



Meyer Farm Property Line Adjustment & Modification

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CITY OF SALEM UNIFIED DEVELOPMENT CODE TITLE X

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I. PROJECT DESCRIPTION

APPLICANT: Kehoe Northwest Properties
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Portland, OR 97219

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SITE

LOCATION: The approximate 29.68-acre subject property is located at 4540 Pringle Road SE on the north side of Hilfiker Lane SE and on the west side of Pringle Road SE.

TAX LOTS: 083W11BC: Tax Lots 3000 and 3200

SITE SIZE: The subject site totals approximately 29.68 acres in size.

ZONING: Residential Agriculture (RA) & Single-Family Residential (RS), City of Salem, Oregon

REQUEST: The applicant is seeking approval for a property line adjustment and modification to the boundary of approved subdivision application SUB21-09.

II. SITE DESCRIPTION/EXISTING CONDITIONS

The subject property is made up of two legal lots of record and approximately 29.68 acres. The property is located at 4540 Pringle Road SE and split zoned between Residential Agriculture (RA) and Single Family Residential (RS). The subject property is surrounded by single-family development and has a small creek located in the northwest corner. A subdivision was tentatively approved (SUB21-09) in March 2022 and the final decision and order was signed on May 9, 2022. The Applicant proposes to adjust the property lines between two legal lots of record (tax lot 3000 and tax lot 3200). The Applicant is also requesting a modification to the approved subdivision boundary to exclude the historic farmstead (Tax lot 3200) and adjust the boundary of the farmstead parcel to match the 'Area to Remain' noted on the approved subdivision plan.

Tax Lot Number	Current Tax Lot Size	Proposed Adjustment Size
3000 (Parcel 1)	1,065,028 sf (24.45 ac)	1,077,589 sf (24.74 ac)
3200 (Parcel 2)	224,944 sf (5.16 ac)	202,365 sf (4.88 ac)

III. RESPONSE TO APPLICABLE CODE STANDARDS & APPROVAL CRITERIA

Chapter 205. – Land Division and Reconfiguration

Sec. 205.015(c). – Phased Subdivision Tentative Plan

- (c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative phased subdivision plan shall include:
- (1) The information required in SRC 205.030; and
 - (2) A phasing plan that indicates the tentative boundaries of each phase, the sequencing of the phases, the tentative configuration of lots in each phase, and a plan for the construction of all required city infrastructure in each phase.

Applicant Response: The approved phasing plan has been included with this application and the Applicant does not propose any changes to the approved phasing plan. This application submittal also includes the required information of SRC 205.030. The criteria are met.

Sec. 205.025. - Replat.

- (a) *Applicability.* A replat is required to reconfigure lots or parcels and public easements in a recorded partition or subdivision plat, to increase or decrease the number of lots in a subdivision, or where multiple property line adjustments require a replat. No replat shall occur without receiving tentative replat approval as set forth in this section.
- (b) *Procedure type.* A tentative replat is processed as a Type II procedure under SRC chapter 300.
- (c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative replat shall include the information required in SRC 205.030. If the replat will vacate any easement, the tentative replat plan shall show the easement proposed to be vacated.

Applicant Response: This application proposes a property line adjustment, and all existing easements are shown on the preliminary plat. The proposal shows a 30' ingress/egress easement which is proposed to be eliminated with the recording of a new 60' access easement. The submittal requirements of this section are met.

- (d) *Criteria.* A tentative replat shall be approved if all of the following criteria are met:
- (1) The tentative replat does not propose to vacate any public street or road, or any recorded covenants or restrictions.
 - (2) The tentative replat will not create nonconforming units of land or non-conforming development, or increase the degree of nonconformity in existing units of land or development.
 - (3) The tentative replat complies with the standards of this chapter and with all applicable provisions of the UDC.
 - (4) The tentative replat complies with all applicable provisions of ORS ch. 92.
 - (5) The tentative replat is not prohibited by any existing City land use approval or previous condition of approval, affecting one or both of the units of land.
 - (6) The tentative replat does not adversely affect the availability of, or access to, city infrastructure or public or private utilities or streets.

