

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

APPLICANT/OWNER:

Attn: Joel Smallwood
Salem-Keizer School District 24J
3630 State Street
Salem, OR 97301

APPLICANT'S REPRESENTATIVES:

Mark D. Shipman, Attorney
Margaret Gander-Vo, Attorney
Saalfeld Griggs PC
PO Box 470
Salem, OR 97308
Phone: 503-399-1070
Email: mshipman@sglaw.com
margaret@sglaw.com



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 Parking Parcel; however, Applicant will concurrently be submitting a corresponding validation for the School 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. This conveyance 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.

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 Parking Parcel 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 (the “**Transaction**”). 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 Parking Parcel 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 Parking Parcel as “CR” or “Retail Commercial.” The applicable procedure that would have created the Parking Parcel would have been to partition the Parking 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 Parking 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, the Parking Parcel was within the City Limits, where the division of properties for further development is both permitted and anticipated by the City's Comprehensive Plan and the Statewide Planning Goals. In the event the Parking 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 Parking 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 Parking Parcel was 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 and services and utilities are developed along Portland Road NE, it seems likely that the Parking Parcel satisfied this criterion at the time of the Transaction.

- (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 Parking Parcel is largely flat and does not have any significant vegetation. As the portion of the original parcel surrounding Claggett Creek and some sloped portions confined to the School Parcel in the area where the Existing School is sited, partitioning the Parking Parcel and surrounding properties would have allowed for development 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 Parking 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 Parking 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: The Parking Parcel is not mapped with any hazards and did not require additional streets or right of way dedication. 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 Parking 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. This is further supported by the fact that the Parking Parcel satisfies the minimum lot standards which are as follows:

CR Zone

152.070. LOT AREA AND DIMENSIONS. There are no minimum lot area or dimensions requirements in a CR district, except for the street frontage requirements of SRC 130.260

130.260. STREET FRONTAGE. Except for single family dwellings, all uses shall be located on lots having at least 16 feet of frontage.

Proposed Finding: The Parking Parcel is approximately three hundred twenty one (321') feet wide along the western property line and approximately three hundred twenty two (322') feet wide along the eastern property line. The average is therefore approximately three hundred twenty two and one half (322.5') feet wide. The Parking Parcel is approximately two hundred eight (208') feet deep along the northern property line and is approximately three hundred fifty six (356') feet deep along the southern property line. It is approximately ninety thousand, one hundred sixty nine (90,169 sq. ft.) square feet in size and has approximately three hundred twenty one (321') feet of frontage along Portland Road NE. The Parking Parcel could have met the dimensional and frontage 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 Parking Parcel satisfies the applicable approval criteria and Applicant respectfully requests the validation of the Parking Parcel as part of Applicant's consolidated land use application.

