

Aaron Panko

From: Rachael Atchison <occupyrachael@gmail.com>
Sent: Sunday, March 13, 2022 3:01 PM
To: Aaron Panko; CityRecorder
Subject: Council call up of Subdivision case no. SUB21-09

Well that was a short lived feeling of relief and here we are again, trying to save Meyer Farm. At a neighborhood meeting in December of last year, this Kehoe development team looked me right in the eye and insisted repeatedly that only four significant trees would be removed for this project. Then they came to you and insisted that there was no reasonable design plan other than the one that created maximum profit for them. But, lo and behold, they quickly pulled out another one they had waiting in the wings, a contingency that they didn't want to present because...less money for them. While I still feel very strongly about all elements of my previous testimony, at this point I'm just angry at the potential that dishonesty will be rewarded. This Portland developer cares nothing for the quality of life in our community and cannot be trusted. I hope the council continues to deny this application.

P.S. ALL trees that create oxygen, shade and animal habitat are significant.

Rachael Atchison
3589 Pringle Road SE
Salem, OR 97302

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3/14/2022

Re: Case No SUB21-09

Hello Mr. Mayor and City Councilors,

Thank you for voting to reopen Case No. SUB21-09 for public comment at tonight's City Council meeting.

While I apologize in advance for adding more for you to read regarding this case, I have the following facts and comments to add to the record for your consideration:

1. The applicant has indicated that the approval criteria SRC 205.010(d)(1) is not clear and objective approval criteria, and therefore does not apply to their application.

However, under ORS 227.178(2), when the city reviews an application, the city is required to "notify the applicant of exactly what information is missing within 30 days of receipt of the application" in the event an applicant fails to provide information the city believes is needed. The application submitted by the applicant was not complete, and the city of Salem did not notify the applicant of all remaining required applications needed. LUBA has previously determined that the ORS 227.178(2) requirement that the city's notice specify "exactly what information is missing" is itself a clear and objective requirement, and a city's "procedure" for requiring application information, when viewed in context with ORS 227.178(2) **is sufficiently clear and objective** to comply with ORS 197.307(6). *Rogue Valley Assoc. of Realtors v. City of Ashland, 35 Or LUBA 139 (1998)*

2. The applicant has further indicated that the criteria in SRC 808.035(d)(2) regarding a tree conservation plan is not clear and objective, and therefore does not apply to their application.

However, to the above-referenced case (*Rogue Valley Assoc. of Realtors v. City of Ashland, 35 Or LUBA 139 (1998)*)

also states:

*"ALUO 18.62.080(B)(4)(c) governs hillside grading and requires a planting plan to revegetate cut slope terraces: **"The vegetation used for these areas shall be native or species similar in resource value which will survive, help reduce the visual impact or the cut slope, and assist in providing long term slope stabilization."** We believe ALUO 18.62.080(B)(4)(c) is a clear and objective standard within the meaning of ORS 197.307(6) and OAR 660-008-0015. ALUO 18.62.080(B)(4)(c) requires the use of "native vegetation." That is a sufficiently clear and objective "standard" under ORS 197.307(6) and OAR 660-008- 0015. **The city's extension to the applicant of the option to use "similar species" under the specified conditions does not render the clear and objective requirement for native vegetation otherwise.** 1 29 2 Callison, 145 Or App at 284 n 8."*

The criteria in SRC 808.035(d)(2) requires that **significant trees are not to be designated for removal.**

As City Attorney Dan Atchison stated at the City Council meeting on 2/28/22, and as similarly stated in the above example, **this is the clear and objective criteria that is applicable to the application.**

It would then also make sense that, similar to the case referenced above, where LUBA determined the acceptable use of an alternate approval method--regardless of whether the alternate approval method is clear and objective--**the extension to the applicant of the option to proceed with the second route to approval (if there are no 'reasonable design alternatives') does not render the clear and objective requirement to retain significant trees, otherwise.**

3. Considering both above-mentioned approval criteria are clear and objective according to LUBA in consideration of similar circumstances in previous cases, the applicant's request to only apply clear and objective approval criteria means they must comply with that part of the criteria in SRC 808.035(d)(2) that requires that no significant trees are designated for removal.

The applicant's amended application still designates significant trees for removal. As such, **it does not meet the criteria.**

4. The amended application presents conflicting information for your consideration.

In the Meeting Agenda for the 3/14/22 City Council meeting, Item 5.e. (22-107) (Attachments), is the Applicant's Revised Plans and Written Statement.

The information in this packet conflicts as follows:

- The letter dated March 8, 2022 from Emerio lists the following proposed conditions:
 - Removal of lots 58-65, and 40-44; adjusted walking path to avoid significant trees; Preservation of tree on lot 96; Significant tree removal limited to development of public streets (12th street, Hilfiker Lane)
 - Construction of speed bumps on Albert Drive
 - Installation of an all-way stop on 12th Street and Lansford Drive.
- However, the letter dated March 9, 2022 from Schwabe lists only one condition:
 - The Final Plat shall not include proposed lots 58-65, and 40-44 as development lots.”
The other conditions mentioned in the 3/8/22 letter (speed bumps/stop signs) are not addressed.
- Additionally, the Public Notice dated 3/11/2022 and posted on the city website only lists the single amendment:
 - The applicant has amended the tentative plan to reduce the number of significant trees removed from 17 to 6, and has reduced the number of lots for this subdivision [from 139 to 126 lots].
The other conditions mentioned in the 3/8/22 letter (speed bumps/stop signs) are not addressed.

It is unclear whether the applicant is intending for the Council to consider the conditions listed in the 3/8/22 letter, the 3/9/22 letter, or the 3/11/22 Public Notice, in its decision.

5. Assuming the applicant intended for all three conditions to be considered (lots and trees, speed bumps, and stop signs), this amended application is strikingly similar to the motion that the Council has already voted on and denied at the 2/28/22 Council meeting.

Assuming the applicant intended for only the lots/trees condition to be considered, that still seems odd to request the Council to consider a proposal when that proposal a) still does not fully comply with the applicable criteria, and b) only proposes 1/3 of a prior motion to amend the application that was previously denied by Council.

6. The letter dated 3/9/2022 from Schwabe states “The Applicant understands that the City Council seeks a plan for this Property that does not remove any significant trees to allow construction of a home.”

The email this letter was attached to also states “[The revised application] reduces the proposed significant tree removal from 17 to 6 and reduces the lot count from 138 to 125, thereby ensuring that **no significant trees are removed to build a new home.**” (This also conflicts with the information in the Public Notice that lists lot count change from 139 to 126, although that is likely irrelevant)

Planning Staff confirmed on 3/14/22 there is no draft letter for a final order, which would indicate the reasons for Council’s vote to deny the application. Nor was an explicit clarification made during the 2/28/22 City Council meeting to indicate the removal of significant trees was prohibited specifically for the purpose of building a new home. The relevant concern at the meeting was the loss of significant Oregon white oak trees *in general*, not necessarily concern that these trees were lost for the sole reason of housing.

Regardless, the criteria requires that NO significant trees are to be removed, period. And, as already mentioned, the applicant has chosen not to apply the alternative approval option, so design alternatives are not relevant, ‘reasonable’ or otherwise.

7. On the final page of Schwabe’s 3/9/22 letter is also the statement “Given that there is no dispute that all other criteria are met, the Council should approve the Application with the above condition.”

During the 2/28/22 Council meeting:

- there were concerns raised about how inviting additional traffic onto 12th street would influence the applicant’s request for a variance to increase the maximum grade from 12% to 17.9%;
- a motion was made to require an all-way stop at the intersection of Lansford and 12th street, indicating concern about whether or not criteria regarding traffic analysis and mitigation at this intersection was met; and

- a motion was made to address the concerns about, and the need for, speed bumps on Albert Drive, indicating the Councilors had considered public testimony sharing concerns about whether or not criteria regarding traffic analysis and mitigation on this street were properly met.

When did the Council determine that “all other criteria [were] met”, as suggested by the applicant?

Thank you again for hearing and considering the concerns from your community. I want to emphasize that I am absolutely *not* anti-development. If anything, this case has opened my eyes to the problems that exist with current land use laws, and through all of this, I have learned what smart development is and what it is not. For the reasons I have listed above (and for others I am unable to list and you are unable to consider), I believe you were right to deny this application the first time. I hope you make the right choice again on 3/28/22.

Thank you,

Liz Backer

RECEIVED

MAR 18 2022

COMMUNITY DEVELOPMENT

March 18, 2022

Aaron Parko, Planner III
City of Salem Planning Division
555 Liberty St. SE. Rm 305
Salem, Ore. 97301

Dear Sir,

Thank you and the City Council for voting to deny the application by Kehoe Northwest Properties, LLC to develop the Meyer Farm Property into a subdivision on Feb. 28. I'm against the Meyer Farm being developed as a subdivision for the same reasons that I described in my previous letter.

The Meyer Farm is on a historic donation land claim that should be preserved or turned into a park. Wild animals that make their home on the property will be displaced and could wander into backyards or get on the road and cause traffic accidents. With the loss of trees & vegetation there could be erosion and drainage problems. 125 houses on the property will add a whole lot more traffic on Battle Cr. Rd. Those houses will also require a lot of water & extra sewage facilities. There are plenty of other areas where Kehoe NW Properties can go build subdivisions.

where they wouldn't be built on farmland. I feel that this development would ruin the neighborhood. Most of these developers never seem to want to take no for an answer until they get their way regardless of how neighborhood people feel. All they care about is how much money they will make regardless of the results. I'm asking the City Council to once again say no to their request and save another historic Salem property. Thank you.

Sincerely,

Larry McAllister

Larry McAllister

6381 Coates Dr. SE

Salem, Ore. 97317

503-364-1940

Additional Information

Case SUB21-09

Dear Mayor Bennett and City Councilors,

ORS 197.522(4) requires the Council to deny SUB21-09.

ORS 197.522(4): “A local government shall deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.”

The information in this letter will demonstrate:

- This application is inconsistent with the applicable land use regulation SRC 205.010(d)(1)(C),
- and cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.
- SRC 808.015 is a requirement of approval criterion SRC 205.010(d)(1)(C).
- SRC 808.035(d)(2) is a requirement of SRC 808.015.
- SRC 205.010(d)(1), 808.015, and 808.035(d)(2) are clear and objective approval criteria as required by ORS 197.307.
- SRC 808.035(d)(2) offers an appropriate alternative approval method per [ORS 197.307\(6\)](#).
- The applicant was provided with all applicable provisions of the UDC on at least two separate occasions.
- **The applicant was provided with a notice that their plan resulted in the removal of six significant trees, which did not comply with SRC 808.015, and that their application could be denied as a result.**

.....

1. THE APPLICATION IS INCONSISTENT WITH APPROVAL CRITERIA, AND CANNOT BE MADE CONSISTENT.

The applicant’s letter from Schwabe, dated 3/9/2022 states:

“As the Applicant and staff explained during this hearing, it is not feasible to meaningfully relocate Hilfiker Lane as part of this proposal. It is also not possible to preserve a tree in a PUE, which provides power and telecommunications for each home.”

By their own admission, the applicant is stating there is no possible way to design the proposed subdivision in a way that is consistent with the UDC provisions which require preservation of significant trees (808.035(d)(2)).

SRC 808.035(d)(2): “No significant trees are designated for removal, unless there [are] no reasonable design alternatives that would enable preservation of such trees.”

2. SRC 808.035(d)(2) IS A REQUIREMENT OF 808.015.

[SRC 808.015 – Significant Trees.](#)

“No person shall remove a significant tree, unless the removal is undertaken pursuant to a tree and vegetation permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045.”

3. SRC 808.015 IS A REQUIREMENT OF APPROVAL CRITERION SRC 205.010(d)(1)(C).

[SRC 205.010\(d\)\(1\)\(C\):](#)

“The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to, the following: Any special development standards, including but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.”

4. SRC 205.010(d)(1) IS CLEAR AND OBJECTIVE APPROVAL CRITERIA AS REQUIRED BY **ORS 197.307**.

Per **SRC 300.210(a)(9)**, the applicant was required to submit a written statement addressing each applicable approval criterion and standard applicable to their application.

On page 5 of their written statement, the applicant claims:

“A city whose code incorporates its comprehensive plan or TSP must do more than provide a ‘broad injunction to comply with unspecified portions’ of the plan and/or TSP”; and “The City of Salem has not properly incorporated many of its Comprehensive Plan and TSP policies into the approval criteria relevant to this Application. As such, they cannot be applied. Applicant has identified the approval criteria below that do not properly incorporate the Comprehensive Plan and TSP policies.”

Applicant goes on further to cite [Paterson v. City of Bend](#), and [Oster v. City of Silverton](#) to support this claim, however, these citations do not accurately represent the applicant’s argument that certain approval criteria do not apply to their application.

Further, the city has “done more than provide a broad injunction to comply with unspecified portions of the plan and/or TSP”, as further explained below.

In [Paterson](#), the petitioner appealed the city’s approval of a subdivision, contending that the city’s ordinance requiring “compliance with the Bend Area General Plan” meant the application needed to comply with several General Policies the petitioner had identified in the Comprehensive Plan relating to transportation.

The city argued that compliance with the city's General Plan was demonstrated by compliance with its *implementing land use regulations*, and that applicants are not expected to demonstrate that their application complied with *General [Comprehensive] Plan* policies or provisions.

In this case, LUBA agreed with the city and *denied the assignment of error*.

The only approval criteria in SRC 205.010(d) that could potentially be assumed to provide a "*broad injunction*" to comply with Salem's Comprehensive Plan (or any of the plans implemented by Salem's Comprehensive Plan) is SRC 205.010(d)(4), which requires applicants to conform to the [Salem Transportation System Plan](#). However, as such was the case in *Paterson*, conformance to the TSP is demonstrated by compliance with its implementing land use regulations in the UDC.

The remaining approval criteria in this case are subject to applicable provisions *within the UDC itself*. Here, Salem *does "more than provide a broad injunction to comply"* by providing the specific provisions that apply to each application *to each applicant individually*, as circumstances vary from application to application, and it would be impossible to accurately predict and detail in the UDC every possible situation that could result from an application for development.

In *Oster*, the dispute was whether or not the City of Silverton had properly implemented action items in their TSP as applicable approval criteria in their land use regulations. Although LUBA determined that the city *did* properly implement their TSP as a *support document* to their Comprehensive Plan, the city cited the parts of their code that *implemented the support documents* as the approval criteria instead of the applicable parts of the (properly implemented) TSP.

For example, SRC 205.010(d)(4), which requires the street systems in and adjacent to a tentative subdivision plan to conform to Salem's TSP, does not itself specify *which portions* of the TSP are applicable as approval criteria. However, as stated above, Salem "*does more than provide a broad injunction to comply*" with SRC 205.010(d)(4) by providing each applicant a list of *all applicable provisions*, as explained further below.

On page 6 of the applicant's Written Statement, the applicant claims that SRC 205.010(d)(1) is not clear and objective, and therefore does not apply, as follows:

"Simply citing 'applicable provisions of the UDC,' without specifying which provisions are applicable, does [not] provide the Applicant sufficient information. Further, the phrase 'including, but not limited to' is subjective and allows for discretion. Further, 'City infrastructure standards' does not provide any information as to what those standards are that must be complied with. As such, this criterion cannot be applied to the Application."

The applicant's claim appears to imply that Salem's *land use regulations* should clearly outline exactly which standard applies to *every single possible scenario*. As mentioned above, this is an impossible expectation. It is necessary for the City of Salem to be able to provide specific approval criteria for each unique application, as the requirements may be different for each.

Regardless, the city *did* specify and provide a list of exactly which provisions were applicable.

SALEM PLANNING STAFF PROVIDED A LIST OF SPECIFIC APPLICABLE PROVISIONS TO THE APPLICANT ON AT LEAST TWO SEPARATE OCCASIONS.

During a Pre-Application Planning Conference, which is required for Type-II Applications per SRC 300.300, Salem Planning staff informed the applicant of which *specific* provisions would likely be applicable based on the preliminary plans provided by the applicant. This information was included in a Pre-Application Report dated 4/18/2019 (*attached: "99-Pre-Application Planning Summary"*) and clearly indicated that the following applications were preliminarily identified as being required:

- Subdivision (SRC 205.010)
- Class 3 Site Plan Review (SRC 220.005)
- **Tree Conservation Plan (SRC 808.035)**
- Tree Removal Permit (SRC 808.030)
- Class 2 Driveway Approach Permit (SRC 804.025)

Each of these requirements goes into further detail and outlines more specific provisions that are applicable to this application.

In addition:

ORS 227.178(2) requires a city reviewing an application to “*notify the applicant of exactly what information is missing within 30 days of receipt of the application*” in the event an applicant fails to provide all information the city believes is needed.

The applicant filed their application on 7/14/2021. As was required by SRC 300.220 and ORS 227.178, the city provided an Incompleteness Report, possibly filed under the incorrect title: “117 – *Pre-Application Planning Summary*” (*also attached*) - to the applicant on 8/12/21. *This report explicitly detailed the remaining information required from the applicant.*

As shown above, the pre-application documents provided to the applicant clearly indicated the requirement for a Tree Conservation Plan per SRC 808.035. In addition, the Incompleteness Report identified the need to comply with SRC 808.015, which requires the preservation of significant trees.

A far more relevant LUBA citation to this situation would be [Rogue Valley Assoc. of Realtors v. City of Ashland, 35 Or LUBA 139 \(1998\)](#).

Here, LUBA determined the ORS 227.178(2) requirement for a city to provide a notice of incompleteness which specifies ‘exactly what information is needed,’ is itself a clear and objective requirement, and that a city’s procedures for requiring application information, when viewed in context with ORS 227.178(2) is sufficiently clear and objective.

Therefore, the applicant’s argument that SRC 205.010(d)(1) is not clear and objective is invalid, and the code applies.

5. 808.015, and 808.035(d)(2) ARE CLEAR AND OBJECTIVE APPROVAL CRITERIA AS REQUIRED BY ORS 197.307.

In their written statement, the applicant ‘s response to the requirements of SRC 808.015 states:

“A tree removal permit for removal of public trees has been submitted concurrently with this application. All other trees proposed for removal are included in a tree removal permit pursuant to SRC 808.030. An arborist report was also included with this application. The criteria are met.”

The applicant does not argue that SRC 808.015 is a clear and objective standard.

Regarding the preservation of significant trees per [SRC 808.035\(d\)\(2\)](#), the applicant’s response states:

“The submitted tree protection and removal overview indicates the preservation of more than 25% of the existing trees. The applicant understands the conditions that could be imposed on this application and the expiration requirements. The criteria are met.”

“However, criteria (d)(2) and (d)(3), which include the phrase ‘reasonable design alternatives,’ allow for discretion; these criteria are not clear and objective, and cannot be applied to this application.”

The applicant is correct that the phrase ‘reasonable design alternatives’ is not clear and objective, however this is not the clear and objective standard that applies to their application. This fact was further confirmed by City Attorney, Dan Atchison, during the 2/28/22 City Council meeting.

However, the applicant further argues in their 3/9/22 letter:

“Allowance for tree removal where there “are no reasonable design alternatives that would enable preservation of the tree cannot be considered an allowable “alternative approval process for applications and permits for residential development based on approval criteria [...] that are not clear and objective” in ORS 197.704(6). SRC 808.035(d)(2) is a unitary development standard, it is not “an alternative approval process” and does not necessarily authorize “a density at or above the density level authorized in the zone. SRC 808.035(d)(2) should not be used as a basis for denial under ORS 197.307(4), both for the reasons stated in the Applicant’s prior testimony, but also because use of such a discretionary tool necessarily results in discouragement of needed housing through unreasonable cost and delay. This is because without any codified guidance of what constitutes a “reasonable design alternative,” it makes it virtually impossible for an applicant to lay out a subdivision plan on land containing significant trees with any certainty.”

A strikingly similar situation to the applicant’s assumptions about ORS 808.035(d)(2) can be found in LUBA case [Rogue Valley Assoc. of Realtors v. City of Ashland](#). Here, the City of Ashland’s Land Use Ordinances (ALUO) include a chapter governing hillside grading which requires a planting plan to revegetate cut slope terraces. This rule reads:

“The vegetation used for these areas shall be native or species similar in resource value which will survive, help reduce the visual impact or the cut slope, and assist in providing long term slope stabilization.”

LUBA concluded this standard has a clear and objective element (required use of ‘native’ vegetation), as well as an optional, ‘subjective’ path to approval (“similar species”). They clarify with this response:

“We believe [the code] is a clear and objective standard within the meaning of ORS 197.307(6) and OAR 660.008-0015. [The code] requires the use of “native vegetation.” That is a sufficiently clear and objective “standard” under ORS 197.307(6) and OAR 660-008-0015.”

The following sentence is important to highlight. LUBA continues by clarifying:

“The city’s extension to the applicant of the option to use “similar species” under the specified conditions does not render the clear and objective requirement for native vegetation otherwise.”

Similarly, SRC 808.035(d)(2)’s requirement that “No significant trees are designated for removal” is a clear and objective standard, with which the applicant is required to comply. The extension to the applicant of the *option* to apply a ‘reasonable design alternative’ **does not render the clear and objective requirement that no significant trees are to be removed, otherwise.**

ORS 197.307(6) does not designate *how* a city can offer an alternative approval process, it only requires that *if* the city offers an alternative, the applicant *retains the option of proceeding* under the ‘clear and objective’ method in 197.307(4). Further, ORS 197.307(6)(a) does not require a guarantee or demonstration of any kind that development is likely to be approved under the clear and objective approval standards. *Dreyer v. City of Eugene, 78 Or LUBA 391 (2018).*

The applicant’s argument that “SRC 808.035(d)(2) is a unitary development standard, it is not “an alternative approval process” is an inaccurate assumption, and does not relieve them of the necessity to comply with the clear and objective criteria they requested be applied to their application.

Finally, in their 3/9/22 letter, the applicant claims:

“Prior to the City Council’s deliberations, the Applicant had received consistent staff support for its Tree Conservation Plan (to which SRC 808.035(d)(2) applies)”

“The City Council’s deliberation was the Applicant’s first notice that it had not, in the City’s view, satisfied SRC 808.035(d)(2).”

HOWEVER, THIS IS NOT TRUE.

6. THE APPLICANT WAS PREVIOUSLY PROVIDED WITH NOTICE INFORMING THEM OF THEIR NON-COMPLIANCE WITH, AND OF THE POSSIBLE DENIAL OF THEIR APPLICATION DUE TO THEIR PROPOSED REMOVAL OF SIGNIFICANT TREES.

The Planning Review Checklist dated 8/12/2021 (Incompleteness Letter, *attached*) provided to the applicant included the following statements:

“The applicant should be aware that after review of the application materials, the following deficiencies have been identified which could result in a recommendation for denial if not properly addressed”

“The proposed phased subdivision tentative plan results in the removal of six significant trees which does not comply with SRC 808.015 which provides that no person shall remove a significant tree.”

This notice does not demonstrate “consistent staff support” as the applicant suggests, nor was the 2/28/22 City Council meeting the first time the applicant was provided notice regarding the impacts of proposing to remove significant trees.

CONCLUSION

The amended application the applicant has submitted for the Council’s review still proposes the removal of six significant trees, which is inconsistent with the applicable clear and objective regulations requiring their preservation.

Even if the significant trees located within the 12th street ROW are not considered, the proposed development will require the removal of significant trees on the property.

