

July 14, 2023

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

Re: 23-112128-PLN

Dear Aaron,

Please see my comments below regarding PLA23-16. This PLA appears to be a duplicate of PLA23-08, which was withdrawn by the applicant on 6/6/23, immediately after the Neighborhood Association appealed it. PLA23-16 appears to be a duplicate resubmission of PLA23-08, repackaged as a Type I to circumvent public review and comment.

1. There is not enough evidence to conclude two lawfully created units of land exist.

The application includes a Title report with a deed from 1985 but references a PLA deed from 1996 as the basis of approval, though no recorded 1996 PLA deed is provided. This property has never gone through a partition or lot validation process to establish separate parcels or legally created units of land, so it is unclear which deed created the separate parcels. The applicant references the 1996 PLA deed but, per ORS 92.010(12), a PLA deed cannot create an additional lot or parcel. It is unclear when the City of Salem put a stop to the creation of parcels by deed. The Title report, and the legal description included with it, only show the 1985 deed, which appears to have been an unlawful division on land that resulted in three unlawfully established units of land. The 1971 deed reflects a single unit of land, and the 1985 deed shows two, so presumably the applicant believes the 1985 deed is what created two legal units, though that is unclear... The chain of title is very murky and there is simply not enough information to conclude, without doubt, that two lawfully created units of land exist.

2. Parcel 2 of the 1985 deed was a "landlocked" parcel and was therefore not a lawfully created unit of land.

At the time the 1985 deed was signed (November 8, 1985), and even ten years later when the deed was recorded (March 6, 1995), Parcel 2 (Tax Lot 3200) was landlocked. As such, it could not have been a legal unit of land. The owner was notified of this on December 27, 1995 in a letter from the City of Salem (attached) which stated:

"1.d. The 30-foot wide accessway easement indicated for Tax Lot 3200 which extends to Hillrose Street is not functional. This is due to an existing one-foot-wide reserve strip along the west right-of-way line of Hillrose Street which precludes access to this street." and "4. As an added note, the access easement as shown does not provide for legal access to the parcel."

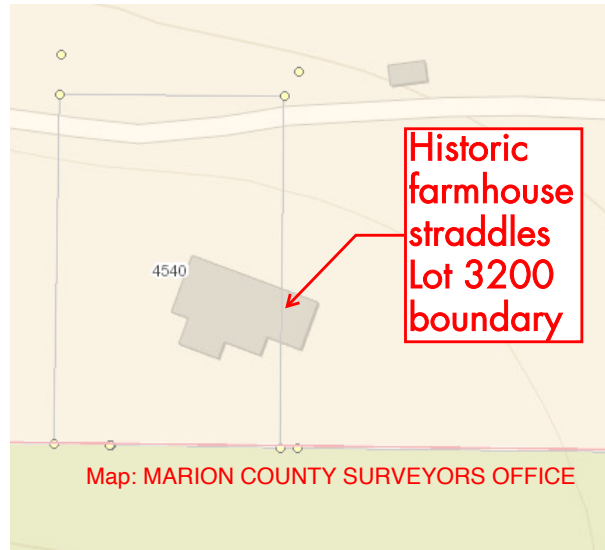
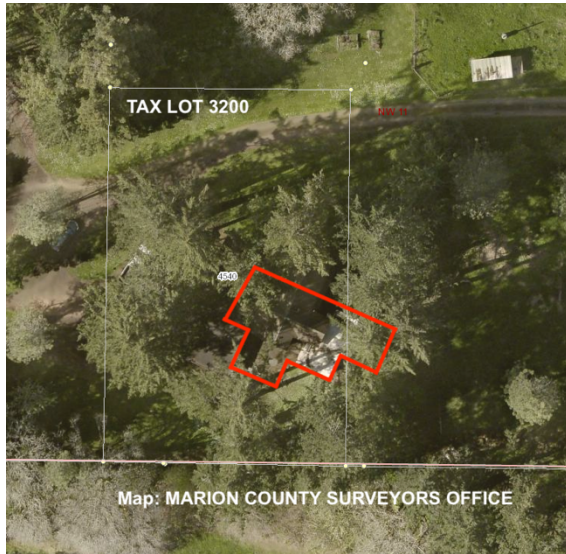
Moreover, on December 12, 2019, the City sent an email (attached) to a previous applicant declaring that:

"Planning has determined after consultation with Legal that the lots were not legally created when the deeds were executed because one of the lots was landlocked. Either a partition or validation would be required to establish a legally created unit of land that could later be subject to a property line adjustment."