EXHIBIT A

TAX MAP

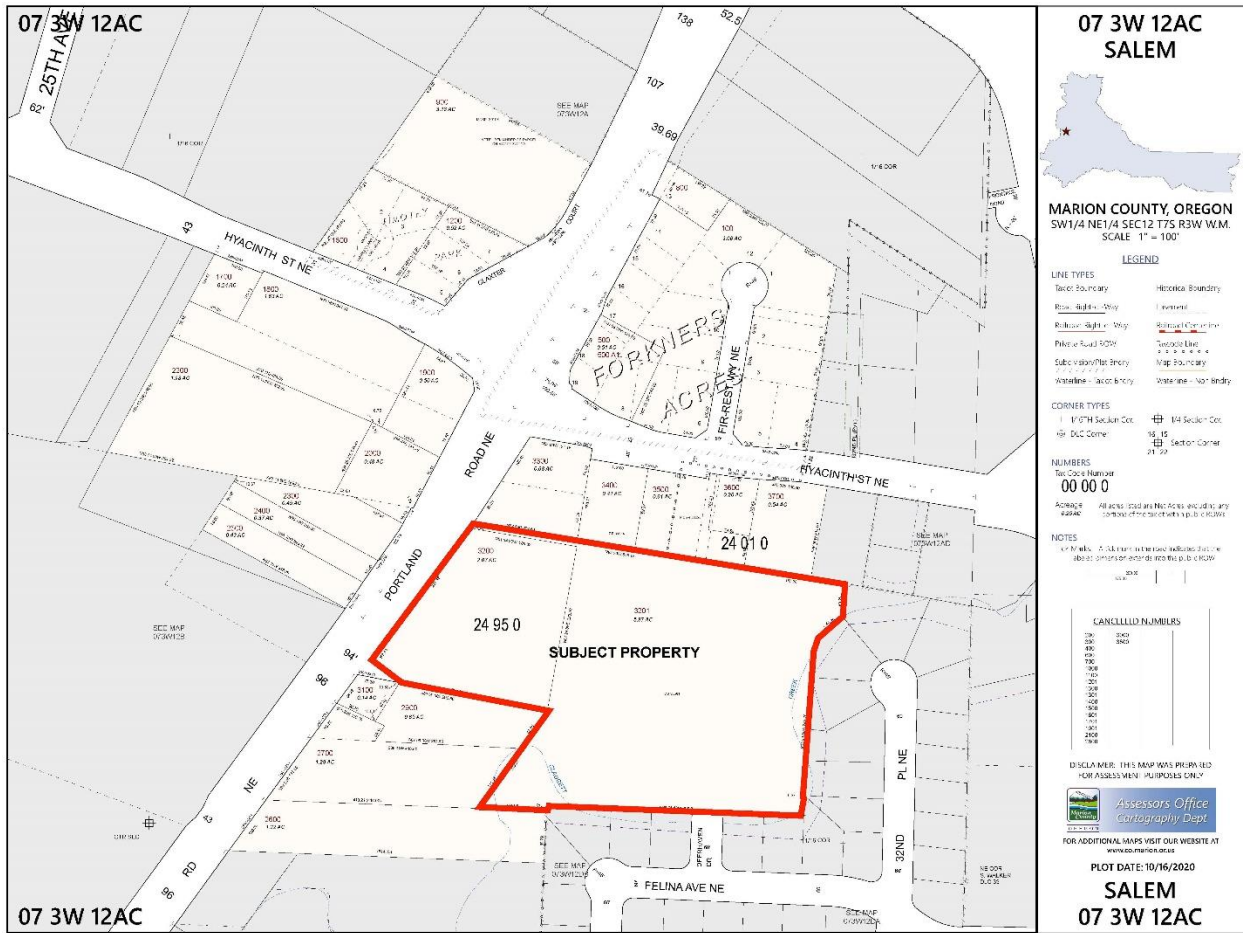


EXHIBIT B

COMPREHENSIVE PLAN DESIGNATION AND ZONING MAPS

Map of Salem Area Comprehensive Plan

