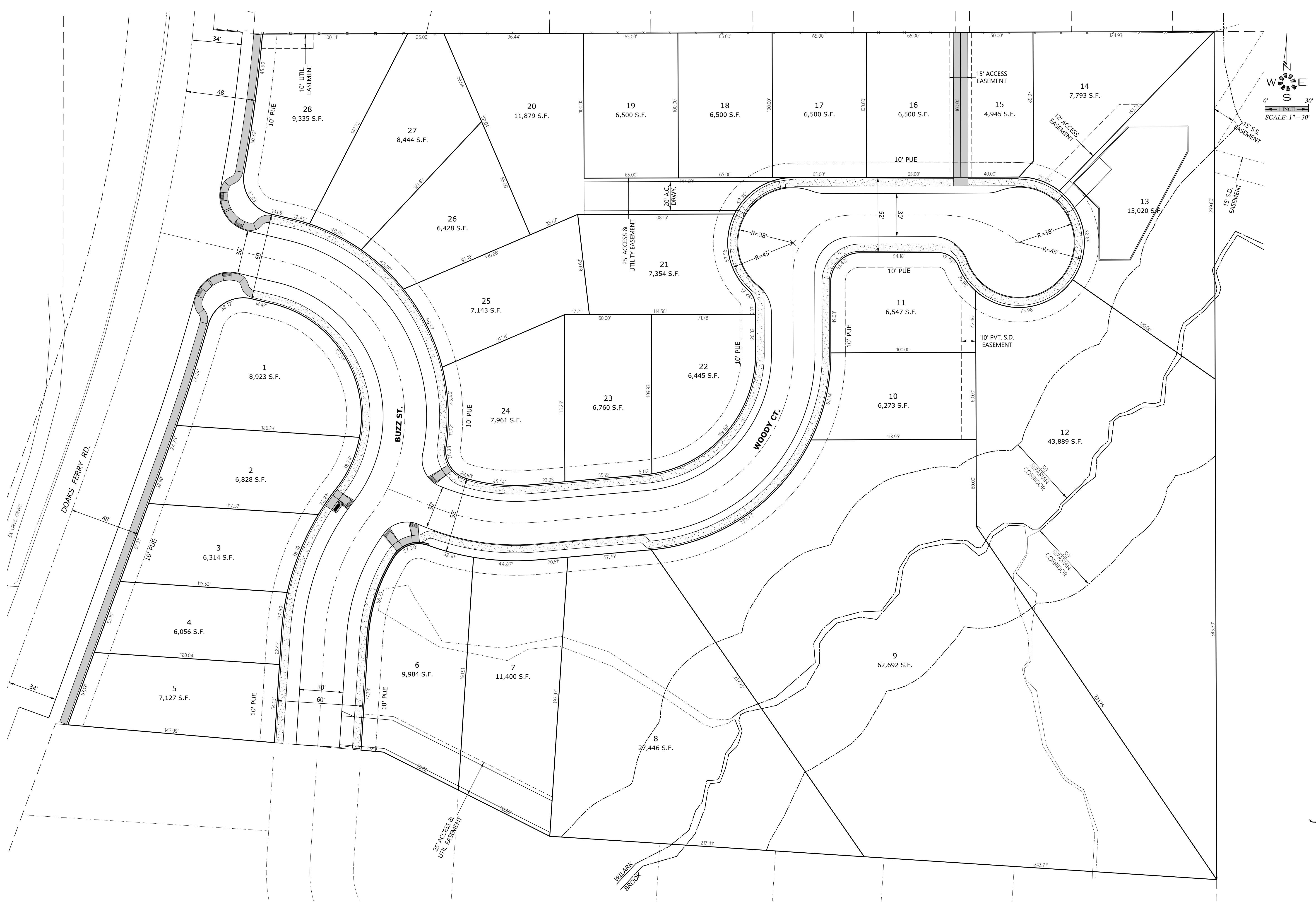
-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Parks
-  Schools



0 100 200 400 Feet



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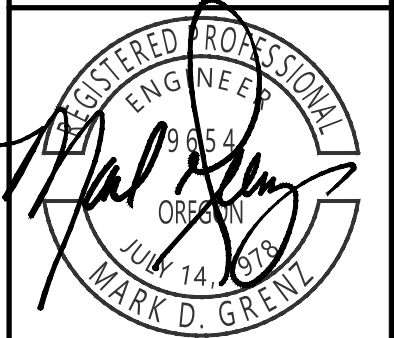


LOT DIMENSIONS & SIDEWALK PLAN

2230 DOAKS FERRY ROAD

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.

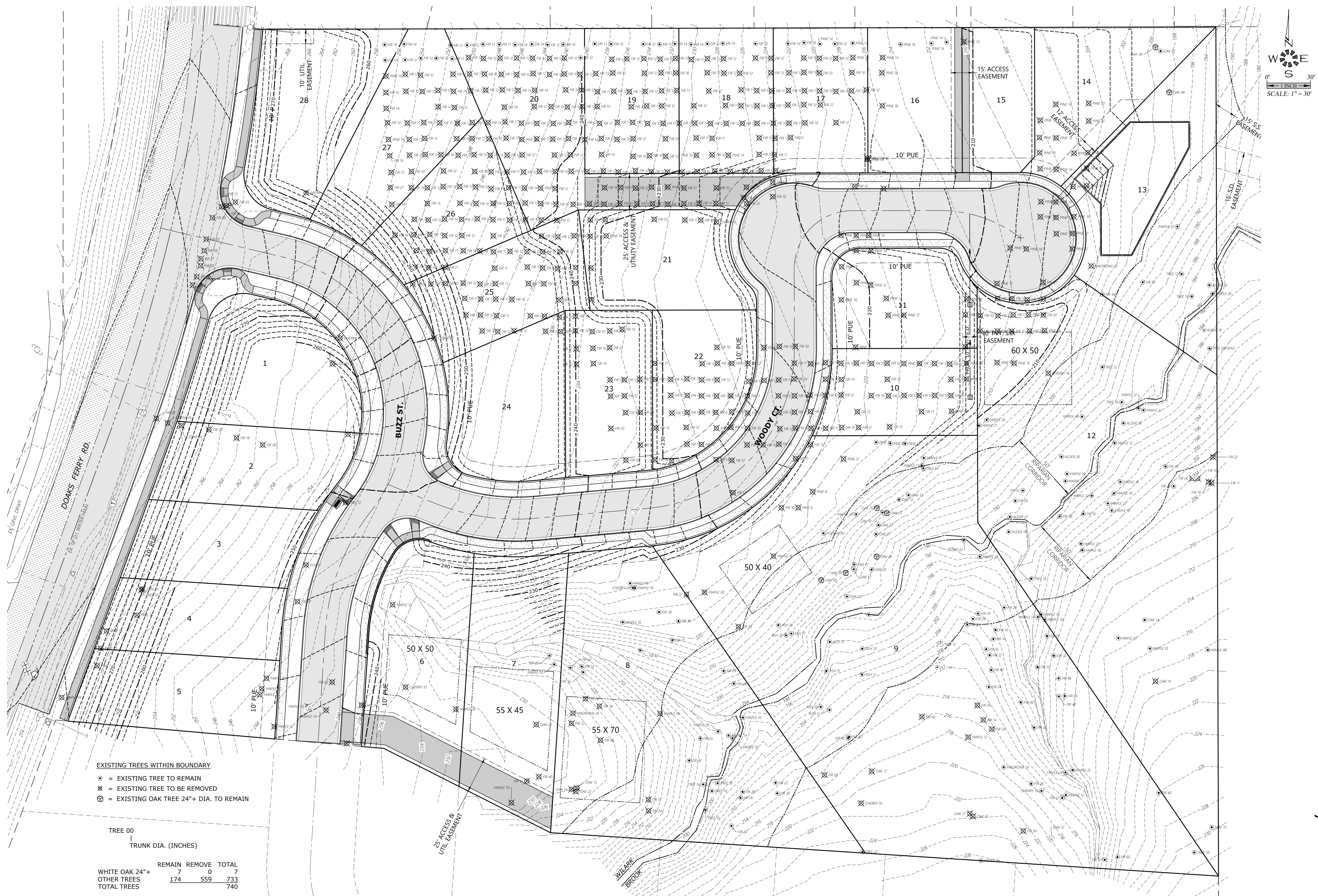
69519 PS-SW
Design: M.D.G.
Drawn: D.G.G.
Checked: J.J.G.
Date: JAN. 2020
Scale: AS SHOWN
As-Built: _____



EXPIRES: 06-30-2021
JOB # 6951

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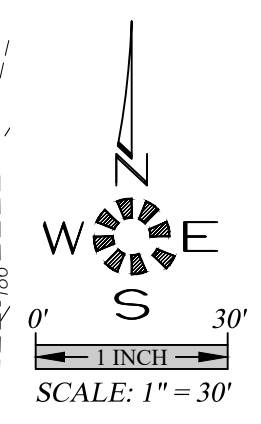


EXISTING TREES WITHIN BOUNDARY

- = EXISTING TREE TO REMAIN
- ⊗ = EXISTING TREE TO BE REMOVED
- ⊗ = EXISTING OAK TREE 24"+ DIA. TO REMAIN

TREE 00
TRUNK DIA. (INCHES)

	REMAIN	REMOVE	TOTAL
WHITE OAK 24"+	7	0	7
OTHER TREES	174	559	733
TOTAL TREES			740



MULTI/TECH
ENGINEERING SERVICES, INC.
1155 13th ST., S.E. SALEM, OR, 97302
www.multiengineering.net office@multiengineering.net

**LOT GRADING &
TREE CONSERVATION
PLAN**

2230 DOAKS FERRY ROAD

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.

69510 P7-TREE
Design: M.D.G.
Drawn: D.G.G.
Checked: J.J.G.
Date: JAN. 2020
Scale: AS SHOWN
As-Built: _____



EXPIRES: 06-30-2021
JOB # 6951

FOR MEETING OF: JULY 20, 2021
AGENDA ITEM NO.: 4.1

TO: PLANNING COMMISSION

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

SUBJECT: APPEAL OF PLANNING ADMINISTRATOR'S DECISION APPROVING TENTATIVE SUBDIVISION / CLASS 2 ZONING ADJUSTMENT PERMIT CASE NO. 21-05 FOR PROPERTY LOCATED AT 2230 DOAKS FERRY ROAD - 97304

ISSUE

Should the Planning Commission affirm, modify, or reverse the Planning Administrator's approval of a Tentative Subdivision and Class 2 Zoning Adjustment for Case No. SUB-ADJ-21-05 to allow a 27 lot subdivision with an alternative street standard to allow the grade of Buzz Street to exceed 12%, exceed the 600-foot maximum block length and to reduce the street width from 60-feet to 50-feet and a Class 2 Adjustments to exceed the maximum lot width to depth of 300 percent to 500 percent for Lot 12 and to allow Lot 3 to reduce the minimum lot depth for a double frontage lot from 120 feet to 112 feet, for property approximately nine acres in size and zoned RA (Residential Agriculture).

RECOMMENDATION

AFFIRM the Planning Administrator's approval of a Tentative Subdivision and Class 2 Zoning Adjustment for Case No. SUB-ADJ-21-05 to allow a 27-lot single family dwelling subdivision.

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.

BACKGROUND

The subject property is located at 2230 Doaks Ferry Road NW, a vicinity map showing the subject property is included as **Attachment 1** and proposed subdivision layout is included as **Attachment 2**.

On June 1, 2021, the Planning Administrator issued a decision approving a request for a 27-lot subdivision. An appeal of the decision was filed by Glen and Gibson Creeks Watershed Council and West Salem Neighborhood Association on June 15, 2021 and June 16, 2021, respectively. The City Council did not elect to review the Planning Administrator's decision; therefore, the review authority will be the Planning Commission.

FACTS AND FINDINGS

Procedural Findings

1. On April 12, 2021, a consolidated application for a Subdivision Tentative Plan, and Class 2 Adjustment applications were filed for a proposal to divide an approximately nine-acre property at 2230 Doaks Ferry Road NW (**Attachment 1 and 2**) into 27 lots. After the applicant submitted additional information, the applications were deemed complete for processing on April 16, 2021. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on April 16, 2021. The property was posted pursuant to SRC 300.
2. On June 1, 2021, the Planning Administrator issued a decision approving the 27-lot Tentative Subdivision and Class 2 Zoning Adjustment. (**Attachment 3**).
3. On June 15, 2021, the Glen and Gibson Creeks Watershed Council filed a timely appeal of the decision (**Attachment 4**).
4. On June 16, 2021, the West Salem Neighborhood Association filed a timely appeal of the decision (**Attachment 5**).
5. On June 30, 2021, notice of appeal hearing was sent to the appellants, applicant, property owners, the neighborhood association, individuals who submitted testimony for the record, and all others entitled to notice pursuant to Salem Revised Code (SRC) requirements. The subject property is not part of an Home Owners Association (HOA).
6. Notice of the appeal hearing was posted on the subject property on July 6, 2021. The appeal public hearing before the Planning Commission is scheduled for July 20, 2021. With applicant extensions, the state-mandated final local decision deadline for this application is September 11, 2021. The procedure for the appeal is specified in SRC 300.1040.
7. The Planning Commission may affirm, modify or reverse the decision or may remand the matter to the Planning Administrator for further action.

Appeal.

Prior to the expiration of the June 16, 2021 appeal deadline, Glenn and Gibson Creeks Watershed Council, filed an appeal of the Planning Administrator's decision (**Attachment 3**). A summary and staff response to the issues raised in the appeal is provided below:

1. *"The application failed to identify two headwater streams tributary to Wilark Brook as required by SRC 205.030(a)(10) and (11)....." The appellant argues that the two tributary streams are within the building envelope of Lot 6 and that Lots 7 and 8 contain the riparian corridor of the tributary streams.*

Staff Response: The application addresses the only tributary stream identified on the Local Wetland Inventory, Wilark Brook. The applicant is required to have a permit from the Department of State Land, which requires a delineation of the subject property. If the delineation identifies waterways and wetlands that would be impacted by the proposed development, they may need to redesign the subdivision to comply with state and federal permits and/or obtain a Tree Removal Permit for any additional vegetation and/or trees needed to be removed within 50-feet of delineated waterway.

2. *“The application does not include a wetland inventory....”*

Staff Response: The applicant is not required to submit a wetland inventory for review of a Tentative Subdivision application. Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. State and Federal permits may be required. The Public Works Design Standards require that all applicable state and federal permits be acquired as a condition of permit approval. As conditioned to obtain DSL permits, the tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

3. *“The application fails to recognize the significant wetlands and seeps that border Wilark Brook providing water quality filtration. The decision fails to support the purpose of SRC 809 and misinterprets the Salem Keizer Local Wetlands Inventory.” The appellant argues that the property was not included in the Local Wetland Inventory from 1999.*

Staff Response: Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. A delineation letter of concurrence from Department of State Lands is required and State and Federal permits may be required, which will include a delineation of the subject property.

Any changes to the waterway on-site will need to be reflected on the applicant's construction plans. If the additional vegetation and/or trees are needed to be removed within a newly delineated or existing riparian area, a Tree Removal Permit will be needed, as required by Condition 17, prior to commencement of development.

The subject property was located outside City limits when the City's local wetland inventory was generated in 1999. For properties annexed after 1999, City staff refer to the National Wetland Inventory and best available information to determine whether notification is warranted to the Oregon Department of State Lands. Notification was submitted to DSL for the proposed development, and DSL responded with a recommendation to perform a wetland delineation.

4. *“Wilark Brook provides habitat for native Cutthroat trout and Sculpin.”*

Staff Response: The waterway 'Wilark Brook' is regulated by State and Federal agencies, and native fish, including native Cutthroat trout and Sculpin are overseen by Oregon Department of Fish and Wildlife. The proposal is not building within the waterway and the Salem Revised Code does not restrict development within the riparian area. Appropriate State and Federal permits required for the applicant to obtain will address habitat of Wilark Brook.

5. The appellant argues that Staff erred in finding that the property does not contain identified significant wildlife habitat by state wildlife management agencies or by the City. The appellant argues that Oregon Department of Fish and Wildlife conducted a fish survey (1999) that documents the presence of Cutthroat Trout in Wilark Brook and Gibson Creek is a DEQ 303(d) listed stream.

Staff Response: The subdivision applicable decision criteria states that topography, and vegetation should be taken into consideration for development while allowing for the *reasonable* development of lots. The proposed subdivision has several lots exceeding the minimum lot size of the Single-Family Residential zone. The applicant has provided a tentative subdivision plan that creates larger lots in order to preserve the vegetation and trees within the riparian zone and prevent crossing of Wilark Brook with a public street. The appellant has not demonstrated how allowing housing, outside of the riparian corridor, will negatively impact trout in the stream. The applicant, through conditions of approval, is required to obtain the necessary state and federal permits for this development. If the appropriate state and federal jurisdictions determine that the subdivision, as proposed, will negatively impact the waterway(s), wetland(s) and/or trout, then the applicant will have to comply with that determination, which may result in the redesign of the proposed subdivision. The tentative approval is the first step in a two-step process. In order for the applicant to complete the second step (final plat) they must present their state and federal permits and demonstrate how they are complying with them.

6. The decision cites a geotechnical report that fails to fully anticipate impacts of the development of slope stability.

Staff Response: The applicant submitted a Geotechnical Investigation and Geological Hazard Assessment dated October 30, 2020. As required in SRC 810.030(a), the geological assessment includes information and data regarding the nature, distribution of underlying geology, and the physical and chemical properties of existing soils; an opinion as to stability of the site; and conclusions regarding the effect of geologic conditions on the proposed development. The report concludes, "based on the results of our field explorations, laboratory testing, and engineering analyses, it is our opinion that the site is presently stable and suitable for the proposed...development and its associated site improvements provided that the recommendations contained within this report are properly incorporated into the design and construction of the project." The appellant has not submitted any conflicting expert testimony or demonstrated how the geotechnical report fails to meet the standards for geotechnical reports.

7. "Single Family Residential is arguable the most wasteful Land Use category, especially in situations like this proposal." The appellant argues multiple family developments would be better suited.

Staff Response: The subject property is zoned Residential Agriculture and has a Comprehensive Plan designation of Developing Residential. The applicant has not proposed a zone change to a higher density residential zone. The application that was submitted was for a single-family residential subdivision. Staff and Planning Commission is limited to the decision criteria of the application submitted. Changing the proposed use or zoning is not part of the submitted application.

Prior to the expiration of the June 16, 2021 appeal deadline, West Salem Neighborhood Association, filed an appeal of the Planning Administrator's decision (**Attachment 5**). A summary and response to the issues raised in the appeal is provided below:

1. *The appellant argues that there are lack of findings addressing SRC 205.010(d)(1)(C).*

Staff Response: Finding addressing SRC 205.010(d)(1)(C) can be found on Pages 15-17 of the Planning Administrator's decision (**Attachment 3**). The appellant did not identify what was lacking within the findings. Several mitigation conditions related to grading and tree preservation (Conditions 10 and 11) are applied, wetlands are addressed with a condition regarding State and Federal permitting and landslide hazards are addressed with a geotechnical report from Redmond and Associates, which is in the record.

2. *The findings cited in SRC 205.010(d)(9) address topography, but do not address "least disruption of vegetation" on site.*

Staff Response: The finding discusses the removal of vegetation within the 50-ft corridor and references to other sections of the decision, which discuss in detail how the proposal is impacting the least amount as possible while meeting other standards of the Salem Revised Code. In order to minimize the impacts of site grading activities, the current site layout has large lots resulting in a low net density. Even with the current site layout, development of the property requires the use of alternative street standards, and several design exceptions to the Public Works Design Standards (PWDS) including: reduced centerline radius; street grade; and the elimination of an ADA crossing. The results of that analysis as well as multiple iterations of street design, is that the current development proposal results in the smallest impact to the site topography, riparian corridor, and other natural features of the site while utilizing the site for single family development.

3. *Condition #11 fails to comply with SRC 808.001*

Staff Response: The tentative subdivision application does include a permit under SRC 808. The purpose of the *Preservation of Tree and Vegetation* applies to several permits and standards. The applicant has applied for a Tree Conservation Plan, which provides decision criteria for the removal of trees and vegetation within the riparian zone, meeting that criteria is consistent with SRC 808.001. The Tree Conservation Plan criteria are reviewed after a final land use decision on the subdivision is rendered to ensure any additional mitigation required as conditions of approval is incorporated.

4. *Condition #12 fails to comply with SRC 809.010*

Staff Response: The subject property was located outside City limits when the City's local wetland inventory was generated in 1999. For properties annexed after 1999, City staff refer to the National Wetland Inventory and best available information to determine whether notification is warranted to the Oregon Department of State Lands. Notification was submitted to DSL for the proposed development, and DSL responded with a recommendation to perform a wetland delineation. This process complies with the approval criteria in SRC 205.010(d).

5. *The findings fail to identify or address all waterways on the site.*

Staff Response: The application addresses the only tributary stream identified on the Local Wetland Inventory, Wilark Brook. The applicant is required to have a permit from the Department of State Land, which requires a delineation of the subject property. If the delineation identifies waterways and wetlands that would be impacted by the proposed development, they may need to redesign the subdivision to comply with state and federal permits and/or obtain a Tree Removal Permit for any additional vegetation and/or trees needed to be removed within 50-feet of delineated waterway.

Figure B-4 of the Glenn/Gibson Basin Plan within the City's Stormwater Master Plan (Attachment 7) shows conveyance systems within the Glenn/Gibson watershed. Figure B-4 depicts Wilark Brook as a conveyance system through the subject property, but not any tributaries to Wilark Brook. The applicant's findings address Wilark Brook in compliance with the Stormwater Master Plan designation of conveyance systems within the subject property.

6. *Conditions #2, 16 and 17 do not adequately address SRC Chapters 71, 82, 610 (sic 601), 808 and 809.*

Staff Response: The Planning Administrator's decision addresses Chapter 71 (Stormwater) on Page 12 of the decision (**Attachment 3**). The applicant's engineer submitted a preliminary drainage report dated August 24, 2020. The report concludes, "Based on the presented information, the proposed design will meet the water quality and quantity standards." The applicant is required, as conditioned, to address the impervious surface for the proposed subdivision.

SRC Chapter 82 (Clearing and Grading of Land) will be addressed by the

applicant when permits for grading are submitted to the City of Salem. The applicant has not yet applied for a grading permit, which will be required prior to any development and reviewed pursuant to SRC 82. Grading permits will not be issued until DSL has issued a letter of concurrence.

The Planning Administrator's decision addresses Chapters 808 (Preservation of Trees and Vegetation) is addressed on Pages 15-17. The application and conditions 16 and 17 of the decision address the preservation of at least 25% of the trees on site. Trees and native vegetation in the riparian corridors shall not be removed unless a permit is issued, including a Tree Conservation Plan which the applicant has submitted. A tree conservation plan criterion does not allow for removal of trees of vegetation in riparian corridors, **unless there are no reasonable design alternatives that would enable the preservation.** The applicant has provided several designs of the subdivision, including the least impactful version, which includes the least amount of disturbance within the known riparian corridor (**Attachment 2**). The applicant is required to connect to the undeveloped property to the south. The applicant has created a flag lot accessway to prevent access from the public street to Lots 6-8 which would cross what the appellant is calling tributary a, reducing the impacts to potential wetlands in that area. Conditions 16 and 17 are mitigation to protect the remaining vegetation and preserved trees within the riparian corridor.

The Planning Administrator's decision addresses SRC 809 (Wetlands) on Page 17. SRC 205.030(a)(11) requires the application materials to show the location of any natural topographic features on the subject property, including, but not limited to, creeks, drainage ways as shown on the most recent USGS maps, wetlands as shown on the Local Wetland Inventory. SRC 809.025 requires that the City send a wetland land use notification form to the Department of State Lands of any application for development or land use in an area designated as a wetland on the official wetlands map. The Oregon Department of State Lands submitted a response recommending that the applicant complete a wetland delineation prior to performing ground disturbing activities on the site. The application has complied with the applicable codes related to wetland preservation.