3. Parcel 2 of the 1985 deed did not comply with setback codes and was therefore not a lawfully created unit of land.

The building footprint of the primary residence on this property straddles the eastern boundary Tax Lot 3200; see screenshots below from Marion County Surveyor's Office showing the 1985 deed boundaries for Tax Lot

3200 and the footprint of the structure. Because the structure crosses a property line and does not meet required setbacks, the 1985 deed's parcel boundaries did not comply with SRCs when signed and recorded, and could not have created a lawful unit of land.



In conclusion, there is not enough evidence to confirm without doubt that two lawful units of land exist for this property. This property has never gone through a partition or lot validation process to create separate parcels or legally created units of land. The most appropriate path forward is to require a partition or lot validation land use process. Requiring the applicant to go through the appropriate land use process to create two units of land is fundamental for the rational development of this property and to ensure the codes are being met. In particular, that the trees noted as "preserved" under SUB21-09 for the entire singular property remain preserved.

Sincerely,

James Santana

Attachments:

- Email from Zachary Cardoso, City of Salem, 9/9/2020
- Letter from Roger Budke, City of Salem, 12/27/1995.

December 27, 1995



CITY
OF SALEM,
OREGON
City Hall / 555 Liberty St. S.E.
Zip Code 97301-3503

PLANNING DIVISION
Room 305
Telephone (503) 588-6173
FAX (503) 588-6005

Henry A. Meyer
4540 Pringle Road SE
Salem, Oregon 97302

RE: Lot Line Adjustment, LLA 95-9; 4540 Pringle Road SE (T8S-R3W-S11BC-TL3000, 3200)

Dear Mr. Meyer:

Based on conformance with the following requirements, your December 14, 1995 proposal to adjust the lot lines between two parcels identified as Tax Lots 3000 and 3200, will comply with the requirements of Salem Revised Code (SRC) 63.147.

1. Subdivision Code Compliance

- a. No additional lots are being created by the adjustment proposal.
- b. Existing Tax Lot 3000 contains approximately 29.32 acres and is undeveloped. Tax Lot 3200 is 0.42 acres in size and contains a dwelling with accessory buildings.
- c. The proposed adjustment area between the two parcels is approximately 4.74 acres in size involving land around Tax Lot 3200 located in the southeast corner of Tax Lot 3000. The adjusted size of Tax Lot 3000 will be approximately 24.58 acres, and Tax Lot 3200 will be 5.16 acres.
- d. The smaller parcel containing the dwelling must be provided with at least a 25-foot wide access to a public street. The 30-foot wide accessway easement indicated for Tax Lot 3200 which extends to Hillrose Street is not functional. This is due to an existing one-foot wide reserve strip along the west right-of-way line of Hillrose Street which precludes access to this street. The City Traffic Engineer should be consulted regarding a revocable permit to allow single-family access across the reserve strip and whether this provides for sufficient access. Alternately, the accessway easement for the smaller parcel could be extended across Tax Lot 3000 to connect with either Pringle Road or 12th Street to provide legal access to the property. The City Traffic Engineer should be consulted regarding the location of the access on to a public street, particularly Pringle Road.

The access alternatives may provide for the immediate access needs for the existing dwelling but cause future problems with the widening and extension of Hillrose Street or Hilfiker Lane, or street access for any future development of the parcels unless the accessway easement allows for reversion whenever a street is created. Evidence of access must be provided with the revised deeds and survey for the property.

