

## Property Line Adjustment Request Written Statement

### **Applicant/Owner:**

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### **Applicant's Representative:**

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### **Request:**

A property line adjustment to adjust the common boundary between two parcels, with resultant Parcel 1 (Marion County Assessor's Map and Tax Lot Number 083W23B 00100) consisting of approximately 10.43 acres zoned RM1 (Multiple Family Residential 1) and resultant Parcel 2 (Marion County Assessor's Map and Tax Lot Number 083W23B 00101 and Map and Tax Lot Number 083W23BA 00400) consisting of approximately 3.74 acres for property that is zoned and CR (Retail Commercial) and is addressed at 6161 Commercial St. SE, Salem, Oregon 97306.

The subject site is a portion of the property that formerly made up the Battle Creek Golf Course. The purpose of this adjustment application is to create parcels which conforms to the current zoning pattern which exists on the subject site. Currently, Parcel 1 (Marion County Assessor's Map and Tax Lot Number 083W23B 00100) (hereinafter "*Parcel 1*") is split zoned between the RM1 and CR zones. The intent of this adjustment would be to adjust the boundary of Parcel 2 (Marion County Assessor's Map and Tax Lot Number 083W23B 00101) (hereinafter "*Parcel 2*"), so that the boundary line corresponds with the zoning boundary, as set forth on Exhibit D, attached hereto. The Applicant's proposal includes adjusting the common property line of Parcel 1 and 2, respectively 12.72 acres and 1.44 acres, resulting in adjusted parcels of approximately 10.43 acres and 3.74 acres. See Exhibits C and D. The proposed legal descriptions for the parcels are attached as Exhibit E.

### **Findings:**

The proposal to move the common property line between the two units of land is supported by the following findings demonstrating compliance with the applicable Unified Development Code (UDC) standards, including the requirements of UDC Chapter 205.055 pertaining to Property Line Adjustments as stated below:

UDC 205.055(d): **Property Line Adjustment Criteria.** *A property line adjustment shall be approved if all of the following criteria are met:*

(1) *The property line adjustment will not create an additional unit of land;*

Proposed Finding: The property line adjustment will relocate the common property line between two abutting units of land. Two units of land currently exist, and two units of land will exist after the adjustment. The proposed property line adjustment will not create an additional unit of land.

(2) *The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development;*

Proposed Finding: The Applicant proposes to reduce the size of Parcel 1 from 12.72 acres to 10.43 acres. The resulting Parcel 1 will be located entirely within the RM1 zoning district, which requires a minimum parcel size of 20,000 square feet. The resulting size of Parcel 1 will exceed the minimum requirements for new parcels in the RM1 zone.

The Applicant proposes to increase the size of Parcel 2 from 1.44 acres to 3.74 acres. The resulting Parcel 2 will be located entirely within the CR zoning district. The resulting Parcel 2 will be able to comply with the development standards found in UDC 522.

(3) *The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded;*

Proposed Finding: The property designated as Parcel 1 was created as a result of a previous property line adjustment (City of Salem PLA No. 10-12). See Exhibit F.

The property designated as Parcel 2, which includes both Marion County Assessor's Map and Tax Lot Number 083W23B 00101 and Map and Tax Lot Number 083W23BA 00400, was conveyed by metes and bounds description in a deed executed on April 1, 1979 and recorded in the real property records of Marion County at Reel 123, Page 1562. See Exhibit G.

Prior to Salem's formal process for minor partitions, which became effective October 23, 1979, any conveyance of land that would not have been affected by the City of Salem's major partition requirements could have been legally transferred by way of a metes and bounds description. Since compliance with the major partition ordinance was not required in conjunction with the division of Parcel 2 at the time, no formal application would have been required in order to lawfully create that unit of land.

Subsequent to this April 1, 1979 conveyance, the same metes and bounds description which includes both tax lots which make up Parcel 2 has been used to transfer this parcel. See chain of title materials attached hereto as Exhibit G. ORS 92.017 requires that Parcel 2, in its current configuration be recognized as a separate legal parcel. ORS 92.017 provides that, "[a] lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are

vacated or the lot or parcel is further divided, as provided by law." To date, no evidence has been provided to show that any parcel lines were ever vacated or that the parcel was ever legally divided beyond Parcel 2's current legal boundary configuration. As such, Parcel 2 in its current configuration is a legal unit of land.

*(4) The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land;*

Proposed Finding: The subject site has been subject to past land use applications, most notably Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 08-15. This approval attached a number of conditions of approval, which are attached hereto as Exhibit H. None of these conditions prohibit the proposed property line adjustment proposed herein by the Applicant. The Applicant is not aware of other conditions of approval which may prohibit the proposed property line adjustment.

*(5) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and*

Proposed Finding: This adjustment is being proposed primarily for purposes of creating consistency between the property lines and the zoning boundaries. This adjustment will not involve the relocation or elimination of any public easement or right-of-way.

*(6) The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.*

Proposed Finding: The result of the adjustment will not adversely affect the availability or access to public and private utilities or streets. The adjustment will not encroach into any public right of way or private utility.

## Exhibit List

- Exhibit A - Current Deed for Parcel 1
- Exhibit B - Current Deed for Parcel 2
- Exhibit C - Current Property Configuration
- Exhibit D - Proposed Property Configuration
- Exhibit E - Proposed Legal Descriptions
- Exhibit F - City of Salem PLA Decision No. 10-12
- Exhibit G - Chain of Title Materials
- Exhibit H - Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 08-15
- Exhibit I - Proposed Property Line Adjustment Deed