Applicant Response: This application does not propose to vacate any public streets, roads or recorded covenants or restrictions. The proposed PLA does not create nonconforming units of land and does not increase nonconformity of an existing unit of land or development. The proposed tentative plat complies with the standards of this chapter and the provisions of ORS Chapter 92. This application proposes to modify the boundary of an approved phased subdivision (SUB21-09). This application does not propose any changes to the approved phasing plan but does propose to reduce the approved lot count by one. Lastly, this application does not adversely affect the availability of or access to city infrastructure or public/private infrastructure or streets. The criteria are met.

Sec. 205.055. - Property line adjustments.

- (a) *Applicability.* 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), or to incorporate into another unit of land, as provided by ORS 92.010(9)(e), excess right-of-way that was acquired for street or other right-of-way purposes and subsequently sold by a public body. Property line adjustments shall not be used to create an additional unit of land, or to create units of land that are non-conforming. No property line shall be relocated or eliminated without property line adjustment approval as set forth in this section.
- (b) *Procedure type.* A property line adjustment is processed as a Type I procedure under SRC chapter 300.

Applicant Response: This application includes a proposal to relocate common interior property lines between two legal lots of record. No new or additional units of land are proposed to be created with this application.

- (c) Submittal requirements. In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a property line adjustment shall include:
 - (1) A copy of recorded deeds for the existing units of land;
 - (2) A site plan, drawn to scale, indicating:
 - (A) The dimensions and areas of the units of land before and after the proposed property line adjustment;
 - (B) Setbacks, building separations, lot coverage, vehicular access, and public and private utilities;

Applicant Response: Included with this application are the recorded deeds for each unit of land and a site plan showing the required information above.

- (3) Proof of ownership including, but not limited to, a preliminary title report not older than 30 days for each affected property at the time the application is submitted;
- (4) Any additional documents required to establish that the unit(s) of land were legally created

Applicant Response: A recent title report and additional documents showing each until was legally created are included with this application.

- (5) A copy of the draft property line adjustment deed(s), in a form approved by the Director, containing:
 - (A) The names of the owners;
 - (B) Legal descriptions of the adjusted property(ies) and the transacted property prepared and sealed by an Oregon-registered Professional Land Surveyor;
 - (C) References to original recorded deeds including the creation date and instrument used to lawfully establish each unit of land; and
 - (D) A place for the signatures of all parties, along with proper notary acknowledgment.

Applicant Response: A copy of the draft property line adjustment deeds are included with this application.

- (d) 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;

- (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, or the property line adjustment involves the incorporation of excess right-of-way, acquired for street or other right-of-way purposes and subsequently sold by a public body, into a unit of land that was 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;
- (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.

Applicant Response: The proposed property line adjustment reconfigures the common property lines between two legal lots of record. No additional lots are proposed or shown to be created on the submitted application materials. The proposed property line adjustment does not create any nonconforming units of land, development, or increase the degree of nonconformity in the existing units of land. Both units of land are legally established and have previously been adjusted in 1996 according to Marion County Surveyor file # 33941. The applicant is unaware of any previous conditions of approval or existing land use approvals affecting both units of land. The proposed property line adjustment does not involve the relocation or elimination of any public easements or right-of-way. The proposed property line adjustment does not adversely affect the availability or access to public or private utilities or streets as shown on the submitted composite utility plan.

- (e) Multiple property line adjustments. If more than three property line adjustment applications affecting the same unit of land are proposed within a six-month period, the property line adjustments shall be processed as follows:
 - (1) When the units of land are within a recorded plat, the property line adjustments affecting the units of land shall be by replat; and
 - (2) When the units of land are not within a recorded plat, the property line adjustments affecting the units of land shall be by partition.

