

**WRITTEN STATEMENT FOR
VALIDATION OF ILLEGAL UNIT OF LAND
HALLMAN ELEMENTARY SCHOOL (SCHOOL PARCEL)**

APPLICANT/OWNER:

Attn: Joel Smallwood
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Salem, OR 97301

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Section 205.060 of the Salem Revised Code (the "**Code**") provides for the validation of units of land created before January 1, 2007, through a sale that did not comply with the criteria applicable to the creation of a unit of land at the time of sale. This section codifies ORS 92.176. This application is for the validation of one of the parcels located at 4000 Deerhaven Drive NE, which are designated by the Marion County Assessor as Tax Lot 3201 (the "**School Parcel**"), and Tax Lot 3200 (the "**Parking Parcel**") both of which are located in Township 7 South, Range 3 West, Section 12AC, in the City of Salem (herein the "**City**") (collectively, the "**Subject Property**"). As a general reference point, the Subject Property is shown above and is further depicted on the map attached as **Exhibit "A."** The Subject Property is developed as the Salem-Keizer School District 24J's (herein "**Applicant**") Hallman Elementary School. The City's Comprehensive Plan Map designates the Parking Parcel as "Commercial" (COM) and the School Parcel as "Single Family Residential" (SFR). The Parking Parcel is zoned "Retail Commercial" (CR) and is subject to the Portland/Fairgrounds Road Overlay. The School Parcel is zoned "Single Family Residential" (RS). (For Current Comprehensive Plan Designation and Zoning Maps, See **Exhibit "B"**). The Subject Property is located within the City limits and within the City's Urban Service Area ("**USA**"). The applicable portions of Section 205.060 are excerpted below in bold and italics with the responses below in plain text.

(d) Criteria. The validation of a unit of land shall be approved if the following criteria are met:

(1) The unit of land is not a lawfully established unit of land;

Proposed Finding: This Application focuses on the validation of the School Parcel; however, Applicant will concurrently be submitting a corresponding validation for the Parking Parcel. Since the history of the two parcels that makeup the Subject Property are entwined, Applicant references both for clarity in this Application.

The Parking Parcel and the School Parcel were both originally part of a larger parcel that was deeded to

Eva C. Johnson by Certified Securities, Inc. via Warranty Deed on May 7, 1943. The Original Parcel was surveyed around the same time and shows a variety of fragments, totaling six (6) parcels, several of which were subsequently deeded away, resulting in a parcel that contained both the Parking Parcel and the School Parcel (the “**Original Parcel**”) which was deeded to Alma I. Malstrom by Eva C. Johnson’s heirs in 1967. The Original Parcel was subsequently sold to Ronald Moser via a Land Sale Contract which was held by First National Bank on behalf of Alma I. Malstrom until it was fully paid off in February of 1980 and 1982 respectively. However, prior to the fulfillment of the Land Sale Contract, Mr. Moser recorded the Deer-Haven Estate subdivision plat with Marion County, reconfiguring the properties in 1978. The recordation of the subdivision plat created several pieces of property that appear to be unlawfully created per the applicable land division standards at that time, one of which was a portion of the School Parcel.

On March 22, 2000, Ronald E. Moser conveyed to himself, via Bargain and Sale Deed recorded at Reel 1691, Page 563, the School Parcel and the Parking Parcel in their current configuration. This deed transfer took and consolidated the lawful unit of land together with two of the unlawful units of land outlined above and reconfigured the properties. As this act was completed outside of a land use process based on the State and City standards at that time, and as a result, unlawfully reconfigured the Subject Property. Ronald E. Moser then deeded the School Parcel to the School District on March 26, 2000 via warranty deed which is recorded at Reel 1692, Page 558 in the Marion County real property records.

The Parking Parcel was initially retained by Ronald E. Moser. Ronald E. Moser went on to grant several easements to the City of Salem, the Urban Renewal Agency, and the Salem-Keizer School District before transferring the Parking Parcel into his trust in February of 2010. None of these subsequent title actions reconfigured the Parking Parcel. The Parking Parcel was then conveyed to the School District via Warranty Deed recorded at Reel 4111, Page 438 on August 17, 2018. All of the deed records referenced above have been provided for both parcels via the hyperlinked Chain of Title Reports and have been uploaded herewith this written statement request. This criterion is satisfied.

(2) The unit of land was created through sale by deed or land sales contract executed and recorded before January 1, 2007;

Proposed Finding: As set forth above, the Subject Property was first described in its current configuration in the Bargain and Sale Deed recorded at Reel 1691, Page 563 on March 22, 2000, in which Ronald E. Moser conveyed the Subject Property from himself to himself. However, the criterion states that the unit of land must be created by a conveyance to a third party, the applicable creation date for both the Parking Parcel and the School Parcel was March 26, 2000, when Ronald E. Moser conveyed the School Parcel to the Applicant. As this conveyance was prior to January 1, 2007, this criterion is satisfied.