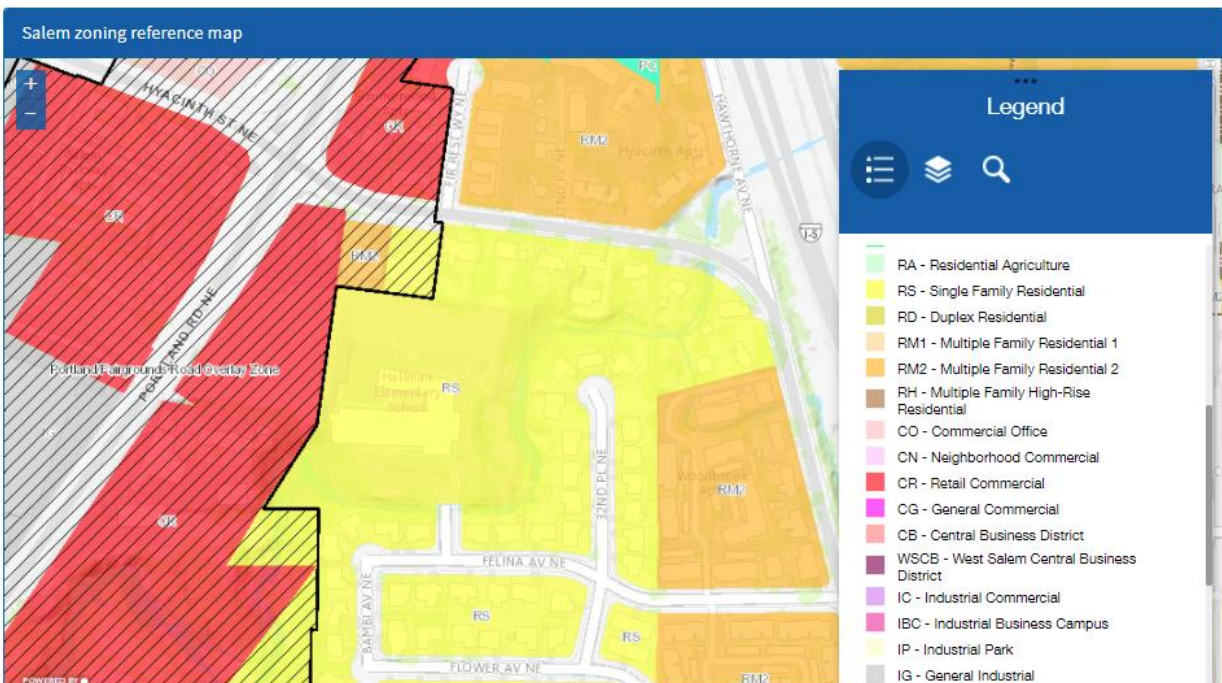
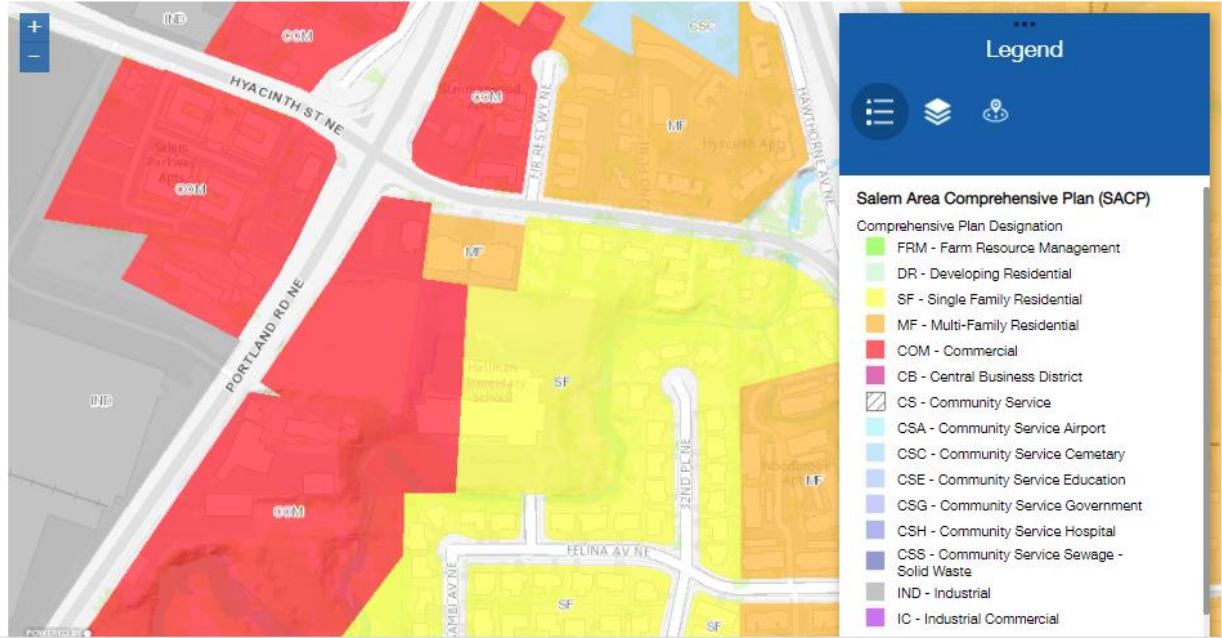


EXHIBIT C

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)