At the 2/28/22 City Council meeting, Councilor Hoy made a motion to approve this application with additional modifications that are strikingly similar to those that are now proposed by the applicant, which was subsequently denied.

While it is true that ORS 197.522(3) requires a city to *consider* conditions proposed by an applicant, the city is not obligated to take the initiative to develop such conditions on its own, or develop the evidentiary record that might be needed to impose such conditions.

In *Caster v. City of Silverton, 54 Or LUBA 441 (2007)*, in response to a petitioner’s argument that the city was unwilling to impose conditions of approval, LUBA clarifies:

“[ORS 197.522] does not obligate a city to shoulder the obligation of developing conditions of approval and the evidentiary record that might be needed to impose such conditions of approval so that an inadequate permit application can be approved. Rather, where ORS 197.522 applies, the obligation to propose conditions of approval rests with the applicant. The city of course can take the initiative to propose conditions of approval in the first instance if it wishes, as the city apparently tried to do here. But ORS 197.522 does not obligate the city to shoulder that burden.”

Modifications and conditions proposed by the City Council, Salem Planning Staff, and the applicant have all failed to make the application consistent with the applicable standards for approval. The city is under no obligation to develop further conditions, and the applicant’s submission has arguably already been considered and denied as a proposed modification by Councilor Hoy. As such:

- **The application SUB21-09 is inconsistent with Salem’s applicable, clear and objective standards and criteria that require the preservation of significant**

trees—regardless of whether or not their removal is necessary to allow for the sole purpose of construction for a home.

- **At all appropriate times, the applicant has been provided with relevant information that identified applicable approval criteria.**
- **The applicant was notified of the fact that their application was not consistent with significant tree regulations, and therefore could be denied as a result.**
- **The applicant’s claims that the applicable standards and criteria are not clear and objective, are not founded.**
- **The applicant’s claim that SRC 808.035(d)(2) is not an alternative approval option, is not founded.**
- **By the applicant’s own admission, their application can not be made consistent with Salem’s clear and objective land use regulations that require the preservation of significant trees for the subject property, through amendments to their application, the imposition of reasonable conditions, or for any other reason.**

For these reasons, the City is required to deny this application per ORS 197.522(4).

Thanks again for reviewing this case and all relevant information. Regardless of the outcome of this case, your careful consideration makes it clear that you all genuinely care about the Salem community.

Best,

Liz Backer

(Response to additional claims below, for the record.)

Additional Claims Made by Applicant

The applicant has made many arguments in their Written Statement that certain terms and phrases in the UDC are so vague that they are unable to determine whether and how approval may be granted, and that as a result, certain provisions cannot be applied to their application due to the 'clear and objective' requirements or ORS 197.307.

As proven above, all instances where the applicant claims that the UDC does not cater *specifically* to their unique application, and therefore it does not apply to them, they are incorrect because they have been provided with the specifically applicable provisions in documented formats, which is proven to be suitable to satisfy clear and objective requirements.

Examples of words and phrases the applicant claims to not understand are:

- [Conform](#)
- [Take into account](#)
- [Consistent](#)
- [In accordance with](#)
- [Clearly](#)

Regarding specific wording in the UDC, where the applicant finds that certain words are so vague they are unable to decipher their meaning and applicability, the UDC offers the following:

[SRC 111 - DEFINITIONS](#)

“Unless the context otherwise specifically requires, terms used in the UDC shall have the meanings set forth in this chapter; provided, however:

- (a) *Where chapter-specific definitions are included in another chapter of the UDC, those definitions are the controlling definitions; and*
- (b) *Where a term is not defined within the UDC, the term shall have its ordinary accepted meaning within the context in which it is used. [Webster’s Third New Int’l Dictionary \(unabridged ed. 2002\)](#) shall be the standard reference to ordinary accepted meanings.”*

Where the applicant claims not to understand the phrase “Unless the context otherwise specifically requires”:

- Unless = “except on the condition that”
- Context = “the parts of a [discourse](#) that surround a word or passage and can throw light on its meaning”
- Otherwise = “something or anything else”
- Requires = “to claim or ask for by right and authority”

Although “*Except on the condition that the parts of a discourse that surround a word or passage, and can throw light on its meaning, are claimed by right and authority by something else*” doesn’t flow as easily as “*Except where a word is defined as something else*”.

Where the applicant claims the phrase “defined in such a manner that [*and then explicitly lists the manner in which something is defined*]”: one could begin to contemplate the nature for which these arguments are being made. The need to respond to each and every claim the applicant has made in this manner could require taxation for costs of transcription if claims are determined to be frivolous.

In some instances where many of the terms the applicant claims are too vague for them to comply with, they do not appear to have difficulty using the same term to their benefit elsewhere in their written statement. In all cases, where the applicant uses a word or phrase elsewhere with the correct meaning, their argument that the word is ‘too vague’ for them to be required to comply with becomes [void](#).

I want to send this letter to Councilor Anderson, however, I also want to avoid ex parte communications, so I am including it in with public testimony **although this may be a moot point by now** and is possibly not relevant to the decision to approve or deny the application.

Dear Councilor Anderson,

During the Council meeting on 2/28/2022, you asked for clarification about the 10 significant trees that were found to not be significant during the city's January visit to verify significant trees. Understandably, this information was not on hand at the time your question was asked at the meeting.

(To clarify for anyone else who did not understand what you were asking), it appears the question was: *Of the 10 significant trees found to NOT be significant, how many of them were originally included in the list of trees to retain vs. remove?*

Here is the answer:

- Of the 4 trees determined to be under 24" dbh (3100, 4951, 4952, 4959): all four were *originally* listed as under 23", so these trees were (accurately) never included in the list of *significant* trees to begin with. AKA, they were not technically *removed* from the list of significant trees. Of these 4 trees, two are listed to retain (3100, 4959), and two are listed to remove (4951, 4952).
- Of the two trees that were windthrown (4890, 5517): both were listed to retain.
- Of the 3 trees that were offsite (2727, 2729, 2739): All of these trees are located in Hilfiker Park. These trees had been measured and documented on the map, but all three were accurately indicated as 'offsite', and were not included in the applicant's tree count.
- The last tree (3109) was originally listed as an Oak tree in the applicant's inventory, but was correctly identified in one of the Terrigan arborist reports as a Fir tree. The applicant subsequently *did* make the appropriate correction to the species in their inventory prior to the city official's visit. This tree is listed as 'retain.'

To clarify, the trees in this final report from city staff are all trees that were *verified*—regardless of whether they were or should have been included in the tree *count*, as significant or otherwise. Really, the only two trees that are particularly relevant to your question here are the two trees that are windthrown (which I believe is specifically what you were asking), which *were* marked and counted as "retain." It should also be noted however, that these two trees are located within the property's riparian area, and thus are *required* to be retained—regardless of whether or not they are alive or standing.

I hope that helps, for whatever it's worth.

Best,

Liz Backer



Pre-Application Report

Community Development Department
Planning Division

555 Liberty Street SE/Room 305
Phone: 503-588-6173
www.cityofsalem.net/planning

Case Number / AMANDA No. Pre-Ap19-34
Conference Date April 18, 2019
Applicant Henry A Meyer Revocable Trust
 4540 Pringle Rd SE
 Salem OR 97302
 ian@mco.ltd.uk

Case Manager Pamela Cole

Mandatory Pre-Application Conference: Yes No

Project Description & Property Information	
Project Description	A pre-application conference to discuss development of a 29.68-acre property zoned RA (Residential Agriculture) and RS (Single Family Residential) with either a single-family residential subdivision or a single-family residential subdivision with a 7-acre higher density assisted living development in the southwest corner.
Property Address	4540 Pringle Road SE – 97302 (Attachment A)
Assessor's Map and Tax Lot Number	Marion County Assessor Map 083W11BC03000 and 083W11BC03200
Existing Use	Single family dwelling, attached garage (tax lot 083W11BC03200); woodlot, three detached garages, two commercial greenhouses, hobby stable, loft barn, hay cover, general purpose building, assessed as farm (tax lot 083W11BC03000)
Legal Units of Land	Property appears to include parts of Lots 6, 7, 8, and 9 of Pringle Fruit Tracts and a vacated right-of-way. Tax lots may not be equivalent to lawfully created units of land. The applicant is advised to research deeds, legal descriptions, and surveys to determine the existing lawfully created units of land. Staff found some surveys (Attachment B).
Comprehensive Plan Map Designation	SFR - Single Family Residential
Urban Service Area	The subject property is located within the City's Urban Service Area.
Urban Renewal Area	None
Past Land Use Actions	PLA (LLA) 95-09

Planning Division Comments

Proposal

A pre-application conference to discuss development of a 29.68-acre property zoned RA (Residential Agriculture) and RS (Single Family Residential) at 4540 Pringle Road SE - 97302 (Marion County Assessor Map 083W11BC03000 and 083W11BC03200) with either a single-family residential subdivision or a single-family residential subdivision with a 7-acre higher density assisted living development in the southwest corner.

No site plans were submitted. Staff is unable to provide detailed comments at this time.

Past Land Use Decisions

PLA (LLA) 95-09 (Attachment C): A survey was recorded in 1996, but the proposed configuration is not reflected on current assessor map, and staff does not know if the property line adjustment deeds were recorded.

Required Land Use Applications

The land use applications checked in the table below have been preliminarily identified as being required for development of the subject property based upon the information provided by the applicant at the time of the pre-application conference. Additional land use applications may be required depending on the specific proposal at the time of future development.

Required Land Use Applications					
Zoning		Site Plan Review			
<input checked="" type="checkbox"/>	Conditional Use (SRC 240.005) (residential care facility)	<input type="checkbox"/>	Class 1 Site Plan Review (SRC 220.005)		
<input type="checkbox"/>	Comprehensive Plan Change (SRC 64.020)	<input type="checkbox"/>	Class 2 Site Plan Review (SRC 220.005)		
<input type="checkbox"/>	Zone Change (SRC 265.000)	<input checked="" type="checkbox"/>	Class 3 Site Plan Review (SRC 220.005) (residential care facility)		
<input type="checkbox"/>	Temporary use Permit – Class 1 (SRC 701.010)	Design Review			
<input type="checkbox"/>	Temporary Use Permit – Class 2 (SRC 701.010)	<input type="checkbox"/>	Class 1 Design Review (SRC 225.005)		
<input type="checkbox"/>	Non-Conforming Use Extension, Alteration, Expansion, or Substitution (SRC 270.000)	<input type="checkbox"/>	Class 2 Design Review (SRC 225.005)		
<input type="checkbox"/>	Manufactured Dwelling Park Permit (SRC 235.010)	<input type="checkbox"/>	Class 3 Design Review (SRC 225.005)		
Land Divisions		Historic Design Review (SRC 230.020)			
<input type="checkbox"/>	Property Line Adjustment (SRC 205.055)	<input type="checkbox"/>	Major Commercial	<input type="checkbox"/>	Minor Commercial
<input type="checkbox"/>	Property Boundary Verification (SRC 205.065)	<input type="checkbox"/>	Major Public	<input type="checkbox"/>	Minor Public
<input type="checkbox"/>	Replat (SRC 205.025)	<input type="checkbox"/>	Major Residential	<input type="checkbox"/>	Minor Residential
<input type="checkbox"/>	Partition (SRC 205.005)	Wireless Communication Facilities			
<input checked="" type="checkbox"/>	Subdivision (SRC 205.010)	<input type="checkbox"/>	Class 1 Permit (SRC 703.020)		
<input type="checkbox"/>	Phased Subdivision (SRC 205.015)	<input type="checkbox"/>	Class 2 Permit (SRC 703.020)		

<input type="checkbox"/>	Planned Unit Development Tentative Plan (SRC 210.025)	<input type="checkbox"/>	Class 3 Permit (SRC 703.020)
<input type="checkbox"/>	Manufactured Dwelling Park Subdivision (SRC 205.020)	<input type="checkbox"/>	Temporary (SRC 703.100)
Relief		<input type="checkbox"/>	Adjustment (SRC 703.090)
<input type="checkbox"/>	Adjustment – Class 1 (SRC 250.005) <i>(Applicable when a proposed deviation from standards is within 20 percent of the standard)</i>	Other	
<input type="checkbox"/>	Adjustment – Class 2 (SRC 250.005) <i>(Applicable when a proposed deviation from standards exceeds 20 percent of the standard)</i>	<input type="checkbox"/>	Annexation – Voter Approval (SRC 260.035)
<input type="checkbox"/>	Variance (SRC 245.005)	<input type="checkbox"/>	Annexation – Voter Exempt (SRC 260.035)
Natural Resources		<input type="checkbox"/>	Sign Adjustment (SRC 900.035)
<input checked="" type="checkbox"/>	Tree Conservation Plan (SRC 808.035) (subdivision)	<input type="checkbox"/>	Sign Conditional Use (SRC 900.045)
<input type="checkbox"/>	Tree Conservation Plan Adjustment (SRC 808.040)	<input type="checkbox"/>	Sign Variance (SRC 900.040)
<input checked="" type="checkbox"/>	Tree Removal Permit (SRC 808.030)	<input type="checkbox"/>	SWMU Zone Development Phasing Plan (SRC 531.015)
<input type="checkbox"/>	Tree Variance (SRC 808.045)	<input type="checkbox"/>	Urban Growth Preliminary Declaration (SRC 200.020)
<input type="checkbox"/>	Willamette Greenway Permit – Class 1 (SRC 600.015)		
<input type="checkbox"/>	Willamette Greenway Permit – Class 2 (SRC 600.015)	<input type="checkbox"/>	Historic Clearance Review- High Probability Archaeological Zone (SRC 230.100)
		<input checked="" type="checkbox"/>	Class 2 Driveway Approach Permit (SRC 804.025)
Staff Comments			
<p>A subdivision and tree conservation plan would be required to create lots for single-family and two-family dwellings.</p> <p>Conditional Use approval and Class 3 Site Plan Review and Class 2 Driveway Approach Permit would be required to develop assisted living in the southwest corner; frontage is required on a collector street (Hilfiker Lane SE).</p>			

Online Application Submittal Packets

The City has electronic application submittal guides for the applications identified above. The webpages include a summary of the review procedure, submittal requirements, and approval criteria. The submittal guides can be found on the City's website at the following location:

<https://www.cityofsalem.net/apply-for-a-plat>

<https://www.cityofsalem.net/Pages/remove-trees-on-your-property.aspx>

<https://www.cityofsalem.net/Pages/conditional-use-permit.aspx>

<https://www.cityofsalem.net/Pages/build-on-your-property.aspx>

<https://www.cityofsalem.net/Pages/submit-site-plan-review-application.aspx>

Land Use Application Fees

The applicable land use application fees for these applications can be found on the City's website at the location below. Land use application fees and descriptions start on **page 20** of the document.

<https://www.cityofsalem.net/CityDocuments/city-of-salem-fees.pdf>

Consolidated Land Use Application Procedures

When multiple land use applications are required or proposed for a development, the City's land use procedures ordinance (SRC Chapter 300) provides alternatives methods for how such applications may be processed.

The applications may be processed individually in sequence, concurrently, or consolidated into a single application. Where multiple applications proposed to be consolidated include an application subject to review by the Historic Landmarks Commission, the application subject to Historic Landmarks Commission review may be processed individually in sequence or concurrently.

Multiple land use applications consolidated into a single application shall be accompanied by the information and supporting documentation required for each individual land use action. Review of the application shall be according to the highest numbered procedure type and the highest Review Authority required for any of the land use applications proposed to be consolidated.

Multiple applications processed concurrently require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and Review Authority, and processed simultaneously.

Zoning

The zoning of the subject property has been identified in the table below. For specific requirements of the applicable zone(s), click on the zone(s) in the table.

Base Zones	
<input type="checkbox"/> EFU – Exclusive Farm Use (SRC 500.000)	<input type="checkbox"/> MU-I – Mixed Use I (SRC 533.000)
<input checked="" type="checkbox"/> RA – Residential Agriculture (SRC 510.000)	<input type="checkbox"/> MU-II – Mixed Use II (SRC 534.000)
<input checked="" type="checkbox"/> RS – Single Family Residential (SRC 511.000)	<input type="checkbox"/> EMSU – Edgewater/Second Street Mixed-Use Corridor (SRC 535.000)
<input type="checkbox"/> RD – Duplex Residential (SRC 512.000)	<input type="checkbox"/> PA – Public Amusement (SRC 540.000)
<input type="checkbox"/> RM-1 – Multiple Family Residential (SRC 513.000)	<input type="checkbox"/> PC – Public/Private Cemetery (SRC 541.000)
<input type="checkbox"/> RM-2 – Multiple Family Residential (SRC 514.000)	<input type="checkbox"/> PE – Public/Private Education (SRC 542.000)
<input type="checkbox"/> RH – Multiple Family High-Rise Residential (SRC 515.000)	<input type="checkbox"/> PH – Public/Private Health Services (SRC 543.000)
<input type="checkbox"/> CN – Neighborhood Commercial (SRC 520.000)	<input type="checkbox"/> PS – Public Service (SRC 544.000)
<input type="checkbox"/> CO – Commercial Office (SRC 521.000)	<input type="checkbox"/> PM – Capitol Mall (SRC 545.000)
<input type="checkbox"/> CR – Rental Commercial (SRC 522.000)	<input type="checkbox"/> EC – Employment Center (SRC 550.000)
<input type="checkbox"/> CG – General Commercial (SRC 523.000)	<input type="checkbox"/> IC – Industrial Commercial (SRC 551.000)
<input type="checkbox"/> CB – Central Business District (SRC 524.000)	<input type="checkbox"/> IBC – Industrial Business Campus (SRC 552.000)
<input type="checkbox"/> WSCB – West Salem Central Business District (SRC 525.000)	<input type="checkbox"/> IP – Industrial Park (SRC 553.000)
<input type="checkbox"/> FMU – Fairview Mixed-Use (SRC 530.000)	<input type="checkbox"/> IG – General Industrial (SRC 554.000)

<input type="checkbox"/>	SWMU – South Waterfront Mixed-Use (SRC 531.000)	<input type="checkbox"/>	II – Intensive Industrial (SRC 555.000)
<input type="checkbox"/>	NCMU – Neighborhood Center Mixed-Use (SRC 532.000)	<input type="checkbox"/>	SCI – Second Street Craft Industrial Corridor (SRC 556.000)
Overlay Zones			
<input type="checkbox"/>	Willamette Greenway (SRC 600.000)	<input type="checkbox"/>	Mixed-Use (SRC 619.000)
<input type="checkbox"/>	Floodplain (SRC 601.000)	<input type="checkbox"/>	Salem Hospital (SRC 620.000)
<input type="checkbox"/>	Airport (SRC 602.000)	<input type="checkbox"/>	Superior-Rural (SRC 621.000)
<input type="checkbox"/>	Portland Fairgrounds Road (SRC 603.000)	<input type="checkbox"/>	Oxford-West Nob Hill (SRC 622.000)
<input type="checkbox"/>	Pine Street Mixed-Use (SRC 604.000)	<input type="checkbox"/>	Oxford-Hoyt (SRC 623.000)
<input type="checkbox"/>	Northgate Mixed-Use (SRC 605.000)	<input type="checkbox"/>	Hoyt-McGilchrist (SRC 624.000)
<input type="checkbox"/>	Wallace Road Corridor (SRC 606.000)	<input type="checkbox"/>	Saginaw Street (SRC 625.000)
<input type="checkbox"/>	West Salem General Industrial (SRC 608.000)	<input type="checkbox"/>	Commercial High-Density Residential (SRC 626.000)
<input type="checkbox"/>	Patterson Street Corridor (SRC 609.000)	<input type="checkbox"/>	22 nd and Electric (SRC 627.000)
<input type="checkbox"/>	Walker School Residential Area (SRC 612.000)	<input type="checkbox"/>	State Street (SRC 628.000)
<input type="checkbox"/>	Broadway-High Street Retail (SRC 613.000)	<input type="checkbox"/>	McNary Field (SRC 629.000)
<input type="checkbox"/>	Broadway-High Street Housing (SRC 614.000)	<input type="checkbox"/>	South Gateway (SRC 630.000)
<input type="checkbox"/>	Broadway-High Street Transition (SRC. 615.000)	<input type="checkbox"/>	Compact Development (SRC 631.000)
<input type="checkbox"/>	Riverfront High Density Residential (SRC 616.000)	<input type="checkbox"/>	General Retail/Office (SRC 632.000)
<input type="checkbox"/>	Riverfront (SRC 617.000)	<input type="checkbox"/>	Front Street (SRC 633.000)
<input type="checkbox"/>	Chemawa-I-5 Northeast Quadrant Gateway (SRC 618.000)		
Staff Comments			
The western area with frontage on 12 th Street SE is zoned RS, and the remainder is zoned RA.			

Development Standards

The proposed development will be primarily subject to the provisions of the chapters identified in the table below. For specific requirements, click on chapters in the table.

Development Standards			
<input checked="" type="checkbox"/>	Multiple Family Design Review Guidelines and Standards (SRC 702.000) (if assisted living development would include complete dwelling units)	<input checked="" type="checkbox"/>	Off-Street Parking, Loading and Driveways (SRC 806.000)
<input checked="" type="checkbox"/>	General Development Standards (SRC 800.000)	<input checked="" type="checkbox"/>	Landscaping and Screening (SRC 807.000)
<input checked="" type="checkbox"/>	Public Improvements (SRC 802.000)	<input checked="" type="checkbox"/>	Preservation of Trees and Vegetation (SRC 808.000)
<input checked="" type="checkbox"/>	Streets and Right-Of-Way Improvements (SRC 803.000)	<input checked="" type="checkbox"/>	Wetlands (SRC 809.000)

<input checked="" type="checkbox"/>	Driveway Approaches (SRC 804.000)	<input checked="" type="checkbox"/>	Landslide Hazards (SRC 810.000)
<input checked="" type="checkbox"/>	Vision Clearance (SRC 805.000)	<input checked="" type="checkbox"/>	Sign Code (SRC 900.000)

Staff Comments

A tree and vegetation removal permit is not required for a commercial timber harvest conducted in accordance with the Oregon Forest Practices Act, ORS 527.610—527.992, on property enrolled in a forest property tax assessment program, and which is not being converted to a non-forestland use. Properties from which trees have been harvested under the Oregon Forest Practices Act may not be partitioned, subdivided, developed as a planned unit development, or developed for commercial uses or activities for a period of five years following the completion of the timber harvest.

Trees and native vegetation is protected within 50 feet of the top of bank of the creek in the northwest corner.

A wetland channel is mapped in the northwest corner.

Landslide hazard points are mapped in the northwest corner and southeast corner.

Neighborhood Association Contact Information

Staff recommends that applicants/property owners contact the relevant neighborhood association(s) regarding their proposals as soon as possible. This allows for the neighborhood association(s) to be involved early in the process and helps to identify any potential issues that might arise.

For your convenience, neighborhood association(s) contact information is included below. Please note that the identified neighborhood association chair(s), and their corresponding contact information, is current as of the date of the pre-application conference, but this information is subject to change if the chair(s) or their contact information has changed subsequent to the date of the pre-application conference.