(3) The unit of land could have complied with applicable criteria for the creation of the unit of land in effect when the unit of land was sold; and

Proposed Finding: Via public records request, the Applicant received the historic zoning map for the Subject Property which would have been in effect on March 26, 2000. Applicant has attached the historic zoning map to this application as **Exhibit “C”** (the “**Historic Zoning Map**”). The Historic Zoning Map designates the School Parcel as “RS” or “Single Family Residential.” The applicable procedure that would have created the School Parcel would have been to partition the School Parcel from the remainder of the Original Parcel. The corresponding provisions of the Historic Salem Revised Code (“**HSRC**”) are contained within Chapter 63; Ordinance Bill No. 174 containing the applicable HSRC has been uploaded to the PAC Portal in its entirety as 54-VUL-Written-Statement-Historical-Code.

HRC 63.051. Purposes of Tentative Plan Review; Requirements and Conditions.

(a) The purpose of tentative plan review of a subdivision or partition is to insure that:

- (1) The proposal conforms to the requirements of this chapter; including the purposes set forth in SRC 63.020.**

Proposed Finding: The Original Parcel was significant in size and partitioning or subdivision of a parcel of this size within the RS and CR zones would have been anticipated within an urban area, allowing for the development of the Original Parcel for permitted uses in that zone, subject to the applicable development standards. Partitions themselves can be processed as individual applications and review of the applicable development standards, other than those dimensional and topography standards, are not typically part of the approval process. A partition of the School Parcel from the Original Parcel could have satisfied this criterion.

- (2) The proposal conforms to the Salem Area Comprehensive Plan.**

Proposed Finding: At the time of the transaction severing the School Parcel from the Original Parcel the School Parcel would have been within the City Limits, where the division and development of vacant properties are permitted and anticipated by the City's Comprehensive Plan and the Statewide Planning Goals. In the event the School Parcel satisfied the dimensional and other standards of the zone, it would have been able to satisfy this criterion.

- (3) The proposed street system in a subdivision or major partition conforms to the official map, and is laid out in such a manner as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision or major partition.**

Proposed Finding: At the time of the transaction, the creation of the School Parcel could have been created via a partition, creating two parcels, rather than a subdivision or major partition, where there is the creation of a street as part of the partition. As such, this criterion would not have been applicable.

- (4) That the proposed subdivision or partition will be adequately served with city water and sewer, and will be served by other utilities appropriate to the nature of the subdivision or partition.**

Proposed Finding: At the time of the transaction, the School Parcel would have been within the City Limits, where city services are anticipated to serve new developments pending upsizing by the developer where necessary. As the Existing School is currently served by City services and utilities, it seems likely that the School Parcel satisfied this criterion.

- (5) That the layout of lots, and their size and dimensions take into account topography and vegetation of the site so as not to require variances from the Salem [zone] Zoning Code in order that buildings may be reasonably sited thereon, and that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.**

Proposed Finding: The School Parcel is confined largely to the west of Claggett Creek with a consolidation of some sloped portions of the School Parcel in the area where the Existing School is sited.

The majority of the mature vegetation and the water way was consolidated into a larger parcel, allowing the development of the School Parcel and surrounding properties in a way that minimized the need for variances from the zoning code. Applicant is in the process of developing the Subject Property and is seeking a consolidation to further reduce the need for adjustments to the Site Plan. The partition could have satisfied this criterion.

- (6) *The proposal conforms to the Salem (zone) Zoning Code (SRC Title X) and the excavation and fill provisions of SRC chapter 65.***

Proposed Finding: The School Parcel does not appear to have any drainage issues or evidence of historical backfill or excavation which would have prevented approval of a partition. The partition could have satisfied this criterion.

- (7) *If the tentative plan is for a subdivision is for a subject to SRC 66.050(a), that a UGA Development Permit has been issued and will be complied with.***

Proposed Finding: The land division severing the School Parcel from the Original Parcel would not have required a subdivision or UGA Development permit. This criterion would not have been applicable.

- (8) *Adequate measures have been planned to alleviate identified hazards and limitations to development, including design of streets and lot layout to assure street and building sites on geologically stable soil considering the stress and loads to which the soil may be subjected.***

Proposed Finding: Development of the School Parcel was approved via the approval process in place at the time the Existing School was developed. This development approval would have required analysis of the soil stability and hazards on site. As this development was approved and occurred, the partition could have satisfied this criterion.

