

April 14, 2023

City of Salem  
Recorder's Office, Civic Center  
555 Liberty St. SE, Room 205  
Salem, OR 97301

Re: SUB21-09MOD1PLA23-08

Dear Aaron,

Please see my comments regarding this application.

**1. Two lawful units of land do not exist.**

The chain of title for this property is murky. It remains unclear whether the 1985 deed (Reel 1224 page 737) legally created two lawful units of land at all.

First, the 1985 deed references "parcels" however a "parcel" is defined in SRC as a "single unit of land that is created by a partition of land." But this property has never gone through a partition or lot validation process to establish parcels or legally created units of land.

Second, the 1985 deed was recorded for tax purposes. It describes three parcels: Parcel 1 (29.26 acres), Parcel 2 (0.43 acres), and Parcel 3 (a separate single family residential property adjacent to Parcel 1). Parcel 3 was sold in 1995 to fund the Grantor's revocable trust, consistent with what is stated in the 1985 deed ("This deed is executed to partially fund Grantor's revocable trust").

Parcels 1 and 2, however, were created to establish tax lots so that Parcel 1 could benefit from the Farm Tax Deferral program, which it has been enrolled in for the past 38 years. The other parcel (Parcel 2), which contained the homestead, has been taxed at market rate.

The Grantor's revocable trust document required the boundaries of Parcel 1 and 2 to remain unchanged for 20 years following his death. As such, Parcel 1 remained enrolled in the Farm Tax Deferral program for the past 38 years. The purpose of the 1985 deed was to establish a separate tax account with Marion County. The law expressly disallows the creation of units of land for tax purposes; ORS 92.010 and ORS 215.010 prohibit recording a deed "to establish a separate tax account" which was the purpose of the 1985 deed.

The tax lot boundaries (Parcel 1, Tax Lot 3000; Parcel 2, Tax Lot 3200) remain as the tax lots of record still today at Marion County. Notice Marion County does not recognize the 1996 Property Line Adjustment boundaries, but instead the 1985 tax lot boundaries.

Third, the 1985 deed could not have lawfully created any new units of land because by 1985 state law and local code required a subdivision or partition approval to create an additional lot or parcel. Neither occurred. Per ORS 92.010(12), a property line adjustment cannot create an additional lot or parcel. As two lawful units of land do not exist from the 1985 deed, this PLA should be denied.

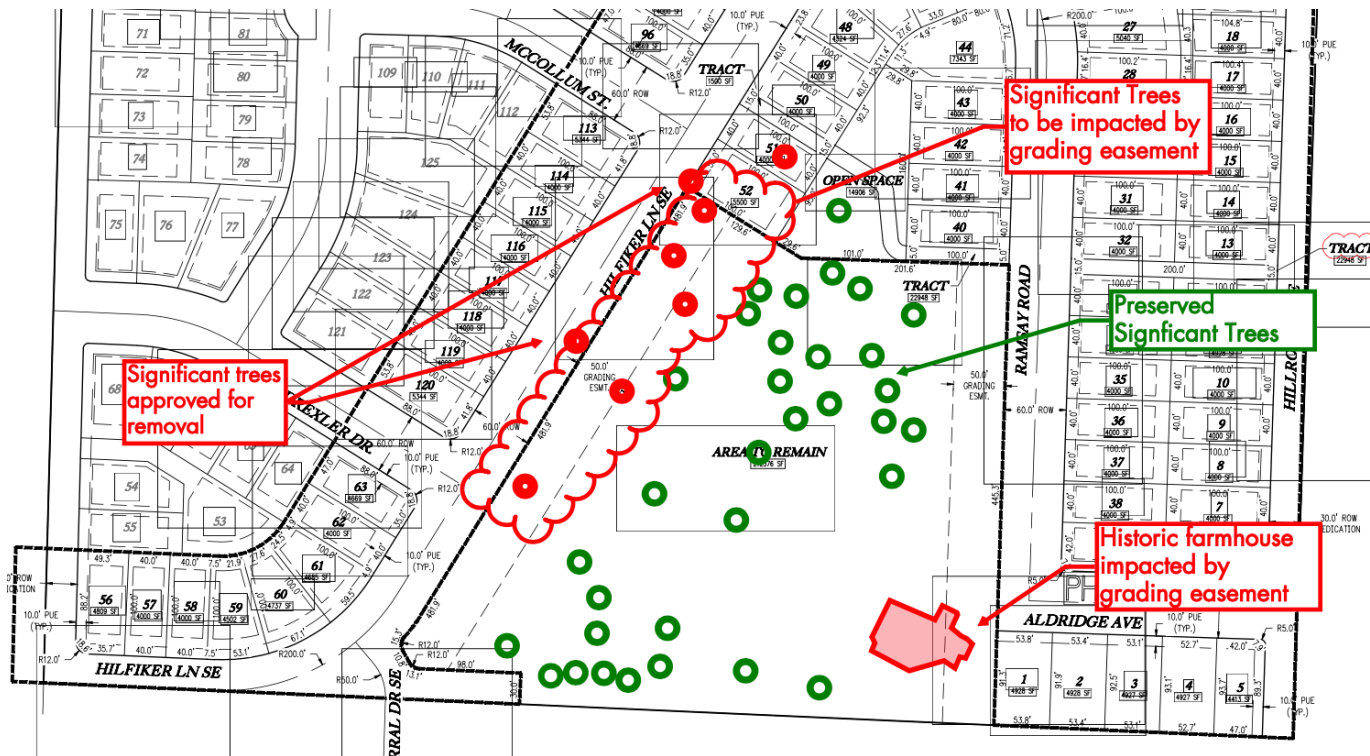
**2. Trees approved as "preserved" must be protected as preserved.**

