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503-588-6173*

## ADMINISTRATIVE DECISION FOR PROPERTY LINE ADJUSTMENT

CASE NO.: PLA 14-14  
AMANDA NO.: 14-120388-LD  
DATE OF DECISION : February 5, 2015  
PROPERTY LOCATION: 6161 Commercial Street SE  
APPLICANT: Terry Kelly and Mary Rentfro

### REQUEST

A property line adjustment to relocate the common property line between two units of land equal to a combined size of approximately 14.17 acres, which results in adjusted Parcels 1 and 2 approximately 10.43 acres and 3.74 acres in size respectively, for the purpose of creating parcels which conform to the current zoning boundaries of the existing site, for property zoned CR (Retail Commercial), PA (Public Amusement) and RM1 (Multi-Family Residential), and located at 6161 Commercial Street SE (Marion County Assessor's Map and Tax Lot numbers: 083W23B / 00100, 00101, and 083W23BA / 00400).

### FINDINGS

The proposed property line adjustment affects properties located at 6161 Commercial Street SE (Attachment 1). The proposed property line adjustment relocates the common property line between two abutting units of land designated as Parcel 1 (Tax Lot 083W23B / 00100) and Parcel 2 (Tax Lots 083W23B / 00101 and 083W23BA / 00400). The proposed property line adjustment site plan is included as Attachment 2, and the proposed property line adjustment deeds are included as Attachment 3.

#### **A. Agency and Service Provider Comments**

1. The Salem Fire Department reviewed the proposal and indicated they have no objections to it.
2. The Salem Public Works Department submitted comments indicating that the City Surveyor and Planner discussed the possible need to process this application as two property line adjustments, and the City Surveyor determined that a single property line adjustment was sufficient.

#### **B. Property Line Adjustment Approval Criteria**

Pursuant to SRC 205.055(a), a property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a). Property line adjustments shall not be used to create an additional unit of land, or to create units of land that are nonconforming. No property line shall be relocated or eliminated without property line adjustment approval as set forth in this section.

SRC 205.055(d) establishes the following approval criteria which must be met in order for a property line adjustment to be approved:

- (1) *The 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;*
- (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;*

# NOTICE OF DECISION

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

CITY OF Salem  
AT YOUR SERVICE

- (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;*
- (5) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and*
- (6) The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.*

#### **Analysis of Property Line Adjustment Approval Criteria**

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

**Finding:** The proposed property line adjustment relocates the common property line between two existing and abutting units of land. 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.**

**Finding:** The subject property consists of two units of land, designated as Parcel 1 (Tax Lot 083W23B / 00100) and Parcel 2 (Tax Lots 083W23B / 00101 and 083W23BA / 00400). Parcel 1 is currently zoned RM1 (Multiple-Family Residential) and PA (Public Amusement) in the west and CR (Retail Commercial) in the east; Parcel 2 is currently zoned CR. The proposed property line adjustment relocates the common property line between the two parcels so that it corresponds to the western boundary of the CR (Retail Commercial) zone.

Through the proposed property line adjustment, the applicant proposes to reduce the size of Parcel 1 from 12.72 acres to 10.43 acres and increase the size of Parcel 2 from 1.45 acres to 3.74 acres.

The resulting Parcel 1 will be zoned PA within a strip 40 feet wide and approximately 890 feet long (approximately 0.8 acre) abutting its northern boundary and will be zoned RM1 within its remaining area approximately 437 feet wide by 970 feet long (approximately 9.63 acres). The PA zone (Table 540-2) requires minimum lot area of 10,000 square feet, lot width of 50 feet, lot depth of 80 feet, and street frontage of 16 feet. The RM-1 zone (Table 513-2) requires minimum lot area of 1,500 square feet for townhouses and 4,000 square feet for other uses; lot width of 20 feet for townhouses and 40 feet for other uses; lot depth of 120 feet for double frontage lots and 70 feet for other lots; a maximum depth of no more than 300% of average lot width; and street frontage of 20 feet for townhouses or 40 feet for other uses. In addition, SRC 513.010(a) requires a minimum lot area of 20,000 unless lots contain two or more attached dwelling units per lot, are used for townhouse development, or are used for allowed uses other than Household Living. The proposed property line adjustment is not changing the boundaries of the PA-zoned area and RM1-zoned area or creating additional units of land. If the PA-zoned area was a separate unit of land, it would meet the applicable lot standards other than lot width. If the RM1-zoned area was a separate unit of land, it would meet the applicable lot standards.