- (b) *Lack of compliance with the standards set forth in subsection of this section shall be grounds for denial of tentative plan approval, or for the issuance of certain conditions necessary to more fully satisfy such considerations.***

Proposed Finding: In the event the partition of the School Parcel from the Original Parcel was unable to satisfy the applicable approval criteria, the Applicant could have obtained an adjustment allowing for the approval or the City could have issued conditions of approval allowing for the approval of the partition. Via conformance with the criteria above, as well as via the potential for adjustments or the application of conditions of approval, the partition could have been approved at the time of the transaction that severed the School Parcel from the Original Parcel. This is further supported by the fact that the School Parcel satisfies the minimum lot standards which are as follows:

163.145. LOT STANDARDS.

- (a) *Width. Each lot shall have an average width between the side lines of not less than 60 feet or as otherwise allowed or required in the zoning district where it is located.***

[...]

- (c) *Depth. Each lot shall have an average depth between the front and rear lot lines of not less than 80 feet and not more than 250 percent of the average width between the side lot lines. Each double frontage lot shall have an average depth between the front and***

rear lot lines of not less than 120 feet unless a lesser depth is approved by the planning administrator where necessitated by unusual topographical or other physical conditions.

- (d) Area. Each lot shall comprise a minimum of 6,000 square feet or as otherwise stipulated in the zoning district where it is located. If topography, drainage, vegetation, or other conditions justify, the planning administrator may require a greater or smaller area in any lot within a tentative plan.*

- (1) Frontage. Unless otherwise stipulated in the zoning district where it is located, each lot shall have a minimum front lot line width of at least 60 feet, except along cul-de-sac turnarounds and on the outside of curves having a radius of 200 feet or less and a direction change of 60 degrees or more. In the latter cases the minimum lot line fronting the curve shall be 40 feet provided that in no case shall the lot width be less than 60 feet at the front building setback line.*

SRC 146.070. LOT AREA AND DIMENSIONS. Within an RS Zone

- (1) Lot Area. The minimum lot area requirement for single family dwellings is 4,000 square feet. All other uses shall occupy lots of 6,000 square feet or more except those uses specified in SRC 146.020(f) or as otherwise specifically provided in this zoning code.*
- (2) Lot Dimensions, Single Family. Each single family dwelling shall be located on a lot having a minimum width of 40 feet and an average lot depth between the front and rear lot lines of not less than 70 feet and not more than 300 percent of the average width between the side lines. Minimum lot area requirements shall also be met.*
- (3) Lot Dimension, Other Uses. The minimum lot depth requirement for all uses other than single family dwellings is 80 feet, and the minimum lot width requirement is 40 feet, providing the minimum lot area is met.*

Proposed Finding: The School Parcel is approximately six hundred fourteen (614') feet wide along the southern property line, approximately five hundred four (504') feet wide through the center of the parcel, and approximately seven hundred twenty (720') feet wide for a small sliver along the northern property line. The average is therefore approximately six hundred thirteen (613') feet wide. The vast majority of the School Parcel is four hundred fifty eight (458') feet deep, with a few narrower portions along the western property line. It is approximately two hundred fifty five thousand, six hundred ninety seven (255,697 sq. ft.) square feet in size and has frontage along the terminus of Deerhaven Drive NE measuring at least sixty (60') feet. The School Parcel could have met the dimensional standards in place at the time. This criterion is satisfied.

- (4) The plat complies with SRC 205.035 and ORS 92.***

Proposed Finding: As a condition of approval, Applicant shall prepare and record a plat that complies with SRC 205.035 and ORS 92. In addition to requesting the validation of the School Parcel and the Parking Parcel, Applicant will be applying for a property line adjustment, consolidating the School Parcel and the Parking Parcel into a single unit of land. Applicant is seeking approval to record one plat, effectuating both the validations and the consolidation. As conditioned, this criterion will be satisfied.

CONCLUSION:

As outlined above, the Applicant has demonstrated that the School Parcel satisfies the applicable approval criteria and Applicant respectfully requests the validation of the School Parcel as part of Applicant's consolidated land use application.