Applicant Response to Appeal

The applicant has submitted a response to both appeals, which is attached to this report (Attachment 6). The applicant has request to change Condition 12 to the following:

Condition 12: Obtain applicable State and Federal permits as indicated by Department of State Lands (DSL). Submit wetland delineation to the Department of State Lands and obtain concurrence. In the event any DSL, or federal permits are required as a result of the wetlands delineation, obtain and comply with applicable state and federal permits.

Substantive Findings

As provided in the June 1, 2021 Planning Administrator decision approving the Tentative Subdivision and Class 2 Adjustment (**Attachment 3**), the proposed development does satisfy the submittal requirements of SRC 205.015(d), and SRC 250.005(d)(2).

Conclusion

Based on the facts and findings presented above and included with the June 1, 2021 decision, staff recommends that the Planning Commission **AFFIRM** the Planning Administrator decision approving the Tentative Subdivision and Class 2 Adjustment requests.

ALTERNATIVES

The Planning Commission may take one of the following actions:

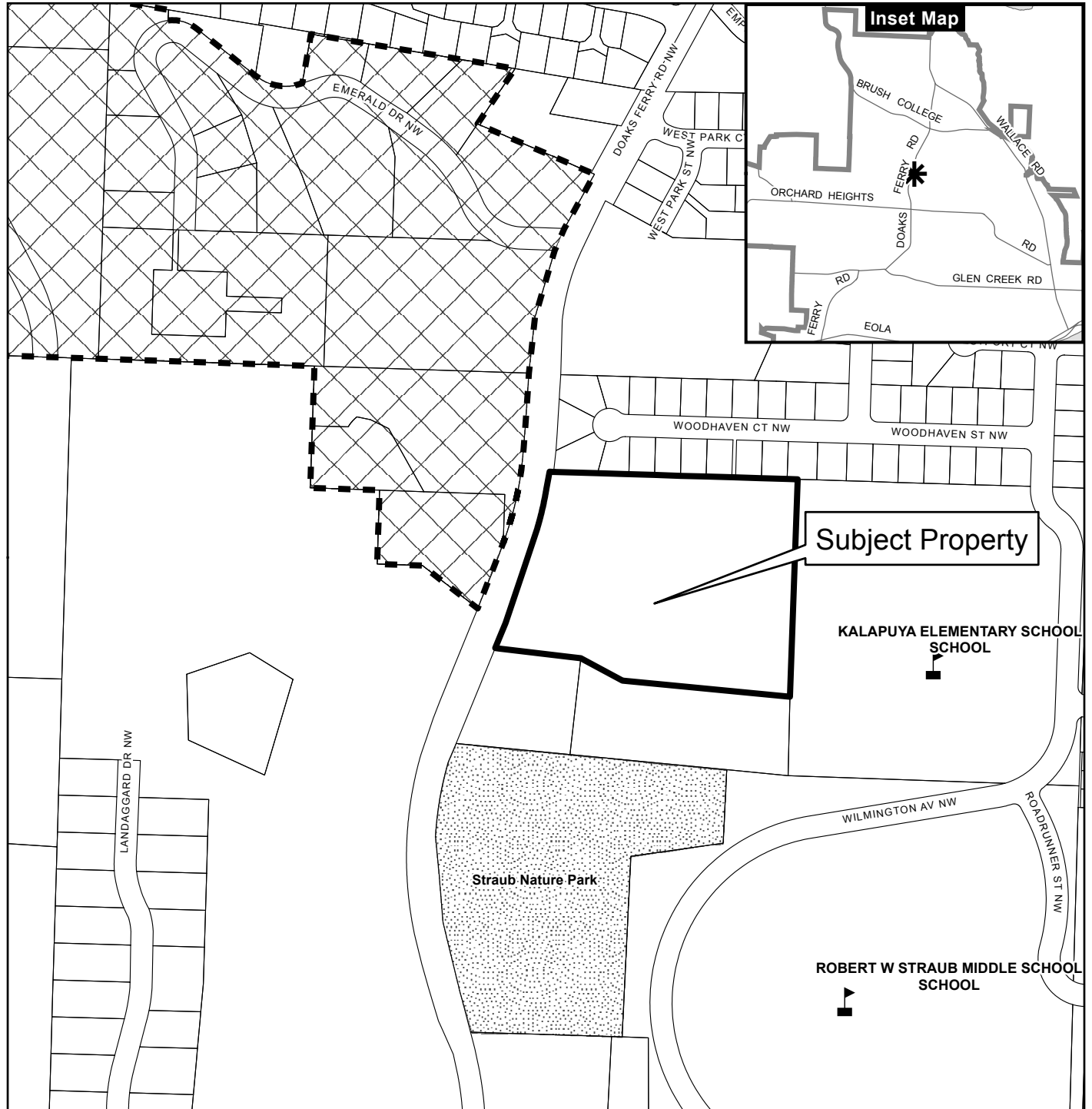
- I. **AFFIRM** the June 1, 2021 decision denying SUB-ADJ-21-05.
- II. **REMAND** the June 1, 2021 decision denying SUB-ADJ-21-05 to the Planning Administrator's for further action.
- III. **REVERSE** the June 1, 2021 approval, and deny approval for SUB-ADJ-21-05.

Attachments:








1. Vicinity Map
2. Tentative Subdivision Plan
3. Planning Administrator's Decision on Case No. VAR-DAP21-01, dated March 16, 2021
4. Notice of Appeal filed by Applicant Glenn and Gibson Creek Watershed Council
5. Notice of Appeal filed by West Salem Neighborhood Association
6. Applicant response to appeal
7. Stormwater Master Plan, Figure B-4
8. Testimony from E.M. Easterly

Prepared by: Olivia Dias, Current Planning Manager

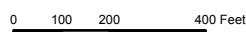
Vicinity Map 2230 Doaks Ferry Road NW



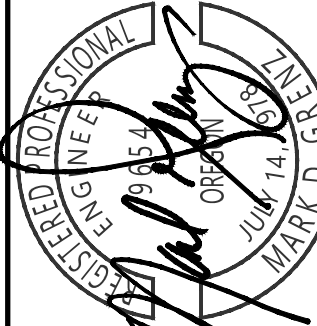
Legend

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


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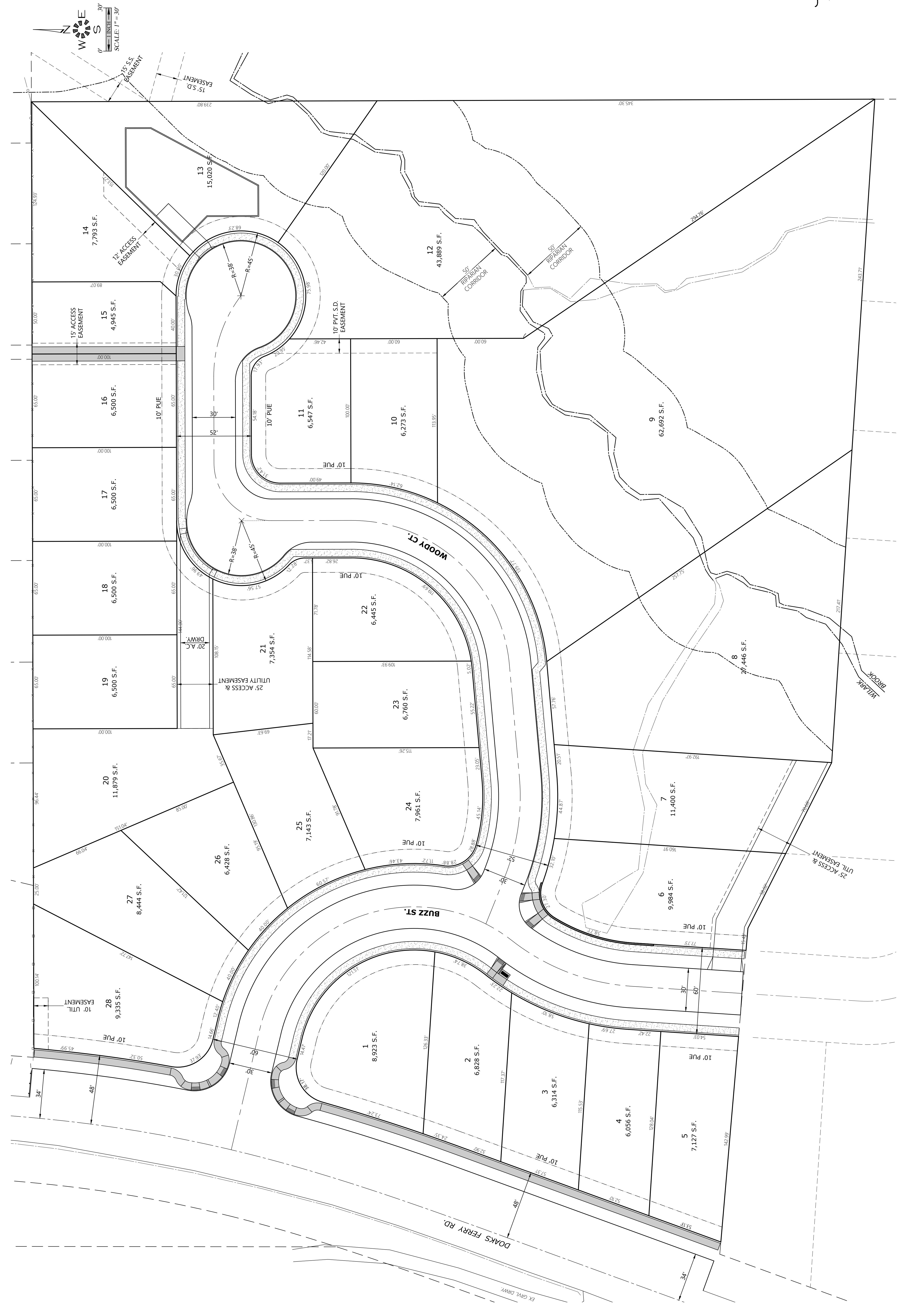
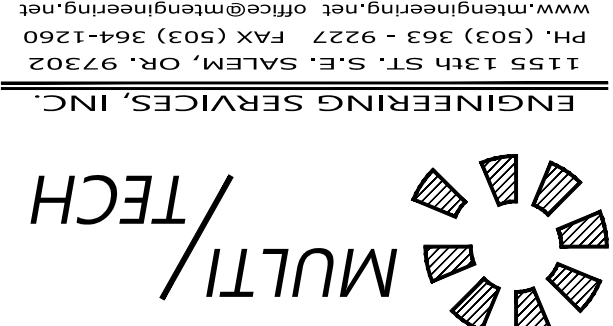


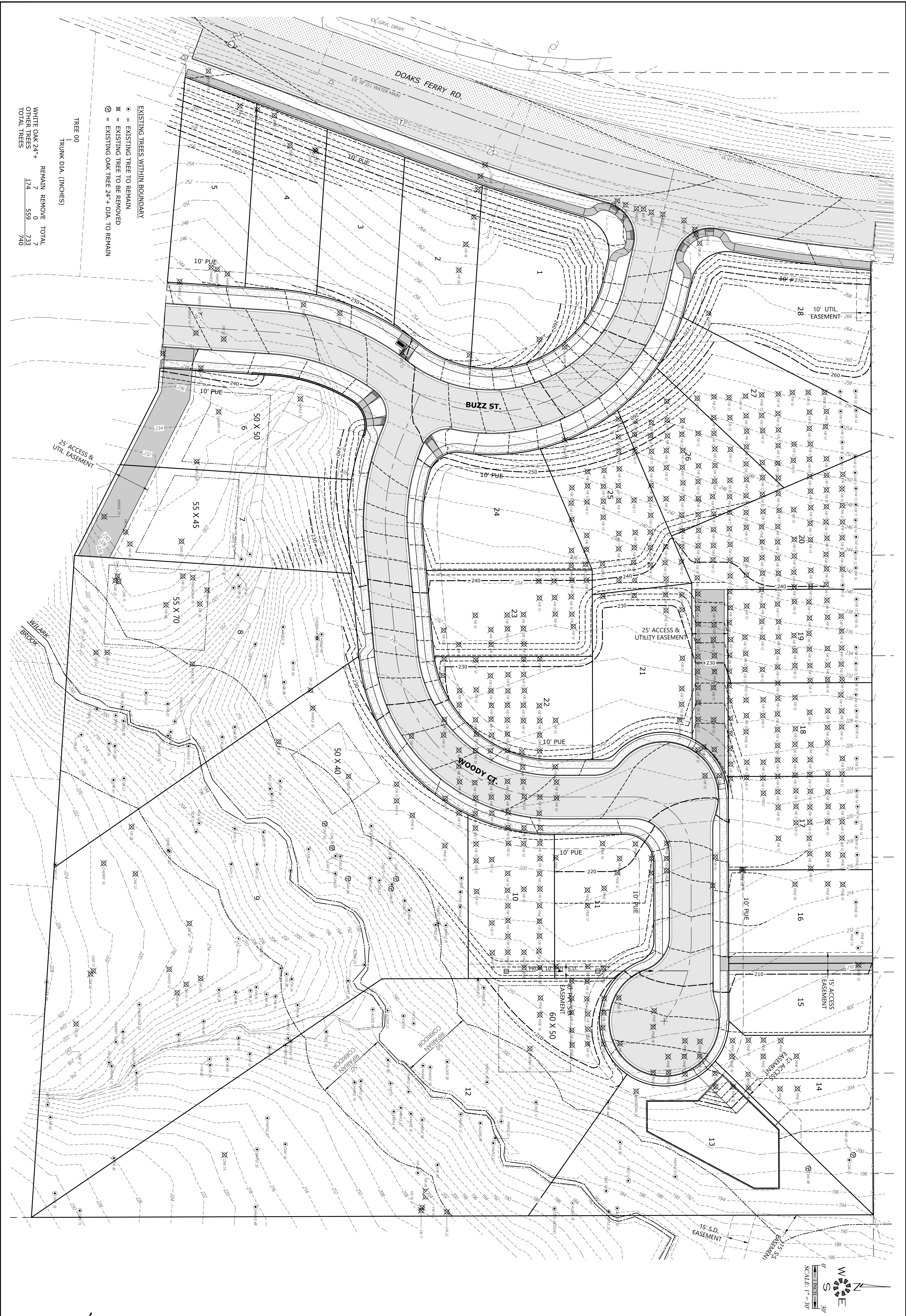
Design: M.D.G.
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 Checked: J.J.G.
 Date: JAN. 2020
 Scale: AS SHOWN
 As-Built: -----

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.

2230 DOAKS FERRY ROAD

LOT DIMENSIONS & SIDEWALK PLAN

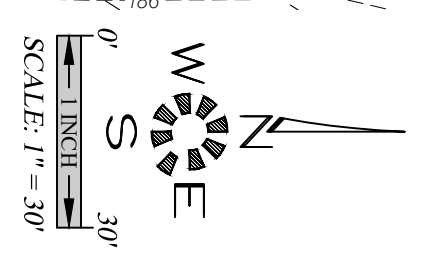




EXISTING TREES WITHIN BOUNDARY
 ○ = EXISTING TREE TO REMAIN
 ⊗ = EXISTING TREE TO BE REMOVED
 ⊙ = EXISTING OAK TREE 24" + DIA. TO REMAIN

TREE 00
 TRUNK DIA. (INCHES)

WHITE OAK 24"+	REMAIN	TOTAL
OTHER TREES	REMOVE	TOTAL
7	0	7
174	559	733
		740



6951p P7-TREE

Design: M.D.G.
 Drawn: D.G.G.
 Checked: J.J.G.
 Date: JAN. 2020
 Scale: AS SHOWN

As-Built: _____

DATE: JUN 14, 2021
 TIME: 8:15 AM

P7

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.

2230 DOAKS FERRY ROAD

LOT GRADING & TREE CONSERVATION PLAN

LOT GRADING & TREE CONSERVATION PLAN

MULTI/TECH

ENGINEERING SERVICES, INC.

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

DECISION OF THE PLANNING ADMINISTRATOR

SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ21-05

APPLICATION NO.: 21-106960-LD, 21-106962-ZO

NOTICE OF DECISION DATE: June 1, 2021

SUMMARY: A 27 Lot subdivision.

REQUEST: A subdivision tentative plan to divide approximately nine acres into 27 lots and one water quality and detention facility. The applicant is requesting an alternative street standard to allow the grade of Buzz Street to exceed 12%, exceed the 600-foot maximum block length and to reduce the street width from 60-feet to 50-feet and a Class 2 Adjustments to exceed the maximum lot width to depth of 300 percent to 500percent for Lot 12 and to allow Lot 3 to reduce the minim lot depth for a double frontage lot from 120 feet to 112 feet.

The subject property is approximately nine acres in size, zoned RA (Residential Agriculture), and located on the 2230 Doaks Ferry Road NW (Polk County Assessor Map and Tax Lot Number: 073W17 / 3803).

APPLICANT: Brandie Dalton, Multi-Tech Engineering, on behalf of Ryan Bloedel

LOCATION: 2230 Doaks Ferry Rd NW, Salem OR 97304

CRITERIA: Salem Revised Code (SRC) Chapters 205.015(d) – Phased Subdivision Tentative Plan; 250.005(d)(2) – Class 2 Adjustments

FINDINGS: The findings are in the attached Decision dated June 1, 2021.

DECISION: The **Planning Administrator APPROVED** Subdivision / Class 2 Adjustment Case No. SUB-ADJ21-05 subject to the following conditions of approval:

- Condition 1:** The flag lot accessway shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1. "NO PARKING—FIRE LANE" signs shall be posted on both sides of that segment of the flag lot accessway that is a fire apparatus roadway and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.
- Condition 2:** Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.
- Condition 3:** Convey right of way to equal 48 feet from centerline entire frontage of Doaks Ferry Road NW.

NOTICE OF DECISION

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



- Condition 4:** The Doaks Ferry Road NW frontage of the subject property shall be constructed to a minimum 23-foot-wide half-street improvement to interim Minor Arterial standards. The Doaks Ferry Road NW improvements shall include a southbound-to-eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS.
- Condition 5:** Construct internal streets to Local Street standards, except proposed Buzz Street NW may exceed 12% grade and Woody Court NW may be 52-feet in width, pursuant to SRC 803.065(a)(3).
- Condition 6:** Fire Sprinklers shall be installed in all structures on Lots 1 and 25-28.
- Condition 7:** Dedicate a 10-foot-wide public utility easement (PUE) along the street frontage of all internal streets.
- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown on the final plat and recorded on the deeds to individual lots affected by such easements.
- Condition 9:** The trees designated for removal on the south side of Wilark Brook on Lot 9 (11 trees) and Lot 12 (six trees) shall be preserved.
- Condition 10:** Prior to issuance of building permits on Lot 8, the applicant shall plant two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5) vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*). These trees and vegetation are in addition to requirements of SRC 808.050.
- Condition 11:** Any construction or grading on Lots 8, 9, 12 and 13 shall remain within the building footprints shown on the tentative subdivision plan.
- Condition 12:** Obtain applicable State and Federal permits as indicated by Department of State Lands (DSL).
- Condition 13:** Provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.
- Condition 14:** Extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.
- Condition 15:** Design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. Construct the walkway from Woody Street NW to the north line of the subject property. The applicant has the option of constructing the walkway from the north line of the subject property to Woodhaven Street NW or paying a fee-in-lieu of improvements for the construction costs of the walkway.
- Condition 16:** Grading within the 50-foot riparian area shall not occur under the drip line of any tree designated for preservation. Grading plans shall provide fencing and protection for all native vegetation and trees, including under the drip line.

Condition 17: No trees or native vegetation within the riparian zone shall be removed through a Tree Conservation Plan Adjustment. Any future removal shall only be authorized through an approved Tree Removal Permit (SRC 808.030).

The rights granted by the attached decision must be exercised, or an extension granted, by June 17, 2023, or this approval shall be null and void.

Application Deemed Complete:	<u>April 16, 2021</u>
Notice of Decision Mailing Date:	<u>June 1, 2021</u>
Decision Effective Date:	<u>June 17, 2021</u>
State Mandate Date:	<u>August 14, 2021</u>

Case Manager: Olivia Dias, 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. Wednesday, June 16, 2021. 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(s) 205 and 250. 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 will 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
(SUBDIVISION PLAT NO. 21-05)**

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
APPROVAL OF TENTATIVE)	
SUBDIVISION PLAT &)	
ADJUSTMENT CASE NO. 21-05)	
2230 DOAKS FERRY ROAD NW)	June 1, 2021

REQUEST

A subdivision tentative plan to divide approximately nine acres into 27 lots and one water quality and detention facility. The applicant is requesting an alternative street standard to allow the grade of Buzz Street to exceed 12%, exceed the 600-foot maximum block length and to reduce the street width from 60-feet to 50-feet and a Class 2 Adjustments to exceed the maximum lot width to depth of 300 percent to 500 percent for Lot 12 and to allow Lot 3 to reduce the minimum lot depth for a double frontage lot from 120 feet to 112 feet.

The subject property is approximately nine acres in size, zoned RA (Residential Agriculture), and located on the 2230 Doaks Ferry Road NW (Polk County Assessor Map and Tax Lot Number: 073W17 / 3803).

DECISION

The phased subdivision tentative 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:** The flag lot accessway shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1. "NO PARKING—FIRE LANE" signs shall be posted on both sides of that segment of the flag lot accessway that is a fire apparatus roadway and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.

- Condition 2:** Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

- Condition 3:** Convey right of way to equal 48 feet from centerline entire frontage of Doaks Ferry Road NW.

- Condition 4:** The Doaks Ferry Road NW frontage of the subject property shall be constructed to a minimum 23-foot-wide half-street improvement to interim Minor Arterial standards. The Doaks Ferry Road NW improvements shall include a southbound-to-eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS.

- Condition 5:** Construct internal streets to Local Street standards, except proposed Buzz Street NW may exceed 12% grade and Woody Court NW may be 52-feet in width, pursuant to SRC 803.065(a)(3).
- Condition 6:** Fire Sprinklers shall be installed in all structures on Lots 1 and 25-28.
- Condition 7:** Dedicate a 10-foot-wide public utility easement (PUE) along the street frontage of all internal streets.
- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown on the final plat and recorded on the deeds to individual lots affected by such easements.
- Condition 9:** The trees designated for removal on the south side of Wilark Brook on Lot 9 (11 trees) and Lot 12 (six trees) shall be preserved.
- Condition 10:** Prior to issuance of building permits on Lot 8, the applicant shall plant two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5) vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*). These trees and vegetation are in addition to requirements of SRC 808.050.
- Condition 11:** Any construction or grading on Lots 8, 9, 12 and 13 shall remain within the building footprints shown on the tentative subdivision plan.
- Condition 12:** Obtain applicable State and Federal permits as indicated by Department of State Lands (DSL).
- Condition 13:** Provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.
- Condition 14:** Extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.
- Condition 15:** Design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. Construct the walkway from Woody Street NW to the north line of the subject property. The applicant has the option of constructing the walkway from the north line of the subject property to Woodhaven Street NW or paying a fee-in-lieu of improvements for the construction costs of the walkway.
- Condition 16:** Grading within the 50-foot riparian area shall not occur under the drip line of any tree designated for preservation. Grading plans shall provide fencing and protection for all native vegetation and trees, including under the drip line.
- Condition 17:** No trees or native vegetation within the riparian zone shall be removed through a Tree Conservation Plan Adjustment. Any future removal shall only be authorized through an approved Tree Removal Permit (SRC 808.030).

PROCEDURAL FINDINGS

1. On August 28, 2020, a consolidated application for a Phased Subdivision Tentative Plan, Urban Growth Preliminary Declaration and Class 2 Adjustment applications were filed for a proposal to divide an approximately nine acre property on the 2230 Doaks Ferry Road NW (Attachment A) into 29 lots.
2. After the applicant submitted additional information, the applications were deemed complete for processing on November 30, 2020. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on November 30, 2020. The property was posted pursuant to SRC 300.
3. The applicant and staff determined that Urban Growth Preliminary Declaration permit is not needed, therefore the applicant has withdrawn that application.
4. The state-mandated local decision deadline is April 13, 2021

SUBSTANTIVE FINDINGS

1. Proposal

The tentative plan proposes to divide nine acres into 29 lots for residential development (Attachment B). The lots range in size from approximately 4,945 square feet to approximately 59,217 square feet. All lots take access directly from public streets, except for Lots 18 and 19 which will be served by a flag-lot accessway. The applicant is requesting an alternative street standard to allow 52-foot right of way in lieu of 60-foot and to and increase the block length of Woody Court from 600-feet to 1,200-feet, to increase the grade to 15 percent for Buzz Street where 12 percent is the maximum and a Class 2 Adjustment to exceed the maximum lot width to depth of 300 percent to 500 percent for Lot 12 and to allow Lot 3 to reduce the minimum lot depth for a double frontage lot from 120 feet to 112 feet.