The applicant seeks to modify the subdivision approval so as to exclude Lot 139 (the 4.87 acre homestead) but Lot 139 contains several hundred trees for which the applicant received credit as "preserved" in the tree conservation plan calculations for SUB21-09. These trees must be preserved, which would be consistent with the SUB21-09 approval, because their preservation is what allows for the development density on the remainder of the developed site. To

exclude Lot 139 and its hundreds of preserved trees would distort the tree conservation calculation to such an extent that SUB21-09 may not comply with the tree conservation regulations. If Lot 139 is removed from SUB21-09, that site could reapply for future subdivision, allowing removal of additional trees previously earmarked as “preserved” – this is, in essence, double-counting. There must be an easement tied to SUB21-09 that disallows the removal of trees on Lot 139 “Area to Remain” because SUB21-09’s approval is based on preserved trees located on Lot 139.

### 3. Grading easements will impact Significant Trees and Historic Homestead house.

The applicant seeks to establish a 60’ grading easement along Hilfiker Road and the east boundary of the “Area to Remain”. These easements will negatively affect several Significant trees which lay within the grading easement area, and the historic homestead structure as well.

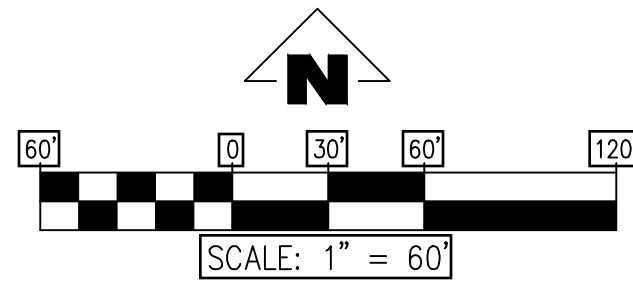


Under SRC 810.010 Definitions, “Tree Removal” means “to cut down a tree or remove all or 30 percent or more of the crown, trunk, or root system of a tree” including “damage inflicted upon a root system by... change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions.” Grading will impact and kill these significant trees. Per the *City of Salem Public Works Design Standards*, the root protection zone is a one foot radius per inch of DBH. It will not be possible to avoid impacting 30% or less of the tree root zones in these easement areas. These Significant Trees are not approved for removal.