Up-to-date contact information for neighborhood representatives may also be obtained by contacting the City’s Neighborhood Enhancement Division at 503-588-6207 or by visiting the City’s website at the following location: <https://www.cityofsalem.net/my-neighborhood>

Applicable Neighborhood Association(s):	Meeting Date, Time, & Location	Neighborhood Association Chair(s)
Morningside Neighborhood Association	2nd Wednesday, 6:30 p.m. at Pringle Creek Community Painters Hall, 3911 Village Center DR SE Salem OR 97301	Pamela Schmidling Email: sidrakdragon@live.com

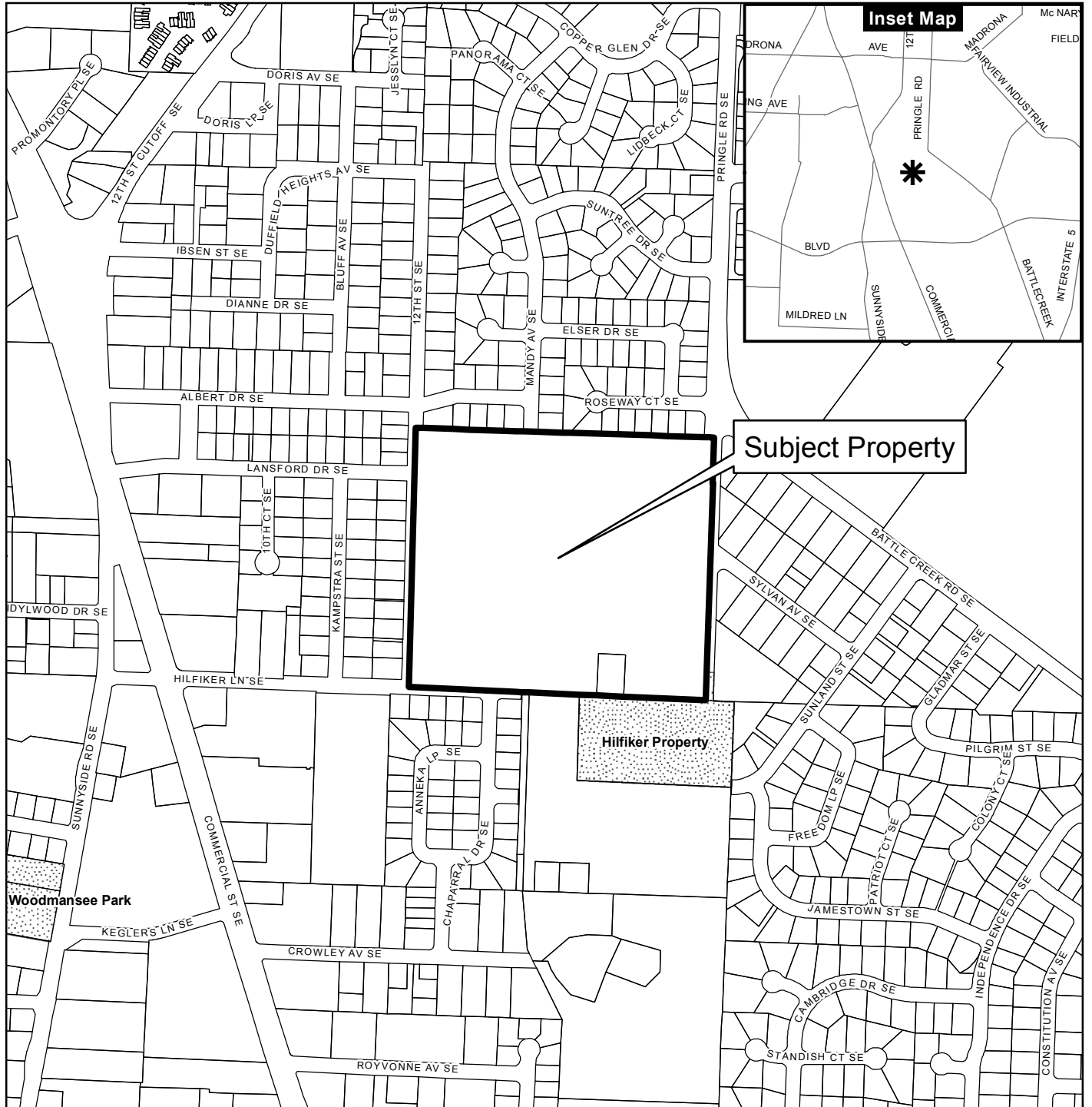
Salem Revised Code Available Online

The entire Salem Revised Code can be accessed online through the City’s website at:








<http://www.cityofsalem.net/Departments/Legal/Pages/SalemRevisedCodes.aspx>

- Attachments
- A. Vicinity Map
 - B. Surveys
 - C. PLA95-09 Decision

Vicinity Map 4540 Pringle Road SE



Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

0 100 200 400 Feet

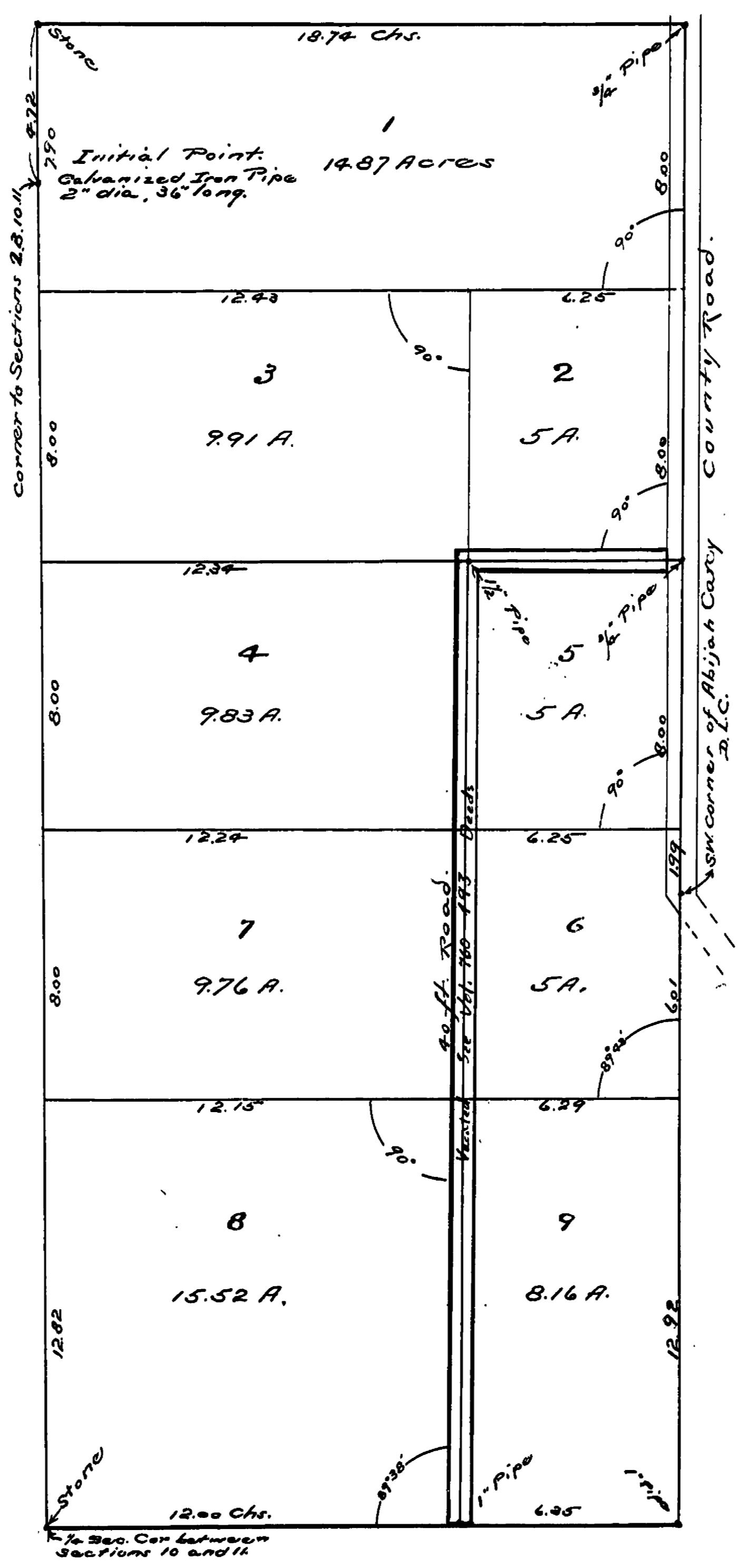


This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

PRINGLE FRUIT TRACTS.

Know All men by these presents:
 That W.T. Stolz and Ella M. Stolz husband and wife, Lenta Westacott, a widow and Jonathan B. Bourne a single person, being the owners of the property described in the surveyors Certificate hereon attached and desiring to dispose of the same in small tracts have caused the same to be subdivided.
 Said Subdivision shall be known as Pringle Fruit Tracts.
 The road shown as running through said land is hereby dedicated to the public for use as such forever.
 We hereby certify that all taxes and assessments levied against said land have been paid.
 In witness whereof we have herunto set our hands and seals this 8th day of March 1913.
 Done in the presence of
W. J. Culver Seal.
Ella M. Stolz Seal.
Lenta Westacott Seal.
Jonathan B. Bourne Seal.

State of Oregon ss.
 County of Marion
 On this 8th day of March 1913 personally came before me a Notary Public in and for said County and State the above named W.T. Stolz and Ella M. Stolz his wife and Lenta Westacott and Jonathan Bourne, personally known to me to be the identical persons described in and who executed the above instrument and who each personally acknowledged to me that they executed the same freely and voluntarily, for the uses and purposes therein named and without fear or compulsion from any one.
 Witness my hand and seal this 8th day of March 1913.
W. J. Culver
 Notary Public for Oregon.



The above Plat is hereby approved.
B. R. Hayward
 County Surveyor for Marion Co. Ore.

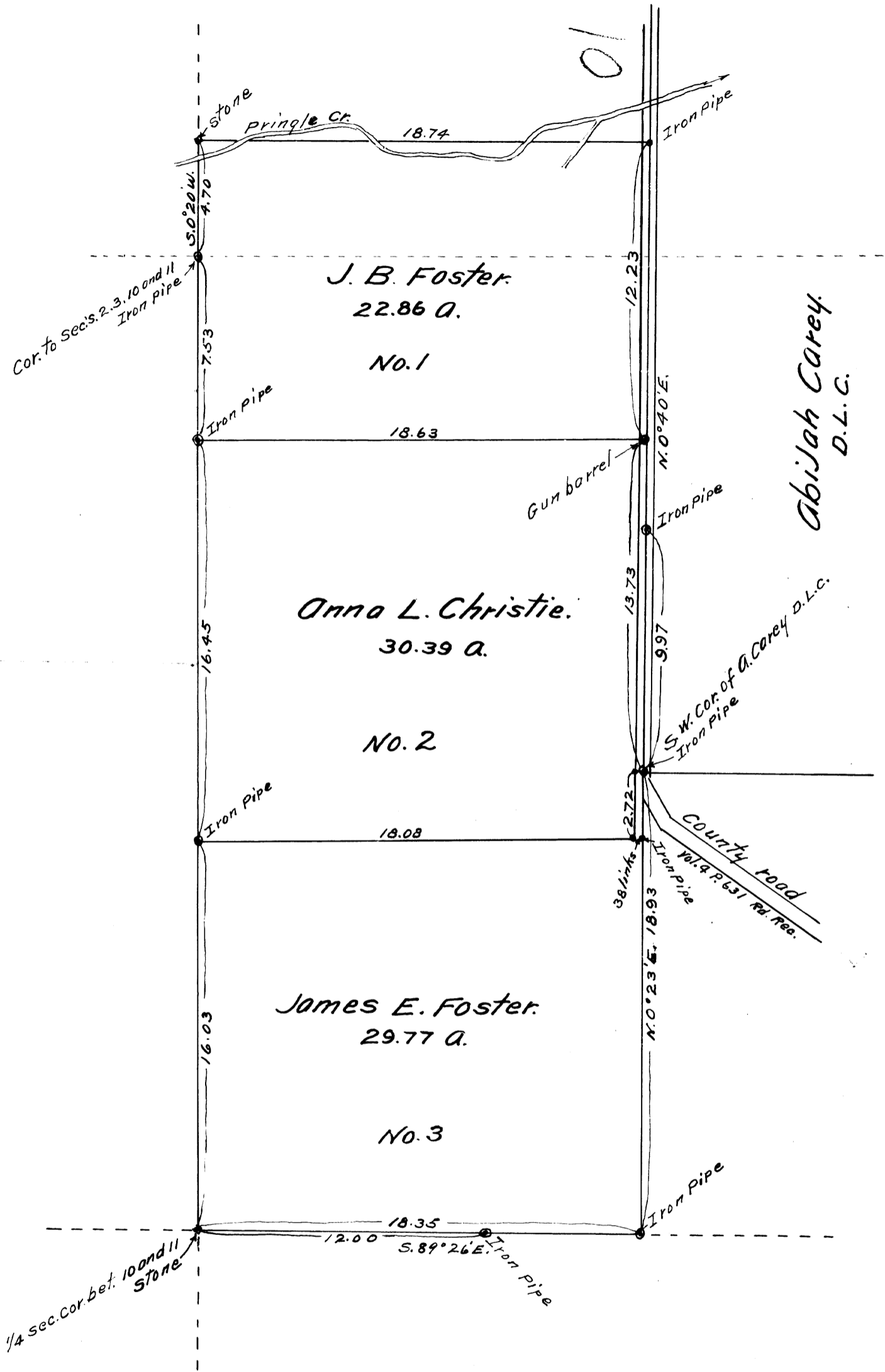
Surveyors Certificate.
 I, W. J. Culver, being first duly sworn, depose and say, that I have correctly surveyed and marked with proper monuments the lands hereon shown as Pringle Fruit Tracts. The property subdivided is described as follows:
 Beginning at the corner to sections 23, 10 and 11 in T. 8 S. R. 3 W. of the Willamette Meridian in Marion County State of Oregon, thence North 4.72 Chains; thence N 89° 42' E 18.77 Chains to the west line of the Abijah Carey D.L.C.; thence S 0° 40' W 25.99 Chains to the S.W. corner of said Claim; thence S 0° 23' W 18.93 Chains; thence N 89° 20' W 18.35 Chains to the quarter section corner between sections 10 and 11; thence North 40.00 Chains to the place of beginning.
 The Initial Point, (place of beginning), is marked by a section of galvanized iron pipe 2 inches in diameter and 36 inches long, driven 6 inches below the surface of the ground.
 W. J. Culver
 Subscribed and sworn to before me this 8th day of March, 1913.
W. J. Needham
 Notary Public for Oregon.

State of Oregon ss.
 County of Marion
 The undersigned persons, being the duly elected and acting County Assessor, County Judge, and County Commissioners for the County of Marion, State of Oregon, each holding the office indicated after our signature do hereby approve the Plat and Dedication of Pringle Fruit Tracts.
 We hereby certify that said Plat and Dedication are in due and legal form and that all taxes and assessments levied against said lands have been paid.
B. F. West, County Assessor
W. M. Buxhey, County Judge
W. H. Lovell, County Commissioner
 Attest:
Max Melhar County Clerk
 By L. M. Girardin Deputy.

133

T. 8 S. R. 3 W.

6236

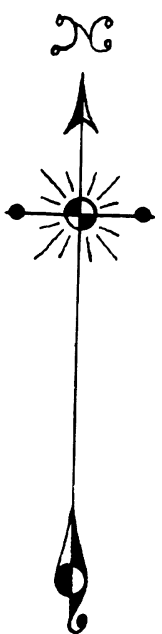
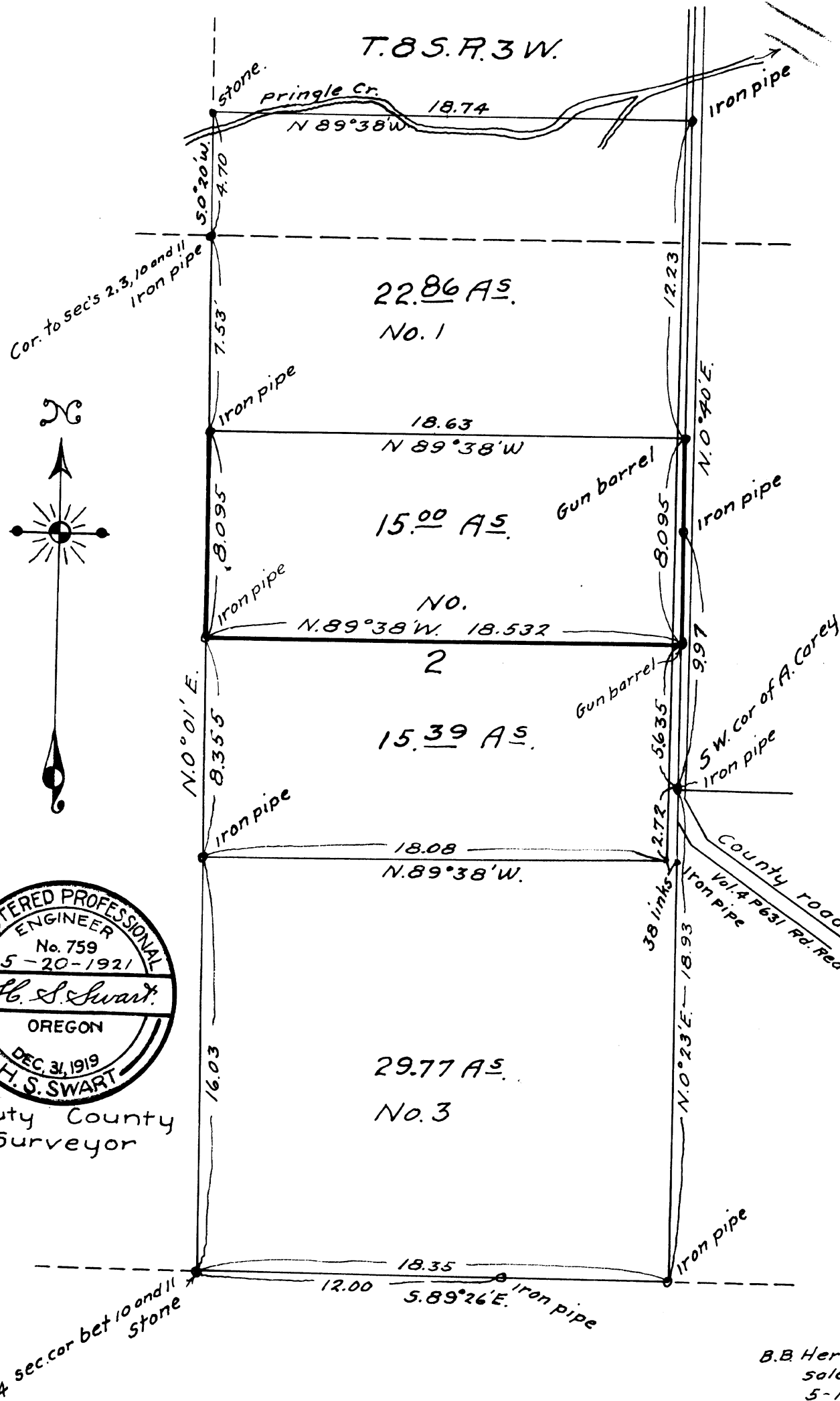


6236

6236
B. B. Herrick
Salem, Ore.
5-13-1919

137

6237



Deputy County Surveyor

Abijah Carey D.L.C.

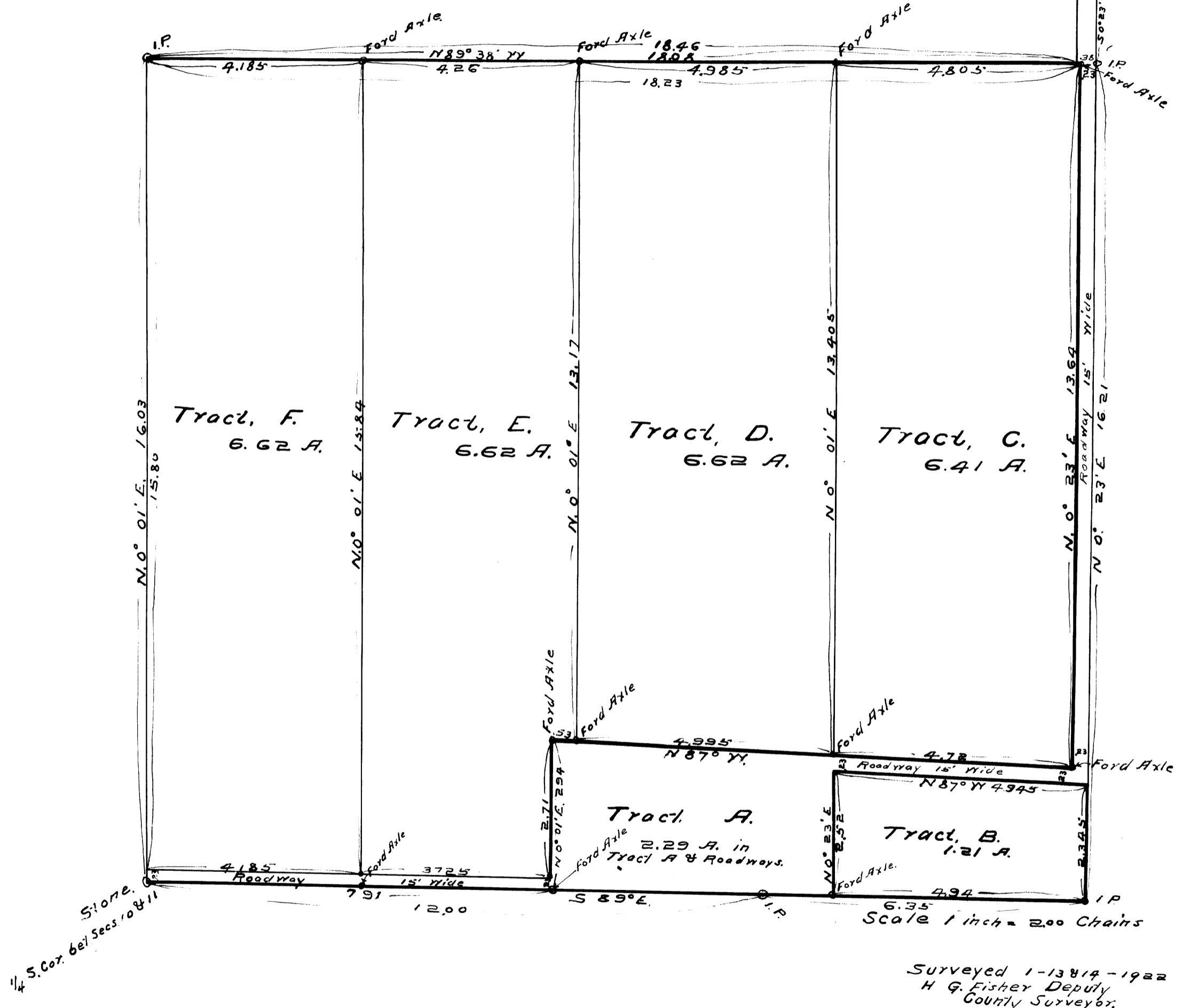
B.B. Herrick
Salem Ore.
5-13-1919

6237

SURVEY FOR James G. Foster
Tp. 8. S. of R. 3 W.
Section 11.