The applicant requested an urban growth preliminary declaration permit, which was determined to not be necessary since the property is within the Urban Service Area.

The applicant has not proposed a phased subdivision.

2. Existing Conditions

Site and Vicinity

The subject property contains approximately nine acres and consists of a single tax lot, which extends approximately 760 feet eastward from Doaks Ferry Road and approximately 550 feet southward. The subject property is bounded by a residential subdivision to the north, elementary school to the east and large acreage to the south and west.

The subject property consists of steep grades with the highest elevation approximately 270 feet near the west property line of the subject property. The subject property is primarily a concentration of trees and Wilark Brook, which dissects the property.

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 “Developing Residential” on the Salem Area Comprehensive Plan (SACP) Map. The surrounding properties are designated as follows:

- North: Single Family Residential
- South: Developing Residential
- East: Developing Residential
- West: (Across Doaks Ferry Road); Single Family Residential and Polk County Urban Reserve

Zoning and Surrounding Land Use

The subject property is zoned RA (Residential Agriculture) and is currently contains a single family dwelling. The surrounding properties are zoned and used as follows:

- North: RS (Single Family Residential) single family subdivision
- South: RA (Residential Agriculture); large lot residential
- East: RA (Residential Agriculture); Existing Elementary School.
- West: (Across Doaks Ferry Road NW); RA (Residential Agriculture) and Polk County SR (Suburban Residential); large lot residential

Relationship to Urban Service Area

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

Infrastructure

- Water:* The subject property is within two water service levels, W-2 and G-0.
An 16-inch G-0 water main is located in Woodhaven Court NW.
An 18-inch W-2 water main is located in Doaks Ferry Road NW
- Sewer:* An 8-inch sanitary sewer main is located approximately 50-feet east of the northeast corner of the subject property.
- Storm Drainage:* Willard Brook is located on the subject property.

- Streets:** Doaks Ferry Road NW currently abuts the subject property along the west boundary. This segment of Doaks Ferry Road NW is designated as a Minor Arterial street in the Salem Transportation System Plan (TSP).
- The standard for this street classification is a 68-foot improvement within a 96-foot-wide right-of-way.
 - The abutting portion of Doaks Ferry Road NW currently an approximately 40-foot-wide improvement within an 80-foot-wide right-of-way.

3. Land Use History

- **Annexation 24-263:** A petitioner-initiated annexation for territory approximately 101.43 acres in size, rezoning to City of Salem RA (Residential Agriculture).

4. Public and Private Agency Review

Public Works Department - The City of Salem Public Works Department, Development Services Section, reviewed the proposal and has provided their comments and recommendation for plat approval. Their memorandum is included as Attachment D.

Fire Department - The Salem Fire Department submitted comments noting street grades shall not exceed 15 percent and grades over 12% for more than 200-feet in length will require fire sprinklers in all abutting structures. Fire hydrants are required to be provided within 600 feet of all portions of the structures (as measured along an approved path). An approved Fire Department turnaround is required where fire department access exceeds 150 feet and is a dead end. All measurements are made along an approved route as determined by the fire code official.

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. The school district indicated that the subject property is outside of the “walk zone” of the assigned elementary, middle, and high schools and that students residing within the development would be eligible for transportation to assigned schools. However, if the applicant develops the 15-foot access easement between the subject property and Woodhaven Court, as proposed by the applicant, the property would be within the walk zone for all three schools. This is addressed in Section 6.

Salem Electric reviewed the proposal and indicated that service will be provided according to the rates and policies at the time of construction. A 15-foot access easement between Lots 15 and 16 is needed to provide service.

5. Neighborhood Association Comments and Public Comments

On August 27, 2020, the applicant notified the Neighborhood Association of the application to subdivide the subject property. The applicant met the requirements of SRC 300.310, which requires the applicant for a proposed subdivision contact the affected neighborhood

association(s). The applicant has indicated that the property is not within a Home Owners Association.

All property owners and tenants within 250 feet of the subject property were mailed notification of the proposed subdivision. The subject property is within the West Salem Neighborhood Association. Notice of the application was provided to the neighborhood association, pursuant to SRC 300.620(b)(2)(B)(iii), which requires public notice to be sent to “any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property.”

West Salem Neighborhood Association and eight property owners or tenants provided comments prior to the comment period ending, which are summarized below:

- A. **Wildlife:** Construction would impact the existing wildlife in the area. The previous use could have contaminated the soils and stream.

Staff Response: In regard to impacts to wildlife habitat, the subject property has not been identified as a significant wildlife habitat by state wildlife management agencies or by the City. The subject property is located within the Urban Growth Boundary and incorporated limits of the City of Salem and has been designated on the City of Salem Comprehensive Plan Map as “Single Family Residential,” which anticipates existing or future residential development similar to the subdivision proposed by the applicant. Loss of wildlife habitat that has not been identified as significant is not a criterion under the Salem Revised Code for granting or denying a phased tentative subdivision approval.

A soil analysis is not required by Code for previously used farmland. The Oregon Department of Environmental Quality (DEQ) would regulate any contamination and/or clean up if necessary. The City has not reviewed any comments or concerns from DEQ.

- B. **Safety of Doaks Ferry Road NW and connecting street.** Comments submitted express concern about the safety of Doaks Ferry Road NW with the connecting street located on a hill. Connection with Buzz Street is hazardous.

Staff Response: The proposed connection to Doaks Ferry NW meets spacing requirements and connectivity standards of SRC 803.030 and SRC 803.035. In addition, the connection will provide for adequate circulation. Additional transportation related findings are addressed below.

- C. **Internal Streets and Pedestrian Paths.** Comments that the proposed pedestrian easement would impact property values and that children no longer walk to school. Several comments received express concerns with the increase in block length and reduction of Right-Of-Way to 52 feet.

Staff Response: The Public Works Department has evaluated the proposal and submitted comments indicating that existing streets in the vicinity have adequate width for two-way vehicle traffic. The proposal will result in a boundary street improvement of Doaks Ferry Road NW, including construction of sidewalks along the property boundary and the extension of new local streets through the subdivision in conformance with current standards for vehicle, pedestrian, and bicycle facilities. These streets will align with existing streets which will eventually fill in gaps within the current street network.

The proposal to reduce one local street width from 60-feet to 52-feet is due to the grade on the subject property. The travel lanes will still meet the adopted code; the reduction is in the planter strips on each side of the street. However, the planter strips will be wide enough to allow the planting of street trees. The City Traffic Engineer has determined that the proposed development does not generate traffic volumes sufficient to require a traffic impact analysis pursuant to SRC 803.015; therefore, off-site mitigation to the existing transportation system is not warranted as a condition of the proposed development.

There is an existing 10-foot right-of-way strip from the Woodhaven Court that is dedicated to public access. It has always been intended that the path will be completed and provide a safe and expeditious walking route to the nearby school. No evidence has been submitted that demonstrates that “children no longer walk to school” however, we do have testimony submitted by Salem-Keizer School District that without this path the children in the proposed subdivision will have to be bussed to school, despite the proximity of the school. The construction of the pedestrian path addresses the need for safe and orderly circulation. Property values are not an approval criterion for a land use proposal.

- D. **Type of dwelling unit, size of lots, height and fencing:** Comments were received concerned about multi-family units or taller dwellings which may block views. In addition, comments concerning the need for fencing abutting existing dwellings were received.

Staff Response: Views of adjacent property owners are not regulated or protected under the City of Salem zoning code. Future development will be reviewed for conformance with zoning requirements, including lot size and layout, maximum height, and minimum landscaping requirements.

- E. **Pedestrian access to Woodhaven Court NW.** Comments were received about the lack of connectivity and need for pedestrian access to the existing schools in the area.

Staff Response: The applicant is required to design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. The applicant will be constructing the walkway from Woody Street NW to the north line of the subject property and will be paying a fee-in-lieu of improvements for the construction costs of the walkway from the north line of the subject property to Woodhaven Street NW. The northern half of the walkway will likely be constructed by the City of Salem.

- F. **Stormwater and Erosion.** Comments raised concerns about groundwater in relation to adjacent properties. Concerns with possible permeable concrete for driveways and the effects on the stormwater system. Comments include a request for more information in the stormwater final report and need more details.

Staff Response: Applicable development standards and conditions of approval require that the applicant design stormwater facilities in compliance with the Public Works Stormwater Management Design Standards prior to final plat approval, addressing feasibility for onsite drainage disposal and any necessary offsite facilities. The Stormwater Management Design Standards require the applicant’s engineer to submit infiltration test results, an Engineering Method Report, and a preliminary site plan showing the building envelope and tentative

location of stormwater facilities. If the proposed parcel dimensions are not adequate to provide onsite stormwater facilities, in compliance with PWDS, a restricted building envelope or alternate engineering analysis will be required. In addition to required onsite stormwater facilities, the applicant is required to identify an approved overflow disposal point to accommodate large volumes of stormwater during high volume rain events.

The proposed development is subject to the requirements of Salem Revised Code Chapter 75 (Erosion Prevention and Sedimentation Control) and Chapter 82 (Clearing and Grading). Permits are required for grading work that exceeds minimum thresholds, and all grading work shall meet prescribed codes and standards.

- G. **Tree Removal:** Concerns about the removal of trees, especially those within the Riparian Corridor, on the subject property. Concerns about future site work and the preservation of the trees on site, especially those near Wilark Brook.

Staff Response: According to the applicant's Tree Conservation Plan application and site plan, two 20-inch Oregon White Oak trees are proposed to be removed. One within the future right-of-way of Doaks Ferry Road and the other would be within the building footprint of a new single-family dwelling. The applicant is proposing to remove two trees and minimal native vegetation within the 50-foot riparian area abutting Wilark Brook. The applicant is preserving more than 25% of the total amount of trees located on the subject property, which meets the Salem Revised Code for preservation. Removal of trees and vegetation will be mitigated as detailed below.

- H. **Wilark Brook and Wetlands:** Comments were submitted providing great concern with the building footprint of Lots 8, 9 and 12, in relation to Wilark Brook. Concerns about the need to fill the Brook/wetland for development was emphasized with a requested condition of approval for a setback for all structures to be equal to the depth of the brook. In addition, comments related to the direct impacts to Wilark Brook abutting the proposed development due to slope instability and indirect impacts to Wilark Brook downstream of the proposed development due to potential hydromodification.

Staff Response: Regarding direct impacts to Wilark Brook, the applicant submitted a geological assessment and geotechnical report that concludes the following: "Based on the results of our field explorations, laboratory testing, and engineering analyses, it is our opinion that the site is presently stable and suitable for the proposed new Doaks Ferry Road Subdivision single-family residential development and its associated site improvements provided that the recommendations contained within this report are properly incorporated into the design and construction of the project." Compliance with the report is required pursuant to SRC Chapter 810.

Regarding indirect impacts downstream, the applicant is required to mitigate downstream impacts by complying with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

The request for a condition of approval for setbacks of structures within the riparian area cannot be applied. The Salem Revised Code has provisions for activity and use within the riparian area, which is 50-feet from the top of bank of Wilark Brook, and those standards

and requirements do not limit structures to be built in the area. The applicant has proposed to remove two trees within the 50-foot riparian area and as a condition of approval additional plantings are required.

6. Criteria for Granting a Subdivision Tentative Plan

The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created lots at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final subdivision plat for each respective phase.

SRC Chapter 205.015(d) sets forth the criteria that must be met before approval can be granted to a phased subdivision request. The following subsections are organized with approval criteria shown in bold, followed by findings of fact upon which the Planning Administrator's decision is based. The requirements of SRC 205.015(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 205.015(d)(1): The tentative phased subdivision meets all of the criteria for tentative subdivision plan approval set forth in SRC 205.010(d).

Finding: Compliance with the criteria for tentative subdivision plan approval, as set forth in SRC 205.010(d), is addressed within the findings below.

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

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

SRC Chapter 511 (Single Family Residential): The proposed subdivision would divide the 9.35-acre property into 29 lots and a public facility for stormwater treatment, with no remainder. The subject property is currently zoned RA (Residential Agriculture). SRC Chapter 265.015 provides that any land within an RA zone district that is subject to a subdivision approval shall automatically be re-classified to an RS zone district on the date the subdivision plat is recorded. This provision applies to the subject property. Because the zoning of the subject property will be changed to RS with the recording of the final plat for each respective phase, the following analysis of the subdivision for conformance with the requirements of the UDC is based upon the property being rezoned to 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 (see SRC Chapter 511, Table 511-2)

Requirement	Minimum Standard
Lot Area (Single Family)	4,000 square feet
Lot Width	40 feet
Lot Depth (Single Family)	70 feet
Lot Depth (Double frontage lots)	120 feet
Street Frontage	40 feet

Proposed lots in the subdivision range from approximately 4,945 square feet to 59,217 square feet in size. The applicant requested an adjustment for two lots. Lot 25 is proposed lots exceed maximum lot depth standards and Lot 3 is proposed to reduce the minimum lot depth for a double frontage lot, set forth in SRC Chapter 511, Table 511-2. The applicant has requested a Class 2 Adjustment which is addressed below in Section 8.

The remaining proposed lots exceed minimum lot area, dimension, and frontage requirements and therefore conform to the applicable standards. The proposed lots within the subdivision are also of sufficient size and dimension to permit future development of uses allowed within the zone.

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

Front Yards and Yards Adjacent to Streets:

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

Rear Yards:

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

Interior Side Yards:

- Minimum 5 feet

The applicant has proposed to not remove any vegetation or trees within the riparian corridor, except two Fir trees on Lot 9. Since the applicant isn't proposing to remove any trees or native vegetation within the riparian corridor, Lots 8, 9 and 12 will be limited in their building envelope for a single-family dwellings. At building permit the applicant will have to provide evidence that

the grading required for the buildings will not remove any native vegetation nor trees within the Riparian Corridor while still maintaining setback of the RS zone to property lines.

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

SRC Chapter 800 (General Development Standards):

SRC 800.020 (Designation of Lot Lines): SRC 800.020 establishes front lot line designation requirements for corner lots, double frontage lots, flag lots, and all other lots. Corner lots are lots located at the intersection of two streets, typically with street frontage on two sides. Four of the proposed lots in the subdivision are corner lots. Provided that lot dimension requirements are met, the front lot line for a corner lot shall be the property line abutting a street provided by the building permit applicant.

Those lots abutting Doaks Ferry Road NW will not have access to the existing major arterial and will be required to access to the local street.

The proposal conforms to the requirements of SRC Chapter 800.

Flag Lots:

SRC 800.025 establishes the following development standards for flag lot accessways serving residentially zoned lots:

Flag Lot Accessway Standards (Residential Zones)		
	1 to 2 Lots Served by Accessway	3 to 4 Lots Served by Accessway
Length	150 ft. Max.	400 ft. Max.
Width	Min. 20 ft.	25 ft. Min.
Paved Width	Min. 15 ft.	20 ft. Min.
Parking	Not Allowed	Not Allowed
Turnaround	Required for flag lot accessways greater than 150 feet in length. <i>(Unless the buildings served by the flag lot accessway are equipped with approved automatic fire sprinkler systems or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshal)</i>	

Lots 14, 18, 19 and 20 are flag lots. As shown on the applicant’s tentative subdivision plan, the flag lot accessway serving Lots 18, 19 and 20 is approximately 144 feet in length, and located within a 25-foot wide easement, in conformance with the standards for flag lot accessways serving up to four lots.

In order to ensure the proposed flag lot accessway serving Lots 18, 19 and 20 conforms to the requirements of SRC 800.205, the following condition of approval shall apply:

Condition 1: The flag lot accessway shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1. "NO PARKING—FIRE LANE" signs shall be posted on both sides of that segment of the flag lot accessway that is a fire apparatus roadway and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.

Subsection (c) establishes standards for flag lots and flag lot accessways. Pursuant to SRC Chapter 800, Table 800-1, flag lot accessways serving 3 to 4 lots must be a minimum of 25 feet in overall width and must be paved to a minimum width of 20 feet.

(B) City Infrastructure Standards.

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

SRC Chapter 71 (Stormwater): The proposed subdivision is subject to the stormwater requirements of SRC Chapter 71 and the revised Public Works Design Standards as adopted in Administrative Rule 109, Division 004. To demonstrate that the proposed parcels can meet the PWDS, the applicant shall provide an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots.

Pursuant to SRC 71.085, all proposed lots shall be designed and constructed with green stormwater infrastructure. In order to ensure that the subdivision can accommodate required stormwater facilities, the following condition of plat approval shall apply:

Condition 2: Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

As conditioned, the proposal meets the requirements of SRC Chapter 71.

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

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 subdivision. Specifications for required public improvements are summarized in the Public Works Department memo (Attachment D).

SRC 802.015 requires development to be served by City utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards. The Schematic Utility Plan included in the proposal as application shows that each

individual lot can be served by City utilities designed and constructed according to the applicable provisions of the SRC and PWDS.

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

SRC 803.015 (Traffic Impact Analysis): Because the proposed subdivision is projected to less than 1,000 daily trips onto Doaks Ferry Road NW, a Major Arterial street, therefore a TIA is not required.

SRC 803.020 (Public and Private Streets): The applicant proposes for all internal streets within the subdivision to be public streets.

SRC 803.025 (Right-of-Way and Pavement Widths): The applicant is required to convey land for right-of-way along Doaks Ferry Road NW.

Finding: Doaks Ferry Road NW abuts the subject property and does not meet the current right-of-way or improvement width standards for a Major Arterial. In implementing boundary street requirements pursuant to SRC 803.040, conditions below require the applicant to dedicate additional right-of-way and convey 48-feet from centerline of Doaks Ferry Road NW. Since the surrounding area is mostly undeveloped, a Minor Arterial improvement width is sufficient to ensure safe and efficient travel in the area. With the Alternative Street standard of a 23-foot-wide half street travel width improvement, the ultimate location for sidewalks and street trees shall be installed to meet a Major Arterial Standard. The location of sidewalk and street trees in the ultimate location for the applicable street classification will ensure the pavement width can be expanded without jeopardizing the street trees and property line sidewalks.

In addition to the boundary improvement, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS.

Condition 3: Convey right of way to equal 48 feet from centerline entire frontage of Doaks Ferry Road NW.

Condition 4: The Doaks Ferry Road NW frontage of the subject property shall be constructed to a minimum 23-foot-wide half-street improvement to interim Minor Arterial standards. The Doaks Ferry Road NW improvements shall include a southbound-to-eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS.

The applicant is proposing 52-foot right of way instead of 60-foot right-of-way for one street within in the subdivision, Woody Court NW. A 52-foot right-of-way width minimizes the impact of the existing topography of the site while still allowing adequate width in the landscape strip for street trees and otherwise meets the street standard. Due to the topography of the site, Woody Court NW is authorized with an alternative street standard for a reduced right-of-way width to 52 feet pursuant to SRC 803.065(a)(3).

The applicant is proposing Buzz Street to exceed 12% grade. Due to the topography of the site, Buzz Street NW is authorized with an alternative street standard to increase the grade to a maximum of 15 percent pursuant to SRC 803.065(a)(3). The Salem Fire Department commented that they do not object to the increase in grade, although if any section of street exceeds 12% for more than 200 feet that all structures shall be installed with Fire Sprinklers. The section of Buzz Street will exceed 12% for more than 200 feet in length, therefore Lots 1 and 25-28 will require Fire Sprinklers to be installed at building permit.

Condition 5: Construct internal streets to Local Street standards, except proposed Buzz Street NW may exceed 12% grade and Woody Court NW may be 52-feet in width, pursuant to SRC 803.065(a)(3).

Condition 6: Fire Sprinklers shall be installed in all structures on Lots 1 and 25-28.

As conditioned, the proposal meets this requirement.

SRC 803.030 (Street Spacing): The street spacing requirements specifies maximum block lengths of 600 feet along one axis, and between 120 feet minimum and 400 feet maximum along the other axis. Street spacing may be increased based on one or more of the conditions set forth in subsection (b).

Finding: Due to existing steep topography and development, the proposed subdivision is precluded from meeting the 600-foot intervals for block length on both sides of Woody Court NW. The applicant is proposing to cul-de-sac Woody Court NW beyond the 600-foot block length. The proposal would not provide a cross street within in subdivision. The steep topography and street locations will meet the exemption of SRC 803.030(b)(1) to exceed the 600-foot intervals.

SRC 803.035 (Street Standards): Subsection (a) requires streets within the subdivision to provide connectivity to existing streets and undeveloped properties within the vicinity of the subject property. The abutting subdivision to the north has an existing right-of-way dedicated for a pedestrian path. The path appears to be an effort to meet the standards for block-length and connectivity to undeveloped properties. If a stub street was provided, the applicant would be required to continue the street, therefore, the applicant is proposing to connect to the pedestrian path in order to connect and create pedestrian connectivity.

Subsection (l) requires sidewalks to be constructed parallel to and one foot from the adjacent right-of-way and the construction of sidewalks as part of street improvement projects. The tentative subdivision shows all internal sidewalks will be constructed to meet the standard.

The tentative subdivision plat shows property line sidewalks, which is consistent with SRC 803.035(l). Generally, sidewalks along the frontage of lots platted for single family residential development are installed at the time of home construction. This allows eventual building permit applicants for single family dwellings to select driveway alignment and apron placement along the lot frontage prior to installing sidewalks.

Pursuant to subsection (n), public utility easements (PUEs) may be required for all streets. Comment 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 7: Dedicate a 10-foot-wide public utility easement (PUE) along the street frontage of all internal streets.

Condition 8: All necessary (existing and proposed) access and utility easements must be shown on the final plat and recorded on the deeds to individual lots affected by such easements.

SRC 803.040 (Boundary Streets): Doaks Ferry Road NW are boundary streets, running along the entire northern frontage of the subject property.

Finding: Doaks Ferry Road NW abuts the subject property and do not meet the current right-of-way or improvement width standards for a Major Arterial. In implementing boundary street requirements pursuant to SRC 803.040, conditions below require the applicant to dedicate additional right-of-way and convey 48-feet from centerline of Doaks Ferry Road NW. Since the surrounding area is mostly undeveloped, a Minor Arterial improvement width is warranted to ensure safe and efficient travel in the area. With the Alternative Street standard of a 23-foot-wide half street travel width improvement, the ultimate location for sidewalks and street trees shall be installed to meet a Major Arterial Standard. The location of sidewalk and street trees in the ultimate location for the applicable street classification will ensure the pavement width can be expanded without jeopardizing the street trees and property line sidewalks.

In addition to the boundary improvement, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS.

As conditioned, the proposal conforms to applicable boundary street requirements.

(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): The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet.

In addition, SRC 808.035(a) requires a Tree Conservation Plan for a development proposal involving the creation of lots or parcels to be used for the construction of single-family dwelling units, where trees are proposed for removal. A Tree Conservation Plan (TCP20-09) was submitted in conjunction with the phased subdivision tentative plan. TCP20-09 identifies 733 trees on the subject property, with 181 trees proposed for preservation. The applicant is proposing to preserve 24.69% of the trees on-site. The applicant is proposing to remove 11 trees on the south side of Lot 9 and six trees on the south side of Lot 12. The south side of each of these lots would require crossing the wetland and is not part of the building envelope provided by the applicant. Therefore, the 11 trees on the south side of Lot 9 and the six trees

on the south side of Lot 12 designated for removal shall be preserved. Adding these trees will increase the overall percentage preserved to 27%, or 198 trees designated for preservation.

Condition 9: The trees designated for removal on the south side of Wilark Brook on Lot 9 (11 trees) and Lot 12 (six trees) shall be preserved.