The resulting Parcel 2 will be zoned CR. The CR zone requires no minimum lot area, lot width, or lot depth, and requires minimum street frontage of 16 feet. The proposed Parcel 2 would meet the applicable standards.

The proposed property line adjustment does not result in the creation of non-conforming units of land or nonconforming development or increase the degree of nonconformity in existing units of land or existing development.

##### **(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.**

**Finding:** The current boundary of Parcel 1 was created as a result of Property Line Adjustment No. 10-12. The applicant provided a written statement and documentation establishing that Parcel 2 is a legal unit of land. Existing Parcel 2, consisting of two tax lots, 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. Prior to Salem's process for minor partitions, which became effective October 23, 1979, any conveyance of land that would not have been affected by the city'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 create that unit of land. The applicant provided a chain of title materials documenting that the same metes and bounds description has been used for subsequent transfers of this 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." 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; therefore, Parcel 2 in its current configuration is a legal unit of land.

The proposed property line adjustment involves legal units of land that were lawfully established.

**(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.**

**Finding:** The subject site has been subject to past land use applications including Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 08-15. There are no existing land use approvals or previous conditions of approval applicable to the properties that would 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.**

**Finding:** This adjustment will not relocate or eliminate 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.**

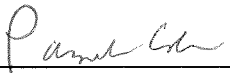
**Finding:** Both properties currently have frontage on street right-of-way, and the reconfigured properties will maintain this frontage along public right-of-way. The property line adjustment would not adversely affect availability or access to public and private utilities or streets.

**CONCLUSION**

Based on the requirements of SRC 205.055, the proposed property line adjustment has been reviewed for compliance with the applicable standards and criteria of the Unified Development Code (UDC). The Planning Administrator certifies that the proposed property line adjustment is in conformance with the UDC, provided compliance occurs with any applicable items noted above.

The applicant is required to have the property line adjustment surveyed and monumented, and legal descriptions prepared and recorded, per SRC 205.055(f) and (g). The surveyor of record takes the survey and legal descriptions to the appropriate county for recording.