EXHIBIT A

TAX MAP



EXHIBIT B

COMPREHENSIVE PLAN DESIGNATION AND ZONING MAPS

Map of Salem Area Comprehensive Plan

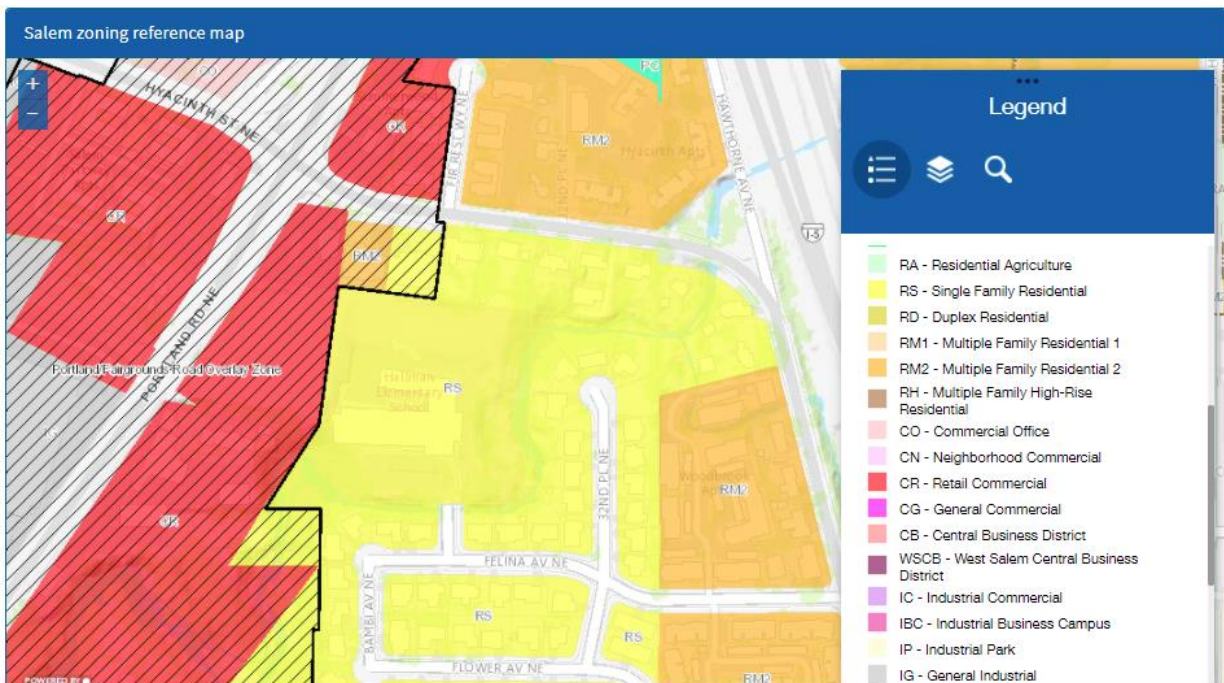
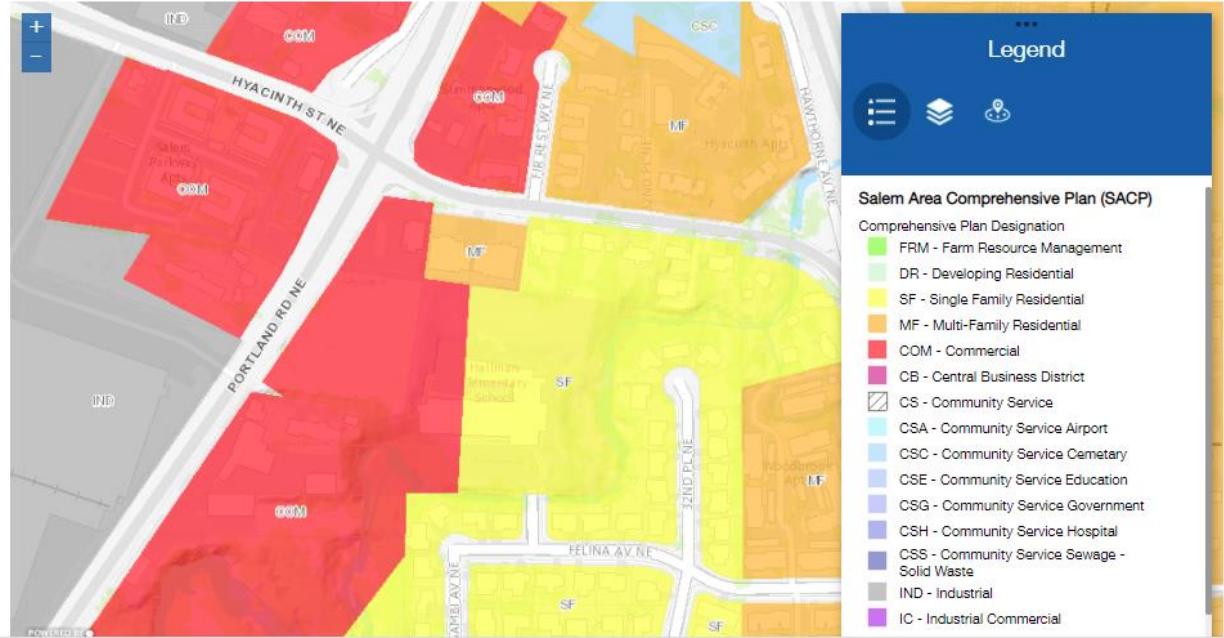


EXHIBIT C

HISTORIC ZONING MAP

The zoning information contained on this map may be outdated. Contact the Planner at the Permit Application Center (588-6256) for confirmation of the appropriate zoning designation for any given parcel. (5-23-96)