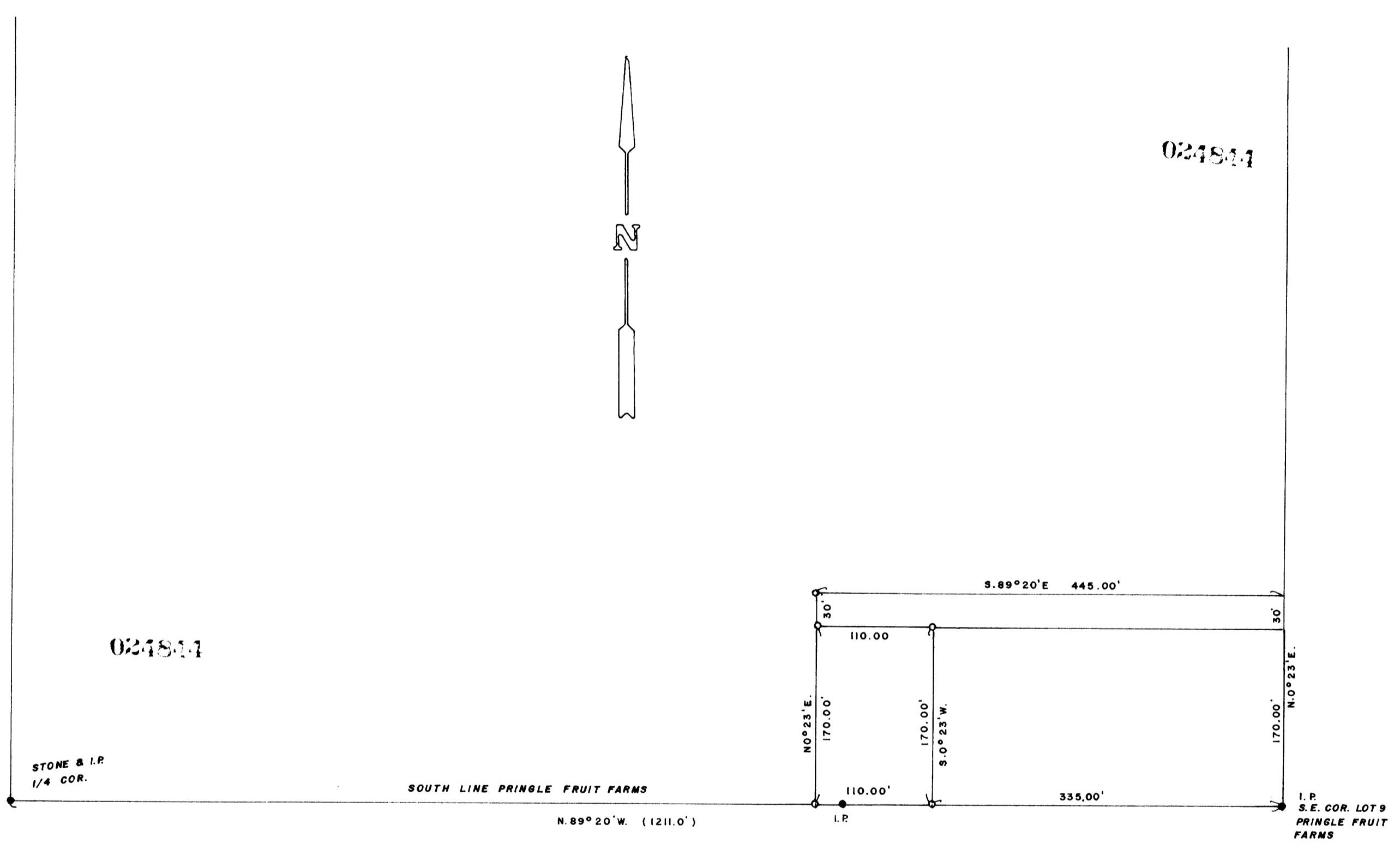
Sec 11

S.W. Cor. of D.L.C.
of A. Corey. Cl. No. 47.



Stone.
1/4 S. Cor. of Secs. 10 & 11

Surveyed 1-13-19-1922
H. G. Fisher Deputy
County Surveyor.



REGISTERED PROFESSIONAL LAND SURVEYOR <i>David L. Bascue</i> OREGON JULY 12, 1967 DAVID L. BASCUE 733 024844	PREPARED FOR, AND AT THE REQUEST OF	NO.	74-8-319
	MEYER, HENRY	SCALE	1" = 100'
	LIABILITY FOR THIS SURVEY IS EXPRESSLY LIMITED TO SAID PERSON OR PERSONS.	DATE	JUNE 12, 1975
	LOCATION:	024844	
	1/4 1/4 SEC. 11 T. 8 S. R. 3 W.W.M.,	MARION COUNTY, OREGON	
BARNES SURVEYING & ENGINEERING, INC.			
2565 STATE STREET • SALEM, OREGON 97301 • PHONE 581-0911			
DAVID L. BASCUE LAND SURVEYOR	ELMER E. SEAY LAND PLANNER	WILLIAM F. RINGNALDA REG. ENGINEER	

PROPERTY LINE ADJUSTMENT

GRAPHIC SCALE



(IN FEET)
1 inch = 200 ft.

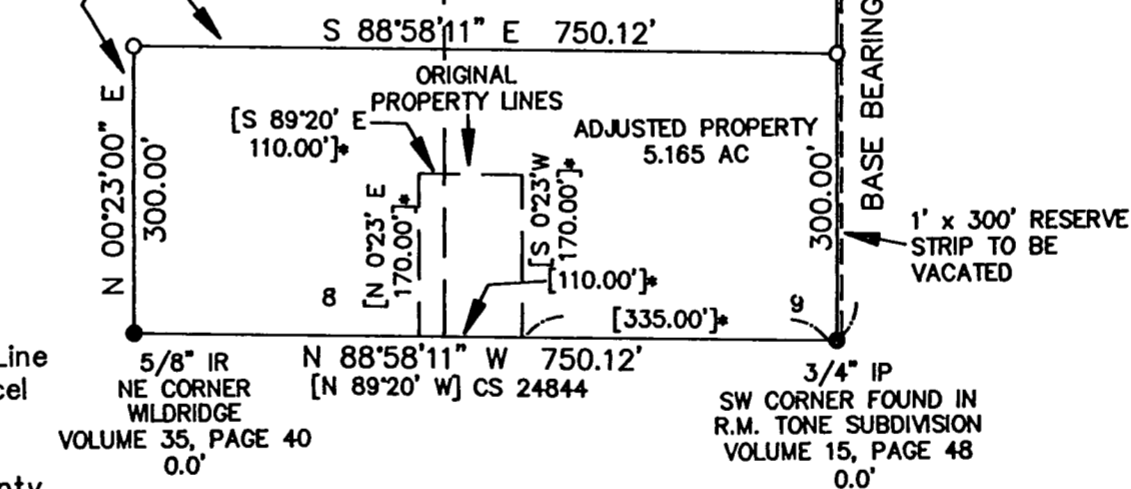
MONUMENT NOTES

1. All monuments found were erect, in good condition and useable unless otherwise noted.
2. 0.0' indicates the found monument relationship to the surface level; + = above, - = below.
3. * indicates record from CS 24844.



PRINGLE FRUIT TRACTS
VOLUME 9
PAGE 138
(REEL 1224, PAGE 737)

ADJUSTED PROPERTY LINES



NARRATIVE:

The purpose of this map and survey was to monument Property Line Adjustment, LLA 95-9 by City of Salem Planning Division for Parcel 2, as recorded in Reel 1224, Page 737, Marion County Records, Marion County, Oregon, as shown hereon. Basis of bearing was obtained from deed recorded in Reel 1224, Page 737, Marion County Records, Marion County, Oregon. Monumentation was obtained from the survey and map of R.M. TONE SUBDIVISION, as recorded in Volume 15, Page 48, Book of Town Plats, Marion County, Oregon and WILDRIDGE, as recorded in Volume 35, Page 40, Book of Town Plats, Marion County, Oregon. Monuments were set using lines formed by the found monuments for control and at computed position from the approved design. Other information used for reference was County Assessors maps & data. Equipment used for this radial survey was a Topcon ET-1 Total Station.

RECEIVED 02/13/1996 BY
MARION COUNTY SURVEYOR.
APPROVED FOR FILING
ON 03/06/1996
FILE# 33941

"This map does not guarantee that any particular use may be made of the property illustrated hereon. parties should check with the appropriate city or county planning department to verify approved uses."

DRAWING NO.: 95287	PREPARED FOR AND AT THE REQUEST OF	JOB NO. 95-287
DATE: DEC. 4, 1996	JAMES MEYER	SCALE 1" = 200'
REGISTERED PROFESSIONAL LAND SURVEYOR OREGON JULY 13, 1979 RICHARD W. MONTGOMERY 1831 EXPIRES: 12/31/96	LIABILITY FOR THIS SURVEY IS EXPRESSLY LIMITED TO SAID PERSON OR PERSONS. LOCATION: A PORTION OF LOTS 8 & 9 PRINGLE FRUIT TRACTS NW 1/4 SEC. 11, T. 8 S., R. 3 W., W.M. CITY OF SALEM, MARION COUNTY, OREGON	CHECKED BY: N.R.H. DRAWN BY: D.G.B. LEGEND I.R.=IRON ROD I.P.=IRON PIPE TL=TAX LOT CH=CHAIN=66' C.S.=COUNTY SURVEY NO. C.M.=COUNTY/CITY MONUMENT Y.P.C.=YELLOW PLASTIC CAP M=MEASURED COURSE P=PLAT COURSE C=COMPUTED COURSE ()=DEED RECORD []=SURVEY RECORD ● MONUMENT FOUND AS NOTED ○ GOVERNMENT MON. FOUND ○ 5/8"x30" IRON ROD SET & Y.P.C. MARKED "LAND MARKERS 1831", EXCEPT AS NOTED.
	LAND MARKERS, INC. 1950 TURNER RD. SE. P.O. BOX 15090 SALEM, OREGON 97302 PHONE 581-0911	

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

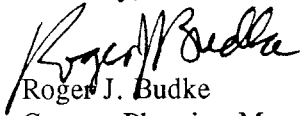
- a. The parcels are zoned RA (Residential Agriculture) with the westerly, approximately 218 feet of Tax Lot 3000 zoned RS (Single Family Residential). Setbacks and lot

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.

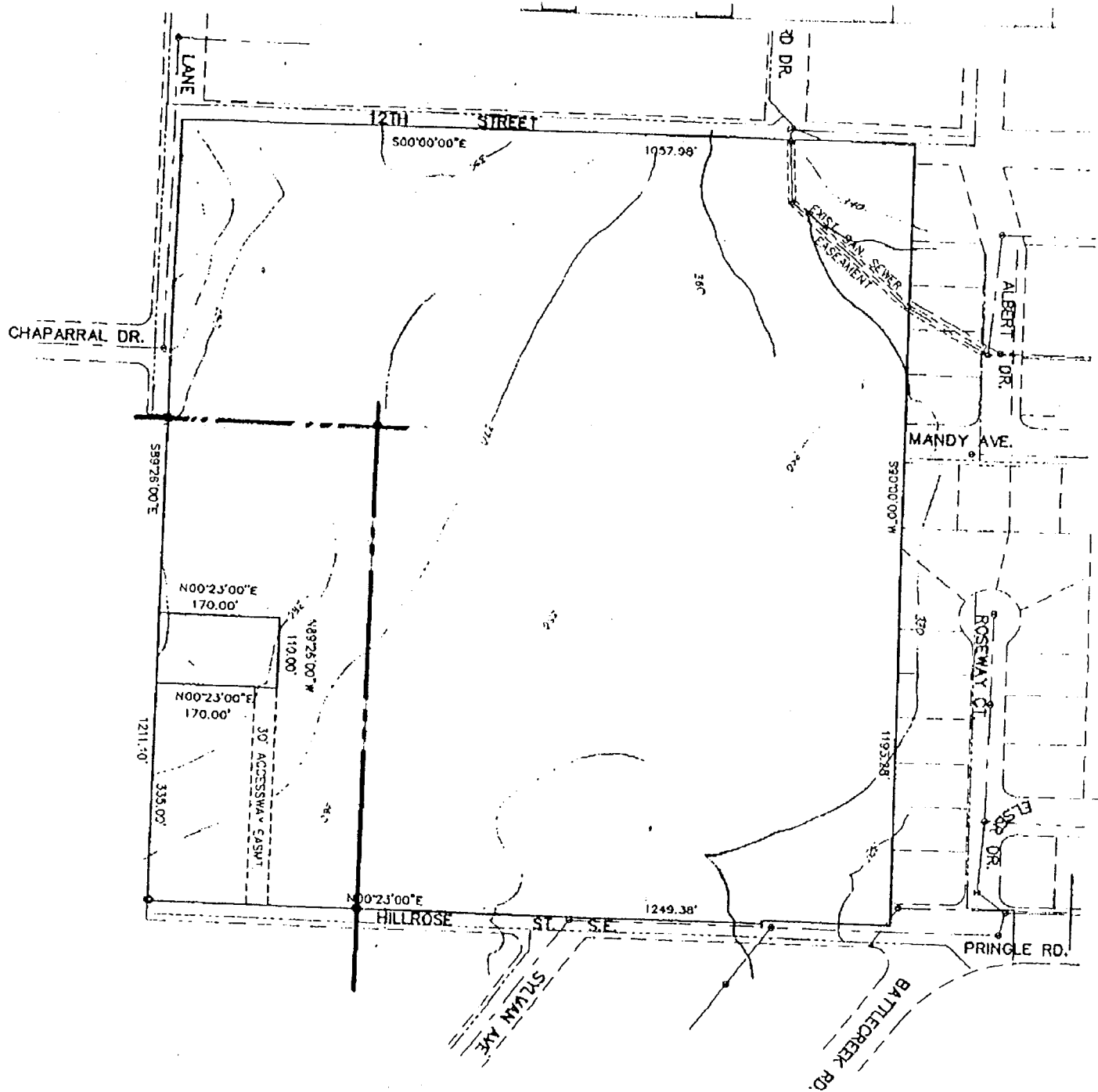
Sincerely,



Roger J. Budke

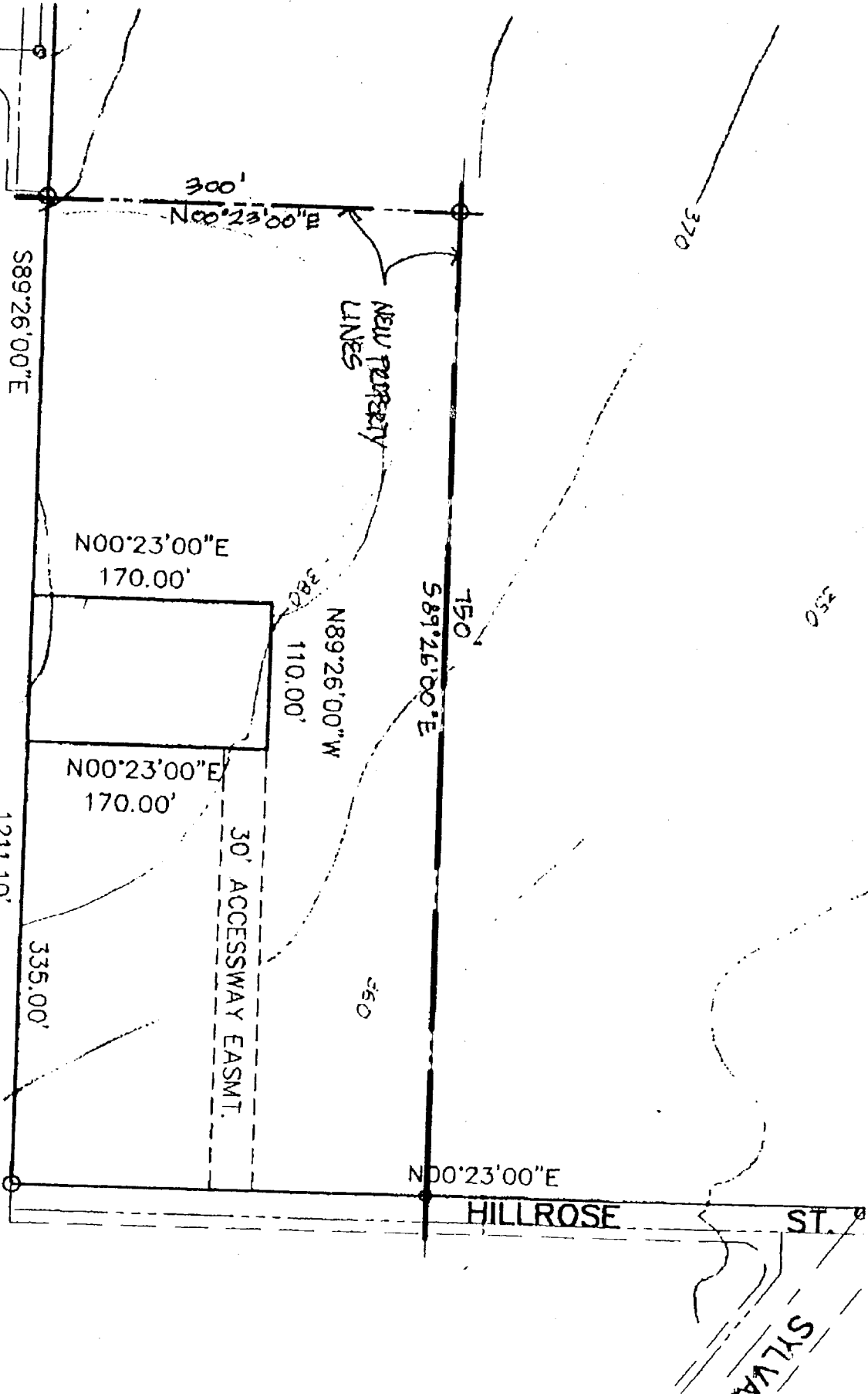
Current Planning Manager

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



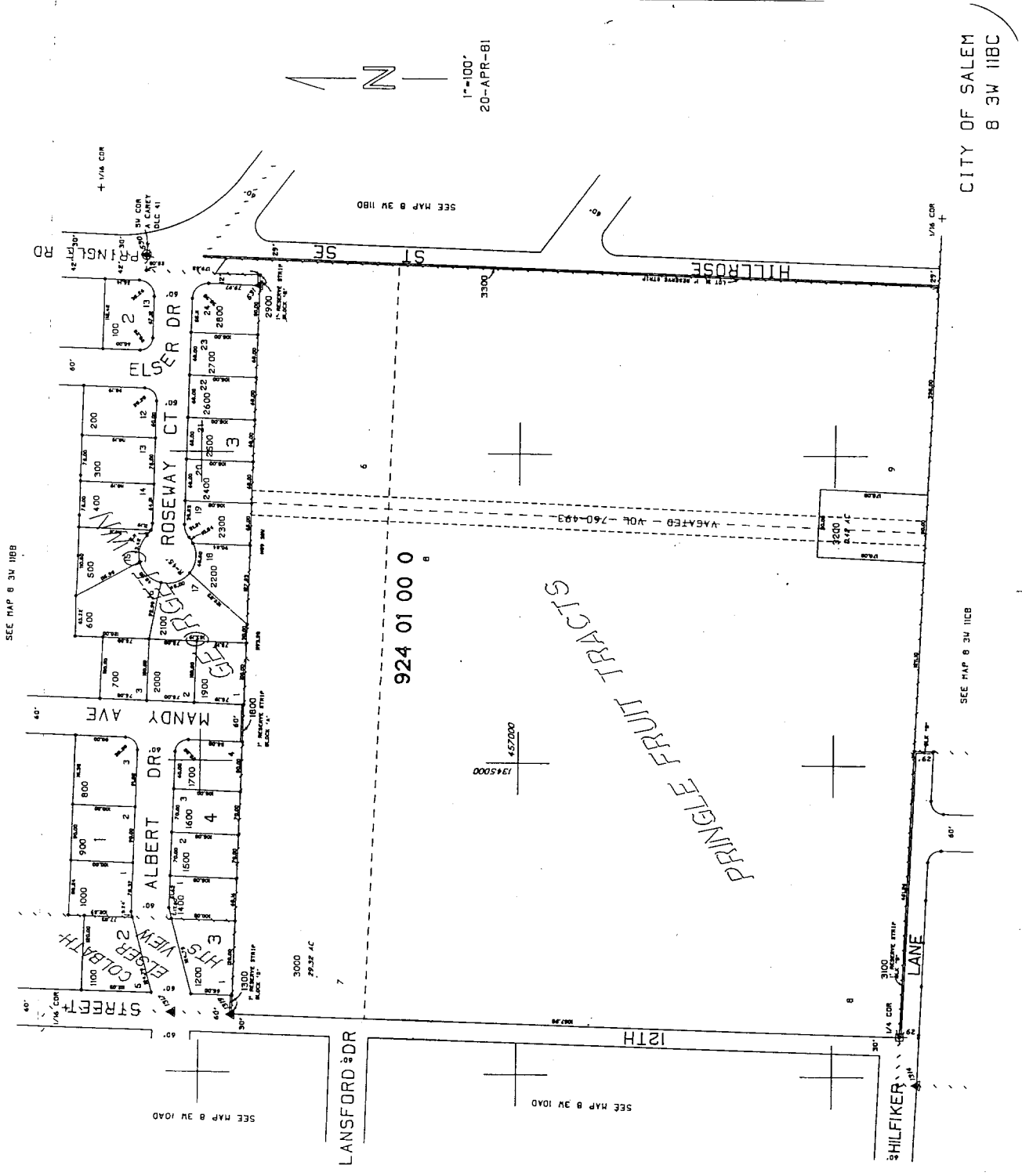
PROPOSED LOT CONFIGURATION AFTER ADJUSTMENT

HAPARRAL DR.



TOTAL AREA = 5.16 ACRES

ENLARGED TAX LOT #3200 WITH PROPOSED ADJUSTMENT



CITY OF SALEM
8 3W 11BC

TAX LOTS #3000 AND 3200

EXISTING LOT CONFIGURATION

!!! FOR STAFF USE ONLY !!!

Application Recd By LS
NPO MORWINDSIDE
Council Person BURGESS
P.W. Notified _____

Date 12/14/95
Post Notice _____
Ward No. 4

Receipt No. _____
Affid. - Sub. _____
Zone

II. GENERAL DATA REQUIRED (to be completed by the applicant)

Henry A. Meyer
(Name of Applicant for file identification)
4540 Pringle Rd SE Salem OR 97302
(Applicant's Address - Include Zip Code)
503-581-0881
(Phone Number)
same
(Street Address or Location of Subject Property)
.42 acres
Total Area in Acres
or Square Feet
Residence
Existing Use of Property or Type of Development
SFR RA
Comp Plan Desig Zoning
same
Proposed Use of Property or Type of Development (Optional for Land Divisions)

Person to be contacted regarding matters pertaining to this application if other than applicant.