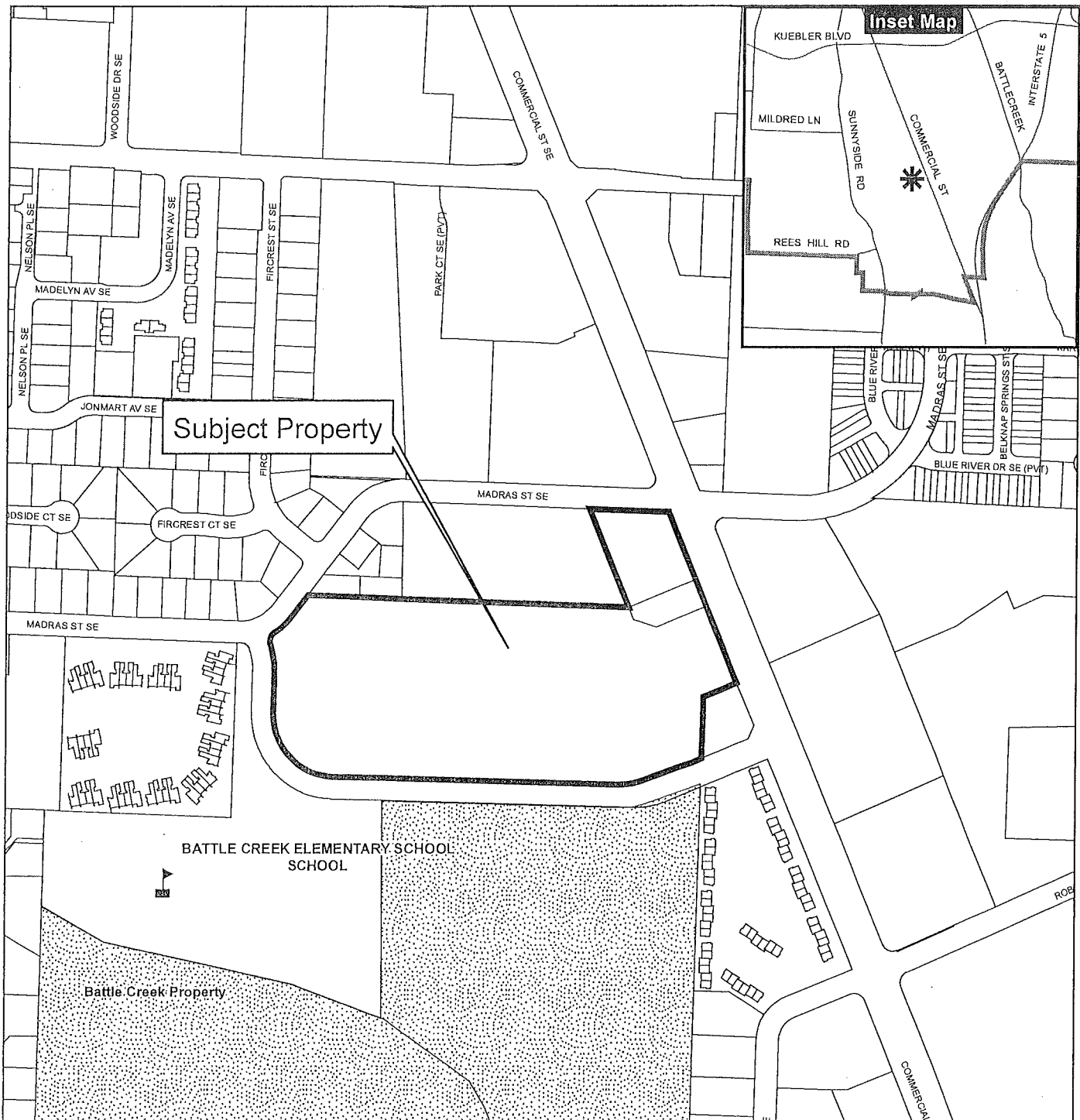
It is the owner/developer's responsibility to record all necessary documentation with the appropriate county. To expedite any future land use applications or building permits, submit a copy of the recorded survey and deed with your application(s). If you have any questions regarding items in this decision, please feel free to contact me at 503-540-2309 or pcole@cityofsalem.net.

  
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Pamela Cole, Planner II  
Urban Planning Administrator Designee

Attachments: 1. Vicinity Map  
2. Proposed Property Line Adjustment Site Plan  
3. Proposed Property Line Adjustment Deeds

# Vicinity Map

## 6161 Commercial Street SE



### Legend

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

Parks

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Community Development Dept.