The applicant is proposing to remove two trees within the Riparian Area.

The subject property has extreme topographic features with an elevation change 86 feet in just 700 feet of width. It has an average slope from west to east of approximately 12% and isolated slopes in excess of 25%. The property is surrounded by development on the northern and east boundaries, with no street connections provided to it during those previous developments. With no previous street connections provided accessing the site requires a street connection to Doaks Ferry Road as well as the requirement to provide street connectivity to the undeveloped property to the south.

In order to minimize the impacts of site grading activities, the current site layout has large lots resulting in a low net density. Even with the current site layout, development of the property requires the use of alternative street standards, and several design exceptions to the Public Works Design Standards (PWDS) including: reduced centerline radius; street grade; and the elimination of an ADA crossing. The results of that analysis as well as multiple iterations of street design, is that the current development proposal results in the smallest impact to the site topography, riparian corridor, and other natural features of the site while utilizing the site for single family development.

The subject property is impacted by approximately 61,000 square feet of riparian corridor, which is completely within four proposed Lots (Lots 8, 9, 12 and 13). Under normal development constraints 61,000 square feet with an average development density of six lots per acre would result in eight single family lots. The combined proposed impact of approximately 1,500 square feet with the building footprints represents a mere 2.5% of that total riparian area. Considering all of the proposed impacts are within the outer 25' of the riparian corridor suggests that much of the proposed impacts will have no impact to native vegetation. With the proposed impact to the riparian corridor of 1,500 square feet, less than the average building footprint, spread over four lots.

As mitigation for removal of native vegetation in the riparian corridor of Lot 8, which includes two Douglas Fir trees and a mix of native and non-native understory vegetation. The following shall be planted within the same lot: two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5) vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*).

The above mitigation is for removal of the two Douglas fir trees on Lot 8 indicated for removal in the "Lot Grading and Tree Conservation Plan" only. Any additional tree removal within the riparian corridor shall require a Tree Conservation Plan Adjustment and be review based on submittal and approval of an arborist report.

Condition 10: Prior to issuance of building permits on Lot 8, the applicant shall plant two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5)

vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*). These trees and vegetation are in addition to requirements of SRC 808.050.

Condition 11: Any construction or grading on Lots 8, 9, 12 and 13 shall remain within the building footprints shown on the tentative subdivision plan.

As proposed, the tentative subdivision plan conforms to all applicable SRC Chapter 808 requirements.

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

The Salem-Keizer Local Wetland Inventory (LWI) does identify wetlands on the subject property. Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. State and Federal permits may be required. The Public Works Design Standards require that all applicable state and federal permits be acquired as a condition of permit approval. As conditioned below, the tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

Condition 12: Obtain applicable State and Federal permits as indicated by Department of State Lands (DSL).

SRC Chapter 810 (Landslide Hazards): City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, there are areas on the subject property assigned two, three and five landslide hazard susceptibility points. The proposed subdivision adds three activity points to the proposal, which results in a total of eight points. Pursuant to SRC Chapter 810, Table 810-1E, the proposed subdivision is classified as a moderate landslide risk and requires a geologic assessment.

A geotechnical report dated October 30, 2020, by Redmond and Associates, was submitted with the subdivision application. This report states that the site is presently stable and suitable for the proposed development and its associated site improvements.

SRC 205.010(d)(2): The tentative subdivision plan does not impede the future use or development of the property or adjacent land.

Finding: The lots within the proposed subdivision, as proposed and conditioned, are of sufficient size and dimensions to permit future development of one single family dwelling each, or development of other SRC Chapter 511 "permitted," "special," or "conditional" uses. There is no evidence that the subdivision and subsequent development of the lots will adversely

affect public services to any surrounding properties. Approval of the subdivision does not impede future use of the subject property or access to abutting properties.

As conditioned, the proposal meets this criterion.

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

Finding: Water and sewer infrastructure is available along the perimeter of the site. Developments are required to extend public utility services to serve upstream and neighboring properties; the tentative utility plan appears to meet that requirement.

The subject property is located in both the G-0 and W-1 water service areas. W-1 water service is available in Doaks Ferry Road NW abutting the property. G-0 water service is available in Doaks Ferry Road NW approximately 300 feet north of the subject property. The applicant shall provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.

Condition 13: Provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.

The nearest sewer available to serve the proposed development is located on the Kalapuya Elementary School property on the easterly neighboring property. The applicant shall extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.

Condition 14: Extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.

Conditions of approval require construction of water and sewer systems to serve each lot, an engineered stormwater design to accommodate future impervious surfaces, and dedication of a public utility easement to allow installation and maintenance of private utility infrastructure.

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 provided an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Prior to final plat, the applicant shall provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate future impervious surface on all proposed lots, including stormwater facilities needed to serve new streets. Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

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)(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.

As conditioned above, the proposal meets this criterion.

SRC 205.010(d)(4): The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.

Finding: The applicant is required to dedicate right-of-way and construct half-street improvements on the Doaks Ferry Road NW frontage consistent with TSP standards for a Major Arterial street. The abutting section of Doaks Ferry Road NW is currently underdeveloped and the current demand on the street does not require a full Major Arterial street. Pursuant to SRC 803.065(a)(1), the current physical constraints would make a Major Arterial half street improvement unsafe until the remaining properties are developed. The applicant will be required to dedicate the entire half width for a Major Arterial, but an alternative street section is approved for the development of an interim minor arterial standard. The alternative street will provide for safe flow of traffic until the remaining area is developed, which will require the Major Arterial standard.

The proposed subdivision requires a boundary street improvement, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS, as conditioned above.

Due to topographic constraints the proposed subdivision is precluded from meeting the 600-foot intervals for block length on the east and west sides of Woody Court NW. Other internal streets, except Woody Court NW (discussed below), will meet the Local Street standard with 60-foot-wide rights-of-way and 30-foot-wide improvements.

The applicant is proposing 52-foot right of way instead of 60-foot right-of-way for one street within in the subdivision, Woody Court NW. A 52-foot right-of-way width minimizes the impact of the existing topography of the site while still allowing adequate width in the landscape strip for street trees and otherwise meets the street standard. Due to the topography of the site, Woody Court NW is authorized with an alternative street standard for a reduced right-of-way width to 52 feet pursuant to SRC 803.065(a)(3).

The applicant is proposing Buzz Street to exceed 12% grade, due to the topography of the site, Buzz Street NW is authorized with an alternative street standard to increase the grade to a maximum of 15 percent pursuant to SRC 803.065(a)(3). The Salem Fire Department commented that they do not object to the increase in grade, although if any section of street exceeds 12% for more than 200 feet that all structures shall be installed with Fire Sprinklers. The section of Buzz Street will exceed 12% for approximately 240 feet in length, therefore Lots 1 and 25-28 will require Fire Sprinklers to be installed at building permit.

All other standards for a local street shall be met.

As proposed and conditioned, the subdivision conforms to the TSP. The proposal meets this criterion.

SRC 205.010(d)(5): The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

Finding: Conditions above implement required boundary street improvements along the abutting portions of Doaks Ferry Road NW.

The proposed network of boundary and internal streets serving the subdivision provides direct access to all lots within the subdivision. The subdivision, as proposed and conditioned, is served with adequate transportation infrastructure. The street system adjacent to the subdivided property will conform to the Salem Transportation System Plan, and provide for safe, orderly, and efficient circulation of traffic into, through and out of the subdivision.

The proposal meets this criterion.

SRC 205.010(d)(6): The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.

Finding: The proposed subdivision is situated within one-half mile of two neighborhood activity centers:

- Straub Nature Park, a ten-acre public park located at 2087 Doaks Ferry Road NW, approximately 300 feet south of the subject property.
- Brush College Park, an eight acre public park located at 2015 Brush College Road, approximately 0.34-mile north of the subject property.
- Robert W Straub Middle School located 1920 Wilmington Avenue NW, abutting the subject property to the south.
- West Salem High School, located 1,500 feet south of the subject property at 1776 Titan Drive NW.
- Kalapuya Elementary School located 2085 Wilmington Avenue NW, abutting the subject property to east.
- Bus stop located at Doaks Ferry Road and Gibsonwoods Court and local routes along Doaks Ferry Road NW.

The subject property will provide internal streets with safe and convenient bicycle and pedestrian access and provide boundary street improvements connecting to existing bicycle and pedestrian facilities along Doaks Ferry Road.

Kalapuya Elementary School and Straub Middle School are located adjacent to the subject property to be accessed through a future pedestrian walkway connecting to Woodhaven Court

NW as conditioned below. To ensure adequate access to the existing schools and expressed by Salem Keizer School District the following condition applies:

Condition 15: Design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. Construct the walkway from Woody Street NW to the north line of the subject property. The applicant has the option of constructing the walkway from the north line of the subject property to Woodhaven Street NW or paying a fee-in-lieu of improvements for the construction costs of the walkway.

The portion of the walkway outside the subject property (within Wilark Park West No. 7 subdivision) is eligible for fee-in-lieu of construction pursuant to SRC 200.415.

The proposal meets this criterion.

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

Finding: The proposed 29-lot subdivision generates less than 1,000 average daily vehicle trips to Doaks Ferry Road NW, a Major Arterial street. Therefore, a Traffic Impact Analysis is not required as part of the proposed subdivision submittal.

The proposal meets this criterion.

SRC 205.010(d)(8): The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Finding: The proposed subdivision has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. A number of existing natural and built conditions on the subject property are considered in the street and lot configuration proposed by the applicant. Staff is concerned that the lot lay out of Lots 8 and 9 will require tree or vegetation removal in addition to potential grading and fill within the riparian corridor to build a dwelling. Comments were submitted that it would be detrimental to the existing wetland (Wilark Brook) to add soil or fill within the 50-foot riparian zone. The applicant has provided a geotechnical analysis which does not include the area within the 50-foot riparian zone, where the topography dramatically changes in slope towards the waterway. In addition, the applicant has provided site plans and a tree conservation plan indicating no removal of vegetation or trees within the 50-foot riparian corridor beyond those previously discussed on Lot 8. Since the applicant has not proposed any addition removal of trees and/or vegetation within 50-feet of the existing waterway and evidence has not been provided that the subdivision considered the drastic topography nor vegetation this area, the following condition applies:

Condition 16: Grading within the 50-foot riparian area shall not occur under the drip line of any tree designated for preservation. Grading plans shall provide fencing and protection for all native vegetation and trees, including under the drip line.

Condition 17: No trees or native vegetation within the riparian zone shall be removed through a Tree Conservation Plan Adjustment. Any future removal shall only be authorized through an approved Tree Removal Permit (SRC 808.030).

Salem Revised Code 808 protects vegetation and trees within 50-feet of the top of the bank, which would include the area listed above in a stormwater easement. The applicant has not proposed any removal under the concurrent tree conservation plan. Therefore, any future removal would be required to obtain a tree removal permit pursuant to SRC 808.

As described in findings above and conditioned, the lot and street configuration proposed by the applicant meets applicable development standards, with the adjustments for maximum street grade as requested. As conditioned, no existing conditions of topography or vegetation have been identified on the site which would necessitate further variances during future development of the property. The layout allows for reasonable development of all lots within the subdivision without variances from the UDC.

The proposal meets this criterion.

SRC 205.010(d)(9): The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

Finding: The applicant has provided a geotechnical analysis and a tree conservation plan indicating no removal of vegetation or trees within the 50-foot riparian corridor. Compliance with those plans, adopted regulations as discussed in this report and conditions of approval meet this criterion.

SRC 205.010(d)(10): When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC Chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.

Finding: The subject property is located inside of the Urban Service Area. Compliance with the City's growth management plan and availability of infrastructure is addressed above in this report. This criterion has been met.

7. Class 2 Adjustment

Pursuant to SRC 250.005(d)(2), an application for a Class 2 Adjustment shall be granted if the following criteria are met:

A. 250.005(d)(2)(A): The purpose underlying the specific development standard proposed for adjustment is:

- (i) Clearly inapplicable to the proposed development; or**
- (ii) Equally or better met by the proposed development.**

Findings:

Maximum lot depth from 300 percent of average lot width:

The intent and purpose of the maximum lot depth standard is to provide for future buildable lots, which can maintain property line setbacks. The maximum lot depth is 300 percent of the average width of the lot, which prevents narrow lots which may not have adequate open space on the side yard, maintain side yard setback and to consider future development of potential lots.

Staff determined that Lot 12 does exceed the maximum 300% Lot Width, when measurements are taken pursuant to SRC 112.045, despite the applicant's assertion.

The existing configuration, existing waterway (Wilark Brook), topography of the property and required street connections of the area makes it difficult to meet the required maximum lot depth standard. The applicant's finding state that the lot would be 500 percent of the lots width, although when measurements are taken pursuant to SRC 112.045, proposed Lot 12 will be 315 percent. The configuration of the tract would provide for a dwelling to be built on the property and provide for less grading near the waterway. The lot are proposed to be greater than the minimum parcel size and provide for the single family residence to be located further away from a busy street (Doaks Ferry Road), the proposed configuration of Lot 12 equally or better meets the intent of the code.

The proposal meets this criterion.

Minimum lot depth from 120 feet for double frontage lot:

Within the RS (Single Family Residential) zone, double frontage lots with street frontage adjacent to both their front and rear property lines are required to have a minimum lot depth of 120 feet pursuant to SRC 511.010(a), Table 511-2. The underlying purpose of this standard is to ensure that lots that have street frontage adjacent to both their front and rear property lines have an increased lot depth to provide potential for additional privacy and separation from the street, which is of greater importance for lots abutting collector and arterial streets which convey greater levels of traffic.

Staff determined that Lot 3 has a 112-feet of lot depth, when measurements are taken pursuant to SRC 112.045, despite the applicant's assertion.

In the written statement provided by the applicant (**Attachment C**) it is explained that in order to provide the required connections of streets and the existing grade in the area it is necessary based on the existing geometry.

Staff concurs with the findings included in the applicant's written statement. The requested adjustment is needed based on the proposed street configuration, which is influenced by the topography of the site and the location of existing streets on the perimeter of the property.

Lot 3 is a double frontage lot with frontage on two streets: Doaks Ferry Road adjacent to the rear and the proposed Buzz Street adjacent to the front. The reduced approximate 112-foot depth of Lot 3 satisfies the underlying purpose of the minimum 120-foot lot depth standard by

providing a lot depth that, while not meeting the minimum 120-foot depth standard, still provides sufficient depth to allow for separation and privacy from Doaks Ferry Road.

The requested adjustment satisfies this approval criterion.

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

Finding: The proposed adjustment will not unreasonably impact the existing or potential uses or development in the surrounding area. The proposal is to create lots for a single-family dwelling. The existing configuration, topography and creek makes it difficult to meet the required maximum lot depth standard. The northern portion of the property is currently long and narrow. The proposed lots will accommodate a single-family dwelling and create additional buffer to Doaks Ferry Road.

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

Finding: The two adjustments requested by the applicant both relate to creation of two separate lots for single family and accommodate steep slopes in the vicinity. The adjustments allow the subject property to be developed with a single-family residential subdivision. Therefore, the cumulative effect of the adjustments is to allow development which is consistent with the overall purpose of the RA (Residential Agriculture) zone.

8. Conclusion

Based upon review of SRC 205.005, the findings contained under Sections 7 above, and the comments described, the consolidated application complies with the requirements for an affirmative decision.

IT IS HEREBY ORDERED

That consolidated Subdivision and Class 2 Adjustment Case No. 21-05, which includes the following requests:

1. A subdivision tentative plan to divide nine acres into 27 lots and one water quality and detention facility. An alternative street standard to allow the grade of Buzz Street to exceed 12%, exceed the 600-foot maximum block length and to reduce the street width from 60-feet to 50-feet
2. Zoning Adjustment application to increase the Maximum Lot Depth standard of 300% the width for Lot 12 to approximately 315%, adjust Lot Depth for double frontage lot 3 from 120-feet to 112-feet;

On property zoned RA (Residential Agriculture), and located at 2230 Doaks Ferry Road NW (Polk County Assessor Map and Tax Lot Number: 073W17 / 3803), shall be GRANTED as follows:

A. The subdivision tentative plan and Class 2 Adjustment are **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:** The flag lot accessway shall be paved in accordance with the requirements of SRC 800.025(c), Table 800-1. "NO PARKING—FIRE LANE" signs shall be posted on both sides of that segment of the flag lot accessway that is a fire apparatus roadway and "NO PARKING" signs shall be posted on both sides of any remaining portion of the accessway.
- Condition 2:** Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.
- Condition 3:** Convey right of way to equal 48 feet from centerline entire frontage of Doaks Ferry Road NW.
- Condition 4:** The Doaks Ferry Road NW frontage of the subject property shall be constructed to a minimum 23-foot-wide half-street improvement to interim Minor Arterial standards. The Doaks Ferry Road NW improvements shall include a southbound-to-eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS.
- Condition 5:** Construct internal streets to Local Street standards, except proposed Buzz Street NW may exceed 12% grade and Woody Court NW may be 52-feet in width, pursuant to SRC 803.065(a)(3).
- Condition 6:** Fire Sprinklers shall be installed in all structures on Lots 1 and 25-28.
- Condition 7:** Dedicate a 10-foot-wide public utility easement (PUE) along the street frontage of all internal streets.
- Condition 8:** All necessary (existing and proposed) access and utility easements must be shown on the final plat and recorded on the deeds to individual lots affected by such easements.
- Condition 9:** The trees designated for removal on the south side of Wilark Brook on Lot 9 (11 trees) and Lot 12 (six trees) shall be preserved.
- Condition 10:** Prior to issuance of building permits on Lot 8, the applicant shall plant two (2) big leaf maple (*Acer macrophyllum*) trees with a minimum 1.5" caliper, five (5) vine maple (*Acer circinatum*) with a minimum height of 24-36", and ten (10) 1-gallon sword ferns (*Polystichum munitum*). These trees and vegetation are in addition to requirements of SRC 808.050.
- Condition 11:** Any construction or grading on Lots 8, 9, 12 and 13 shall remain within the building footprints shown on the tentative subdivision plan.

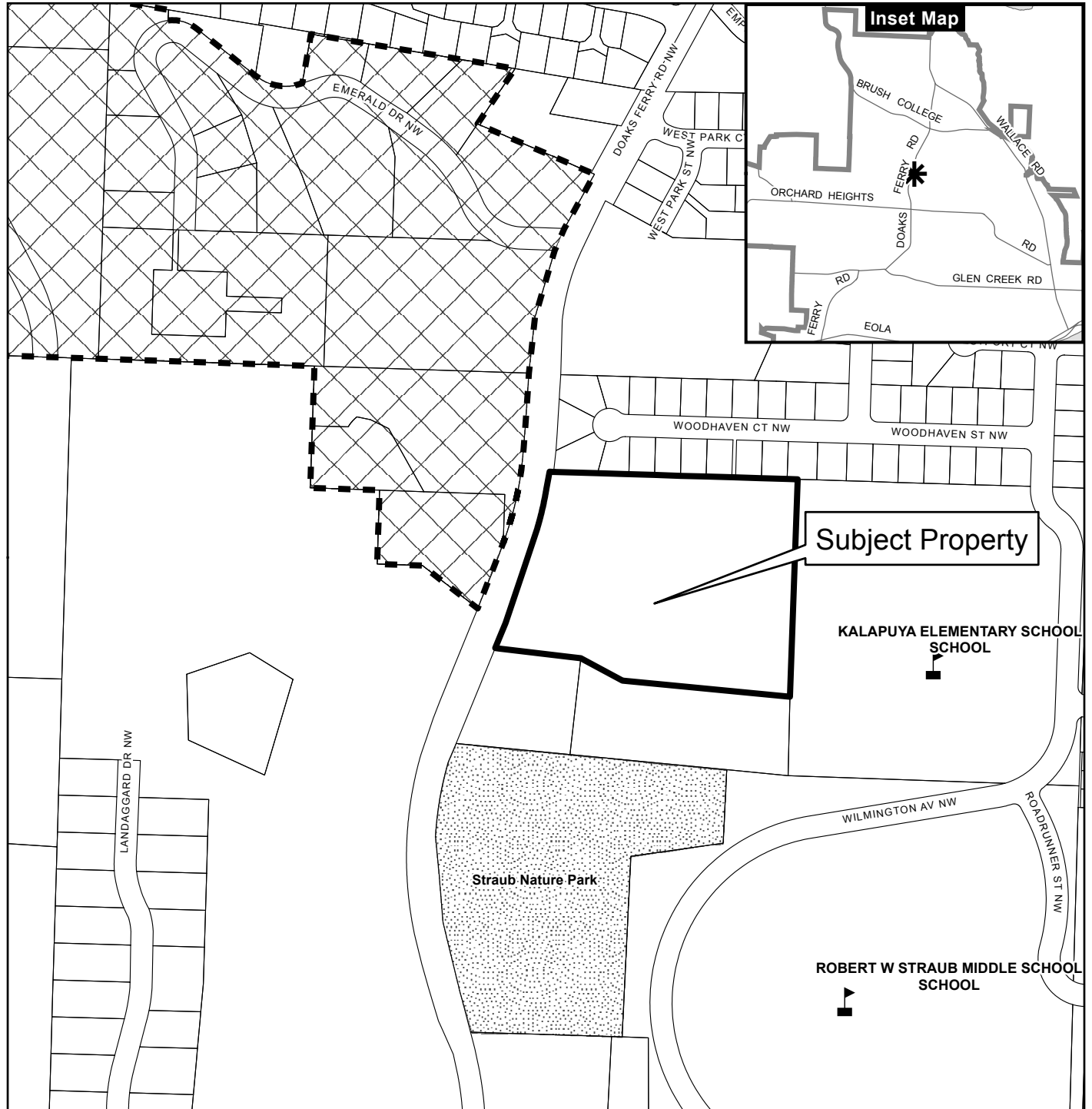
- Condition 12:** Obtain applicable State and Federal permits as indicated by Department of State Lands (DSL).
- Condition 13:** Provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.
- Condition 14:** Extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.
- Condition 15:** Design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. Construct the walkway from Woody Street NW to the north line of the subject property. The applicant has the option of constructing the walkway from the north line of the subject property to Woodhaven Street NW or paying a fee-in-lieu of improvements for the construction costs of the walkway.
- Condition 16:** Grading within the 50-foot riparian area shall not occur under the drip line of any tree designated for preservation. Grading plans shall provide fencing and protection for all native vegetation and trees, including under the drip line.
- Condition 17:** No trees or native vegetation within the riparian zone shall be removed through a Tree Conservation Plan Adjustment. Any future removal shall only be authorized through an approved Tree Removal Permit (SRC 808.030).