2. Zone Code Compliance

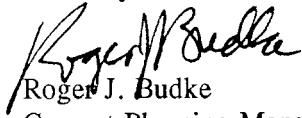
- a. The parcels are zoned RA (Residential Agriculture) with the westerly, approximately 218 feet of Tax Lot 3000 zoned RS (Single Family Residential). Setbacks and lot

sizes are regulated by the development standards of the RA (SRC Chapter 145) and RS (SRC Chapter 146) zones.

- b. The adjusted parcels meet the requirements of the RA and RS zones as to minimum lot sizes, and the setbacks for the dwelling and accessory structures (located within the RA zone) from the adjusted lot lines will be in compliance.
3. The Building and Safety Division reviewed the proposal and indicated no objections as long as the adjusted lot lines do not create any nonconforming structures regarding setbacks from property lines.
4. The City Surveyor advises that a survey is required per Oregon Revises Statutes (ORS) Chapter 92, because the adjusted lot lines are not a parallel shift of platted lot lines. As an added note, the access easement as shown does not provide for legal access to the parcel. Because of the one-foot reserve strip adjacent to Hillrose Street, the easement would have to connect to Pringle Road or 12th Street. Hilfiker Lane could not be used because of a reserve strip adjacent to the street. It is suggested that a surveyor prepare the necessary legal descriptions.

This letter constitutes preliminary approval of the proposed lot line adjustment. Such approval is valid for two years. Prior to recordation of the survey and revised deeds, please submit these documents along with evidence of public street access, to the Planning Division for final review.

Sincerely,



Roger J. Budke
Current Planning Manager

cc: John K. Meyer
Dean Bartell, City Surveyor
Bob Eppstein, Building and Safety
Lew Garrison, City Traffic Engineer
Les Sasaki, Planning Division

Zachery Cardoso

From: Olivia Dias
Sent: Wednesday, September 09, 2020 3:14 PM
To: Zachery Cardoso
Subject: FW: 4540 Pringle Rd SE - Lot legality
Attachments: Deeds&Surveys.pdf; 4540PringleRd_PreAppSurveyReview.pdf; TL3200.pdf; TL3000.pdf

Here you go

Thank you,

Olivia Dias

Planner III

City of Salem | Community Development Department

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From: Jennifer Scott <JRScott@cityofsalem.net>

Sent: Thursday, April 2, 2020 3:04 PM

To: Olivia Dias <ODias@cityofsalem.net>; Zach Pelz <pelzz@aks-eng.com>; Michael Poissant <michaelp@aks-eng.com>

Subject: 4540 Pringle Rd SE - Lot legality

See email below string below.

Kind regards,

Jennifer Scott

Program Manager

City of Salem | Public Works Department

555 Liberty Street SE, Suite 325, Salem Oregon 97301-3513

jrscott@cityofsalem.net | 503-871-2823 cell

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From: Pamela Cole <PCole@cityofsalem.net>

Sent: Thursday, December 12, 2019 9:51 AM

To: Blake Whelchel <BWhelchel@cityofsalem.net>; Jennifer Scott <JRScott@cityofsalem.net>

Cc: Jon Yamashita <JYamashita@cityofsalem.net>; William Kuenzi <WKuenzi@cityofsalem.net>

Subject: RE: 4540 Pringle Rd SE, Salem

Planning has determined after consultation with Legal that the lots were not legally created when the deeds were executed because one of the lots was landlocked.

Either a partition or validation would be required to establish a legally created unit of land that could later be subject to a property line adjustment.

Pamela Cole

Planner II

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From: Blake Whelchel <BWhelchel@cityofsalem.net>

Sent: Thursday, November 21, 2019 7:05 AM

To: Jennifer Scott <JRScott@cityofsalem.net>; Pamela Cole <PCole@cityofsalem.net>

Cc: Jon Yamashita <JYamashita@salem.oregon.onmicrosoft.com>; William Kuenzi <WKuenzi@cityofsalem.net>

Subject: RE: 4540 Pringle Rd SE, Salem

Jennifer, we have researched this property before; Therefore, I am sending you all my old Research. Please have planning review and make any final determinations.

-Blake