Sincerely,

James Santana





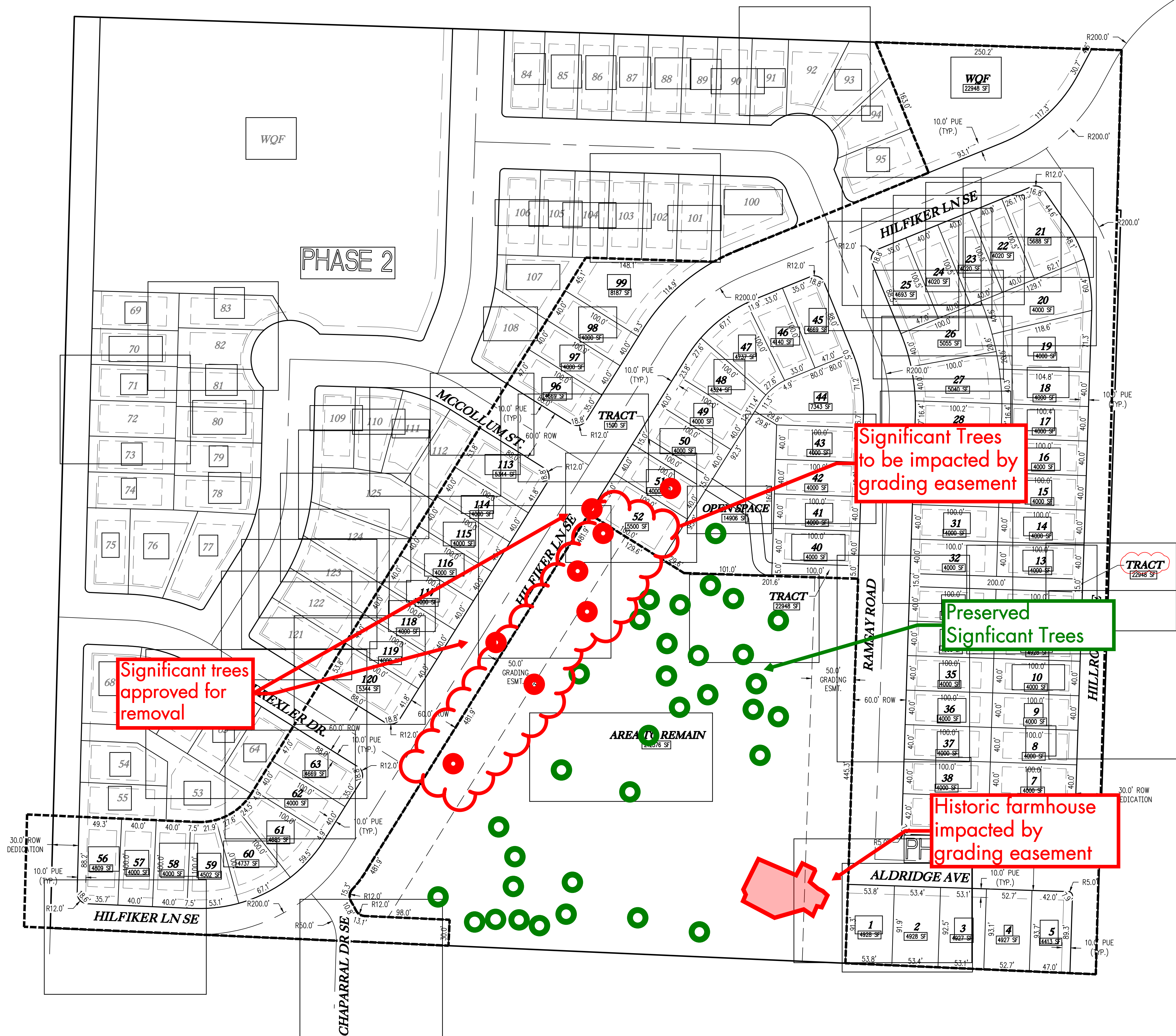
TENTATIVE PLAT PH1

NO.	DATE	DESCRIPTION

**EMERIO**  
ENGINEERING • SURVEYING • DESIGN  
1500 VALLEY RIVER DRIVE, SUITE 100  
EUGENE, OREGON 97401  
TEL: (503) 748-8812  
FAX: (503) 639-9592  
www.emeriodesign.com



4540 PRINGLE RD SE  
TAX MAP - 3000 & 3002  
TAX MAP - 083W11BC  
SW1/4 NW1/4 SEC11 T8S R3W W.M.  
SALEM, OREGON



LOT & TRACT AREA

NUMBER OF LOTS:	72
TOTAL AREA:	571,162 SF
TOTAL LOT AREA:	321,723 SF
TOTAL ROW AREA:	203,350 SF
TOTAL TRACT AREA:	46,089 SF

DEVELOPMENT CODE SUMMARY

SINGLE FAMILY LOT STANDARDS (SDC 511.010)	
MINIMUM LOT AREA:	4,000 SF
MINIMUM LOT WIDTH:	40 FT
MINIMUM LOT DEPTH:	70 FT
MAXIMUM LOT DEPTH:	300% AVERAGE LOT WIDTH
MINIMUM STREET FRONTAGE:	40 FT
MINIMUM SETBACKS	
LOTS ABUTTING STREETS:	12 FT (20 FT ABUTTING COLLECTOR)
INTERIOR FRONT:	12 FT
INTERIOR SIDE:	5 FT
INTERIOR REAR:	14 FT