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

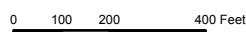
- Attachments: A. Vicinity Map
B. Tentative Subdivision Plan
C. Applicant's Written Statement on Consolidated Application
D. City of Salem Public Works Department Memo

Vicinity Map 2230 Doaks Ferry Road NW

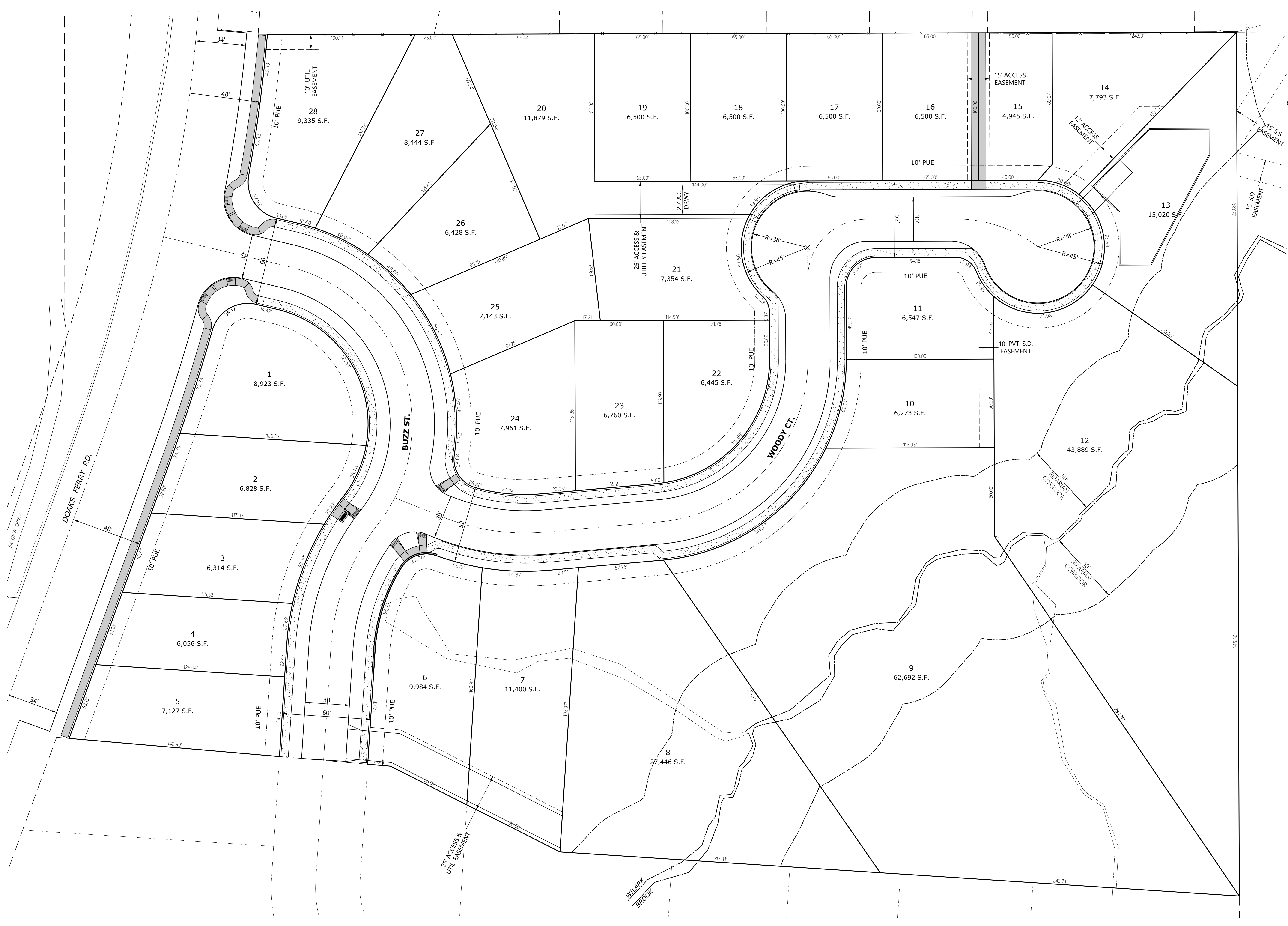


Legend

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



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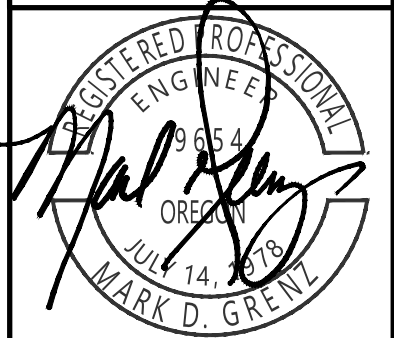


LOT DIMENSIONS & SIDEWALK PLAN

2230 DOAKS FERRY ROAD

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

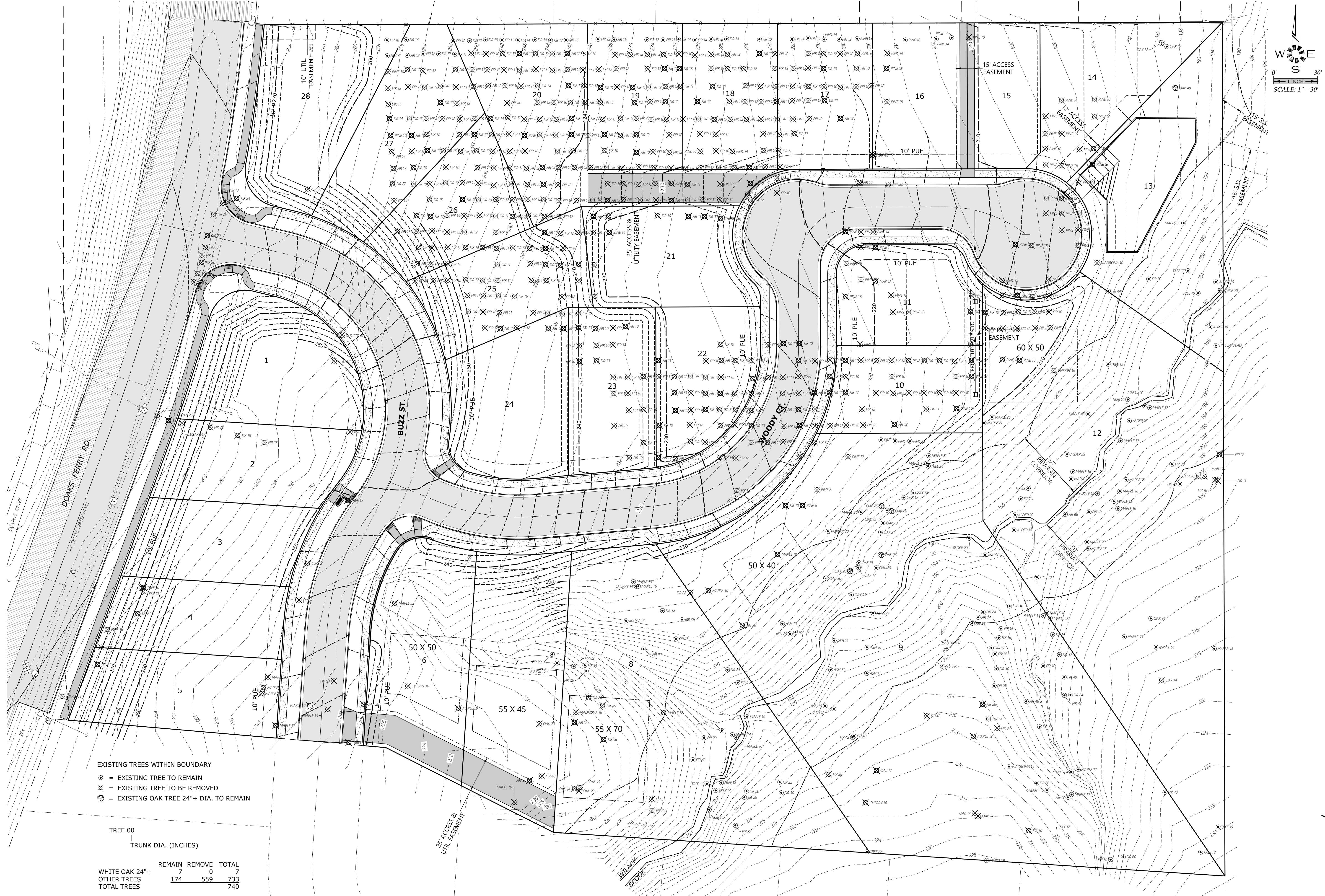
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Drawn: D.G.G.
Checked: J.J.G.
Date: JAN. 2020
Scale: AS SHOWN
As-Built: _____



EXPIRES: 06-30-2021
JOB # 6951

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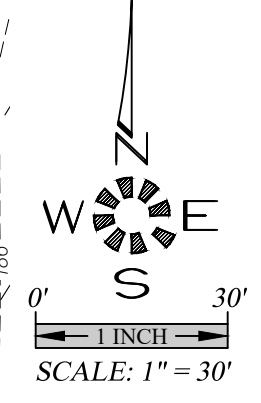
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EXISTING TREES WITHIN BOUNDARY
 ○ = EXISTING TREE TO REMAIN
 ✕ = EXISTING TREE TO BE REMOVED
 ⊗ = EXISTING OAK TREE 24"+ DIA. TO REMAIN

TREE 00
 | TRUNK DIA. (INCHES)

	REMAIN	REMOVE	TOTAL
WHITE OAK 24"+	7	0	7
OTHER TREES	174	559	733
TOTAL TREES			740

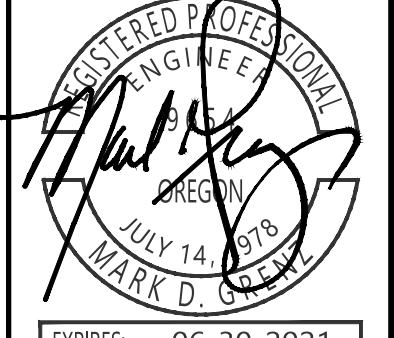


**LOT GRADING &
 TREE CONSERVATION
 PLAN**

2230 DOAKS FERRY ROAD

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: D.G.G.
 Checked: J.J.G.
 Date: JAN. 2020
 Scale: AS SHOWN
 As-Built: _____



EXPIRES: 06-30-2021
 JOB # 6951

Doaks Ferry Road

Subdivision Application

Revised-April 9, 2021

BACKGROUND:

The subject property is approximately 9.35 acres in size and located at 2230 Doaks Ferry Road (073W17/Tax Lot 3803). The subject property is zoned RA.

On September 30, 2019, a pre-application conference (PRE-AP19-99) was held with City of Salem staff to discuss development of the subject property.

PROPOSAL:

The subject property is 9.35 acres in size and zoned RA (Residential Agriculture). The applicant is proposing to divide the subject property into 28-lots, with Lot 13 being designated for water quality/detention.

An adjustment to lot width to depth ratio is being requested for Lot 12.

An adjustment to lot depth for double frontage lots has been requested for Lot 3.

Alternative Street Standards Requested:

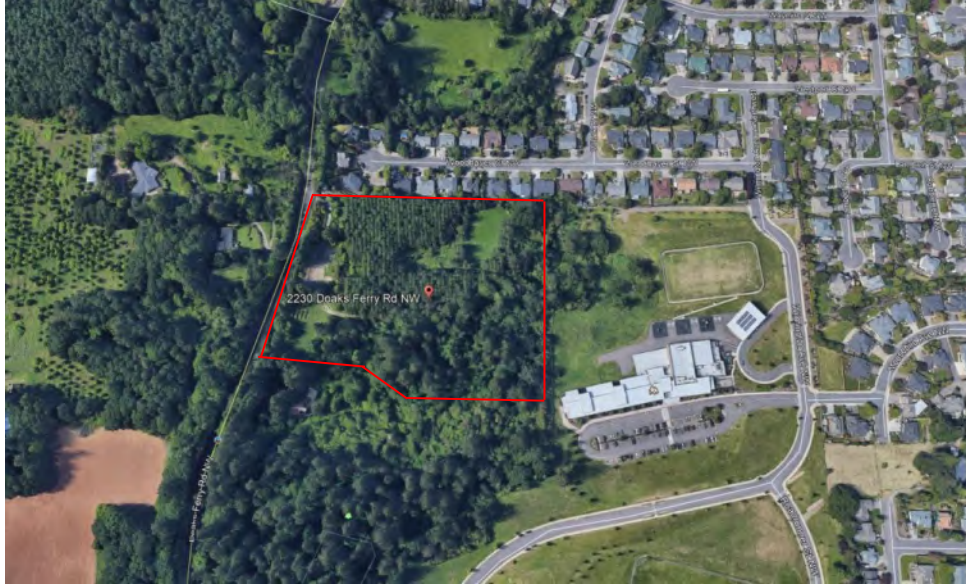
-Alternative Street Standard to allow the proposed streets to be less than 60 feet in width (803.025).

-Alternative Street Standard to allow a greater than 600-foot street spacing (803.030).

-Alternative street standard to allow Buzz Street (See Sheet P5) to exceed a 12-percent street grade.

SITE VICINITY and CHARACTERISTICS:

The subject property is located at 2230 Doaks Ferry Road and identified as 073W17/Tax Lot 3803.



The subject property is located on the east side of Doaks Ferry Road. The vicinity map is shown above. The surrounding land uses within the vicinity are zoned and used as follows and as shown:

- North: RS (Single-Family Residential); existing single-family dwellings
- East: RA (Residential Agriculture); Kalapuya Elementary School
- South: RA (Residential Agriculture); existing single-family dwellings and vacant land
- West: Across Doaks Ferry Road, RA (Residential Agriculture); existing single-family dwellings vacant land, and land within Polk County

CRITERIA AND APPLICANT'S REASONS ADDRESSING UDC 205.010(d)(1):

The intent of the subdivision code is providing for orderly development through the application of appropriate rules and regulations. Pursuant to the application of the current enabling statutes, these regulations are those cited in UDC 205.010(d) and UDC 205.015(d). The decision criteria for subdivisions without a concurrent variance under UDC 205.010(d) and UDC 205.015(d) must be found to exist before an affirmative decision may be made for a subdivision application.

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

Findings: The Salem Revised Code (SRC), which includes the Salem Zoning Code, implements the Salem Area Comprehensive Plan land use goals, and governs development of property within the city limits. The subdivision process reviews development for compliance with city standards and requirements contained in the Subdivision Code, Zoning Code, Salem TSP and the Water, Sewer and Storm Drain

System Master Plans, and adopted design documents applicable to residential development. The proposed meets all applicable provisions of the Salem Revised Code.

(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.

Findings: An adjustment to lot width to depth ratio is being requested for Lot 12.

An adjustment to lot depth for double frontage lots has been requested for Lot 3.

The applicant is proposing to divide the subject property into 28-lots, with Lot 13 being designated for water quality/detention.

The applicant is allowed to have 4 flag lots within the proposed subdivision. There are 4 flag lots proposed, Lots 14, 18, 19, and 20. All four lots meet the required flag lot dimensions as required in Code.

Additional reviews occur at the time of building permits to assure compliance with the zoning code. Compliance with conditions of approval to satisfy the subdivision ordinance is also checked prior to city staff signing the final subdivision plat.

The proposal can conform to applicable conditions imposed as necessary to ensure that development conforms to the standards of the subdivision code and with existing development and public facilities. The proposed subdivision is in compliance with lot standard requirements and required access. Therefore, this criteria has been met.

(B) City infrastructure standards.

Findings: 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 Residential Policies for properties within the Urban Growth Boundary. The proposal encourages the efficient use of developable residential 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.

Prior to development of the site, stormwater detention will be designated on Lot 13 and designed on the lots. A Preliminary Drainage Report dated August 24, 2020, has been provided.

Therefore, this criteria has been met.

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

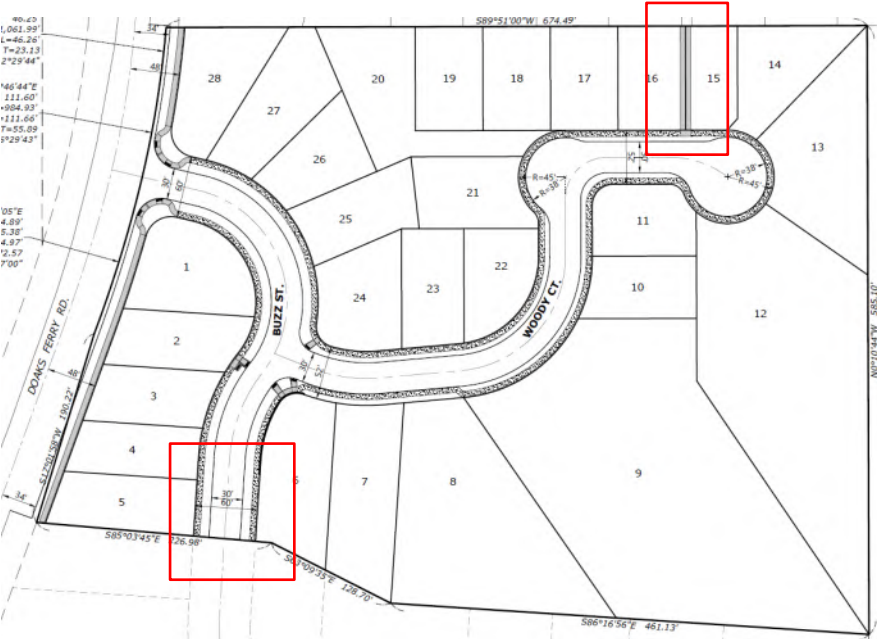
Findings: There are no wetlands or floodplains located on the subject property.

A geological assessment dated October 30, 2020, has been provided. This criteria will be met.

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

Findings: The purpose of this subdivision is to create a mixed housing development, with 27 lots designated for single-family dwellings and with Lot 13 designated for water quality/detention. The tentative subdivision does not impede the future use or development of the property or adjacent land. The applicant has provided a redevelopment plan for the larger lots (Lots 9 and 12) within the property subdivision. The redevelopment plan shows how those lots can be further developed and within compliance with the Code. See Sheet P9.

Stub connections to adjacent properties has been provided for existing and proposed development. Access to the north existing neighborhood is provided via 15' access easement located between Lots 15 and 16. A stub street connection has been provided to the south as shown on the site plan.



All proposed lots and surrounding properties have direct access onto the existing internal street system. The subdivision does not impede the future use of the property or adjacent land.

Therefore, this criteria has been met.

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

Findings: 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 Residential Policies for properties within the Urban Growth Boundary. The proposal encourages the efficient use of developable residential 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 within ½ mile from several park areas:

- *Kalapuya Elementary School-located directly to the east (0.25 miles)
- *Straub Middle School-located directly to the southeast (0.25 miles)
- *West Salem High School-located to the southwest (0.25 miles)

The subject property is also near several other parks:

- *Chapman Hill Elementary School-located to the south (0.58 miles)
- *Chapman Hill School Park-located to the south (0.58 miles)
- *Orchard Heights City Park-located to the southeast (1.20 miles)

Therefore, the subject property is served by parks.

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. On-site detention and a pump station are being provided within the proposed subdivision, se Lot 13.

In conclusion, the location and design of the proposed subdivision allows for public sanitary sewer, water service, and storm drainage to be conveniently provided.

Therefore, this criterion has been satisfied.

Proposed Stormwater Management System:

Findings: Stormwater quality and quantity are required for this development. An LID (low impact development) Stormwater technique will be used to mitigate the increase in pollutants contributed from development. This system may also be used to provide storage and water quantity control. The exact system will be determined at the time of design. Any proposed technique will meet City of Salem Stormwater Management standards in means and methods to provide all aspects of Stormwater management.

A Preliminary Drainage Report dated August 24, 2020 has been provided as part of this submittal. Lot 13 within the subdivision has been designated for water quality/detention.

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

Findings: The major street system is in place due to prior development. Doaks Ferry road is located to the west and designated as a 'major arterial' on the Salem Transportation System Plan.

The existing and proposed street systems conform to the City's Transportation Plan. All street design and improvements will be determined through the subdivision review process and regulated through the Conditions of Approval.

The major street network in the area has been established and is consistent with the 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 subdivision.

Stub connections to adjacent properties has been provided for existing and proposed development. Access to the north existing neighborhood is provided via 15' access easement located between Lots 15 and 16. A stub street connection has been provided to the south as shown on the site plan.

Alternative Street Standards Requested:

- Alternative street standard to allow Buzz Street (See Sheet P5) to exceed a 12-percent street grade.
- Alternative Street Standard to allow the proposed streets to be less than 60 feet in width (803.025).
- Alternative Street Standard to allow a greater than 600-foot street spacing (803.030).

Street Grade: The applicant is also requesting an alternative street standard to allow Buzz Street (See Sheet P5) to exceed a 12-percent street grade. However, the proposed internal streets will be designed to street standards.

The applicant is requesting an alternative street standard to street grade. As shown on the street sections provided, Buzz Street will have a 15% street grade. Due to the topography of the site and the proposed street alignments with existing streets, this proposed street within the subdivision exceeds the street grade allowed.

The intent of the maximum street grade is to allow vehicles to climb and descend the street safely in all conditions. The internal streets proposed will provide safe and efficient circulation throughout the subdivision. As shown on the street sections provided, there is only certain sections of each street that will exceed the allowed street grade. All streets within the proposed subdivision will be designed to provide safe and efficient conditions.

There are several access points provided throughout the proposed subdivision which provide alternative access options.

The intent of the standard is being met; therefore, the proposal equally meets the intent of the maximum street grade standard.

Street Width: The existing and proposed street systems conform to the City's Transportation Plan. All street design and improvements will be determined through the subdivision review process and regulated through the Conditions of Approval. The applicant is also requesting an alternative street standard to allow the proposed internal streets to be 52 feet in width where a 60-foot width is required. However, the proposed internal streets will be designed to street standards.

The applicant is requesting an alternative street standard to street width and location. Due to the topography of the site and the proposed street alignments with existing streets, these proposed streets within the subdivision do not meet the required 60-foot street width. The applicant has requested an alternative street design to allow 52-foot street widths.

The intent of the street wide is to allow vehicles to maneuver the streets safely. The internal streets proposed will provide safe and efficient circulation throughout the subdivision. As shown on the street sections provided, the street connect to existing streets that are under the 60-foot width currently. The 52-foot street widths provide adequate width. Due to the topography of the site and the location of the existing street connections, additional street width is not feasible. Additional street width would require additional cuts, which is not safe or feasible. All streets within the proposed subdivision will be designed to provide safe and efficient conditions.

Therefore, the existing street system and proposed street improvements will be in compliance with the STSP.

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 subdivision 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.

When developed, the development on the lots will provide bicycle and pedestrian facilities on-site to encourage people to walk and reduce vehicle trips. There is currently one bus route that runs along Doaks Ferry Road, (Route 22/Brush College Loop), this will help to reduce vehicle usage and encourage other modes of transportation to and from the site, when developed.

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

Findings: The subject property is located in a developed area where improved streets and sidewalks exist. At the time of development, all internal local streets serving the development will provide the necessary connections and access to the local streets and circulation system serving this neighborhood.

Block Length: Blocks shall be a maximum of 600 feet between street centerlines. Stub connections to adjacent properties has been provided for existing and proposed development. Access to the north existing neighborhood is provided via 15' access easement located between Lots 15 and 16. A stub street connection has been provided to the south as shown on the site plan. Due to the existing developments to the east (existing school) and north (existing single-family dwellings), additional street connections are not feasible. The topography of the site to the southeast is too steep and has Wilark Brook running through it north/south. Therefore, providing a street connection would require the removal of trees within the riparian corridor and would not be safe and efficient. The applicant is requesting an alternative street design to allow a greater than 600-foot street spacing per 803.030.

In order to break the block lengths up, street connections have been provided to adjacent properties as well as efficient circulation within the subdivision.

Street Connections:

North: 15-foot width Pedestrian Connection between Lots 15 and 16

South: Street Connection to property to the south for future development

As shown on the site plan, the proposed subdivision provides a safe and efficient circulation pattern throughout the development for vehicles and pedestrians.

The subject property only has street frontage on the west side of the property along Doaks Ferry Road. The main access point for the subdivision is proposed off of Doaks Ferry Road.

Access to, within, and from the development must be consistent with applicable requirements of the Transportation Planning Rule Requirements (TPR) that requires that development provide connectivity between land uses and transportation. Under the Rule, developments are responsible for providing for the safe and efficient circulation of vehicles, bicycles, and pedestrians into, through, and out of a development. The proposal develops the subject property within an established residential area where local and arterial streets and mass transit facilities exist. These facilities connect the transportation system to the surrounding neighborhoods.

The Public Works Department will address the level of street improvements that are roughly proportional to assure conformance to the development to subdivision code and applicable transportation system plan requirements. Completion of conditions of approval prior to the signing of the final plat will satisfy this criterion for the subdivision application.

Therefore, this criterion has been or will be satisfied.

(6) The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.

Findings: The subdivision is served with adequate transportation infrastructure and the street system adjacent the property conforms to the Transportation System Plan and provides for safe, orderly, and efficient circulation of traffic into, through, and out of the subject property on to the public street system. There are internal street and pedestrian connections throughout the site and to adjacent properties. Stub connections to adjacent properties has been provided for existing and proposed development. Access to the north existing neighborhood is provided via 15' access easement located between Lots 15 and 16. A stub street connection has been provided to the south as shown on the site plan.

Therefore, via existing paved streets, a 15-foot pedestrian path, and sidewalks, safe and convenient bicycle and pedestrian access will be provided to the site and to adjacent neighborhoods.