NAME	ADDRESS (INCLUDE ZIP)	DAY TIME PHONE NUMBER
<u>John Meyer</u>	<u>2248 NW Glisan St. Portland, OR 97210</u>	<u>503-221-9598</u>

III. AUTHORIZATION BY PROPERTY OWNERS (to be completed by the applicant)

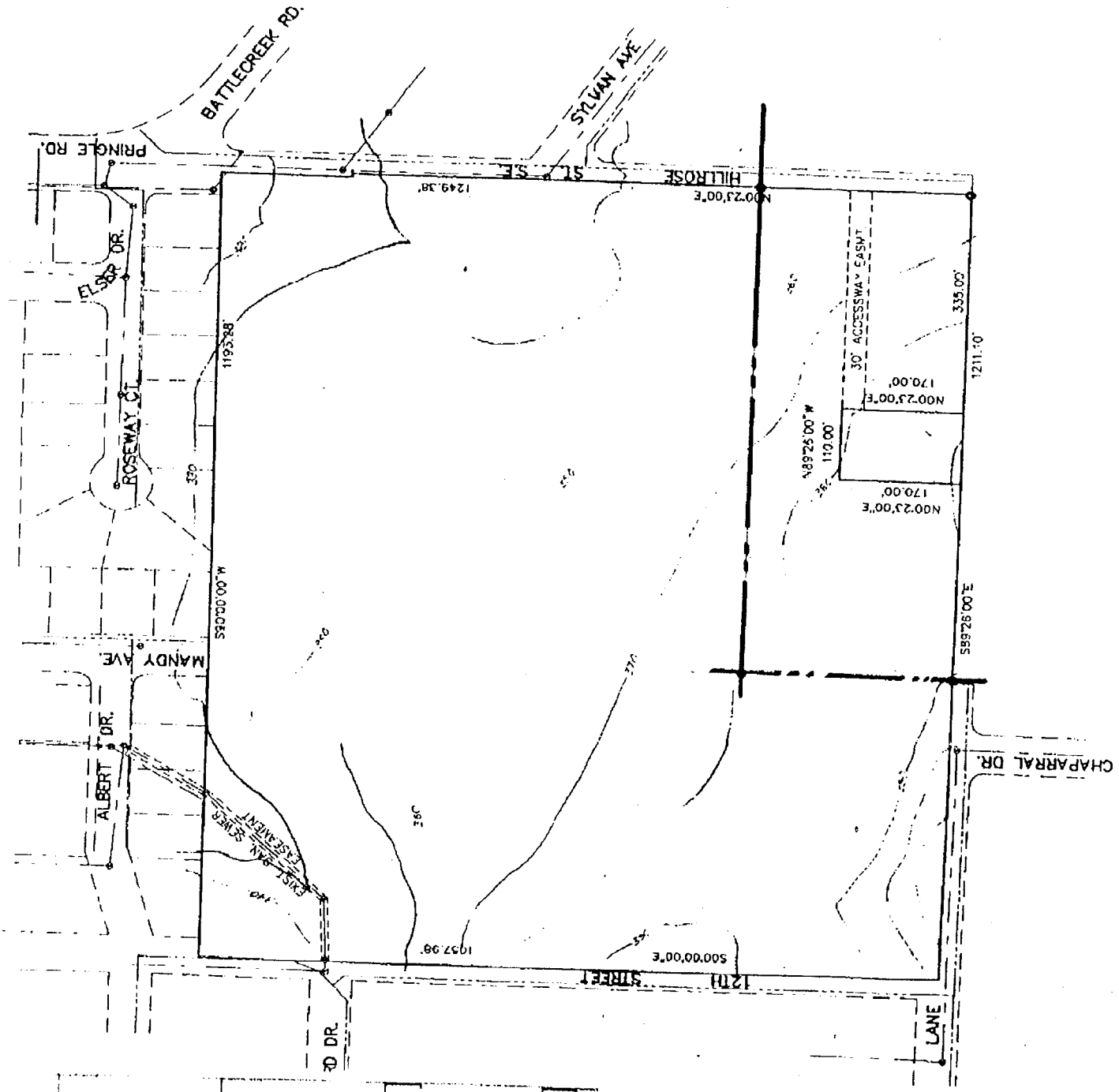
Property owners and/or contract purchasers are required to authorize the filing of this application and must sign below. All signatures represent that they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.

SIGNATURE	NAME (PRINT OR TYPE)	ADDRESS (INCLUDE ZIP)
<u>[Signature]</u>	<u>John K. Meyer</u>	<u>2248 NW Glisan St. Portland, OR 97210</u>
_____	_____	_____
_____	_____	_____

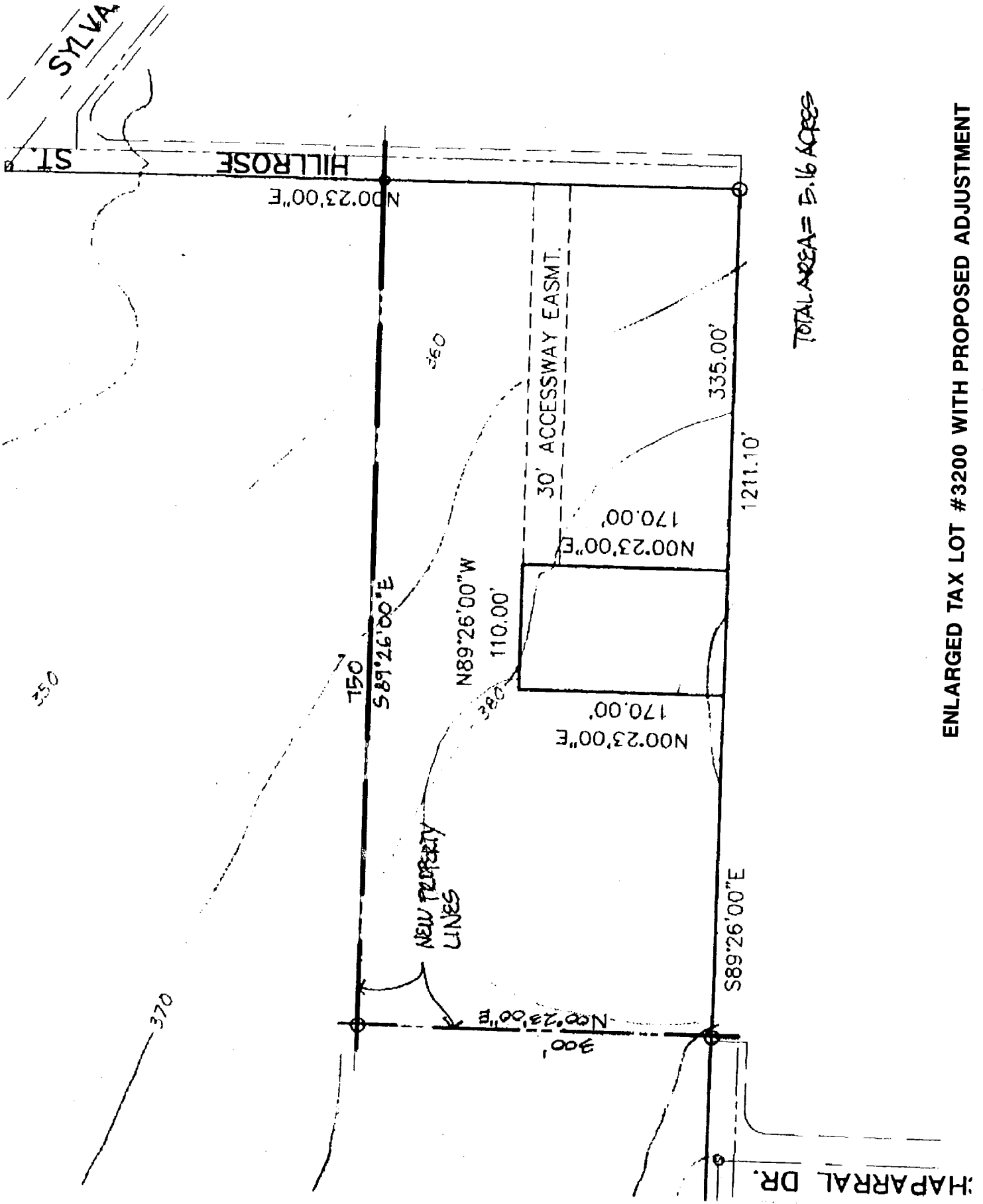
JOHN K. MEYER

PLS CALL IF
you have
QUESTIONS.
[Signature]

December 12, 1995
DATE



PROPOSED LOT CONFIGURATION AFTER ADJUSTMENT



TOTAL AREA = 5.16 ACRES

ENLARGED TAX LOT #3200 WITH PROPOSED ADJUSTMENT

Fax from : 503 5810911
12/06/95 13:29

12/06/95 13:41 Pg: 2
503 5810911 LAND MARKERS INC 02



LAND MARKERS INC.

Description for:
James Meyer

December 4, 1995
Job No. 95-267

Beginning at the Southeast corner of Lot 9, Pringle Fruit Tracts in Section 11, Township 8 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence N 89°20' West 749.84 feet, to the Northeast corner of Wildridge; thence North 00°23' East parallel with the East line of said Lot 300.00 feet; thence South 89°20' East parallel with the South line of said Lot 749.84 feet to the East line thereof; thence South 00°23' West 300.00 feet to the point of beginning.

meyer.des

1950 Turner Road S.E.
P.O. Box 15090
Salem, OR 97309

APPROVED BY
PNB
12/11/95
Ph. (503) 581-0911
Fax (503) 581-5343

REEL PAGE
1224 797

BARGAIN AND SALE DEED

HENRY A. MEYER, hereinafter called Grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell, and convey unto TIMOTHY H. MEYER and JOHN K. MEYER, Co-TRUSTEES, hereinafter called Grantees, and unto Grantees' successors and assigns all of that certain real property with the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, situated in the county of Marion, state of Oregon, described as follows, to wit:

Parcel 1: Beginning at the quarter section corner between Sections 10 and 11, in Township 8 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence South 89°26' East 18.35 chains; thence North 0°23' East 18.93 chains to the Southwest corner of the Donation Land Claim of Abijah Carey; thence West 38 links; thence South 0°23' West 2.72 chains; thence West 18.08 chains to the line between Sections 10 and 11; thence South 16.03 chains to the place of beginning. SAVE AND EXCEPT: Beginning on the South line of Lot 9, Pringle Fruit Tracts in Section 11, Township 8 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 335.00 feet North 89°20' West from the Southeast corner of said Lot 9; thence North 89°20' West, along said South line, 110.00 feet; thence North 0°23' East 170.00 feet; thence South 89°20' East 110.00 feet; thence South 0°23' West 170.00 feet to the place of beginning.

Parcel 2: Beginning on the South line of lot 9, Pringle Fruit Tracts in Section 11, Township 8 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 335.00 feet North 89°20' West from the Southeast corner of said Lot 9; thence North 89°20' West along said South line, 110.00 feet; thence North 0°23' East 170.00 feet; thence South 89°20' East 110.00 feet; thence South 0°23' West 170.00 feet to the place of beginning. Together with a right of way for ingress and egress over the following described tract of land: Beginning on the East line of Lot 9, Pringle Fruit Tracts, in Section 11, Township 8 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 170.00 feet North 0°23' East of the

This deed is executed to partially fund Grantor's revocable trust, and the true and actual consideration stated in terms of dollars is NONE.

MAIL TAX STATEMENTS TO:

No change.

AFTER RECORDING RETURN TO:

✓ Daniel A. Ritter, P.C.
530 Center Street NE, Suite 700
Salem, OR 97301-3740

Southeast corner of said Lot; thence North 89°20' West 445.00 feet; thence North 0°23' East 30.00 feet; thence South 89°20' East 445.00 feet to a point on the East line of said Lot; thence South 0°23' West 30.00 feet to the place of beginning.

Parcel 3: Lot 23, Block 3, Georgetown, Marion County, Oregon.

To Have and to Hold the same unto the said Grantees and Grantees' successors and assigns forever.

This deed is executed to partially fund Grantor's revocable trust, and the true and actual consideration stated in terms of dollars is NONE.

The following is the notice as required by Oregon law: "THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES."

WITNESS Grantor's hand this 8th day of November, 1985.

Henry A. Meyer
Henry A. Meyer

STATE OF OREGON)
County of Marion) ss.

On this 8th day of November, 1985, personally appeared the above named HENRY A. MEYER and acknowledged the foregoing instrument to be his voluntary act and deed.

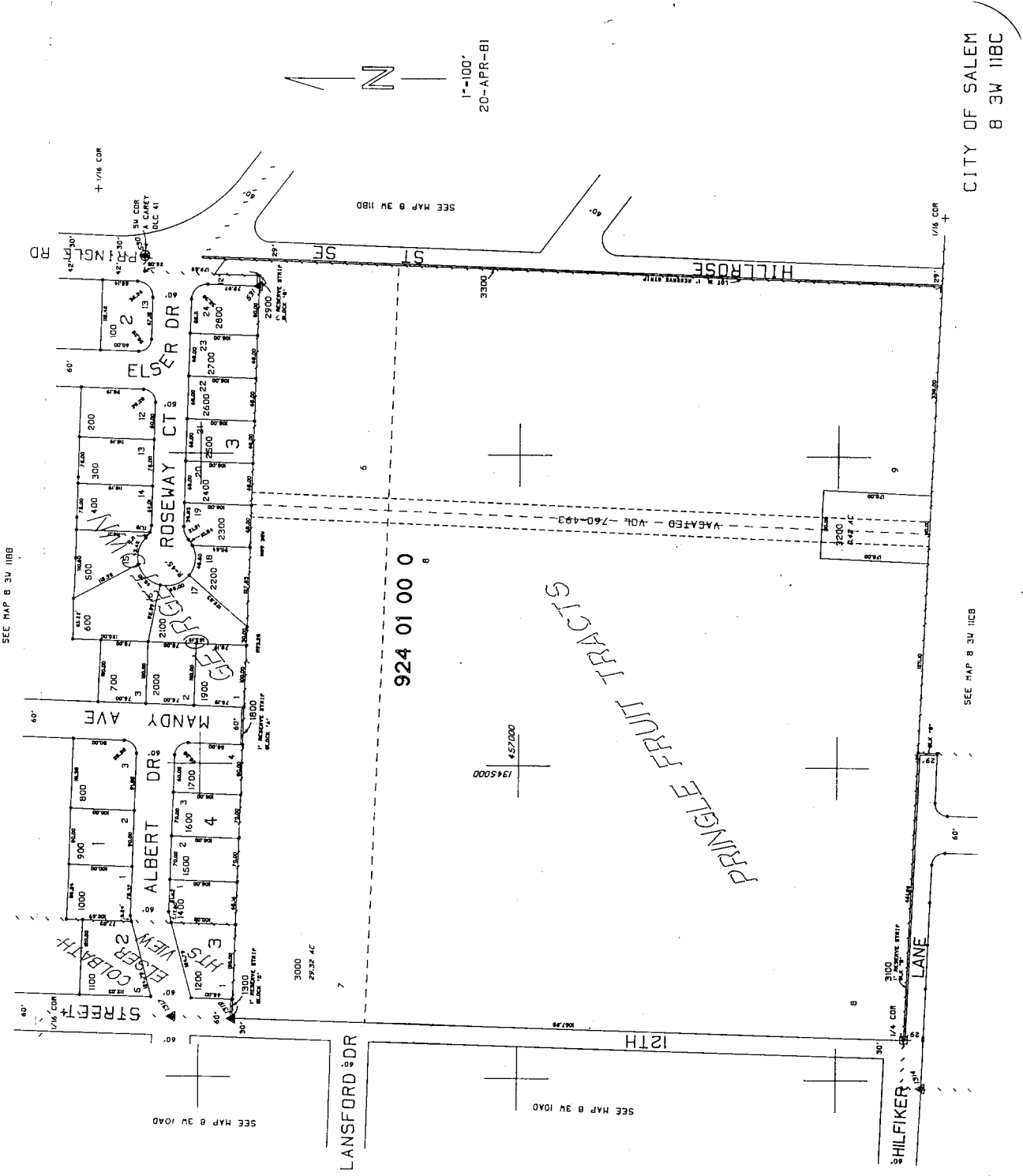


Before me:

Daniel A. Ritter
Notary Public for Oregon
My commission expires: Aug. 8, 1986

The following is the notice as required by Oregon law: "THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930."

*Approved by
L.R.
Ritter
12/11/85*



SEE MAP 8 3V 118B

SEE MAP 8 3V 10AD

1"=100'
20-APR-81

CITY OF SALEM
8 3V 118C

SEE MAP 8 3V 118B

TAX LOTS #3000 AND 3200

EXISTING LOT CONFIGURATION



555 Liberty Street SE / Room 305 • Salem OR 97301-3503 • Phone 503-588-6213 • Fax 503-588-6005
 www.cityofsalem.net/planning • www.cityofsalem.net

August 12, 2021

PLANNING REVIEW CHECKLIST

Subject Property: 4540 Pringle Road SE
Ref#: 21-113071-LD (Subdivision)

Applicant: Martin Kehoe **Phone:**
 11627 S Summerville Avenue **Email:** mkehoe03@gmail.com
 Portland, OR 97219

Contact: Ron Hankins, PE **Phone:** (541) 521-9797
 Emerio Design, LLC **Email:** ray@emeriodesign.com
 2677 Wilakenzie Road, Suite 1A
 Eugene, OR 97401

A consolidated application for a Phased Subdivision Tentative Plan was received on July 14, 2021 for property located at 4540 Pringle Road SE.

The following information is required for staff to deem the application complete.

Item:	
Title Report – SRC 205.030(b)	A current title report shall be included in the submittal. The applicant shall provide a current title report(s) for the subject property, the report provided is dated April 5, 2019.
Tentative Plan Requirements – SRC 205.030(a)	<p>The tentative plan is missing the following items:</p> <ol style="list-style-type: none"> 1. The boundaries, dimensions, and area of each proposed lot or parcel. 2. A complete tree inventory on a form as provided by the Director and, if required under SRC Chapter 808 a tree conservation plan. Per Chapter 808, to meet the definition of tree, a tree needs to have a diameter at breast height of 10 inches or more. Please remove trees identified on the inventory with a diameter less than 10 inches from the tree preservation count. 3. A statement from the County Surveyor approving the name of the subdivision or phased subdivision. 4. An expedited land division application form, explaining the applicant’s ability under state law to request an expedited land division process, is required to be complete indicating whether an

	<p>expedited land division processes is being requested for this application.</p> <ol style="list-style-type: none"> 5. Width of all existing streets and public accessways abutting the perimeter of the subject property. 6. The width and curve radius of all proposed streets, flag lot accessways, and public accessways. 7. The dimensions and use of any existing buildings and structures on the subject property. 8. Names and addresses of the landowner shown on the face of the tentative plan. Owner listed (Kehoe Northwest Properties) does not currently own the subject properties according to deed submitted and County Assessor records. The application form is required to be signed by the property owner.
<p>Property Date of Creation</p>	<p>The city is unable to determine the date of creation of the subject properties based on the information provided.</p> <p>The vesting deed submitted describes two discrete units of land. Parcel 1 appears to consist of portions of Lots 6-9, Pringle Fruit Tracts Recorded in 1913. Parcel 2 appears to consist of portions of Lots 6 and 9, Pringle Fruit Tracts Recorded in 1913.</p> <p>Additional deed research will need to be prepared by the project surveyor to determine if each of the above described Parcels were lawfully established.</p> <p>Except changes in the right-of-way, Parcel 1 will need to have been created in its current configuration prior to January 1, 1968 to be considered lawfully established.</p> <p>Except changes in the right-of-way, Parcel 2 will need to have been created in its current configuration prior to October 22, 1979 to be considered lawfully established.</p>



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 www.cityofsalem.net/planning • www.cityofsalem.net

The following items are not listed in the SRC as specific requirements for a complete application; however, the applicant should be aware that after review of the application materials the following deficiencies have been identified which could result in a recommendation for denial of the application if not properly addressed.

Item:	
<p>General Comments</p>	<ol style="list-style-type: none"> 1. Street spacing. The proposed phased subdivision tentative plan does not comply with SRC 803.030(a) which provides streets shall have a maximum spacing of 600 feet from right-of-way line to right-of-way line along one axis, and not less than 120 feet and not more than 400 feet from right-of-way line to right-of-way line along the other axis. 2. Street connectivity. The proposed phased subdivision tentative plan does not comply with SRC 803.035(a) which provides in part that local streets shall be extended to adjoining undeveloped properties for eventual connection with the existing street system. Connections to existing or planned streets and adjoining undeveloped properties for eventual connection with the existing street system shall be provided at no greater than 600-foot intervals. 3. Street alignment and grade. The proposed phased subdivision tentative plan does not comply with SRC 803.035(c) which provides in part that no grade of a collector street shall exceed eight percent and no grade of a local street shall exceed 12 percent. Street grade exceptions are processed as alternative street standards subject to SRC 803.065. Based on feedback from the Fire Department and Traffic Engineers, there is support for the 18 percent grade proposed on 12th Street. If the applicant chooses to request alternative street standards, please provide findings in support of the request. 4. The proposed phased subdivision tentative plan results in the removal of six significant trees which does not comply with SRC 808.015 which provides that no person shall remove a significant tree.



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www.cityofsalem.net/planning • www.cityofsalem.net

Your application, which is incomplete, will be deemed complete upon receipt of one of the following:

- (1) All of the missing information.
- (2) Some of the missing information and written notice from you (the applicant) that no other information will be provided.
- (3) Written notice from you (the applicant) that none of the missing information will be provided.

You have 180 days from the date the application was first submitted to respond in one of the three ways listed above, or the application will be deemed void.

For questions regarding the above requirements, feel free to contact me directly by calling (503) 540-2356 or via email at apanko@cityofsalem.net. The Salem Revised Code may be accessed by clicking [HERE](#).

Sincerely,

Aaron Panko, Planner III

March 20, 2022

Council Call Up of Subdivision Case No. SUB21-09

apanko@cityofsalem.net

This is our third written submission regarding the Kehoe proposal to develop the Meyer property in the Morningside Neighborhood. We are still adamantly opposed to the development. Why the developer gets a second bite at the apple after so much oral and written testimony and two hearings by the City Council is very disconcerting to say the least. The Council voted no. Doesn't that mean anything?

The numerous problems with the proposal include traffic, wildlife disruption, the number of and size of the lots, the negative effect to the neighborhood, and the sloppy and inaccurate tree count have all been previously documented. These all lead to erroneous and misleading conclusions presented by the developer.

There are already hundreds of new homes in the \$400,000 to \$500,000 price range in the Morningside Neighborhood and more are being built every day. This is not low-cost affordable housing that Salem needs. This proposal directly contradicts Council's Tree Canopy and Climate Change policies recently approved.

58 of 60 respondents who provided written testimony are against the proposal as are 24 of the 27 heirs to the Meyer property. So, who is in favor of this proposal? The developer and 3% of the neighbors and 11% of the Meyer property owners.

This subdivision proposal is in the wrong place, at the wrong time, and has the wrong type of housing now and in the foreseeable future. To approve this proposal would be unconscionable.

Thank you for your consideration.

Kathy and Steve Sansone

1280 Albert DR. SE Salem, OR 97302

503 362-1908

Aaron Panko

From: Coach Steve <WVWPCoach@outlook.com>
Sent: Sunday, March 20, 2022 5:31 PM
To: Shelby Guizar
Cc: Aaron Panko
Subject: RE: Open Record Notice - Case No. SUB21-09 for 4540 Pringle Road SE
Attachments: .Good evening Aaron.docx

Good evening, Aaron,

As of today, you or the developer of the of the Meyer Family Farm have failed to address concerns of safety on Sylvan Ave!

In our original letter (attached) we asked if there had been a speed and usage survey on Sylvan Ave?

We brought to your attention serious concerns of speed and usage due to Sylvan Ave being a very narrow street and to date we have yet to see any information that these surveys have been completed by the city or the developer.

Sylvan is a narrow one lane unapproved street (just the way we like it) just to the south east of the proposed development. In recent weeks a UPS driver (on a rainy day) and a Salem School bus driver have been clocked at 28 and 22 mph respectively. Both were using this route in an effort to get out to Pringle via Hillrose at the Battle Creek/Pringle curve. These large vehicles along with the large number of vehicles that come down through the neighborhood from Cambridge are a safety issues for those who live on and or our walking neighbors that also use Sylvan and Hillrose to get to the park at the end of Hillrose. This is a serious safety concern that you and the developer have failed to address.