Applicant Response: No replat is proposed with this application as this is a property line adjustment. This application only proposes one property line adjustment however, this application has been submitted within 6 months of an affirmed LUBA subdivision decision. A partition is also not required or requested with this application. The subject property has been approved by City Council for a phased subdivision but the plat for that approval has not been recorded as of the submittal of this application. Only one property line adjustment is proposed for this property and included with this application. The above criteria are met.

- (f) Monumentation recording.
 - (1) Property line adjustments shall be surveyed, monumented, and recorded as required by state law. Prior to recording the record of survey map with the county:
 - (A) The City Surveyor shall review the final property line adjustment deed document(s) and an updated preliminary title report, not older than 30 days from the date of the review, and certify that it:
 - (i) Identifies the correct owners of each property;
 - (ii) Identifies the grantor and grantee in the correct manner;
 - (iii) Includes, when applicable, references to any easements of record;
 - (iv) Includes a legal description(s) that:
 - (aa) Accurately describes the adjusted property(ies) and the properties being conveyed;
 - (bb) Contains bearing and distance calls that mathematically close; and
 - (cc) Contain, when applicable, correct references to artificial and natural monuments along adjoining property(ies).
 - (v) Correctly represents the areas in each legal description; and
 - (vi) Complies with the requirements of state law.

Applicant Response: All required documents and descriptions for the property line adjustment have been submitted for City Surveyor review.

- (B) The applicant shall record the final property line adjustment deed(s) document; and
- (C) The City Surveyor shall review the record of survey map to ensure:

- (i) That the record of survey map conforms with the property line adjustment deeds; and
- (ii) Compliance with state law and this section.

Applicant Response: The applicant understands that the deed documents are required to be recorded along with the survey map, and that the City Surveyor will review to ensure compliance with standards.

(g) Expiration.

- (1) Property line adjustment approval shall expire as provided in SRC 300.850, unless the approved property line adjustment deed and record of survey map are recorded with the county.
- (2) Multiple property line adjustments processed according to subsection (e) of this section shall expire as provided in SRC 300.850 according to the expiration period specified for the required application.
- (3) Evidence demonstrating that the approved property line adjustment deed and record of survey map, when required under subsection (f) of this section, have been recorded with the county shall be provided to the Director.

Applicant Response: The applicant understands that this application, if approved, will expire in 2-years if the final plat and deed have not been recorded and no extensions are permitted.

Sec. 205.070. - Modification of approval.

(a) *Applicability.* The approval of a tentative partition plan, tentative subdivision plan, tentative phased subdivision plan, tentative manufactured dwelling park subdivision plan, or tentative replat may be modified after its effective date if the proposed modification meets the criteria set forth in this section. Modifications that do not meet the criteria in this section require submittal of a new application for tentative partition plan, tentative subdivision plan, tentative phased subdivision plan, tentative manufactured dwelling park subdivision plan, or tentative replat.

Applicant Response: This application proposes a modification of the subdivision boundary on a previously approved subdivision (SUB21-09). Although the previously approved subdivision plan was for a phased subdivision, the applicant does not propose a modification to the approved phasing plan.

- (b) *Procedure type.* Modifications pursuant to this section are processed as a Type II procedure under SRC chapter 300.

Applicant Response: Acknowledged by the Applicant.

- (c) *Submittal requirements.* In addition to the submittal requirements under SRC chapter 300, an application for a modification pursuant to this section shall include the following:
- (1) For modification of a tentative partition plan approval, the information required under SRC 205.005(c).
 - (2) For modification of a tentative subdivision plan approval, the information required under SRC 205.010(c).
 - (3) For modification of a tentative phased subdivision plan approval, the information required under SRC 205.015(c).
 - (4) For modification of a tentative manufactured dwelling park subdivision plan approval, the information required under SRC 205.020(c).
 - (5) For modification of a tentative replat approval, the information required under SRC 205.025(c).