Therefore, this criteria has been met.

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

Findings: The proposal is for a 28-lot subdivision. The subdivision is not large enough to warrant a Traffic Impact Analysis. The proposed subdivision plan mitigates impacts to the transportation system by providing adequate access and circulation for all 28-lots.

Therefore, this criterion has been met.

(8) The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Findings: An adjustment to lot width to depth ratio is being requested for Lot 12.

An adjustment to lot depth for double frontage lots has been requested for Lot 3.

The applicant is proposing to divide the subject property into 28 lots, with Lot 13 being designated for water quality/detention. No variances have been requested

(9) The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

Findings: 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.

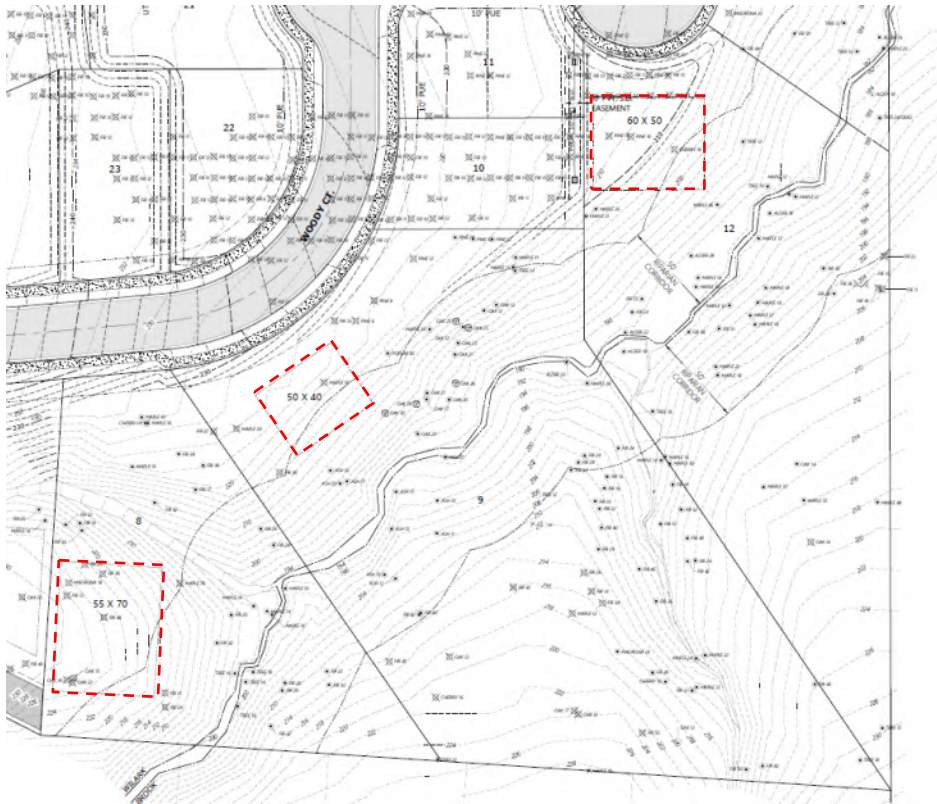
The subdivision plan takes into consideration the topography and vegetation of the site. The proposed lots are of sufficient size and dimensions to permit future development. The lot dimensions are illustrated on the tentative site plan. Final conformance to minimum lot size and buildable lot area will be confirmed when the final plat is submitted to the City for review and approval.

There are 740 (seven hundred and forty) trees located throughout the proposed subdivision, as shown on the tree plan. Trees designated for removal are within the right-of-way, the building envelop or within an area close to the building envelope but have the potential of being damaged during grading and construction. See Sheet P7.

There are 7 (seven) Oregon White Oaks that are significant. All seven trees are proposed for preservation.

A total of 186 (one-hundred and eighty-six) trees are designated for preservation. Therefore, 25% of the trees on site will be preserved.

A Tree Memo dated March 23, 2021, and a Tree Report dated April 4, 2021, have been provided to identify vegetation within the riparian corridor boundary. The building envelopes for Lots 8, 9, and 12, are located within the riparian corridor. This will require the removal of vegetation as shown on the tree plan. However, as noted in the Tree Report all vegetation that will need to be removed will be replanted at a 2 to 1 ratio. A mitigation plan is outlined in the Tree Report. Per the report (page 1), "During construction if the trees are damaged the owner will replace two trees for each one damaged with a 1½"- 2" caliper size balled and burlap. For the *Oemleria cerasiformis* Indian Plum they will be replaced with five-gallon container two shrubs for each one damaged."



Only vegetation within the building envelopes will be removed.

Prior to development, protective measures will be in place to assure that no damage is done to vegetation within the riparian corridor that is not being removed. All protective measures will be in place prior to development.

Therefore, this criteria has been met.

10) When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC Chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.

Findings: The property and development are located inside the Urban Service Area (USA). However, a UGA is required. The applicant is requesting an Urban Growth Area Preliminary Declaration (UGA).

Therefore, this criterion has been met.

TREE CONSERVATION/REMOVAL PLAN

There are 740 (seven hundred and forty) trees located throughout the proposed subdivision, as shown on the tree plan. Trees designated for removal are within the right-of-way, the building envelop or within an area close to the building envelope but have the potential of being damaged during grading and construction. See Sheet P7.

There are 7 (seven) Oregon White Oaks that are significant. All seven trees are proposed for preservation.

A total of 186 (one-hundred and eighty-six) trees are designated for preservation. Therefore, 25% of the trees on site will be preserved.

A Tree Memo dated March 23, 2021, and a Tree Report dated April 4, 2021, have been provided to identify vegetation within the riparian corridor boundary. The building envelopes for Lots 8, 9, and 12, are located within the riparian corridor. This will require the removal of vegetation as shown on the tree plan. However, as noted in the Tree Report all vegetation that will need to be removed will be replanted at a 2 to 1 ratio. A mitigation plan is outlined in the Tree Report. Per the report (page 1), "During construction if the trees are damaged the owner will replace two trees for each one damaged with a 1½"- 2" caliper size balled and burlap. For the *Oemleria cerasiformis* Indian Plum they will be replaced with five-gallon container two shrubs for each one damaged."

Only vegetation within the building envelopes will be removed.

Prior to development, protective measures will be in place to assure that no damage is done to vegetation or significant trees within the riparian corridor. All protective measures will be in place prior to development.

Doaks Ferry Road-Subdivision

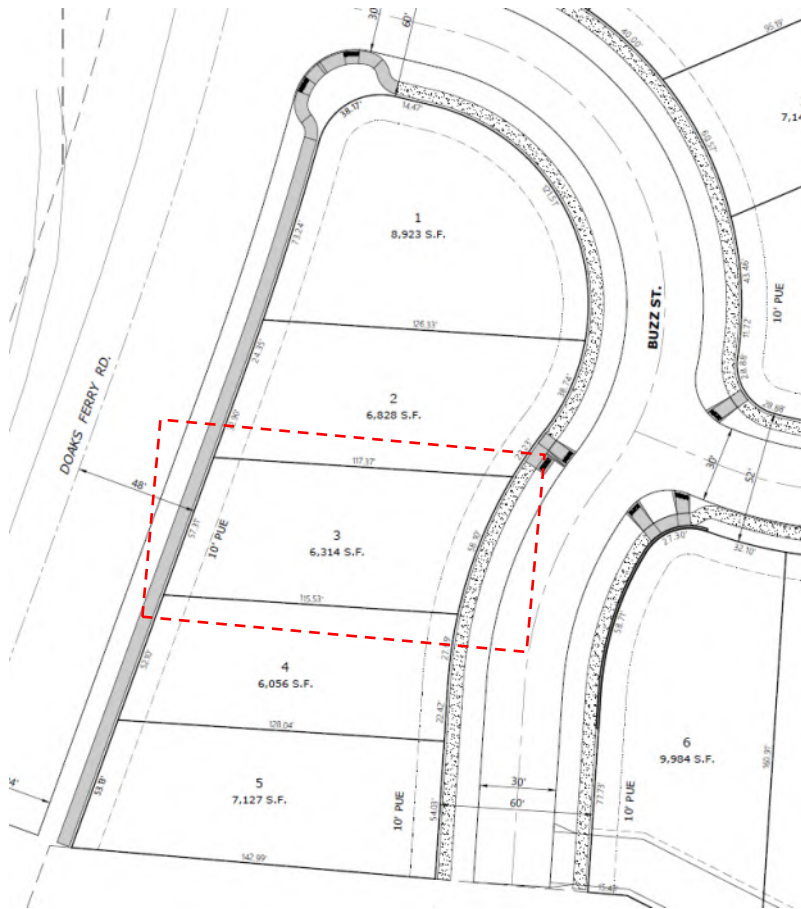
Adjustment Class-2 Application
Table 511-2 (Lot Standards)

Proposal:

An adjustment to lot to depth is being requested for Lot 3. This lot is a double frontage lot, with frontage along the proposed interior local street and frontage along Doaks Ferry Road. Per Table 511-2, double frontage lots require a minimum lot depth of 120 feet. Lot 3 does not meet this minimum.

*Lot 3=116.45 feet in depth

The applicant is requesting an adjustment to the lot depth required for double frontage lots.



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

(A) The purpose underlying the specific development standard proposed for adjustment is:

(i) Clearly inapplicable to the proposed development; or

(ii) Equally or better met by the proposed development.

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

(C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Applicant's Reasons:

(A) The applicant is requesting a zoning adjustment to Table 5111-2. An adjustment to lot to depth is being requested for Lot 3. This lot is a double frontage lot, with frontage along the proposed interior local street and frontage along Doaks Ferry Road. Per Table 511-2, double frontage lots require a minimum lot depth of 120 feet. Lot 3 does not meet this minimum.

*Lot 3=116.45 feet in depth

The applicant is requesting an adjustment to the lot depth for double frontage lots.

In order to provide street connections and circulation, the size and layout of the lots had to be taken not consideration. Due to the location of the required street connection along the west property line to Doaks Ferry Road, the required right-of-way dedication along Doaks Ferry Road, and the internal street (Buzz Street), the required 120-foot lot depth for Lot 3 could not be met.

Therefore, meeting this standard is not feasible due to required street connections and right-of-way dedication.

The purpose of this requirement is to avoid creating lots with two frontages that would be affected by streets on two side, which could create homes too close to the right-of-way. As stated above, in order to provide street connections and circulation, the size and layout of the lots had to be taken into consideration. Due to required street connections and right-of-way dedication, creating all lots that meet the 120-foot lot depth is not feasible.

This one lot does not affect the rest of the subdivision or the proposed lots. All lots including Lot 3, will provide large setbacks and open space areas on the lots.

Therefore, the proposed adjustment equally or better meets the standard.

(B) The subject property is zoned RA and is located in a residential area. The properties to the north, east, and south are all zoned RA and RS.

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

East: RA (Residential Agriculture); Kalapuya Elementary School

South: RA (Residential Agriculture); existing single-family dwellings and vacant land

West: Across Doaks Ferry Road, RA (Residential Agriculture); existing single-family dwellings vacant land, and land within Polk County

The RA zone allows for this property to be subdivided.

The proposal will have little to no impact on the surrounding neighborhood. The purpose of this requirement is to avoid creating undevelopable lots. As stated above, in order to provide the required street connections and right-of-way dedication, the size and layout of the lots had to be taken into consideration. Due to the location of the required street connection and the interior streets, the required 120-foot lot depth for Lot 3 could not be met.

This lot does not affect the rest of the subdivision or the proposed lots. The lots will all meet setbacks and provide open space areas on the lots. Therefore, this proposal will not detract from the livability or appearance of the residential area.

Any conditions placed on the subdivision will require Code compliance, which will help ensure minimal to no impacts on the neighborhood.

- (C) The proposed adjustment will not affect surrounding existing or proposed development. The applicant is requesting more than one adjustment.

Doaks Ferry Road-Subdivision

Adjustment Class-2 Application
Table 511-2 (Lot Standards)

Proposal:

The subject property is 9.35 acres in size and zoned RA (Residential Agriculture). The applicant is proposing to divide the subject property into 30-lots, with Lot 13 being designated for water quality/detention.

An adjustment to lot width to depth ratio is being requested for Lot 12. This lot exceeds the lot to depth ratio requirements:

*Lot 12= (Proposed) 76' by 380' (Maximum Allowed) 76' by 228'

The minimum lot width required for lots in the RS zone is 40 feet with a minimum lot depth of 70 feet. Table 111-2 only allows a maximum lot depth of 300% of average lot width

The applicant is requesting an adjustment to the lot width to lot depth maximum.

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

(A) The purpose underlying the specific development standard proposed for adjustment is:

- (i) Clearly inapplicable to the proposed development; or**
- (ii) Equally or better met by the proposed development.**

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

(C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Applicant's Reasons:

(A) The applicant is requesting a zoning adjustment to Table 5111-2. The minimum lot width required for lots in the RA zone is 40 feet with a minimum lot depth of 70 feet. Table 111-2 only allows a maximum lot depth of 300% of average lot width

The applicant is requesting an adjustment to the lot width to lot depth maximum. In order to provide street connections and circulation, the size and layout of the lots had to be taken into consideration. Due to the location of trees and required street connections, the lots within the subdivision are long. Therefore, Lot 12 exceeds the maximum requirement.

The purpose of this requirement is to avoid creating long narrow lots. As stated above, in order to provide street connections and preserve trees, the size and layout of the lots had to be taken into consideration. Due to the required street connections, circulation, and the location of trees, creating smaller lots is not feasible.

The longer lots do not affect the rest of the subdivision or the proposed lots. The longer lots actually provide larger lots to help meet setbacks and provide larger open space areas on the lots, along with preserving trees. Therefore, the proposed adjustment equally or better meets the standard.

- (B) The subject property is zoned RA and is located in a residential area, with several public schools located within the vicinity. The properties to the north, east, south, and west are all zoned RS and RA. The RA zone allows for this property to be subdivided.

The proposal will have little to no impact on the surrounding neighborhood. The purpose of this requirement is to avoid creating long narrow lots. As stated above, the longer lots actually provide larger lots to help meet setbacks and provide larger open space areas on the lots, along with preserving trees. Due to these issues, creating smaller lots is not feasible.

The longer lots do not affect the rest of the subdivision or the proposed lots. The longer lots actually provide larger lots to help meet setbacks and provide larger open space areas on the lots. Therefore, this proposal will not detract from the livability or appearance of the residential area.

Any conditions placed on the subdivision will require Code compliance, which will help ensure minimal to no impacts on the neighborhood.

- (C) The proposed adjustment will not affect surrounding existing or proposed development. The applicant is not requesting more than one adjustment.



DATE: March 23, 2021
TO: Jeremy Grenz, Multi-Tech Engineering Services, Inc.
FROM: Tim Jones, ISA Certified Arborist, ISA Qualified Tree Risk Assessor
RE: Vegetation/tree identification of riparian corridor

Date of Assessment

March 12, 2021

Scope of Work

You contacted our company to assist in identifying native vegetation and an assessment of select trees located within a riparian corridor and requested I provide a summary of my observations and recommendations.

Location

See area marked in red on attached sheet

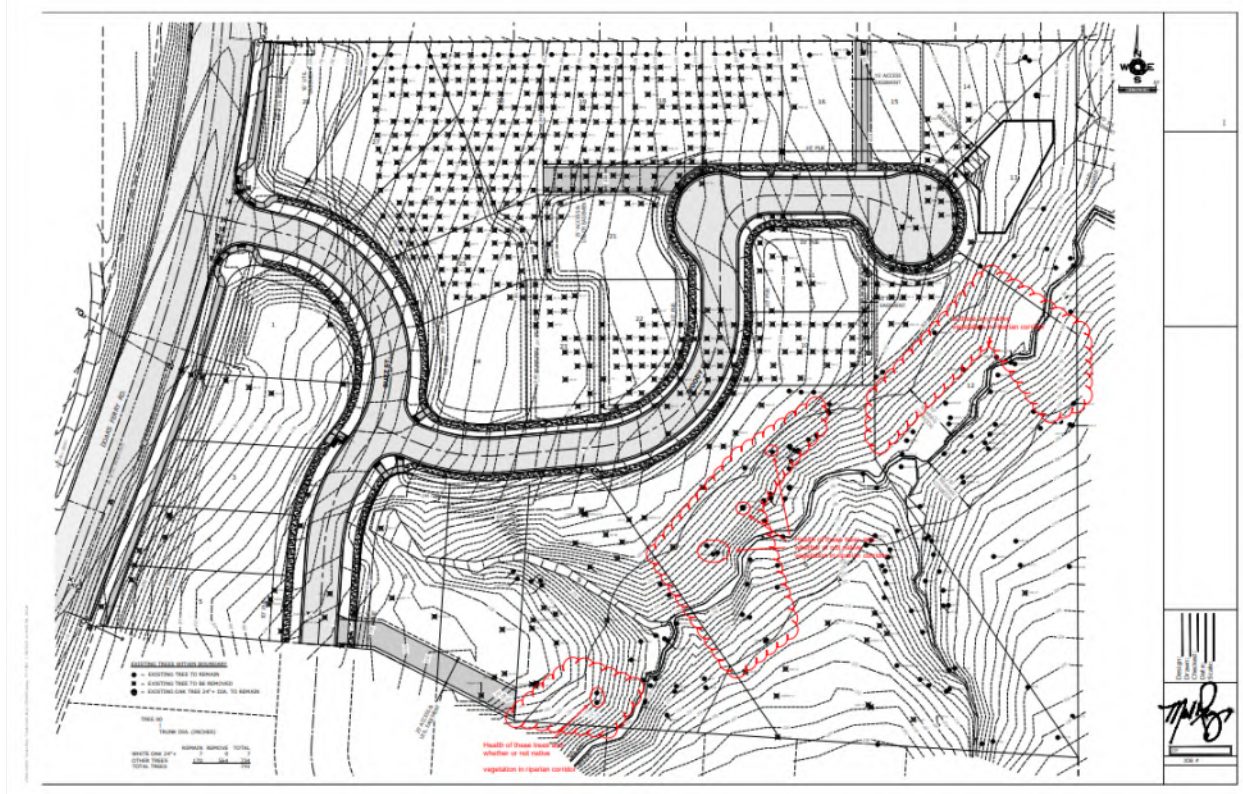
Observations

The vast majority of ground foliage within the area identified as “Location” above consists of blackberry, *Rubus armeniacus*, a Himalayan blackberry native to Armenia and northern Iran, English ivy, *Hedera helix*, a non-regulated Class C noxious weed vine known for weighting down and smothering trees thereby causing a decline in health, and shrub, *Oemleria cerasiformis*, native to the pacific coast and ranges of North America.

The majority of the standing forest consists of Douglas fir, *Pseudotsuga menziesii*, big leaf maple, *Acer macrophyllum*, red alder, *Alnus rubra*, and Oregon ash, *Fraxinus latifolia*. Due to the recent ice storm event, many of the deciduous trees sustained substantial damage. Although this more than likely will not endanger the life of these trees, the damage can alter the structural integrity and increase the likelihood of failure during future weather events.

R & R TREE SERVICE *Inc.*

(map/drawing below provided by Multi-Tech)





Landscape Design & Consultants LLC

**620 Wormwood SE
Salem, OR 97306
503.551.8590**

April 4, 2021

To: Mr. Jeremy Grenz, Project Coordinator
Multi/Tech Engineering Services
1155 13th Street SE
Salem, OR 97302
(503)363-9227

Subject: Riparian Corridor Replacement 2230 Doaks Ferry Rd. Salem Oregon

Dear Mr. Grenz:

We have reviewed the Certified Arborist report from R & R Tree Services. As indicated within the report there are shrubs *Oemleria cerasiformis* Indian Plum and trees *Pseudotsuga menziesii* Doug Fir, *Acer macrophyllum* Big Leaf Maple, *Alnus rubra* Red Alder, *Fraxinus latifolia* Oregon Ash which are native and indigenous to the Pacific Northwest.

Replacement of plant material within the riparian corridor:

During construction if the trees are damaged the owner will replace two trees for each one damaged with a 1½"- 2" caliper size balled and burlap. For the *Oemleria cerasiformis* Indian Plum they will be replaced with five-gallon container two shrubs for each one damaged.

Time of year for Planting Riparian Vegetation:

Planting shall be installed between February 1st and March 30th or between October 1st and November 15th. If planting is installed outside these times frames, additional measures may need to be taken by providing a watering truck to ensure establishment and survival of the plant materials during the summer months.

Plant material shall be transported to the sit in a timely manner to minimize on-site storage. Where storage is required, all plants shall be kept moist and shaded.

Please review the above information and feel free to contact me should you have any questions.


Sincerely,

Thomas E. Kaffun, Principle
620 Wormwood St. SE
Salem, OR 97306
503-551-8590
lac.thomas@comcast.net



MEMO

TO: Olivia Dias, Current Planning Manager
Community Development Department

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

DATE: May 27, 2021

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS
SUB-UGA-ADJ20-06 (21-106960-LD)
2230 DOAKS FERRY ROAD NW
27-LOT SUBDIVISION**

PROPOSAL

A subdivision tentative plan to divide approximately nine acres into 27 lots and one water quality and detention facility. The applicant is requesting an alternative street standard to allow the grade of Buzz Street NW to exceed 12 percent, exceed the 600-foot maximum block length, and to reduce the street width from 60 feet to 50 feet; and Class 2 Adjustments. The subject property is approximately nine acres in size, zoned RA (Residential Agriculture), and located at 2230 Doaks Ferry Road NW (Polk County Assessor Map and Tax Lot Number: 073W17 03803).

RECOMMENDED CONDITIONS OF PLAT APPROVAL

1. Convey land for dedication of right-of-way to equal a half-width of 48 feet from the centerline along the entire frontage of Doaks Ferry Road NW.
2. Along the Doaks Ferry Road NW frontage of the subject property, construct a minimum 23-foot-wide half-street improvement to interim Minor Arterial standards. The Doaks Ferry Road NW improvements shall include a southbound-to-eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW. The turn lanes shall include storage and tapers as specified in PWDS.
3. Construct internal streets to Local street standards, with the following exception: (proposed) Buzz Street NW is authorized to exceed 12 percent grade pursuant to SRC 803.065(a)(3). Woody Court NW may be 52 feet in width, pursuant to SRC 803.065(a)(3).

4. Design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. Construct the walkway from Woody Street NW to the north line of the subject property. The applicant has the option of constructing the walkway from the north line of the subject property to Woodhaven Street NW or paying a fee-in-lieu of improvements for the construction costs of the walkway.
5. Extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.
6. Provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.
7. All necessary (existing and proposed) access and utility easements must be shown on the final plat and recorded on the deeds to individual lots affected by such easements.
8. Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20;
9. Dedicate a 10-foot public utility easement along the street frontage of all internal streets.
10. Obtain applicable State and Federal permits as indicated by the Department of State Lands (DSL).

FACTS AND FINDINGS

Water

1. Existing Conditions
 - a. The subject property is located within the G-0 and W-1 water service levels.
 - b. A 16-inch G-0 water main is located in Woodhaven Court NW.
 - c. An 18-inch W-1 water main is located in Doaks Ferry Road NW.

Sanitary Sewer

1. Existing Conditions
 - a. The nearest sewer main is an 8-inch main located approximately 50 feet east of the northeast corner of the subject property.

Storm Drainage

1. Existing Conditions

- a. Willard Brook is located on the subject property.

Streets

1. Doaks Ferry Road NW

- a. Standard—This street is designated as a Major Arterial street in the Salem TSP. The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way.
- b. Existing Condition—This street has an approximate 40-foot improvement within a 80-foot-wide right-of-way abutting the subject property.

Natural Resources

1. Wetlands—There are Salem-Keizer Local Wetland Inventory linear channel wetlands mapped on the subject property.
2. Floodplain—There is no floodplain or floodway areas mapped on the subject property.
3. Landslide Hazards—City records show there are 2-, 4-, and 5-point landslide hazard areas mapped on the subject property.

Parks

The proposed development is served by Brush College Park north of the subject property.