But I guess if it is not in your front yard, then it does not matter to you!

If the City of Salem is going to fail to have the developer do a speed and usage survey on all roads effected by this development, then the City of Salem is liable when people or property are injured or damaged by those who use this route as a shortcut based on their assumption that it is a safer route out of the neighborhood.

I do hope you understand the seriousness of this matter and make sure the developer does a proper street usage and speed study prior to any development of this property.

Please confirm receipt of this email.

Sincerely,
Steve and Kim Sessa
1449 Sylvan Ave. SE
503-930-7189

From: Shelby Guizar <SGuizar@cityofsalem.net>
Sent: Friday, March 11, 2022 1:22 PM
To: Shelby Guizar <SGuizar@cityofsalem.net>
Cc: Aaron Panko <APanko@cityofsalem.net>
Subject: Open Record Notice - Case No. SUB21-09 for 4540 Pringle Road SE

Hello,

A Open Record Notice for Case No. ~~CPC-ZC21-01 for 681 Rees Hill Road SE~~ SUB21-09 for 4540 Pringle Road SE is attached for your information. Additional written testimony must be submitted **no later than 5:00 p.m. on March 21, 2022.** Council will deliberate on this case on March 28, 2022.

The record for this proceeding is being reopened for additional public review and comment on the modified application put forward by the applicant.

Please direct questions or comments to the **CASE MANAGER:**

Aaron Panko

APanko@cityofsalem.net

503-540-2356

Thank you,

Shelby Guizar

Administrative Analyst

City of Salem | Community Development Department

555 Liberty St SE, Suite 305, Salem, OR 97301

sguizar@cityofsalem.net | 503-540-2315

[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [YouTube](#) | [CityofSalem.net](#)

ood evening Aaron,

We received the Notice of Filing for the Meyer Farm subdivision case No. SUB21-09.

We would like to express a few concerns we have with the proposal as defined in the filing.

- The Battle Creek/Pringle curve is a minimum site curve and currently traffic going north on Battle Creek are not permitted to turn left at the proposed Hilfliker/Hillrose corner.
 - I do not see this being addressed in the proposal.
- This neighborhood was not designed as a through way and by connecting Battle Creek/Pringle to Commercial with Hilfliker you will be creating a traffic nightmare with more and more cars looking to avoid traffic on Commercial.
- Currently the intersection of Hilfliker and Commercial is not designed to handle current traffic and with limited space on the west side of Commercial it cannot truly be fixed. I do not see this addressed in the proposal.
 - With the addition of the new Costco coming traffic on these roads will increase and the addition of more housing and questionable traffic decisions will likely lead to more accidents, traffic backups and people looking for a presumed shortcut.
 - Has there been a street usage study done at the Battle Creek/Pringle curve at Hillrose?
 - Has there been a speed study complete for this section of road?
- Currently not in the proposal, Sylvan Ave an unimproved road with no curbs and sidewalks. Sylvan is currently being used by members of the Cambridge community to get to northbound Pringle at a cost of safety for those of us who live on Sylvan.
 - Has there been a street usage study done on Sylvan Ave?
 - Has there been a speed study completed for Sylvan Ave?
 - I challenge you or any member of your staff to visit with us and watch the cars drive up and down Sylvan Ave. You will be amazed at the speed in which they drive on this narrow unimproved road and not one of them are a residence of Sylvan Ave.
- Any improvements made to Sylvan Ave will not benefit the residence of Sylvan Ave but in fact will have the opposite effect.
- The land adjacent to Hillrose is designated wetlands and part of the restoration project completed by the past land owners in 2008 – 2010 with support from Marion SWCD Landowners Assistance Program.
 - I do not see this information in the filing.
 - Will this restoration be preserved?
- I was under the impression Salem was the Tree City. If this is the case explain to me why close to 70% of the trees on the Meyer Farm will not make it through this development according to the proposal?
 - Is there a valid reason more trees will not be saved?

Finally, the development of the Meyer Farm will alter the beauty of the neighborhood and South Salem in general. The city has a chance to make something amazing with this property where wildlife lives and thrives in an urban setting adding value to the community. We already have enough unfinished

developments to the east of Battle Creek and more than enough undeveloped property in South Salem to sustain the needs of future growth for years to come.

I do hope you will evaluate the traffic, neighborhood, safety, wildlife and wetland concerns I have mentioned above before approving the current proposed development of this property.

Please confirm receipt of this email.

Sincerely,
Steve and Kim Sessa
1449 Sylvan Ave. SE
503-930-7189

March 21, 2022

Case SUB21-09

Mayor and City Councilors:

ORS 197.522(4) requires the Council to deny SUB21-09.

ORS 197.522(4): “A local government shall deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.”

The information in this letter will demonstrate:

- This application is inconsistent with the applicable land use regulation [SRC 205.010\(d\)\(1\)\(C\)](#), and cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.
- [SRC 808.015](#) is a requirement of approval criterion [SRC 205.010\(d\)\(1\)\(C\)](#).
- [SRC 808.035\(d\)\(2\)](#) is a requirement of [SRC 808.015](#).
- [SRC 205.010\(d\)\(1\)](#), [808.015](#), and [808.035\(d\)\(2\)](#) are clear and objective approval criteria as required by [ORS 197.307](#).
- [SRC 808.035\(d\)\(2\)](#) offers an appropriate alternative approval method per [ORS 197.307\(6\)](#).
- The applicant was provided with all applicable provisions of the UDC on at least two separate occasions.
- **The applicant was provided with a notice that their plan resulted in the removal of six significant trees, which did not comply with [SRC 808.015](#), and that their application could be denied as a result.]**

1.

THE APPLICATION IS INCONSISTENT WITH APPROVAL CRITERIA AND CANNOT BE MADE CONSISTENT.

The applicant's letter from Schwabe, dated 3/9/2022 states:

“As the Applicant and staff explained during this hearing, it is not feasible to meaningfully relocate Hilfiker Lane as part of this proposal. It is also not possible to preserve a tree in a PUE, which provides power and telecommunications for each home.”

By their own admission, the applicant is stating there is no possible way to design the proposed subdivision in a way that is consistent with the UDC provisions which require preservation of significant trees ([808.035\(d\)\(2\)](#)).

SRC 808.035(d)(2): “No significant trees are designated for removal, unless there [are] no reasonable design alternatives that would enable preservation of such trees.”

2.

SRC 808.035(d)(2) IS A REQUIREMENT OF 808.015.[SRC 808.015 – Significant Trees.](#)

“No person shall remove a significant tree, unless the removal is undertaken pursuant to a tree and vegetation permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045.”

3.

SRC 808.015 IS A REQUIREMENT OF APPROVAL CRITERION [SRC 205.010\(d\)\(1\)\(C\)](#).[SRC 205.010\(d\)\(1\)\(C\):](#)

“The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to, the following: Any special development standards, including but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.”

4.

SRC 205.010(d)(1) IS CLEAR AND OBJECTIVE APPROVAL CRITERIA AS REQUIRED BY [ORS 197.307](#).

Per [SRC 300.210\(a\)\(9\)](#), the applicant was required to submit a written statement addressing each applicable approval criterion and standard applicable to their application.

On page 5 of their written statement, the applicant claims:

“A city whose code incorporates its comprehensive plan or TSP must do more than provide a ‘broad injunction to comply with unspecified portions’ of the plan and/or TSP”; and “The City of Salem has not properly incorporated many of its Comprehensive Plan and TSP policies into the approval criteria relevant to this Application. As such, they cannot be applied. Applicant has identified the approval criteria below that do not properly incorporate the Comprehensive Plan and TSP policies.”

Applicant goes on further to cite [Paterson v. City of Bend](#), and [Oster v. City of Silverton](#) to support this claim, however, these citations do not accurately represent the applicant’s argument that certain approval criteria do not apply to their application.

Further, the city has “done more than provide a broad injunction to comply with unspecified portions of the plan and/or TSP”, as further explained below.

In [Paterson](#), the petitioner appealed the city’s approval of a subdivision, contending that the city’s ordinance requiring “compliance with the Bend Area General Plan” meant the application needed to comply with several General Policies the petitioner had identified in the Comprehensive Plan relating to transportation.

The city argued that compliance with the city's General Plan was demonstrated by compliance with its *implementing land use regulations*, and that applicants are not expected to demonstrate that their application complied with *General [Comprehensive] Plan* policies or provisions.

In this case, LUBA agreed with the city and *denied the assignment of error*.

The only approval criteria in [SRC 205.010\(d\)](#) that could potentially be assumed to provide a "*broad injunction*" to comply with Salem's Comprehensive Plan (or any of the plans implemented by Salem's Comprehensive Plan) is SRC 205.010(d)(4), which requires applicants to conform to the [Salem Transportation System Plan](#). However, as such was the case in *Paterson*, conformance to the TSP is demonstrated by compliance with its implementing land use regulations in the UDC.

The remaining approval criteria in this case are subject to applicable provisions *within the UDC itself*. Here, Salem *does "more than provide a broad injunction to comply"* by providing the specific provisions that apply to each application *to each applicant individually*, as circumstances vary from application to application, and it would be impossible to accurately predict and detail in the UDC every possible situation that could result from an application for development.

In *Oster*, the dispute was whether or not the City of Silverton had properly implemented action items in their TSP as applicable approval criteria in their land use regulations. Although LUBA determined that the city *did* properly implement their TSP as a *support document* to their Comprehensive Plan, the city cited the parts of their code that *implemented the support documents* as the approval criteria instead of the applicable parts of the (properly implemented) TSP.

For example, SRC 205.010(d)(4), which requires the street systems in and adjacent to a tentative subdivision plan to conform to Salem's TSP, does not itself specify *which portions* of the TSP are applicable as approval criteria. However, as stated above, Salem "*does more than provide a broad injunction to comply*" with SRC 205.010(d)(4) by providing each applicant a list of *all applicable provisions*, as explained further below.

On page 6 of the applicant's Written Statement, the applicant claims that [SRC 205.010\(d\)\(1\)](#) is not clear and objective, and therefore does not apply, as follows:

"Simply citing 'applicable provisions of the UDC,' without specifying which provisions are applicable, does [not] provide the Applicant sufficient information. Further, the phrase 'including, but not limited to' is subjective and allows for discretion. Further, 'City infrastructure standards' does not provide any information as to what those standards are that must be complied with. As such, this criterion cannot be applied to the Application."

The applicant's claim appears to imply that Salem's *land use regulations* should clearly outline exactly which standard applies to *every single possible scenario*. As mentioned above, this is an impossible expectation. It is necessary for the City of Salem to be able to provide specific approval criteria for each unique application, as the requirements may be different for each.

Regardless, the city *did* specify and provide a list of exactly which provisions were applicable.

SALEM PLANNING STAFF PROVIDED A LIST OF SPECIFIC APPLICABLE PROVISIONS TO THE APPLICANT ON AT LEAST TWO SEPARATE OCCASIONS.

During a Pre-Application Planning Conference, which is required for Type-II Applications per [SRC 300.300](#), Salem Planning staff informed the applicant of which *specific* provisions would likely be applicable based on the preliminary plans provided by the applicant. This information was included in a

Pre-Application Report dated 4/18/2019 (*attached: "99-Pre-Application Planning Summary"*) and clearly indicated that the following applications were preliminarily identified as being required:

- Subdivision ([SRC 205.010](#))
- Class 3 Site Plan Review ([SRC 220.005](#))
- **Tree Conservation Plan ([SRC 808.035](#))**
- Tree Removal Permit ([SRC 808.030](#))
- Class 2 Driveway Approach Permit ([SRC 804.025](#))

Each of these requirements goes into further detail and outlines more specific provisions that are applicable to this application.

In addition:

ORS 227.178(2) requires a city reviewing an application to "*notify the applicant of exactly what information is missing within 30 days of receipt of the application*" in the event an applicant fails to provide all information the city believes is needed.

The applicant filed their application on 7/14/2021. As was required by [SRC 300.220](#) and [ORS 227.178](#), the city provided an Incompleteness Report, possibly filed under the incorrect title: "*117 – Pre-Application Planning Summary*" (*also attached*) - to the applicant on 8/12/21. *This report explicitly detailed the remaining information required from the applicant.*

As shown above, the pre-application documents provided to the applicant clearly indicated the requirement for a Tree Conservation Plan per [SRC 808.035](#). In addition, the Incompleteness Report identified the need to comply with [SRC 808.015](#), which requires the preservation of significant trees.

A far more relevant LUBA citation to this situation would be [Rogue Valley Assoc. of Realtors v. City of Ashland, 35 Or LUBA 139 \(1998\)](#).

Here, LUBA determined the [ORS 227.178\(2\)](#) requirement for a city to provide a notice of incompleteness which specifies 'exactly what information is needed,' is itself a clear and objective requirement, and that a city's procedures for requiring application information, when viewed in context with [ORS 227.178\(2\)](#) is sufficiently clear and objective.

Therefore, the applicant's argument that [SRC 205.010\(d\)\(1\)](#) is not clear and objective is invalid, and the code applies.

5.

808.015, and [808.035\(d\)\(2\)](#) ARE CLEAR AND OBJECTIVE APPROVAL CRITERIA AS REQUIRED BY [ORS 197.307](#).

In their written statement, the applicant 's response to the requirements of [SRC 808.015](#) states:

"A tree removal permit for removal of public trees has been submitted concurrently with this application. All other trees proposed for removal are included in a tree removal permit pursuant to SRC 808.030. An arborist report was also included with this application. The criteria are met."

The applicant does not argue that SRC 808.015 is a clear and objective standard.

Regarding the preservation of significant trees per [SRC 808.035\(d\)\(2\)](#), the applicant's response states:

"The submitted tree protection and removal overview indicates the preservation of more than 25% of the existing trees. The applicant understands the conditions that could be imposed on this application and the expiration requirements. The criteria are met.

"However, criteria (d)(2) and (d)(3), which include the phrase 'reasonable design alternatives,' allow for discretion; these criteria are not clear and objective, and cannot be applied to this application."

The applicant is correct that the phrase 'reasonable design alternatives' is not clear and objective, however this is not the clear and objective standard that applies to their application. This fact was further confirmed by City Attorney, Dan Atchison, during the 2/28/22 City Council meeting.

However, the applicant further argues in their 3/9/22 letter:

"Allowance for tree removal where there "are no reasonable design alternatives that would enable preservation of the tree cannot be considered an allowable "alternative approval process for applications and permits for residential development based on approval criteria [...] that are not clear and objective" in ORS 197.704(6). SRC 808.035(d)(2) is a unitary development standard, it is not "an alternative approval process" and does not necessarily authorize "a density at or above the density level authorized in the zone. SRC 808.035(d)(2) should not be used as a basis for denial under ORS 197.307(4), both for the reasons stated in the Applicant's prior testimony, but also because use of such a discretionary tool necessarily results in discouragement of needed housing through unreasonable cost and delay. This is because without any codified guidance of what constitutes a "reasonable design alternative," it makes it virtually impossible for an applicant to lay out a subdivision plan on land containing significant trees with any certainty."

A strikingly similar situation to the applicant's assumptions about ORS 808.035(d)(2) can be found in LUBA case [Rogue Valley Assoc. of Realtors v. City of Ashland](#). Here, the City of Ashland's Land Use Ordinances (ALUO) include a chapter governing hillside grading which requires a planting plan to revegetate cut slope terraces. This rule reads:

"The vegetation used for these areas shall be native or species similar in resource value which will survive, help reduce the visual impact or the cut slope, and assist in providing long term slope stabilization."

LUBA concluded this standard has a clear and objective element (required use of 'native' vegetation), as well as an optional, 'subjective' path to approval ("similar species"). They clarify with this response:

"We believe [the code] is a clear and objective standard within the meaning of ORS 197.307(6) and OAR 660.008-0015. [The code] requires the use of "native vegetation." That is a sufficiently clear and objective "standard" under ORS 197.307(6) and OAR 660-008-0015.

The following sentence is important to highlight. LUBA continues by clarifying:

"The city's extension to the applicant of the option to use "similar species" under the specified conditions does not render the clear and objective requirement for native vegetation otherwise.

Similarly, [SRC 808.035\(d\)\(2\)](#)'s requirement that "No significant trees are designated for removal" is a clear and objective standard, with which the applicant is required to comply. The extension to the applicant of the *option* to apply a 'reasonable design alternative' **does not render the clear and objective requirement that no significant trees are to be removed, otherwise.**

ORS 197.307(6) does not designate *how* a city can offer an alternative approval process, it only requires that *if* the city offers an alternative, the applicant *retains the option of proceeding* under the 'clear and objective' method in 197.307(4). Further, ORS 197.307(6)(a) does not require a guarantee or demonstration of any kind that development is likely to be approved under the clear and objective approval standards. [Dreyer v. City of Eugene, 78 Or LUBA 391 \(2018\)](#).

The applicant's argument that "SRC 808.035(d)(2) is a unitary development standard, it is not "an alternative approval process" is an inaccurate assumption, and does not relieve them of the necessity to comply with the clear and objective criteria they requested be applied to their application.

Finally, in their 3/9/22 letter, the applicant claims:

"Prior to the City Council's deliberations, the Applicant had received consistent staff support for its Tree Conservation Plan (to which SRC 808.035(d)(2) applies)"

"The City Council's deliberation was the Applicant's first notice that it had not, in the City's view, satisfied SRC 808.035(d)(2)."

HOWEVER, THIS IS NOT TRUE.

6.

THE APPLICANT WAS PREVIOUSLY PROVIDED WITH NOTICE INFORMING THEM OF THEIR NON-COMPLIANCE WITH, AND OF THE POSSIBLE DENIAL OF THEIR APPLICATION DUE TO THEIR PROPOSED REMOVAL OF SIGNIFICANT TREES.

The Planning Review Checklist dated 8/12/2021 (Incompleteness Letter, *attached*) provided to the applicant included the following statements:

"The applicant should be aware that after review of the application materials, the following deficiencies have been identified which could result in a recommendation for denial if not properly addressed"

"The proposed phased subdivision tentative plan results in the removal of six significant trees which does not comply with SRC 808.015 which provides that no person shall remove a significant tree."

This notice does not demonstrate "consistent staff support" as the applicant suggests, nor was the 2/28/22 City Council meeting the first time the applicant was provided notice regarding the impacts of proposing to remove significant trees.

CONCLUSION

The amended application the applicant has submitted for the Council's review still proposes the removal of six significant trees, which is inconsistent with the applicable clear and objective regulations requiring their preservation.

Even if the significant trees located within the 12th street ROW are not considered, the proposed development will require the removal of significant trees on the property.

At the 2/28/22 City Council meeting, Councilor Hoy made a motion to approve this application with additional modifications that are strikingly similar to those that are now proposed by the applicant, which was subsequently denied.

While it is true that ORS 197.522(3) requires a city to *consider* conditions proposed by an applicant, the city is not obligated to take the initiative to develop such conditions on its own, or develop the evidentiary record that might be needed to impose such conditions.

IN ADDITION:

The Santana Report and the James Report, both from land design professionals, stress that **ALL significant trees can, in fact, be SAVED**, by a RE-DESIGN of street alignments, such as the Hilfiker Extension, i.e. by moving it west, in a curvilinear fashion, so that it completely misses the grove of giant Oak trees.

NO such re-design or attempt at re-design has been submitted. The layout remains the same, and the only change proposed is that some lots are made part of the large enclave.

In [Caster v. City of Silverton, 54 Or LUBA 441 \(2007\)](#), in response to a petitioner's argument that the city was unwilling to impose conditions of approval, LUBA clarifies:

"[ORS 197.522] does not obligate a city to shoulder the obligation of developing conditions of approval and the evidentiary record that might be needed to impose such conditions of approval so that an inadequate permit application can be approved. Rather, where ORS 197.522 applies, the obligation to propose conditions of approval rests with the applicant. The city of course can take the initiative to propose conditions of approval in the first instance if it wishes, as the city apparently tried to do here. But ORS 197.522 does not obligate the city to shoulder that burden."

Modifications and conditions proposed by the City Council, Salem Planning Staff, and the applicant have all failed to make the application consistent with the applicable standards for approval. The city is under no obligation to develop further conditions, and the applicant's submission has arguably already been considered and denied as a proposed modification by Councilor Hoy. As such:

- **The application SUB21-09 is inconsistent with Salem's applicable, clear and objective standards and criteria that require the preservation of significant trees—*regardless of whether or not their removal is necessary to allow for the sole purpose of construction for a home.***
- **At all appropriate times, the applicant has been provided with relevant information that identified applicable approval criteria.**
- **The applicant was notified of the fact that their application was not consistent with significant tree regulations, and therefore could be denied as a result.**
- **The applicant's claims that the applicable standards and criteria are not clear and objective, are not founded.**
- **The applicant's claim that SRC 808.035(d)(2) is not an alternative approval option, is not founded.**
- **By the applicant's own admission, their application can not be made consistent with Salem's clear and objective land use regulations that require the preservation of significant trees for the subject property, through amendments to their application, the imposition of reasonable conditions, or for any other reason.**

For these reasons, the City is required to deny this application per ORS 197.522(4).

(Response to additional claims below, for the record.)

Additional Claims Made by Applicant

The applicant has made many arguments in their Written Statement that certain terms and phrases in the UDC are so vague that they are unable to determine whether and how approval may be granted, and that as a result, certain provisions cannot be applied to their application due to the 'clear and objective' requirements or ORS 197.307.

As proven above, all instances where the applicant claims that the UDC does not cater *specifically* to their unique application, and therefore it does not apply to them, they are incorrect because they have been provided with the specifically applicable provisions in documented formats, which is proven to be suitable to satisfy clear and objective requirements.

Examples of words and phrases the applicant claims to not understand are:

- [Conform](#)
- [Take into account](#)
- [Consistent](#)
- [In accordance with](#)
- [Clearly](#)

Regarding specific wording in the UDC, where the applicant finds that certain words are so vague they are unable to decipher their meaning and applicability, the UDC offers the following:

SRC 111 - DEFINITIONS

"Unless the context otherwise specifically requires, terms used in the UDC shall have the meanings set forth in this chapter; provided, however:

- Where chapter-specific definitions are included in another chapter of the UDC, those definitions are the controlling definitions; and*
- Where a term is not defined within the UDC, the term shall have its ordinary accepted meaning within the context in which it is used. [Webster's Third New Int'l Dictionary \(unabridged ed. 2002\)](#) shall be the standard reference to ordinary accepted meanings."*

Where the applicant claims not to understand the phrase "Unless the context otherwise specifically requires":

- Unless = "except on the condition that"
- Context = "the parts of a [discourse](#) that surround a word or passage and can throw light on its meaning"
- Otherwise = "something or anything else"
- Requires = "to claim or ask for by right and authority"

Although *"Except on the condition that the parts of a discourse that surround a word or passage, and can throw light on its meaning, are claimed by right and authority by something else"* doesn't flow as easily as *"Except where a word is defined as something else"*.

Where the applicant claims the phrase "defined in such a manner that [*and then explicitly lists the manner in which something is defined*]": one could begin to contemplate the nature for which these arguments are being made. The need to respond to each and every claim the applicant has made in this manner could require taxation for costs of transcription if claims are determined to be frivolous.