Applicant Response: The Applicant proposes to modify the subdivision boundary of the approved phased subdivision plan and therefore the information under SRC 205.015(c) applies to this application. The applicant does not propose modification of a tentative partition plan, tentative standard subdivision plan, or tentative replat. The information under SRC 205.015(c) is addressed below in this narrative.

- (d) *Criteria.* An application for modification pursuant to this section shall be approved if all of the following criteria are met:
- (1) The proposed modification does not substantially change the original approval; and

Applicant Response: The proposed modification does not substantially change the original approval. The proposed boundary modification follows the proposed Property Line Adjustment by excluding the parcel surrounding the historic farmstead. This area is identified as “area to remain” on the approved tentative subdivision plan. Addressed below in this narrative are the property line adjustment criteria. No proposed changes to the approved phasing plan. The above criterion is met.

- (2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

Applicant Response: The submitted application does not propose any significant changes to the physical appearance of the approved development, use of the site, or contributes to additional impacts on surrounding properties. This application proposes to modify the boundary of the subdivision to reduce the number of lots by one from the approved tentative subdivision plan. The property line adjustment, included with this application, is proposed to exclude the ‘Area to Remain’ shown on approved land use plans from the approved subdivision boundary. The criterion is met.

- (e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

Applicant Response: Acknowledged by the Applicant.

Chapter 300. – Procedure For Land Use Applications and Legislative Land Use Proposals

Sec. 300.100. – Procedure Types

- (a) Unless otherwise provided in the UDC, land use actions required under the UDC are classified as one of four procedure types set forth in Table 300-1. The procedure type governs the decision-making process for the specific land use application.

TABLE 300-1. LAND USE PROCEDURE TYPES			
Procedure Type	Decision Process	Decision Type	Process Description
Type I	Ministerial	Permit	Type I procedure is used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application. Decisions on Type I applications are made by staff. Public notice and hearing are not required.
Type II	Administrative	Limited Land Use	Type II procedure is used when the standards and criteria require limited discretion or legal judgment in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed.

Applicant Response: This application for a property line adjustment and a modification to the approved tentative phased subdivision approval. The property line adjustment follows a Type I Ministerial review process, but the modification follows a Type II Administrative process. In this situation with two application types, the applicant understands that this application will follow the Type II process and procedures.

Chapter 510. – RA – Residential Agriculture

Sec. 510.010. – Development Standards

Development within the RA zone must comply with the development standards set forth in this section.

(a) *Lot standards.* Lots within the RA zone shall conform to the standards set forth in Table 510-2.

(b) *Setbacks.* Setbacks within the RA zone shall be provided as set forth in Table 510-3.

Applicant Response: The subject property is split zoned between the RA (Residential Agriculture) and RS (Single-Family Residential). The RS zone follows the western property line, encroaching into the property approximately 220 feet. This area of the subject site is currently vacant. The majority of the subject site is within the RA zoning designation. All improvements on the property are within the RA zone and concentrated near the middle of the southern boundary. The proposed property line adjustment and modification intend to adjust proposed Parcel II away from Parcel I. Parcel I is the subject of an approved subdivision (SUB21-09), and Parcel II will contain all structures that exist on the property. Parcel II is also shown on the approved subdivision plan labeled as ‘Area to Remain’ and the applicant does not propose any deviation from what was shown on the approved subdivision plan.

All existing structures comply with setback standards of the RA zone. After the proposed property line adjustment, all structures still comply with setback standards of the RA zone. The closest structure is approximately 33.5 feet from the southern (rear) property line. The closest structure to the eastern (side) property line is approximately 42.5 feet and this same structure is approximately 44 feet from the southern property line. The closest structure to the western (side) property line is approximately 66 feet.

All setback standards are shown to be met prior to the proposed property line adjustment and are still compliant after the proposed adjustment.

IV. CONCLUSION

Based upon the application materials submitted herein, the Applicant respectfully requests approval from the City’s Planning Department of this application for a property line adjustment and modification of the approved phased subdivision boundary.