CRITERIA AND FINDINGS

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

- 1. Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;**

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

Findings—The applicant shall provide the required field survey and subdivision 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 subdivision 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), and *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

The Salem-Keizer Local Wetland Inventory shows that there are wetland channels and/or hydric soils mapped on the property. Wetland notice was sent to the Oregon Department of State Lands (DSL) pursuant to SRC 809.025. The response comments that a state permit may be required. The PWDS require that all applicable state and federal permits be acquired as a condition of permit approval.

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are 2-, 4-, and 5-point mapped landslide hazard areas on the subject property indicating a moderate landslide hazard risk on the property. A geotechnical report dated October 30, 2020, by Redmond and Associates, was submitted with the subdivision application. This report states that the site presently stable and suitable for the proposed development and its associated site improvements.

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

Findings—Water infrastructure is available in the vicinity of the site and appears to be adequate to serve the property. The subject property is located in both the G-0 and W-1 water service areas. W-1 water service is available in Doaks Ferry Road NW abutting the property. G-0 water service is available in Doaks Ferry Road NW approximately 300 feet north of the subject property. The applicant shall provide water service to the G-0 service area within the subject property from the existing G-0 water system, except where service from the W-1 water system is authorized by the Public Works Director.

The nearest sewer available to serve the proposed development is located on the Kalapuya Elementary School property on the easterly neighboring property. The applicant shall extend an 8-inch sewer main through the easterly neighboring property to serve the proposed development pursuant to PWDS.

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 provided an engineered tentative stormwater design to accommodate future impervious surface on all proposed lots. Prior to final plat, the applicant shall provide an engineered stormwater design pursuant to SRC 71 and PWDS to accommodate future impervious surface on all proposed lots, including stormwater facilities needed to serve new streets. Provide stormwater facilities pursuant to SRC 71 in compliance with current stormwater requirements pursuant to City Ordinance Bill No. 8-20.

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 205.010(d)(4) and SRC 205.0010(d)(5)—The street system in and adjacent to the tentative subdivision plan conforms to the *Salem Transportation System Plan*. The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

Finding—Doaks Ferry Road NW abuts the subject property and does not meet the current right-of-way or improvement width standards for a Major Arterial. In implementing boundary street requirements pursuant to SRC 803.040, the applicant shall be required to convey land for dedication of right-of-way to equal a half-width of 48 feet from the centerline along the entire frontage of Doaks Ferry Road NW pursuant to SRC 803.040.

An alternate street improvement width that meets Minor Arterial standards is warranted pursuant to SRC 803.065(a)(1) because adjacent portions of Doaks Ferry Road NW will not accommodate two northbound through lanes. The applicant shall construct a 23-foot-wide half street travel width improvement along the property frontage. In addition, the applicant shall construct a southbound to eastbound left-turn lane at the intersection of Doaks Ferry Road NW and Buzz Street NW and the turn lanes shall include storage and tapers as specified in PWDS. Off-site pavement widening may be needed in order to provide adequate lane widths and taper lengths pursuant to PWDS.

Construct internal streets to Local street standards, with the following exception: (proposed) Buzz Street NW is authorized to exceed 12 percent grade pursuant to SRC 803.065(a)(3). Also, the applicant is proposing to construct (proposed) Woody Court NW with a 52-foot-wide right-of-way and property line sidewalks to accommodate for street trees. Woody Court NW may be 52 feet in width, pursuant to

SRC 803.065(a)(3).

SRC 205.010(d)(6)—The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.

Findings—Kalapuya Elementary School and Straub Middle School are located adjacent to the subject property to be accessed through a future pedestrian walkway connecting to Woodhaven Court NW. The subject property is served by Brush College Park located north of the subject property.

The portion of the walkway outside the subject property (within Wilark Park West No. 7 subdivision) is eligible for fee-in-lieu of construction pursuant to SRC 200.415.

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

Findings—The proposed 27-lot subdivision generates less than 1,000 average daily vehicle trips to Doaks Ferry Road NW, a Major Arterial street. Therefore, a TIA is not required as part of the proposed subdivision submittal.

RESPONSE TO PUBLIC COMMENTS:

1. **Impacts to Wilark Brook**—The Glenn and Gibson Creeks Watershed Council submitted testimony regarding direct impacts to Wilark Brook abutting the proposed development due to slope instability and indirect impacts to Wilark Brook downstream of the proposed development due to potential hydromodification.
 - a. Regarding direct impacts to Wilark Brook, the applicant submitted a geological assessment and geotechnical report that concludes the following: “Based on the results of our field explorations, laboratory testing, and engineering analyses, it is our opinion that the site is presently stable and suitable for the proposed new Doaks Ferry Road Subdivision single-family residential development and its associated site improvements provided that the recommendations contained within this report are properly incorporated into the design and construction of the project.” Compliance with the report is required pursuant to SRC Chapter 810.

- b. Regarding indirect impacts downstream, the applicant is required to mitigate downstream impacts either by: (1) complying with current stormwater requirements pursuant to City Ordinance Bill No. 8-20; or (2) comply with stormwater requirements in effect prior to the ordinance by performing a downstream capacity analysis and by providing capacity improvements or additional on-site detention needed to mitigate the downstream impacts.
2. **Stormwater Standards**—Property owners and West Salem Neighborhood Association expressed concern about the effectiveness of stormwater standards and flow control facilities for addressing local drainage problems. The applicant is required to comply with SRC Chapter 71 and the City’s PWDS promulgated under Administrative Rule 109-001 to 007. The SRC was recently modified under City Ordinance Bill No. 8-20 to increase flow control standards.
3. **Pedestrian Access**—The Salem Keizer School District expressed concern about pedestrian access from the proposed development to local schools. The applicant is required to design a mid-block pedestrian walkway from Woody Street NW to Woodhaven Street NW. The applicant will be constructing the walkway from Woody Street NW to the north line of the subject property and likely will be paying a fee-in-lieu of improvements for the construction costs of the walkway from the north line of the subject property to Woodhaven Street NW. The northern half of the walkway will likely be constructed by the City’s Engineering Division.

Prepared by: Jennifer Scott, Program Manager
cc: File



Glenn and Gibson Creeks Watershed Council 2308 Ptarmigan St. NW, Salem, OR 97304

June 15, 2021

To the Planning Department of the City of Salem, Case Manager: Olivia Dias, and Whom It May Concern:

Appeal Of: SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ21-05

The Glenn and Gibson Creeks Watershed Council provided comments on the application for **SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ21-05 on December 14, 2020 and April 30, 2021**. This appeal is based on the information previously provided and additional information presented below. Being a party to the planning process, the Glenn Gibson Creeks Watershed Council has standing to appeal this decision. The two comment letters are attached to this document as Attachments A and B.

**DECISION OF THE PLANNING ADMINISTRATOR
SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ21-05
APPLICATION NO.: 21-106960-LD, 21-106962-ZO
NOTICE OF DECISION DATE: June 1, 2021**

Per instructions in the document: *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(s) 205 and 250.*

We appeal this decision because:

1. The application fails to identify two headwater streams tributary to Wilark Brook as required by SRC 205.030 (a) (10) and (11) *to locate waterways* (10) and SRC 250.005 (c) submittal requirements *to locate natural features including creeks*.
2. The application does not include a wetland inventory. The subject property was outside the City as shown on the Salem Keizer Local Wetland Inventory that was conducted in 1999 (Figure 1).



The approval on page 17 erroneously asserts: “The Salem-Keizer Local Wetland Inventory (LWI) does identify wetlands on the subject property.”

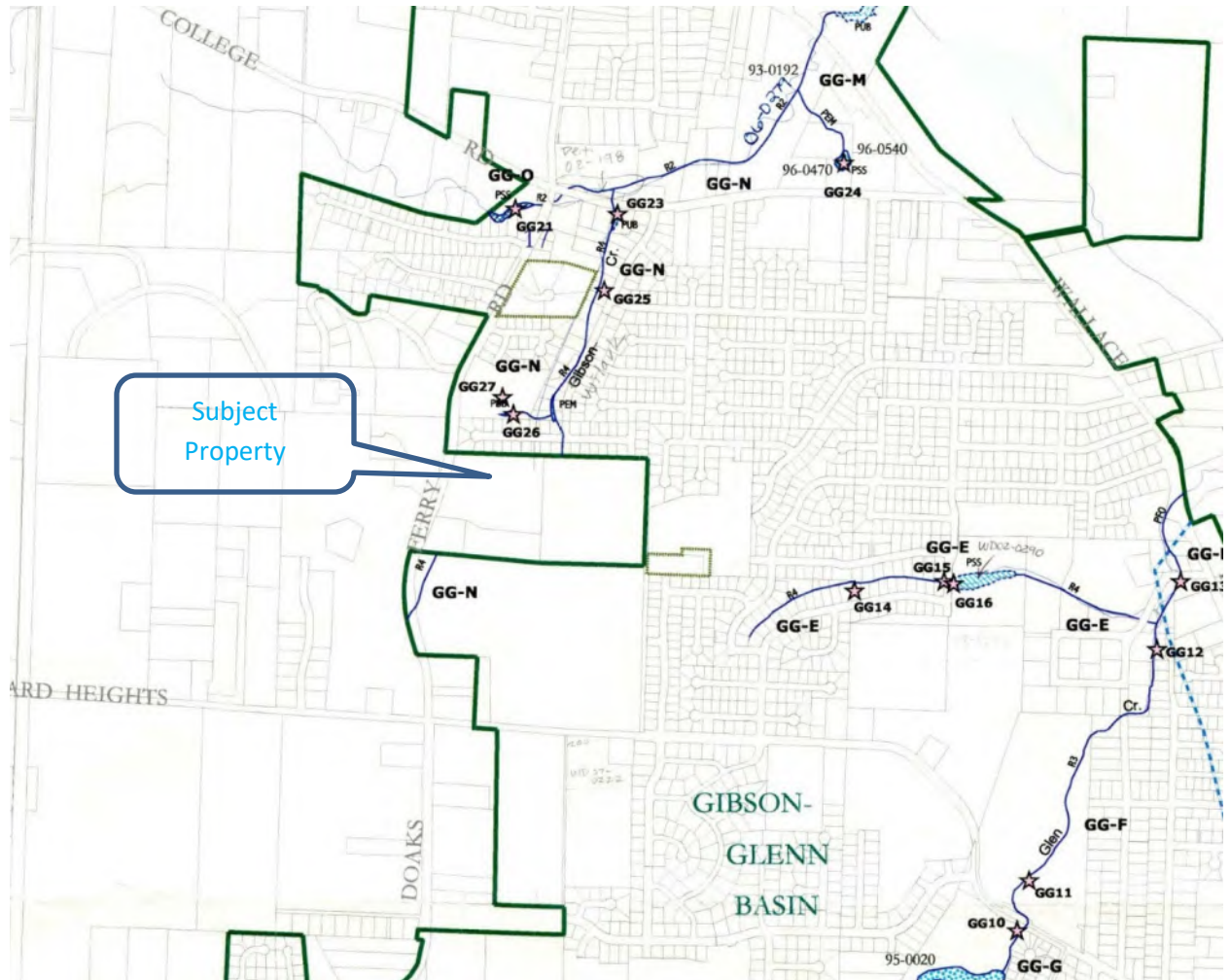


Figure 1: Image from Salem Keizer Local Wetlands Inventory (1999)

3. The application fails to recognize the significant wetlands and seeps that border Wilark Brook providing water quality filtration. The decision fails to support the purpose of SRC 809 and misinterprets the Salem Keizer Local Wetlands Inventory.
4. Wilark Brook provides habitat for native Cutthroat Trout and Sculpin¹.
5. The decision cites a Staff Response that incorrectly claims: “In regard to impacts to wildlife habitat, the subject property has not been identified as a significant wildlife habitat by state wildlife management agencies or by the City. The subject property is located within the Urban Growth Boundary and incorporated limits of the City of Salem and has been

¹ ODFW Fish Survey 1999



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designated on the City of Salem Comprehensive Plan Map as “Single Family Residential,” which anticipates existing or future residential development similar to the subdivision proposed by the applicant. Loss of wildlife habitat that has not been identified as significant is not a criterion under the Salem Revised Code for granting or denying a phased tentative subdivision approval no significant wildlife”.

In fact, the property was annexed after any Goal 5 considerations and the provision of fish resources and other wildlife habitat considerations were not involved at that time. The Oregon Department of Fish and Wildlife conducted a fish survey in 1999 (attached) that documented the presence of Cutthroat Trout in Wilark Brook Further, Wilark Brook drains to Gibson Creek, a DEQ 303(d) listed stream.

6.The decision cites a geotechnical report that fails to fully anticipate impacts of the development on slope stability.

Relevant Codes:

205.030 Additional Submittal Requirements (a)

*(10) The location of any canals, ditches, **waterways**, detention facilities, sewage disposal systems, and wells on the subject property, indicating which will remain and which will be removed or decommissioned.*

*(11) The location of any natural topographic features on the subject property, including, but not limited to, **creeks**, drainage ways as shown on the most recent USGS maps, wetlands as shown on the Local Wetland Inventory, and floodplains.*

SRC 250.005 Adjustments

(c)Submittal requirements: In addition to the submittal requirements for a Type II application under SRC [chapter 300](#), an application for a Class 1 or Class 2 adjustment shall include the following:

*2) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information: **(D)The location of drainage patterns and drainage courses, if applicable***

Sec. 808.005. - Definitions.

Waterway means any river, perennial stream, or creek within the City as designated by the Director.

Sec. 802.005. - Definitions.

Watercourse means the route, up to and including the top of bank, formed by natural processes or constructed by humans, generally consisting of a channel with a bed, banks, or sides, in which water flows. By way of illustration, but not of limitation, as used in this chapter, watercourse includes perennial and intermittent streams and creeks, swales, drainage ditches, and culverts. As used in this chapter, watercourse does not include the Willamette River.



Glenn and Gibson Creeks Watershed Council 2308 Ptarmigan St. NW, Salem, OR 97304

Two Perennial Streams Unidentified in the application

The applicant for **SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ21-05** has failed to identify two waterways / watercourses on the property. Contour lines and the LiDAR map document tributary channels to Wilark Brook. Upon a site visit, both channels are spring fed streams that are tributaries to Wilark Brook. The streams were flowing in early June after a significant time of drought. Both tributaries were flowing streams with springs emerging from the banks and wetlands where springs and seeps entered the tributaries. Neither of the tributary streams nor their 50-foot riparian corridors are identified in the application. Figures 2 and 3 are photographs of the two streams showing flow reaching the confluence with Wilark Brook.



Figure 2: Stream Confluence Tributary A and Wilark Brook (6/9/2021)



Figure 3: Tributary B (6/9/2021)

These two existing streams are not identified in the application. The designation of these streams and their 50-foot riparian corridors should be identified under the provisions SRC Chapter 808 and appropriate provisions made for their protection.

As shown in the application, the building envelope of Lot 6 fully occupies the riparian corridor of Tributary Stream A and the NE corner of the envelope extends directly into the stream. The building envelopes of Lot 7 and Lot 8 occupy the riparian corridor of Tributary Stream A and nearly extend into the stream.

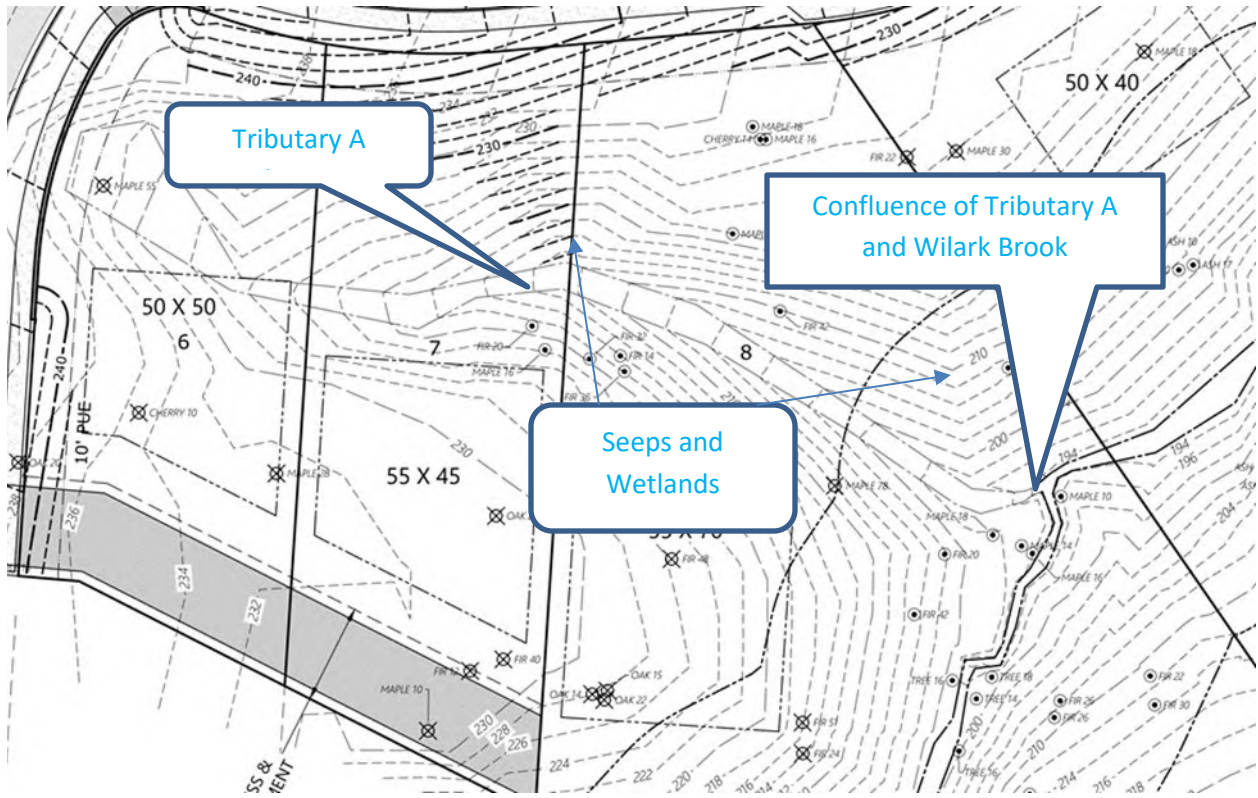


Figure 4: Map showing Tributary A

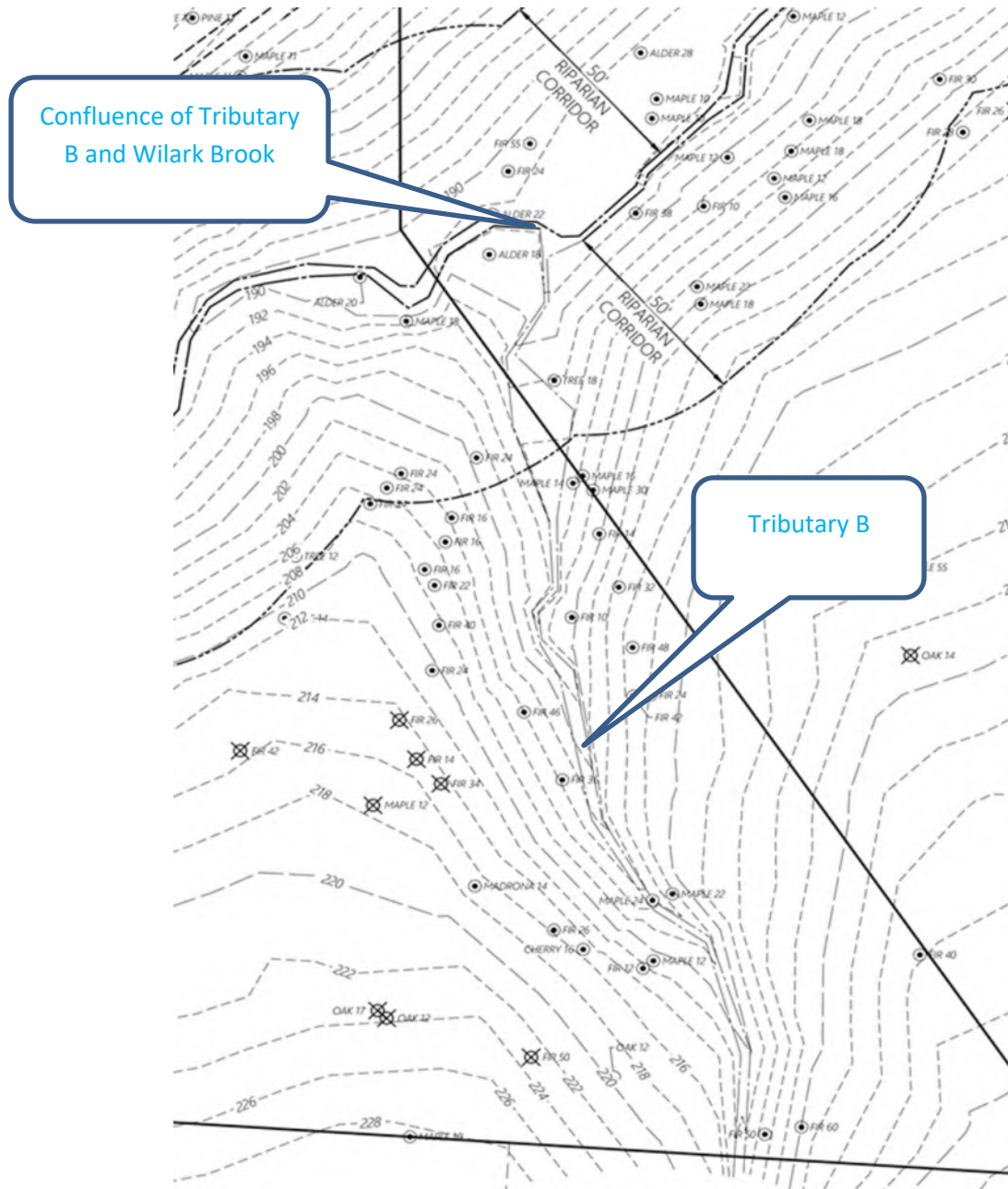


Figure 5: Map showing Tributary B



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Importance of headwater / tributary streams:

The importance of headwaters streams is recognized by the U.S. EPA.

<https://archive.epa.gov/water/archive/web/html/streams.html>

“Headwater streams are the beginnings of rivers, the uppermost streams in the river network furthest from the river's endpoint or confluence with another stream. Headwater streams trap floodwaters, recharge groundwater supplies, remove pollution, provide fish and wildlife habitat, and sustain the health of downstream rivers, lakes and bays. Because small streams and streams that flow for only part of the year are the source of the nation's fresh waters, changes that harm these headwaters affect streams, lakes and rivers downstream. “

These two headwater streams may be seasonal but because they are spring fed, may also be perennial. Either way they are especially important to Wilark Brook and its inhabitants.

Impacts on Water Quality in Wilark Brook: These streams drain directly into Wilark Brook, home to native fish species of Cutthroat Trout and Sculpin. The closed canopy shades these tributary streams, providing cold water to Wilark Brook, necessary for dissolved oxygen levels that will support these fish. These streams and associated springs and wetlands filter the water, lowering turbidity and removing pollutants.

Unidentified wetlands

These streams do not exist in a vacuum. Their banks are water seeps and, in areas, springs. These seeps and springs support wetland vegetation and must be considered essential parts of the stream. These wetlands can be protected because they are within the 50-foot setback of the riparian corridor of these tributary streams.



Figure 6:Wetland along Tributary A showing seep draining into tributary to Wilark Brook (June 9, 2021)

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



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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 identify wetlands on the subject property. Notice of the proposal was provided to the Department of State Lands (DSL), pursuant to SRC 809.025. DSL indicates that wetlands may be present, and an onsite inspection by a qualified wetland consultant is recommended. State and Federal permits may be required. The Public Works Design Standards require that all applicable state and federal permits be acquired as a condition of permit approval. As conditioned below, the tentative subdivision plan conforms to all applicable SRC Chapter 809 requirements.

This statement is in error since the subject property was not a part of the 1999 Local Wetlands Inventory (Figure 1).

There are seeps and springs that drain into the two tributary streams to Wilark Brook. The building envelope for lot 6 lies across Tributary A. The proposed approval appears to allow development within a stream contrary to Section 808 of the Salem Revised Code.