In some instances where many of the terms the applicant claims are too vague for them to comply with, they do not appear to have difficulty using the same term to their benefit elsewhere in their written statement. In all cases, where the applicant uses a word or phrase elsewhere with the correct meaning, their argument that the word is 'too vague' for them to be required to comply with becomes [void](#).

March 21, 2022

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

Re: Subdivision SUB21-09 at 4540 Pringle Rd SE

Dear Mayor Bennett and Councilors,

Below are comments to the revised plan and condition proposed by the applicant for SUB21-09:

1. A Reasonable Design Alternative Exists.

The re-opening of the record provided the opportunity for a licensed civil engineer to study and model a design alternative that not only conforms to the Public Works Street Design requirements but would also enable the preservation of all onsite Significant Trees. This design is illustrated below, with green dots indicating the locations of onsite Significant Trees, per the City's field findings on February 3, 2022. The design alternative would create 120 single-family residential lots (plus the Area to Remain). Civil linework for the design alternative is attached as **Exhibit A**.



This design alternative conforms to the City of Salem Public Works Manual for street design for a Collector B with a 25-mph design speed, which was proposed by the applicant and approved by Public Works. The design meets the minimum tangent section of 75' for a Collector, per Section 6.5.b of the Manual, as well as the 200' centerline radius requirements under Section 6.8.b for a 25-mph design speed street with a 2% cross slope (the same centerline radius, design speed, and cross slope being proposed by the applicant). It has a 5% intersection skew at 12th and Hilfiker, which is allowed under Section 6.5.a (intersection skew up to 85 degrees).

This design alternative requires no tighter radii than the current proposal, causes no added or adverse impact to stormwater quality facilities, no adverse impact to Significant Trees due to grading, can meet requirements for double frontage lots, and – most importantly – **would enable the preservation of all onsite Significant Trees.**

2. Applicant carries the Burden of Proof.

It is not the general public's responsibility to prove whether a design alternative exists or does not exist, it is the applicant's. Per SRC 300.940(a), "[t]he proponent has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria." The applicant has provided no proof to substantiate the claim that no reasonable design alternatives exist that would enable preservation of Significant Trees. **Proof might have been a study by a civil engineer of various street alignment options with evidence showing why the proposed alignment through a grove of protected Significant Trees is the only viable option. No such study was presented (perhaps intentionally).** The alternative design for Hilfiker Lane, as presented in Exhibit A, should have been the applicant's starting point for this property to conform with SRC 808.015.

3. SRC 808.015 is Clear and Objective Criteria.

On August 12, 2021, Staff sent a "Planning Review Checklist" notifying the applicant that "[t]he proposed phased subdivision tentative plan results in the removal of six significant trees which does not comply with SRC 808.015 which provides that no person shall remove a significant tree." This is a clear and objective criterion, consistent with ORS 197.307(4). **The applicant had many months of advance notice to comply with this clear and objective land use regulation, but instead chose to ignore it.** The recent condition proposed by the applicant still fails to comply with this clear and objective criterion, as four onsite Significant Trees are proposed for removal.

4. There is a Significant Tree on Lot 96 to be Removed.

Tree #4932, located in the NW quadrant of the property on Lot 96, is a Significant Tree. Before the City's field verification on January 26, 2022, the applicant represented to the City that this tree was an 18" Oregon White Oak. The City's field verification, however, determined this tree is actually a 32" Oregon White Oak. On February 3, 2022, the City issued its *Significant tree update* Memo and, in that Memo, the City concluded tree #4932 is proposed for removal due to "Grading and development of Lot 96"¹.

The new plan submitted by the applicant on March 8, 2022, however, shows this tree as being preserved, in conflict with Staff's conclusion that the tree would not survive grading and development of Lot 96. Emerio's letter dated March 8, 2022, says, "Preservation of tree on lot 96 (canopy extends into lot 95 and 82) this tree will not need to be removed" but Emerio did not provide a grading plan with tree

¹ Page 2, *Significant tree update following staff visit to Meyer Farm property, for Tentative Phased Subdivision Case No. SUB21-09 located at 4540 Pringle Road SE – 97302*, February 2, 2022.

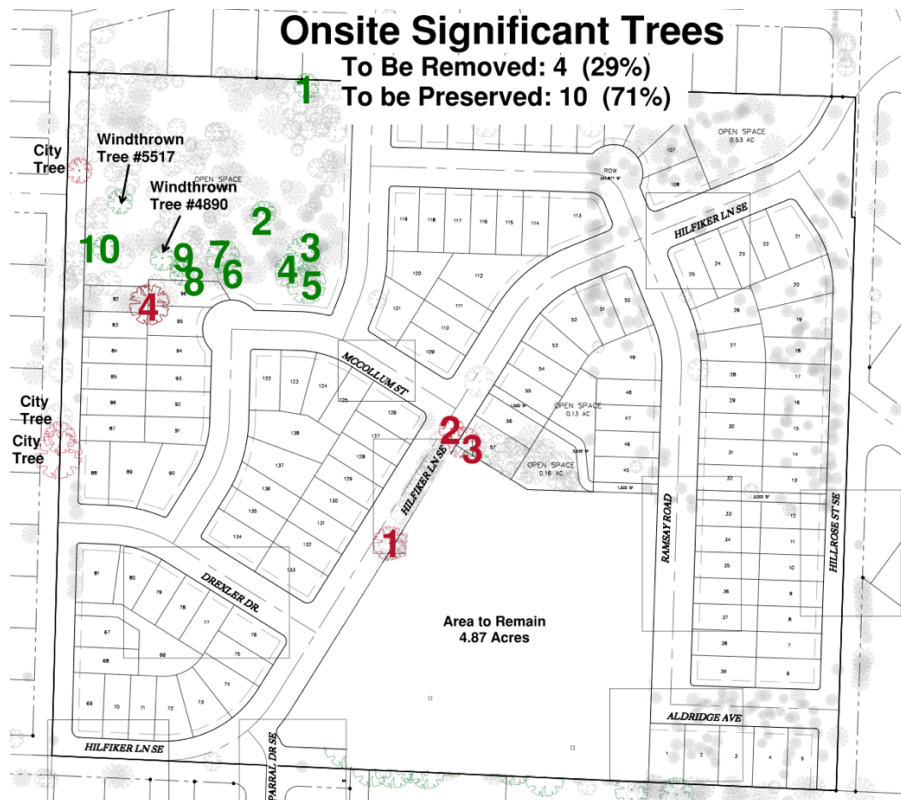
tree's root system due to filling, **therefore this tree should be counted as proposed for removal, not preservation.** Doing so increases the number to seven Significant Trees proposed for removal.

5. Should Trees Inside the “Area to Remain” Count as Preserved?

At various points throughout the process, the applicant has referred to the “Area to Remain” as either an “Area to Remain” (excluded from the subdivision application) or “Lot 139” (included in the subdivision application). On 7/14/21 and 10/24/21, it was excluded, but on 11/3/21 it was renamed Lot 139 and included. On 2/21/22, it was no longer called Lot 139 but was called the “Area to Remain.” And now, as of 3/9/22, there are 125 residential lots proposed plus the “Area to Remain” (again excluded as a “lot”). It is unclear what the “Area to Remain” is and, more importantly, it is unclear if it is appropriate for all the trees located in the “Area to Remain” to be counted as “preserved”?

The 4.87 acre “Area to Remain” is not proposed for subdivision into single family lots under this application, and it's not identified as a lot, yet the applicant is taking credit for the trees on this parcel as “preserved.” Could this be because, if the trees on this parcel were not included in the count, the application would fail to meet code minimums for tree preservation?

In excluding the trees on the “Area to Remain,” as well as three City Trees in 12th St., and the two windthrown trees in the NW Open Space tract, we know there are 14 onsite Significant Trees (see below). **Of those 14, a total of four are proposed to be removed – nearly one-third of the onsite Significant Trees.**



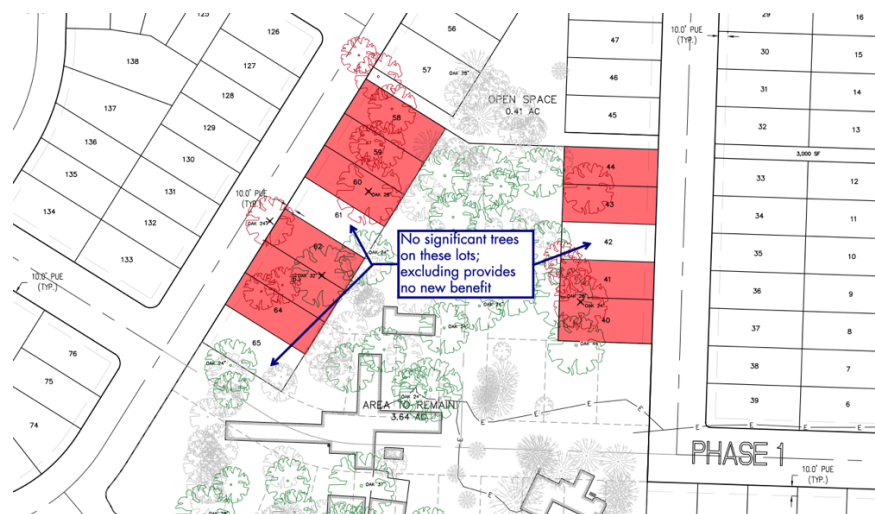
However, if the 4.87-acre “Area to Remain” is included in this application as a residential lot (consistent with the City’s view of it), then the overall density of this proposed subdivision is shockingly low – just 126 lots over 29.75 acres – barely 4 units per acre. Nothing suggests that Salem needs such low-density development, or that such low-density development qualifies as “needed housing” in Salem.

If the trees within the “Area to Remain” are counted as “preserved” under SUB21-09, then what happens when the 4.38-acre “Area to Remain” is further subdivided? **Would code allow for another 70% of these trees to be removed, on top of the 70% already to be removed under SUB21-09?**

6. The Applicant’s Proposed Condition is Inferior to Councilor Hoy’s Proposal.

During the February 28, 2022, City Council hearing, Councilor Hoy proposed a condition “to preserve the significant trees on Lots 40, 41, 43, 44, 58-60, 62-64, and 96” which would have preserved 10 Significant Trees and removed 7. That motion failed to pass, in a 3-4 vote.

Since that time, the applicant proposed their own condition: “The Final Plat shall not include proposed lots 58-65 and 40-44 as development lots.” This proposed condition adds lots 42, 61, and 65 to Councilor Hoy’s condition, however those lots have no Significant Trees on them (see below). **The applicant’s proposed condition therefore provides no additional benefit beyond Councilor Hoy’s proposed motion, which did not pass.**



Councilor Hoy’s condition would have removed the lots in red; applicant’s proposal removes 42, 61, and 65 as well.

In fact, Councilor Hoy’s motion would have protected the Significant Tree on Lot 96 (#4932), and the applicant’s proposed condition does not. **The applicant’s proposed condition is therefore inferior to the motion that already failed.**

In summary, the condition proposed by the applicant falls short of addressing community concerns about this application, fails to be consistent with the land use regulations, and cannot be made consistent through amendments or conditions. Per ORS 197.522(4), “a local government shall deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval” and therefore SUB21-09 should be denied.

Sincerely,

James Santana

Attachments: Exhibit A – Reasonable Design Alternative; Exhibit B – Checklist from Salem Planning



Scale: 100'

Exhibit A



555 Liberty Street SE / Room 305 • Salem OR 97301-3503 • Phone 503-588-6213 • Fax 503-588-6005
 www.cityofsalem.net/planning • www.cityofsalem.net

August 12, 2021

PLANNING REVIEW CHECKLIST

Subject Property: 4540 Pringle Road SE
Ref#: 21-113071-LD (Subdivision)

Applicant: Martin Kehoe **Phone:**
 11627 S Summerville Avenue **Email:** mkehoe03@gmail.com
 Portland, OR 97219

Contact: Ron Hankins, PE **Phone:** (541) 521-9797
 Emerio Design, LLC **Email:** ray@emeriodesign.com
 2677 Wilakenzie Road, Suite 1A
 Eugene, OR 97401

A consolidated application for a Phased Subdivision Tentative Plan was received on July 14, 2021 for property located at 4540 Pringle Road SE.

The following information is required for staff to deem the application complete.

Item:	
Title Report – SRC 205.030(b)	A current title report shall be included in the submittal. The applicant shall provide a current title report(s) for the subject property, the report provided is dated April 5, 2019.
Tentative Plan Requirements – SRC 205.030(a)	The tentative plan is missing the following items: <ol style="list-style-type: none"> 1. The boundaries, dimensions, and area of each proposed lot or parcel. 2. A complete tree inventory on a form as provided by the Director and, if required under SRC Chapter 808 a tree conservation plan. Per Chapter 808, to meet the definition of tree, a tree needs to have a diameter at breast height of 10 inches or more. Please remove trees identified on the inventory with a diameter less than 10 inches from the tree preservation count. 3. A statement from the County Surveyor approving the name of the subdivision or phased subdivision. 4. An expedited land division application form, explaining the applicant’s ability under state law to request an expedited land division process, is required to be complete indicating whether an

	<p>expedited land division processes is being requested for this application.</p> <ol style="list-style-type: none"> 5. Width of all existing streets and public accessways abutting the perimeter of the subject property. 6. The width and curve radius of all proposed streets, flag lot accessways, and public accessways. 7. The dimensions and use of any existing buildings and structures on the subject property. 8. Names and addresses of the landowner shown on the face of the tentative plan. Owner listed (Kehoe Northwest Properties) does not currently own the subject properties according to deed submitted and County Assessor records. The application form is required to be signed by the property owner.
<p>Property Date of Creation</p>	<p>The city is unable to determine the date of creation of the subject properties based on the information provided.</p> <p>The vesting deed submitted describes two discrete units of land. Parcel 1 appears to consist of portions of Lots 6-9, Pringle Fruit Tracts Recorded in 1913. Parcel 2 appears to consist of portions of Lots 6 and 9, Pringle Fruit Tracts Recorded in 1913.</p> <p>Additional deed research will need to be prepared by the project surveyor to determine if each of the above described Parcels were lawfully established.</p> <p>Except changes in the right-of-way, Parcel 1 will need to have been created in its current configuration prior to January 1, 1968 to be considered lawfully established.</p> <p>Except changes in the right-of-way, Parcel 2 will need to have been created in its current configuration prior to October 22, 1979 to be considered lawfully established.</p>

The following items are not listed in the SRC as specific requirements for a complete application; however, the applicant should be aware that after review of the application materials the following deficiencies have been identified which could result in a recommendation for denial of the application if not properly addressed.

Item:	
General Comments	<ol style="list-style-type: none"> 1. Street spacing. The proposed phased subdivision tentative plan does not comply with SRC 803.030(a) which provides streets shall have a maximum spacing of 600 feet from right-of-way line to right-of-way line along one axis, and not less than 120 feet and not more than 400 feet from right-of-way line to right-of-way line along the other axis. 2. Street connectivity. The proposed phased subdivision tentative plan does not comply with SRC 803.035(a) which provides in part that local streets shall be extended to adjoining undeveloped properties for eventual connection with the existing street system. Connections to existing or planned streets and adjoining undeveloped properties for eventual connection with the existing street system shall be provided at no greater than 600-foot intervals. 3. Street alignment and grade. The proposed phased subdivision tentative plan does not comply with SRC 803.035(c) which provides in part that no grade of a collector street shall exceed eight percent and no grade of a local street shall exceed 12 percent. <p style="margin-left: 40px;">Street grade exceptions are processed as alternative street standards subject to SRC 803.065. Based on feedback from the Fire Department and Traffic Engineers, there is support for the 18 percent grade proposed on 12th Street. If the applicant chooses to request alternative street standards, please provide findings in support of the request.</p> <ol style="list-style-type: none"> 4. The proposed phased subdivision tentative plan results in the removal of six significant trees which does not comply with SRC 808.015 which provides that no person shall remove a significant tree.



555 Liberty Street SE / Room 305 • Salem OR 97301-3503 • Phone 503-588-6213 • Fax 503-588-6005
www.cityofsalem.net/planning • www.cityofsalem.net

Your application, which is incomplete, will be deemed complete upon receipt of one of the following:

- (1) All of the missing information.
- (2) Some of the missing information and written notice from you (the applicant) that no other information will be provided.
- (3) Written notice from you (the applicant) that none of the missing information will be provided.

You have 180 days from the date the application was first submitted to respond in one of the three ways listed above, or the application will be deemed void.

For questions regarding the above requirements, feel free to contact me directly by calling (503) 540-2356 or via email at apanko@cityofsalem.net. The Salem Revised Code may be accessed by clicking [HERE](#).

Sincerely,

Aaron Panko, Planner III

Exhibit B

**CITY OF SALEM- CITY COUNCILORS FINAL
DECISION- RE: MEYER FARM SUB 21-09**

PETITION

To: The City Recorder. The undersigned requests The Mayor and the Salem City Council re-affirm, by Final Order, the Council vote, by 5 to 2, on March 28, 2022, to DENY the proposed Subdivision of the historic Meyer Farm. The undersigned further requests that the Mayor and the Salem City Council reject this new land use proposal from the Applicant, that was submitted after the hearing was closed. The subdivision was denied, and the Final Order should so state that. The substitute proposal, submitted AFTER the hearing was closed, proposes removal of Significant Trees. That is unacceptable. Please see online petition signatures and comments attached to this packet.

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Elizabeth Backer
Email	lizmail217@gmail.com
Date	Friday, March 11, 2022

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Patrick Wieneke
Email	patrickwnk005@gmail.com
Date	Friday, March 11, 2022

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Aleta Wieneke
Email	aletawnk005@gmail.com
Date	Friday, March 11, 2022

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Sarah Desmarais
Email	desmarais.sarah3@gmail.com
Date	Friday, March 11, 2022

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Lucy Hitchcock
Email	lucyhitchcock8140@gmail.com
Date	Friday, March 11, 2022

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Jenny Hiatt
Email	jelleyhiatt@hotmail.com
Date	Friday, March 11, 2022

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Steve Sessa
Email	sksessa@outlook.com
Date	Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Kate Fuller
Email	kl.fuller@gmail.com
Date	Friday, March 11, 2022
Comments	<p>It is alarming and if I may say, suspicious, that after a vote to deny Kehoe's plan to develop the Meyer Farm property, actions have been taken by some among you to discard that decision - which was meant to be FINAL - and instead open new avenues for the developer to tear down trees and shoehorn in too many domiciles on property that should rightly be part of Salem's parks plan. Unsavory, to say the least. Please stick to the "final" decision and don't scramble in this unseemly manner to give undue advantages to the developer. The decision was and is DENY.</p>

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Joyce Judy
Email	pacajoyce@sbcglobal.net
Date	Friday, March 11, 2022
Comments	Please don't approve this subdivision.

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Joyce Judy
Email	pacajoyce@sbcglobal.net
Date	Friday, March 11, 2022
Comments	Please do not approve this subdivision.

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Kathy Sansone
Email	sansonefamily@comcast.net
Date	Friday, March 11, 2022
Comments	I strongly urge a reaffirmation of the February 28 City Council's 5-2 vote to deny the proposed subdivision of the Meyer Family Farm property.

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Steve Sansone
Email	sansonefamily@comcast.net
Date	Friday, March 11, 2022
Comments	I strongly object to Kehoe Developments being allowed to resubmit a plan for subdividing the Meyer Family Farm property after the February 28 denial from City Council 5-2 vote.

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Susan Wilson
Email	sbwilson4@comcast.net
Date	Friday, March 11, 2022
Comments	The City Council denied the application at its last meeting and should confirm that denial. The changes from the applicant should not be accepted.

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Geoffrey James
Email	gjamesarchitect@gmail.com
Date	Friday, March 11, 2022
Comments	Save historic Meyer Farm for future generations.

Friday, March 11, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Melissa Rasch
Email	melissa.rasch@yahoo.com
Date	Friday, March 11, 2022
Comments	Deny the new land use proposal, the changes submitted are not enough to protect the Significant trees and the federally protected bird species. The decision was made to deny the proposal, end of discussion.

Saturday, March 12, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Peter Meyer
Email	pbmeyer@verizon.net
Date	Saturday, March 12, 2022
Comments	Kehoe's proposal is a terrible assault on a beautiful and unique urban oasis by someone who does not even own the property.

Saturday, March 12, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Roger Kaye
Email	rkaye2@gmail.com
Date	Saturday, March 12, 2022

Saturday, March 12, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Rachael Atchison
Email	occupyrachael@gmail.com
Date	Saturday, March 12, 2022

Sunday, March 13, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Sandra Pritchard
Email	pritch4143@comcast.net
Date	Sunday, March 13, 2022
Comments	Re- affirm,byfinalOrdeer,theCouncilvote,5to2,onFeb.28,2022,toDE NYtheproposedsubdivisionofTheMeyerFar.

Sunday, March 13, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Elisabeth Underwood
Email	uoringwood@aol.com
Date	Sunday, March 13, 2022

Sunday, March 13, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Katherine Douglas
Email	douglasclan5@aol.com
Date	Sunday, March 13, 2022

Sunday, March 13, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Thomas Douglas
Email	douglasclan5@aol.com
Date	Sunday, March 13, 2022

Monday, March 14, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Terri LloydJones
Email	terllo@msn.com
Date	Monday, March 14, 2022
Comments	Uphold the council's vote to deny development!

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Lora Meisner
Email	lmg@earthlink.net
Date	Monday, March 14, 2022
Comments	<p>I am hoping that the Mayor and City Council will show some courage as well as some concern for the future of Salem and continue to DENY the Meyer Farm proposed development. I would hope that some of you may have learned something from the debacle of the PacTrust/Costco development. Of course, you could always be courageous--not likely but I can help but hope--and decide to help us now as well as future generations with climate change by saving ALL of the trees on the Meyer Farm property. Or of course, you can be afraid and cave like you have in the past and give in to developers interests. Don't you ever get tired of being afraid of developers? Try some courage, you may like it.</p>

Monday, March 14, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Lisa Novak
Email	novaklisa137@gmail.com
Date	Monday, March 14, 2022

Wednesday, March 16, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Aileen Kaye
Email	arkaye2@gmail.com
Date	Wednesday, March 16, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Maggie Emery
Email	maggie.k.emery@gmail.com
Date	Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Karen Bledsoe
Email	bledsoek@gmail.com
Date	Monday, March 21, 2022
Comments	Thank you for blocking the subdivision of the entire Meyer farm. This property needs a more thoughtful plan that includes green space, preservation of important trees and habitat, and the impact on the surrounding neighborhoods.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Alison Kaiser
Email	alison.kaiser@mac.com
Date	Monday, March 21, 2022
Comments	Ler this be a decision made as one that benefits the city for generations to come to keep a beautiful historical green space. You don't get those back.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Sarah Rohrs
Email	sarahjrohrs@gmail.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	William Wherity
Email	wwherity@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Ray Noble
Email	nobler001@yahoo.com
Date	Monday, March 21, 2022
Comments	Please deny.

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Amelia Bray-Meehan
Email	amelia.douglas23@gmail.com
Date	Monday, March 21, 2022
Comments	I am opposed to the new development as it is just more single family houses and will take away a beautiful green space in Salem. I think a better use for the land would be a city park or a historical site as many of the trees (as far as my understanding goes) were planted by the Indigenous occupants of the land and that deserves to be respected.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Heather Cohen
Email	heatherbcohen@gmail.com
Date	Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Bonnie Davidson
Email	tuxedolove5@gmail.com
Date	Monday, March 21, 2022
Comments	No means no! The city council has denied the development of the land known as the Meyer Farm. This sale and pending development is not supported by the majority of the Meyers Family. There is a court case to determine ownership rights: the city of Salem should have never become involved while ownership and the right to determination of the fate of the property is unknown.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Rebekah McLean
Email	bekahuo@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Gretchen Martin Straus
Email	goddessagogo@gmail.com
Date	Monday, March 21, 2022
Comments	Stay the course of what is best for the remaining open spaces in Salem not the profits of developers.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Marc Nisenfeld
Email	marc.nisenfeld@gmail.com
Date	Monday, March 21, 2022
Comments	Why have a City Council when one can circumvent their decisions so easily?