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0 100 200 400 Feet



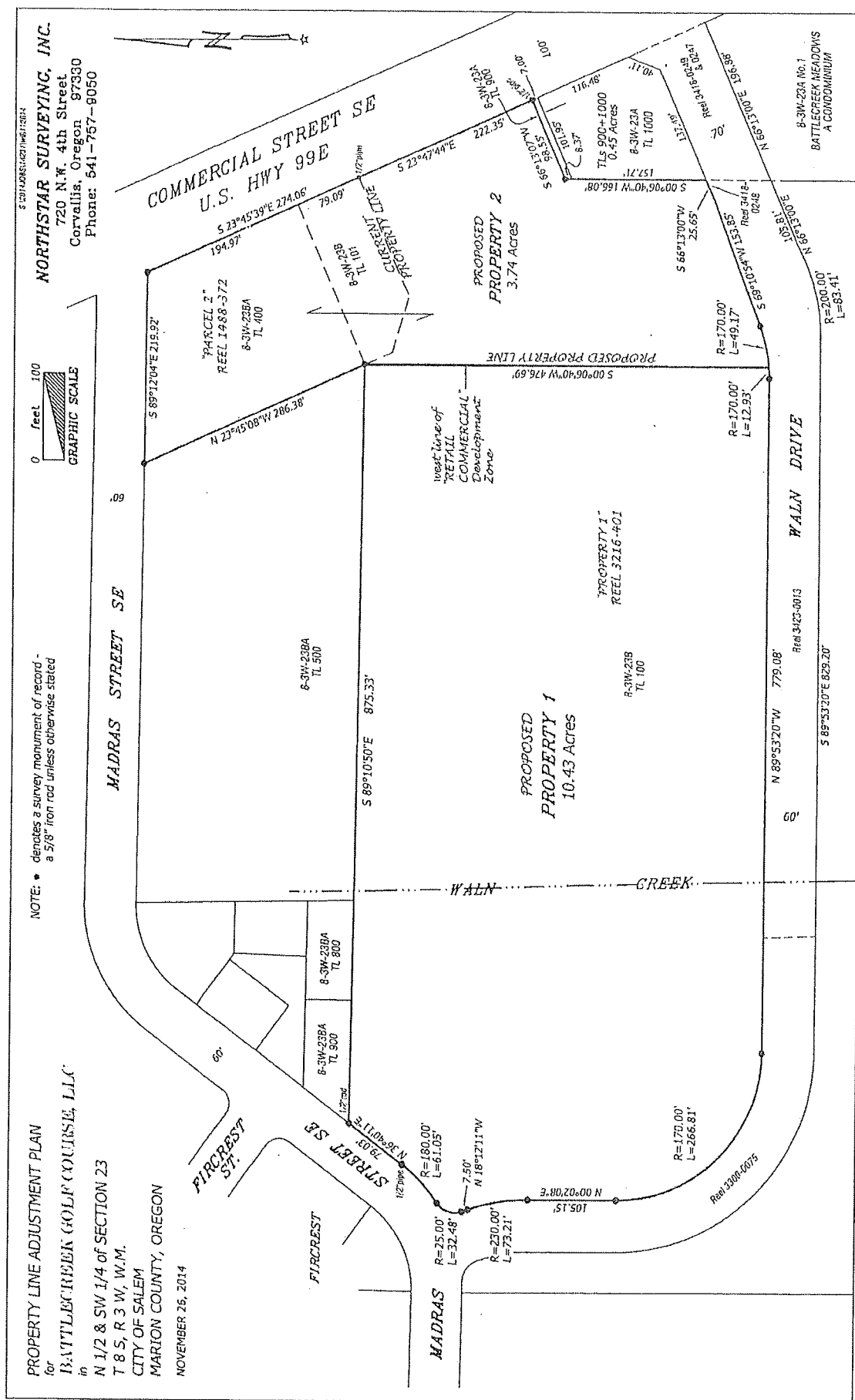
PROPERTY LINE ADJUSTMENT PLAN  
for  
in  
BATTLECREEK GOLF COURSE, LLC  
N 1/2 & SW 1/4 of SECTION 23  
T 8 S, R 3 W, W.M.  
CITY OF SALEM  
MARION COUNTY, OREGON  
NOVEMBER 26, 2014

NOTE: \* denotes a survey monument of record - a 5/8" iron rod unless otherwise stated

0 feet 100

GRAPHIC SCALE

**NORTHSTAR SURVEYING, INC.**  
720 N.W. 4th Street  
Corvallis, Oregon 97330  
Phone: 541-757-9050





W.L. LAUER - REGISTERED SURVEYOR #2558
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720 NW 4 <sup>th</sup> Street, Corvallis, Oregon 97330 Phone 541-757-9050; FAX 541-757-7578
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November 26, 2014

## ***EXHIBIT E-1***

### **RESULTANT PROPERTY 1**

A Tract of land in Section 3, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon, said Tract being a portion of Property 1 as described in that deed recorded September 22, 2010, in Reel 3216 at Page 401, Marion County Deed Records, and being more specifically described as follows:

Beginning at a 1/2" iron rod at the Northwest corner of said Property 1, being on the easterly right-of-way line of Madras Street SE;  
 THENCE along the north line thereof, S 89°10'50"E 875.33 feet to a 5/8" iron rod on the west line of Parcel 2 as described in that deed recorded May 15, 1998, in Reel 1488 at Page 372, Marion County Deed Records;  
 THENCE S 00°06'40"W 476.69 feet to the north line of that strip of land dedicated as public right-of-way by Resolution No. 2012-83, recorded September 11, 2012, in Reel 3423 at Page 13, Marion County Deed Records;  
 THENCE along the north line of said right-of-way on the arc of a 170.00 foot radius curve right (chord bears S 87°55'59"W 12.92 feet) 12.93 feet to a 5/8" iron rod;  
 THENCE continuing along said north line, N 89°53'20"W 779.08 feet to a 5/8" iron rod;  
 THENCE along the arc of a 170.00 foot radius curve right (chord bears N 44°55'36"W 240.26 feet) 266.81 feet to a 5/8" iron rod;  
 THENCE N 00°02'08"E 105.15 feet to a 5/8" iron rod;  
 THENCE along the arc of a 230.00 foot radius curve left (chord bears N 09°05'01"W 72.91 feet) 73.21 feet to a 5/8" iron rod;  
 THENCE N 18°12'11"W 7.50 feet to a 5/8" iron rod;  
 THENCE along the arc of a 25.00 foot radius curve right (chord bears N 19°00'56"E 30.24 feet) 32.48 feet to a 5/8" iron rod on said easterly right-of-way line of Madras Street SE;  
 THENCE along said easterly right-of-way line on the arc of a 180.00 foot radius curve left (chord bears N 46°31'06"E 60.76 feet) 61.05 feet to a 1/2" iron pipe;  
 THENCE N 36°40'11"E 79.03 feet to the point of beginning;

Containing 10.43 acres, more or less.

The Basis of Bearings for this description is Marion County Survey MCSR 37867.



W.L. LAUER - REGISTERED SURVEYOR #2558

720 NW 4<sup>th</sup> Street, Corvallis, Oregon 97330 Phone 541-757-9050; FAX 541-757-7578

November 26, 2014

## ***EXHIBIT E-2***

### **RESULTANT PROPERTY 2 (RETAIL – COMMERCIAL)**

A Tract of land in Section 3, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon, said Tract being Parcel 2 as described in that deed recorded May 15, 1998, in Reel 1488 at Page 372, Marion County Deed Records together with a portion of the tract referred to as Property 1 by deed recorded September 22, 2010, in Reel 3216 at Page 401, said Deed Records, altogether being more specifically described as follows:

Beginning at a 5/8" iron rod at the Northwest corner of said Parcel 2 of Reel 1488 at Page 372, said rod being on the southerly right-of-way line of Madras Street SE;  
THENCE along said right-of-way line S 89°12'04"E 219.92 feet to a 5/8" iron rod at the intersection of said southerly right-of-way line with the westerly right-of-way line of U.S. Highway 99E (Commercial Street SE);  
THENCE along said Highway right-of-way line, S 23°45'39"E 274.06 feet to a 1/2" iron pipe;  
THENCE continuing along said right-of-way line, S 23°47'44"E 222.35 feet to a 1/2" iron pipe;  
THENCE leaving said right-of-way line, S 66°13'07"W 98.55 feet to a 5/8" iron rod;  
THENCE S 00°06'40"W 166.08 feet to the north line of that tract conveyed to the City of Salem by deed recorded August 28, 2012, in Reel 3418 at Page 248, said Deed Records;  
THENCE along the north line of said City tract, S 66°13'00"W 25.65 feet to the north line of that strip of land dedicated as public right-of-way by Resolution No. 2012-83, recorded September 11, 2012, in Reel 3423 at Page 13, Marion County Deed Records;  
THENCE along said right-of-way line, S 69°10'54"W 153.85 feet to a 5/8" iron rod;  
THENCE continuing along said right-of-way line on the arc of a 170.00 foot radius curve right (chord bears S 77°28'06"W 49.00 feet) 49.17 feet;  
THENCE leaving said right-of-way line, N 00°06'40"E 476.69 feet to a 5/8" iron rod on the west line of said Parcel 2 of Reel 1488, Page 372;  
THENCE N 23°45'08"W 286.38 feet to the point of beginning;

Containing 3.74 acres, more or less.

The Basis of Bearings for this description is Marion County Survey MCSR 37867.