The application erroneously stated that there were no wetlands on the subject property. Conditioning the approval by requiring a wetland delineation does not meet the standard of SRC 809:

Sec. 809.001. - Purpose.

The purpose of this chapter is to identify those wetlands located within the City which are significant and non-significant, and to establish the foundation for a wetlands protection program that will provide for the long-term protection of wetlands within the City.

These wetlands have not been evaluated for significance. They border streams that support Indigenous Salmonids (Oregon Department of Fish and Wildlife, 1999)² and impact the water quality of the streams. These attributes of the tributary stream and associated wetlands appear to meet the criteria for significance.

Sec. 809.010. - Criteria for identification.

Under the criteria listed in this chapter, the wetlands on this property clearly meet the standard for significant wetlands.(1)

The wetland performs any of the following functions according to the OFWAM:

(A)Provides diverse wildlife habitat; (B)Provides intact fish habitat; (C)Provides intact water quality function; or(D)Provides intact hydrologic control function.

² Study of West Salem Streams ODFW Fish survey 1999



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The wetlands associated with the tributary streams provide water quality and quantity benefits as well as habitat benefits that appear to meet the standards for significance.

Presence of significant wildlife.

The decision claims “Staff Response: In regard to impacts to wildlife habitat, the subject property has not been identified as a significant wildlife habitat by state wildlife management agencies or by the City. The subject property is located within the Urban Growth Boundary and incorporated limits of the City of Salem and has been designated on the City of Salem Comprehensive Plan Map as “Single Family Residential,” which anticipates existing or future residential development similar to the subdivision proposed by the applicant. Loss of wildlife habitat that has not been identified as significant is not a criterion under the Salem Revised Code for granting or denying a phased tentative subdivision approval no significant wildlife”.

While the property has been designated for single family residential, the designation occurred after Goal 5 resources were identified for the former City boundary. No evaluation of the resources of the subject property were considered at the time of determination since the property was outside the City Limits at the time of evaluation of wildlife resources.

SRC 809.005 definitions

Best available information means information used in making the classification of a wetland as locally significant, including, but not limited to, the Salem-Keizer Local Wetland Inventory, aerial photos taken in 2000; Oregon Natural Heritage Program data; Department of Environmental Quality data for streams listed under the Clean Water Act (CWA, 33 USC 1250 et seq., at 1313(d)), section 303(d); Geographic Information System (GIS) data from the City, including, but not limited to, location of city parks, local waterways, tax lot data and property ownership, fish-bearing streams, FEMA and floodplain data; and any other data or information from a trustworthy source which may be verified by observation, investigation, or research, or which is considered authoritative by professionals in the scientific community.

Indigenous Salmonids means members of the family Salmonidae which are listed as sensitive, threatened or endangered by a federal or state authority, including Chum, Sockeye, Chinook and Coho salmon, and steelhead and cutthroat trout.

Inhabited by means the plant or animal species uses the site for rearing, feeding, or breeding, or as a migration or dispersal corridor. As used in this definition, the term "inhabited by" does not include the incidental use of the site by an animal species.

Coastal cutthroat trout are a member of the family *Salmonidae* but are not currently listed as threatened or endangered; however, petitions to list the species have been considered by the USF&WS as recently as 2020.

Other wildlife habitat values include the riparian cover to the tributary streams that help to maintain cool water in Wilark Brook and associated wildlife habitat such as the snag (Figure 7) providing habitat for cavity nesting birds and animals.

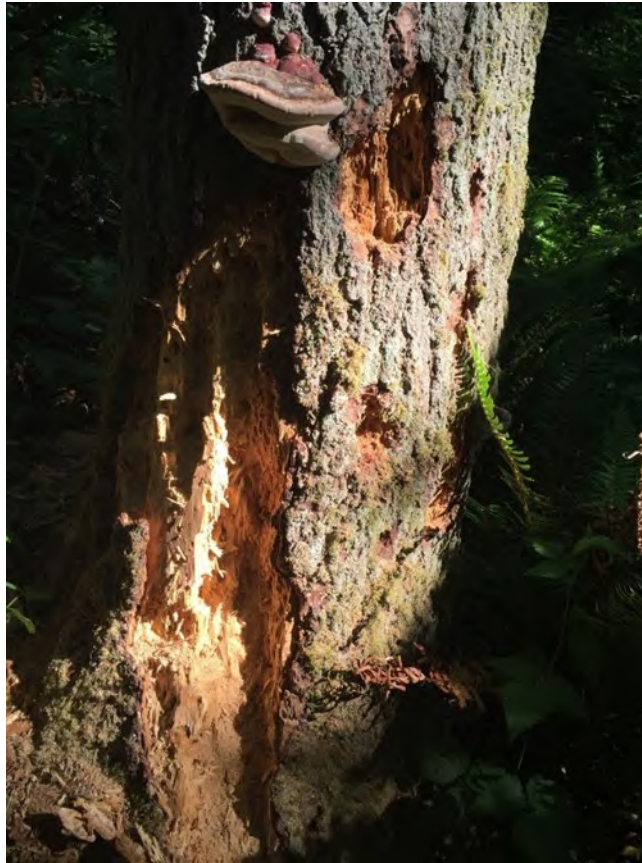


Figure 7: Habitat Tree in the Riparian Corridor of Tributary B (photo 6/9/2021)

The approval fails to address the concern raised in our December 14, 2020 letter about the mischaracterization of the soil hydrogeographic group that minimizes the potential for erosion and runoff adversely affecting the design for the stormwater facility. The staff report relies on the engineering report without examining the mischaracterization of soil characteristics identified in the letter of December 14, 2020. No response to the effects of the mischaracterization made in the Preliminary Drainage Report. The consequences of the approval with inappropriate characterization of soil conditions opens the City to liability if the stormwater facility and fails.

Stormwater Management system: **The decision has failed to conform to: SRC 205.030 (e)** “A description of the proposed stormwater management system, including pre and post construction conditions, prepared in accordance with the Public Works Design Standards.” **If the Preliminary Drainage Plan is intended to meet this requirement, the factual errors in the plan need to be corrected and the consequences of that error need to be evaluated.**

Additional concern was raised about the slope stability of the banks of Wilark Brook and the two tributary streams. The site has spring flow from the banks of the tributary streams and encroachment on the banks will likely result in bank failure.



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Geotechnical Report: Regarding direct impacts to Wilark Brook, the applicant submitted a geological assessment and geotechnical report that concludes the following: “Based on the results of our field explorations, laboratory testing, and engineering analyses, it is our opinion that the site is presently stable and suitable for the proposed new Doaks Ferry Road Subdivision single-family residential development and its associated site improvements provided that the recommendations contained within this report are properly incorporated into the design and construction of the project.” Compliance with the report is required pursuant to SRC Chapter 810.

The key word in this response is "presently". Of concern is the future and expected impacts of the proposed development including everything from initial tree removal to the alterations made to the landscape by the future property owners. If observations of Goldcrest Brook can be a guide, stream downcutting and bank erosion and failure because of grading, construction, soil compaction, and addition of impervious surfaces can be expected.

The geotechnical report only tested subsurface conditions to 5-foot depth and all test sites were above the proposed Woody Street. No test sites were taken in the area where the topography changes to a steep decline to Wilark Brook. The Geological Hazards Report did not sample conditions other than those evaluated by the geotechnical samples. The report states: *“The steepest slopes are up to 60% along Wilark Brook and its tributary.”* The report further identifies: *“However, locally, tilted trees on the banks of Wilark Brook indicate a potential for local slope failures on the steepest site slopes or man-made cuts.”* And conclude: *“The moderately-steep banks of Wilark Brook appear stable under current conditions. Experience along the Willamette and Columbia Rivers has shown the steep slopes cut into fine grained Missoula Flood deposits **may fail** during drawdown from saturation.”* The report writers conclude: *“Areas underlain by the Missoula Flood deposits should provide drainage to maintain low heads in the silts and along Wilark Brook.”*

This characterization is a more accurate explanation of the concerns of the Watershed Council and is significantly different from the generalizations about the geotechnical stability of the parcel as a whole.

Inherent Flaws of **SUBDIVISION / CLASS 2 ADJUSTMENT CASE NO.: SUB-ADJ21-05**

APPLICATION NO.: 21-106960-LD, 21-106962-ZO

Wasteful use of valuable land: Single Family residential is arguable the most wasteful Land Use category, especially in situations like this proposal. The entire property is divided into large lots and nothing is protected. These lots will be privately owned, with no guarantees that future owners will value the natural values or the ecosystems that currently thrive around the creeks. The deep lots could end up as lawn with some isolated plantings surrounded by bark dust.

Possibilities: The upland portion of this property could contain 27 homes by considering alternatives to traditional Single Family Residential. Zero lot lines, joined units, multifamily would all work here to provide the same level of occupancy as the proposed development. Wilark Brook, tributaries, and wetlands are then available to be conserved as natural resource areas to be donated to the City for use as stormwater treatment, a natural area, or as an unconnected part of Straub Nature Park.



Glenn and Gibson Creeks Watershed Council 2308 Ptarmigan St. NW, Salem, OR 97304

Salem is short on property zoned multifamily residential. This property is within easy walking distance of elementary, middle and high schools. It would seem like the ideal location for denser development.



16 June 2021

TO: Salem Planning Department Administrator

RE: Appeal of the Decision of the Planning Administrator
Subdivision/Class 2 Adjustment Case No. SUB ADJ21-05
Application No. 21-106962-ZO
A 27 Lot Subdivision

FR: Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

The West Salem Neighborhood Association (WSNA) appeals the June 1, 2021, decision for a 27-lot subdivision located on 2230 Doaks Ferry Road NW Salem, OR (Polk County Assessor Map and Tax Lot Number: 073W17/380e).

WSNA has standing in so far as the neighborhood association submitted written testimony on April 30, 2021. The basis for this appeal includes: The WSNA provided factual evidence demonstrating that the development of this site, as proposed, will adversely affect the environment. The decision, and conditions therein, did not address the specific issues raise in the WSNA testimony and 9 supporting appendices.

- (1) There are **no findings** cited for SRC 205.010(d)(1)(C).
- (2) The findings cited for SRC 205.010(d)(9) address topography, but **do not** address “least disruption of vegetation” on the site.
- (3) Condition #11 **fails** to comply with SRC 808.001 “The purpose of this *chapter* is to provide for the protection of ... trees and native vegetation in riparian corridors ...”
- (4) Condition #12 **fails** to comply with SRC 809.010 “... the Director shall identify local wetlands as locally significant or non-significant.”
- (5) The findings **fail** to identify or address all waterways (perennial streams) on the site.
- (6) Conditions 2, 16 and 17 do not adequately address SRC Chapters, 71, 82, 610, 808 & 809.

Therefore, the WSNA offers this appeal with the request for a hearing to offer testimony to address these errors and omissions and propose constructive remedies for consideration as additional conditions of approval. Thank you.

Respectively,

Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

Applicant's Proposed Findings Regarding Appeal Issues

A. Application Requirements. Appellant contends Applicant did not identify topographic features related to ditches, waterways, creeks, and drainage ways, as required by SRC 205.030(a)(10) and (11) and SRC 250.005(c).

Proposed Finding. SRC 205.030(a)(10) requires, as relevant to the appeal, the application identify canals, ditches, and waterways on the property indicating which will remain and which will be removed or decommissioned. Similarly, SRC 205.030(a)(11) requires the application to show topographic features on the subject property “including but not limited to creeks, drainage ways as shown on the most recent USGS maps, wetlands as shown on the local wetland inventory, and flood plains.” Finally, because Applicant seeks an adjustment, SRC 250.005(c)(2)(d) requires the application for an adjustment to depict drainage patterns and courses.

The application materials contain all of the required information. Applicant's lot grading and tree conservation plan reflects the topographic features on the site, and depicts Wilark Brook and the riparian corridor along Wilark Brook, as well as topographic features to the west and east of Wilark Brook, which direct any surface water on the site into low areas, ultimately passing it to Wilark Brook. SRC 808.005 defines a waterway as “any river, perennial stream or creek within the city as designated by the Director.” Only Wilark Brook has been designated as a waterway. Accordingly, Applicant has depicted the only waterway on the premises, and the topographic information provided by Applicant reflects the topographic features which would direct water to low points and to Wilark Brook. Thus, the application identifies canals, ditches, and waterways on the property indicating as required by SRC 205.030(a)(10).

SRC 205.030(a)(11), further requires that the applicant identify natural features including creeks, drainage ways as shown on the most recent USGS maps, and wetlands as shown on the local wetland inventory. No portion of the property is reflected in the local wetland inventory.¹ The only drainage way shown on USGS maps is Wilark Brook, which is depicted on the lot grading and tree conservation plan provided by Applicant. Finally, because Applicant seeks an adjustment, SRC 250.005(c)(2)(d), requires that the information submitted identify drainage patterns and courses on the property. SRC 75.020 defines a drainage course as “any land surface, ditch, waterway, or other feature

¹ As discussed below in relation to wetlands, as a condition of approval, applicant is required to conduct a wetlands inventory, and obtain concurrence from DSL as well as any resulting required permits. Accordingly, any wetlands located on the property will be identified, and protected as required by state law, as a condition of approval. Thus, the absence of designation of the property on the local wetland inventory does not relieve applicant of the burden of identifying or protecting wetlands on the site. Conditions applied to the application require wetlands inventory be performed and DSL concurrence, and any resulting permits, be obtained and complied with.

which serves as a course for the transmission of surface water and storm water.” As discussed above, Applicant’s lot grading and tree conservation plan depicts topographic low points on the property which would serve to transmit surface water to Wilark Brook. Accordingly, all required drainage patterns and courses are depicted.

Appellant’s contend the topographic features depicted on Applicants lot grading and tree preservation plan are waterways which must be depicted on the application, together with their associated riparian corridors. The two topographic depressions have not been designated as a waterway by the Director as required by SRC 808.005, are not reflected as a drainage way on the most recent USGS maps, and are not reflected on any available on-line source reviewed as a waterway. Riparian Corridors are defined in SRC 111.001 as “area adjacent to a waterway”. As the topographic features are not waterways as defined by code, there is no riparian corridor. The topographic features are depicted as required.

B. Wetlands. Appellant contends the application requires a wetland inventory and fails to account for the presence of wetlands on the property.

Proposed Finding. As noted in the original decision, wetlands are present on the site, and the notice required by SRC 809.025 was provided to the Department of State Lands (DSL). Providing notice to DSL, assures compliance with applicable wetland regulations regardless of whether any portion of the property is listed on the Local Wetland Inventory.

Identification of any wetland that exists on the property is assured through the condition of approval requiring delineation of the wetlands and DSL concurrence. Further compliance with development restrictions associated with the presence of wetlands is assured through the condition requiring any DSL, or Corps of Engineers required permits be obtained and complied with. Additional conditions are not authorized. SRC 809.010 charges the director with the obligation to identify locally significant and nonsignificant wetlands, and sets forth the criteria to be used in determining whether a wetland is significant. A property cannot be added to the local wetland inventory without notice to the property owner, and the opportunity to be heard. No such notice, or opportunity has been provided to the Applicant.

SRC Chapter 809 provides that grading and construction activities within wetland are regulated by DSL and US Army Corps of Engineers. Notice was sent to DSL of the application, and submission of a wetlands inventory, and DSL concurrence are required as a condition of approval of the application. Accordingly, compliance with DSL and Army Corps requirements is assured through condition of approval.

For the purposes of clarity, condition 12 should be revised to read: Submit wetlands delineation to Department of State Lands and obtain concurrence. In the event any DSL, or federal permits are required as a result of the wetlands delineation, obtain and comply with applicable state and federal permits.

C. Wildlife Habitat. Appellant contends the property provides habitat for cutthroat trout and sculpin, and habitat for nesting birds and animals.

Proposed Finding. As noted in the decision, no portion of the site has been identified as a significant wildlife habitat by state wildlife management agencies or the city. The subject properties located within the urban growth boundary, and incorporated within the city limits of Salem, and is designated in the City of Salem Comprehensive Plan as single-family residential. Designation as single-family residential anticipates existing or future residential development similar to subdivision proposed by the applicant. Loss of wildlife habitat that has not been identify as significant is not a criteria under Salem Revised Code for granting or denying a phase tentative plan subdivision approval. Further, SRC Chapter 809, ties evaluation of wetlands for significance to, in part, indigenous salmonids “which are listed as sensitive threatened or endangered by a federal or state authority.” Appellants concede cutthroat trout and sculpin are not listed as threatened or endangered. Accordingly, there is no indication of any significant habitat present on site or of any impact to any identified habitat.

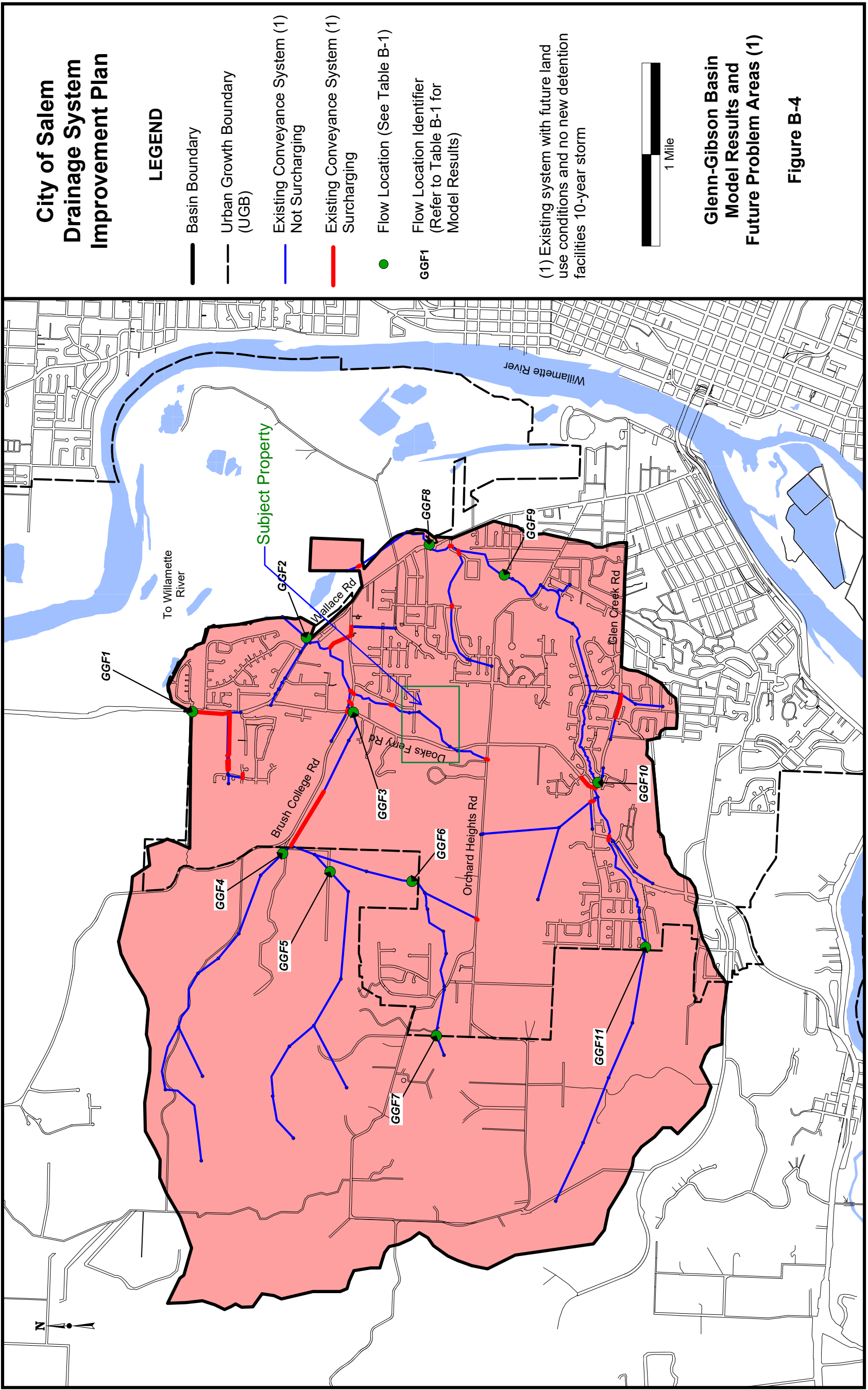
D. Soil Characteristics. Appellant contends applicant’s storm water engineering report mischaracterizes soil characteristics, by failing to consider that some of the soils are considered C/D soils as opposed to C soils.

Proposed Finding. Applicant’s engineering analysis related to storm water considered all soils as classified as C. Doing so represents a conservative approach because C soils are considered to retain more water than soils classified as C/D. As a result, the storm water study assumes the additional water that would have been retained by soils classified as C that are replaced by impervious surface must be managed by the storm water plan for the site. Thus, the storm water plan assumes more, not less, water must be managed by the sites storm water system. By requiring the site’s storm water be managed as required by City code, and using the conservative approach that results in the plan being designed to highest level of run off attributable to the soils on site, storm water management and runoff issues are appropriately addressed by the application and design requirements imposed by code and conditions of approval.

E. Slope Stability. Applicant provided a geotechnical report that concluded the site is stable and will support development if the recommendations in the report are applied during construction. Construction in compliance with the report is required by the approval. Appellants question the conclusions in Applicants geotechnical report.

Proposed Finding. Applicant submitted a geotechnical report which evaluated the slope stability on the site, and provided recommendations for construction methods within the subject property. Test pits were dug, and appropriately analyzed by Applicant’s engineer who concluded construction can safely proceed on the site as described in the report. Compliance with the recommendations in the report is required by the approval. Requiring construction in

compliance with the geotechnical report for the property appropriately addresses geotechnical code requirements.



Olivia Dias

From: Lisa Anderson-Ogilvie
Sent: Monday, July 12, 2021 4:09 PM
To: Olivia Dias
Subject: FW: Quasi-judicial hearing Process

Follow Up Flag: Follow up
Flag Status: Flagged

----- Original Message -----

From: E Easterly <emeasterly@comcast.net>
To: "squizar@cityofsalem.net" <squizar@cityofsalem.net>
Date: 07/12/2021 9:42 AM
Subject: Quasi-judicial hearing Process

To: Salem Planning Commission President and Members
via: squizar@cityofsalem.net
From: E.M. Easterly Ward 8
RE: Quasi-judicial hearing process
Date: July 13, 2021

President Griggs and Members of the Planning Commission:

According to the announcement issued by City of Salem staff the de novo ¹ hearing regarding SUB-ADJ21-05 before the Planning Commission on July 20th is governed by the following rules of which two are highlighted.



Question: Why does the applicant have the burden of proof that the approval criteria is satisfied by the facts?

This question purposefully contradicts the above instructions because it was not the applicant who determined whether the subdivision proposal met the City of Salem approval criteria or not. It was the Planning Administrator who determined whether the applicant met the approval criteria. It is the Planning Administrator's flawed and inadequate decision, not the applicant's 2230 Doaks Ferry subdivision request, that was appealed.

In so far as this will be a de novo hearing, it is the judgment of this Planning Commission as whether the project as proposed by the applicant meets all City of Salem subdivision approval criteria. It is you, the members of the Planning Commission, not staff, not the Planning Administrator, who must decide if SUB-ADJ21-05 as currently conditioned complies with all subdivision approval criteria.

For you to make this determination you must (a) review the full record (not just the parts staff has selected to show you), (b) clearly understand the intent and purpose of Salem Unified Development Code and (c) render a decision that complies with the legal requirements of the Salem Revised Code.

Thank you for reviewing my concerns. Thank you for considering this process query. The matter in question will be addressed during a July 20th public hearing before the Planning Commission.

Respectfully,

E.M. Easterly

1 Sec. 300.1040. - Appeal procedures; scope.

Appeals shall be conducted in accordance with the procedures set forth in this section.

(a) Appeal hearing. Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower level Review Authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record. For purposes of this subsection, the record consists of:

(1) All staff reports, exhibits, materials, pleading, memoranda, stipulations, and motions submitted by any party and reviewed or considered in reaching the original decision that is being appealed.