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	jacqueline hilfiker
Email	hejahctf@yahoo.com
Date	Monday, March 21, 2022
Comments	Please deny the Meyer Property from being developed into housing.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Karen Alvarez
Email	dkalva2001@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Maureen Murphy-Foelkl
Email	toma099@yahoo.com
Date	Monday, March 21, 2022
Comments	<p>A no vote should remain a no Why do we as taxpayers continue to use precious resources of time and money to development companies that clearly have no connection to our City except for monetary reasons? It's time to step forward to become a sustainable city. Do it.</p>

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Thomas Foelkl
Email	toma099@yahoo.com
Date	Monday, March 21, 2022
Comments	<p>Why are we giving companies a second chance when clearly the Meyer family does not agree with what should happen to the property?</p> <p>Step out of the picture until the family decides. This should have not happened to begin with.</p>

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Anita Engberg
Email	anitaengberg@centurylink.net
Date	Tuesday, March 21, 1922
Comments	Please, please, please.....make this denial stick!!

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Amber Padilla
Email	amber52@comcast.net
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Steve Morton
Email	Morton.steve52@gmail.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Molly Douglas
Email	goodgolymissmollykate@gmail.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Tim Burton
Email	taburton@comcast.net
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	susan watkins
Email	susanwat@peak.org
Date	Monday, March 21, 2022
Comments	I'm very concerned about the uncontrolled development in areas surrounding Salem that convert farmland to housing developments. This has to stop, immediately.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	David Bray-Meehan
Email	davidmeehan7@gmail.com
Date	Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Peter Meyer
Email	pbmeyer@verizon.net
Date	Monday, March 21, 2022
Comments	The Council had plenty of testimony and the Developer was given plenty of opportunity suggest alternate proposals at its February 28 meeting. In fact, the Council voted down a proposal that night that offered such an alternative. The Council's 5-2 vote should have been final.

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	James MacAfee
Email	jmacafee1@msn.com
Date	Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Ralph Rodia PhD
Email	rrodia@msn.com
Date	Monday, March 21, 2022
Comments	<p>The Council should take into consideration that there are concerns beyond those that the Planning Commission is limited to address. If the Council approves the proposal, that decision would lead to the loss of a part of our history and heritage, the city's insertion into the dispute between the heirs as to the future of the property, the loss of habitat for many wild animals and birds, the loss of an Indian archeological (meeting place) site, and it would bring a major negative impact to the existing neighbors and traffic patterns.</p> <p>Just because the applicants may meet the requirements of the Development Code, the Council (as our representative) has the obligation to look beyond the code as to what is best for the future of Salem and all of its citizens, and not just what the developers desire now. Is it necessary to continue to destroy our past as we grow as a city?</p>

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Janie Shaw
Email	janieshawshaw123@gmail.com
Date	Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Guy Kampstra
Email	churchsoftball77@comcast.net
Date	Friday, November 14, 1952
Comments	PLEASE DENY the proposal of the subdivision of the MEYER farm

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Aileen Kampstra
Email	agkamps@comcast.net
Date	Sunday, October 25, 1959
Comments	Please DENY the proposal of the subdivision at the Meyer farm

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Jamie Macnamara Loflin
Email	huffygirl51@yahoo.com
Date	Monday, March 21, 2022
Comments	<p>Stop over developing SALEM. We have so many more pressing problems to deal with instead of just trying to get the max money out of small lots.</p> <p>Salem is truly 30 times a worst place to leave then it was about 10 years ago. The only main change I have noticed is developing and developing and raising rents.</p> <p>We have no reason for 1000+ one bedroom apartments. Its just plain greed.</p>

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Thomas Douglas
Email	douglasclan5@aol.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Alan Tocchini
Email	a.tocchini@comcast.net
Date	Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Kelley Hiatt
Email	kelleyhiattleo@gmail.com
Date	Monday, March 21, 2022
Comments	<p>City council denied and we have another vote? Why? He hasn't really addressed safety or tree conservation! Kehoe was denied for what he has already addended. Please stop this madness! I ask the intelligent Salem city council once again to deny this "new" development planned as this developer lied on his tree cut count historically. Kehoe needs to be banned from any further business in Salem as he is not trusted as this point and I would like to see city council ban this developer. This city deserves trust and Transparency both have been rotted with this broken plan by someone powered on greed. Once again the citizens are fed up with lying developers: Salem hospital cut the oaks at the school for the blind, Costco cut down old oaks please don't add this development plan to Salem's broken tree cutting history!</p>

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Sarah Thompson
Email	SARAHENTHOMPSON@GMAIL.COM
Date	Monday, March 21, 2022
Comments	<p>So many people say 'not in my neighborhood' when it comes to developing. But Meyer Farm isn't in my neighborhood. In fact, I supported the development of the site of the former Picsweet Mushroom Factory less than a mile from my house. The Meyer Farm, however, has a great deal of history and heritage that if it is rushed into a development will be lost forever. At a minimum, please delay the decision until after the courts rule on the legal right of the heirs.</p>

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	MARY HIATT
Email	luvasheep@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Brian Sund
Email	sund60@icloud.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Kasi Jeffries
Email	jeffries2009@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Michael Jeffries
Email	jeffries2009@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Jordan Jeffries
Email	jeffries2009@yahoo.com
Date	Monday, March 21, 2022

Monday, March 21, 2022

CITY OF SALEM- CITY COUNCILORS FINAL DECISION- RE: MEYER FARM SUB 21-09

PETITION

Name	Ryder Harden
Email	jeffries2009@yahoo.com
Date	Monday, March 21, 2022

Peter Meyer
330 Allen Street
Hudson NY 12534
pbmeyer@verizon.net
518.929.6505

March 21, 2022

City of Salem Planning Division
555 Liberty Street SE
Room 305
Salem, OR 97301
ATTN: Aaron Panko, Planner III
Via email: APanko@cityofsalem.net
Cc: LMAnderson@cityofsalem.net

RE: Subdivision Case No. SUB21-09 – Documents for the City Council

Dear Mr. Panko,

This letter, as well as the exhibit attached to it, is submitted as testimony to the Salem City Council as relevant to issues raised about the above case either at or subsequent to the Council's February 28th meeting.

1. First, if I may, I believe that the Council's third vote on February 28 related to SUB21-09 (5-2 denying the application was a "final" vote based on the relevant law, especially that stated by Liz Backer . It was wrong of the Council to grant Mr. Kehoe yet another opportunity to change and correct his proposal when the public was told, prior to the meeting, that this was it and Council itself, at that meeting, acted as if this were it.
2. Second, it is important for the Council to know that the litigation concerning ownership of the property is ongoing, including the postponement of a forensic accounting hearing to August. Per the attached, and my previously submitted Exhibit 14, that forensic accounting has charged one of the Trust's co-Trustees with possible fraud in her bookkeeping (attachment).
3. Third It is also important for the Council to remember that the current Purchase and Sale Agreement (PSA) between Mr. Kehoe and the Henry Meyer Trust (which owns the property), very specifically handcuffs Kehoe's ownership rights (Section 13.2 exhibit 12 of my previous testimony and attached with this letter) by giving the Court the right to drop Mr. Kehoe at any time.
4. Fourth, the charges against co-Trustee Molly Meyer (number 2 above), who was one of the signatories to the PSA on behalf of the Trust, raise serious questions about the "recission" rights of the three beneficiaries (a majority) who still object to the sale to Kehoe.

5. Finally, it must be stated that at the last Council meeting, February 28 (see #1 above), there were inaccuracies stated by Roy Hankins, director of operations with Emerio Design and project engineer for SUB21-09 regarding ownership questions and subdivision rights related to the property. Mr Hankins told Councilor Chris Hoy that *“They [the family] were very specific about the area they [the family] wanted to retain for themselves as part of the property.”* Hankins failed to state that the “family” was the Trust – now in litigation – whose attorney David Carlson, has already stated that there is a statute that prohibits the sale of a lot that hasn't been created on paper yet (letter attached). This inaccuracy must be considered in the Council's deliberations on March 28.

Thank you for your consideration.

A handwritten signature in blue ink, appearing to read 'Peter Meyer', with a stylized, flowing script.

Peter Meyer
Beneficiary of the HAM Trust, *pro se* litigant in

Attachments.

DAVID L. CARLSON, P.C.

ATTORNEY AT LAW

RECEIVED

MAR 30 2021

March 25, 2021

LARKINS VACURA KAYSER

Peter Meyer
330 Allen Street
Hudson, NY 12534

Quinn Meyer
3 Kendrick Mews
London SW7 3HG
United Kingdom
quinn@crees-manu.org
quinn@mco.ltd.uk

Molly Meyer
c/o Jan Kitchel, Attorney at Law
1205 NW 25th Ave
Portland, OR 97210

Ian Meyer
c/o J. Kevin Shuba
Garrett Hemann Robertson
PO Box 749
Salem, OR 97308

Mary Ann Meyer Santana ✓
c/o Bill Larkins, Jr.
121 SW Morrison Street, Ste. 700
Portland, OR 97204

James Meyer
3907 SW View Point Ter
Portland, OR 97239

Miranda Spackman
4 Meadow Gate, Prestwood
Great Missenden, HP16 OJN
United Kingdom
Miranda.spackman@gmail.com

John Meyer
c/o Hunter Emerick, Attorney at Law
Saalfeld, Griggs, PC
PO Box 470
Salem, OR 97308

Annabelle Ahouiyek
6 Reece Mews
London SW7 3HE
United Kingdom
Annamey2004@yahoo.co.uk

Re: Henry A. Meyer - Trust
Our file #: 21-019

Greetings:

Please be advised that I am the attorney for Michelle Morrow. Ms. Morrow was appointed by Judge Hart to be the successor Trustee for the Henry J. Meyer Trust and a copy of that order appointing her is enclosed for your review. Please direct any inquiries you may have regarding the Trust and its administration to my attention. This purpose of this letter is to be an initial report to the beneficiaries regarding the status of the Trust as well as to outline how the trustee intends to proceed.

First, Ms. Morrow's compensation is \$190.00 per hour and will be paid from the Trust's assets from time to time. There is no specific schedule for this as the state of the Trust is such that regularity is presently out of the question. The Trustee anticipates that this will change in time, however, not until several steps have been taken. For our purposes at the present time it is important to note that the more time the Trustee must devote to the management of the trust, including litigation of matters involving trust beneficiaries and responding to a multiplicity of requests from beneficiaries or their proxies, the greater the charge for her services. Ultimately, the greater the costs of administration the less will be remaining for the beneficiaries. It is therefore in everyone's interest to reduce to a minimum the amount of bickering between familial factions and to let the Trustee proceed with the administration of the Trust as expeditiously as possible.

Second, the Trust's financial position at this point is precarious, to say the least. As you can tell from the attached summary of assets the amount of liquid assets the Trust holds is minimal. So much so, in fact, that the Trustee cannot afford to maintain the real property, much less attempt any improvements to the property. At the present time there is minimal electrical power to the premises which means that very few amenities are functional and there is no significant water to the premises. This renders the premises functionally uninhabitable and certainly not something that could be rented out even for short term tenants. Any thought that the premises could be used as a vacation rental to generate income is therefore misplaced. Nor does the Trustee anticipate that will change in the short or long term. The recent ice storm here did nothing to improve the situation and there are multiple tree limbs down on the ground and on buildings. There are additional limbs that are hanging from trees and pose a hazard until they are removed. The Trust currently lacks the funds to complete such a removal.

Third, it is the intention of the Trustee to conduct an estate sale of the personal property items on the property. Recognizing that the family may have a desire to purchase some of the items for sentimental reasons the Trustee will set a date for the sale and the day *prior* to the sale the family will be allowed the opportunity to purchase anything offered by the Trust for sale. Any items so purchased will need to be removed that day so that there is no confusion regarding whether the item is a part of the subsequent sale to the general public. If any member of the family has left any of their own personal property on the premises please advise me of that immediately so that arrangements can be made for you to retrieve that property.

Fourth, The Glass Barn is not presently a profitable concern and apparently has not been for quite some time. Although it continues to operate at the present time, Molly Meyers has given her notice that she is leaving the employment of the Glass Barn on the 26th of the month. If anyone is interested in purchasing The Meyer Family Company, dba The Glass Barn, then feel free to make an offer to the Trustee through me. Please keep in mind the following limitations. First, the offer must be in cash. Second, the company will need to operate from a different property than the current property as the Trustee will not be open

to a lease of the premises to the business. As a result any and all stock and supplies will need to be removed from the property in an expedited manner. If no one in the family wishes to purchase the business in the next two weeks the Trustee will attempt to sell the business to outside entities or it will be dissolved and the assets of the company sold.

Fifth, there are apparently some outstanding obligations of the Trust to creditors and others who have provided services. Although the Court has ordered a forensic accounting to determine these potential obligations that accounting will be costly and, as previously explained, the Trust does not presently have funds sufficient to present even a down payment on the forensic accounting. As a result that forensic accounting will not be started until such time as the Trust has funds to commence said accounting. If you have information that pertains to those obligations please provide those to me as soon as possible so that they may be evaluated and provided to the accountants.

Sixth, the Trustee continues to work on the sale of the property, including attempting to carve out a so called "Heritage Parcel" and allow a family member (or members) to purchase that parcel from the current buyer. Some family members have suggested that this parcel be created and sold now. At the present time there is no separate parcel that could be used to fulfill that role until a subdivision of the property is accomplished. In Oregon selling a piece of property that has not been properly subdivided is illegal. Creating such a subdivision of the property is presently beyond the financial resources of the Trust, which is why the Trustee's discussion of the Heritage Parcel is taking place in the context of the larger sale as a new plat will presumably be recorded as a part of that sale. The Trustee is therefore declining to attempt the creation of such a parcel or to sell such a parcel illegally.

Seventh, as I mentioned before, there are substantial liabilities incurred by the Trust and by the Settlor before his death that will need to be paid. The payment for these obligations can only come from the sale of the Trust's assets, primarily the real property. Selling that property will incur substantial tax liability, both in income tax and in the repayment of deferred property taxes. As a result of the payment of the Trust's liabilities it is entirely possible that there will be only a minimal benefit to the various beneficiaries of the Trust.

Eighth, some member of the family apparently feel compelled to write to the Court when they feel their concerns are not being responded to quickly enough or often enough by the Trustee. That is, of course, your right to do subject to Judge Hart's level of patience. It will not, however, prompt the Trustee to continuously respond to letter after letter, week after week, filled with incorrect statements of the facts or of the law and asking question after question (most of which have previously been answered in a variety of forums). The Trustee's duty to keep beneficiaries reasonably informed of material facts necessary for the beneficiaries to protect their interests does not extend to being a beneficiary's search engine for all things trust related no matter how inane or inconsequential. Candidly, none of what is occurring here is a surprise to anyone as the issues have been discussed and litigated *ad nauseum*. In this instance it is apparent that beneficiaries are so well informed

Beneficiaries –
Henry A. Meyer Trust
March 25, 2021
Page 4

that family members are able to specifically cite to portions of sale agreements and the like as well as their opinion of revenue streams from business ventures (regardless of whether that opinion is accurate). In short, as the litigation history amply demonstrates, the beneficiaries have been fully informed of past events and continue to be informed of events that are ongoing.

Lastly, I want to both reiterate and underscore a prior comment. In looking at the Court's file in this matter it is apparent that there are strong emotions present here, the family is highly factionalized and fractured, and that just about everyone is willing to spend the time and money to explain their side of the situation to a judge. As an attorney I can appreciate the zeal that everyone has- that's how we lawyers make a living after all. I also appreciate the cost, both financially and emotionally. In any of these cases where beneficiaries are fighting over an estate there is precious little that can be done to increase the size of the pie that is the subject of the fight. And while everyone is fighting over that pie the lawyers are also taking chunks out of the pie. Every pleading or letter filed with the Court requires a response, objection or reply from someone else. Every one of those things must be reviewed and responded to by the Trustee and me. My assumption is that the beneficiaries are sophisticated parties and capable of doing the math on what that means, but the short version is that the more everyone fights, objects and agitates the less benefit there will be for all of the beneficiaries to enjoy. If that is the goal then I suspect some beneficiaries will point that out to the Court to apportion the burden that creates to the beneficiaries who are creating the problem. You may wish to plan accordingly in order to minimize the costs that are regularly being incurred in this matter.

Very Truly Yours,



David L. Carlson
David@DavidCarlson-Attorney.com

DLC:dIm
Enclosure
cc: client

REAL ESTATE PURCHASE AGREEMENT

AND JOINT ESCROW INSTRUCTIONS between Kehoe NorthWest Properties and HAM Trust, Henry A. Meyer Revocable Living Trust, signed by Trust co-Trustees Molly Meyer and Ian Meyer on August 6, 2021.

13. 2 Proceedings. Seller has no actual knowledge of *any* actions, suits, proceedings or governmental investigations pending or threatened against or affecting the Property, in law or equity, except the proceeding *In the Matter of the Henry A. Meyer Revocable LMng Trust*, Marion County Circuit Court Case No. 19PB06270. This is a judicial supervision lawsuit brought by three beneficiaries and it has not concluded despite the above-mentioned order. The Court retains oversight and jurisdiction over the assets and actions of the Trustees/Seller. There is a possibility that the court could preview the details of this transaction and court-approval could be required before closing this transaction. Should the transaction fail to close due to lack of court approval, appellate actions, or any court order in favor of an objecting party, Buyer shall be entitled to a full refund of any deposits limited to a maximum of \$150,000, even if said deposit had been considered non-refundable, and reimbursement for all hard costs expended in evaluating, planning, and developing the North Portion **during the Pre-Closing period, and If the North Portion becomes saleable at the direction of the Trustees/Sellers within three (3) years of termination of this agreement due to court action, Buyer shall be allowed to purchase the North Portion at the current terms plus or minus a variation of up to ten-percent(10%) based on an appraisal conducted at the time of the renewed listing. If either party disputes the appraisal, the disputing party may choose a separate appraiser and the parties agree that the value will be the average of the two appraisals.** If Buyer eventually purchases the North Portion, any damages (deposits and hard costs) previously paid by Seller will be added to the Purchase Price.

From the PSA with Kehoe



From: Forensic Accounting report: Declaration of Michelle Morrow, Trustee, Morones Analytics, page 20/35, November 30, 2021.

70. Upon our review of the QuickBooks Audit Trail report, we discovered many cases where the historical accounting records of the Glass Barn had been altered years after their original recording to recharacterize likely personal expenses of Molly Meyer. Some of the noted transactions were altered in a manner that concealed the original name and descriptions of transactions, many of which appear to have been originally recorded with descriptions that would have identified them as likely personal expenses of Molly Meyer. I further discuss examples of altered transactions in a later subsection. I have not quantified the total of altered transactions, as doing so would substantially increase the cost of our assignment, and such an analysis is not necessary given my conclusion that Molly is not owed additional compensation. See paragraph 85 and following for further discussion

From: [Dean McNulty](#)
To: [CityRecorder](#)
Subject: Meyer Farm Subdivision
Date: Sunday, March 20, 2022 1:01:07 PM
Attachments: [Meyer Farm Subdivision.pdf](#)

I would like this attachment be added for public comment please regarding the Meyer Farm for the upcoming hearing on the new plan submitted by the developer.

Thank you.

To: City Counsel
From: Dean McNulty
Date: March 20th, 2022

Subject: Subdivision Case No SUB21-09 (Meyer Farm)

Hello, I am again requesting this subdivision be approved by the City Council.

I have no familiar or financial relationship, with the Meyer family nor the developer, however I strongly urge the City Council to approve this subdivision.

I understand the City Council denied the approval of this subdivision over the removal of too many Oregon White Oaks and the developer has resubmitted a new plan with reduced lots in order to comply with the wishes of the council.

It appears to me they have done a great job with trying to meet the wishes of the city council and as a reminder, this subdivision meets all the requirements of current zoning laws for this area.

It also appears to me that I am one of the few to make a public statement in support of approving this subdivision. It is my hope that the City Council approves this subdivision which would support controlled growth in the urban boundary and help with the local economy.

I also hope the developer is willing to sell lots to local builders in the area vs selling to one large Portland or National builder. I have a local builder in Salem that I plan to use to build our "dream home" in Salem, however finding lots that are available to purchase has been very difficult and this subdivision is in an ideal location as it is in walking distance to many retail businesses.

Salem also has nearby parks from this proposed subdivision, the closest being Woodmansee Park which contains white oaks and areas to recreate. I plan to walk and bike to this park and to retail businesses from the Meyer Farm Subdivision if our dream of building in this location is approved.

This is what I previously submitted to the City Council prior to the decision to deny they proposed Meyer Subdivision:

Although I currently reside in Redmond, Oregon, I was born in Salem and grew up on a farm north of Mt. Angel. I resided in Salem from 1992 until 2017 when I transferred to Central Oregon based on my employer needs. I am nearing retirement and have been planning to move back to Salem, build our dream home and once again become part of the community which I miss.

The proposed “Meyer Farm” subdivision would be a perfect location for us and sure other families would also enjoy the location too. The location is a nice balance of being close to stores, shops, churches, and restaurants on Commercial, but far enough away for reduced noise and privacy. In fact it is a very walkable location.

I understand some folks might be upset with the proposal as their homes border this area and would impact them. I am also aware some folks consider this subdivision a historical site, and oppose any future homes being built on the land along with possible environmental impacts. I do not dispute this, however I would like to bring up a few topics that counter some of the opposition.

First of all, I am a 5th Generation Oregonian and my Great Great Grandfather William Heisler settled in Salem in the 1850's. He purchased land in the South Salem area and later sold that land to a gentleman named Gaines who became the second Governor of Oregon. This land my ancestor owned was historic along with all the other homes and lands of the time. However over time, they have become locations of current homes, businesses, churches and institutions.

To deny this subdivision based on the “Historic Meyer Farm” designation seems in a way hypocritical to me but understand the argument and efforts to preserve history. However from my understanding of the plot map, the subdivision would keep the existing old buildings along with retaining many of the oak trees in that area.

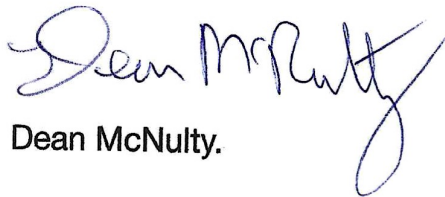
I can remember all the Cherry Orchards near Lancaster Ave as a young child and don't recall folks protesting when they built Lancaster Mall and homes for families which were previously historic farms in the area.

I have never been one to build a home in a subdivision and then become upset when other also want to live in that same area, even if it altered previous territorial and mountain views from my home which has happened to me in the past.

I am hopeful this proposed subdivision is approved and want to thank the city counsel for carefully considering it and hearing from all sides.

I am hopeful the City Counsel approves this Subdivision based on the new plan which saves additional trees and balances the environmental concerns with adding new homes in a walkable location.

Thank you

A handwritten signature in blue ink that reads "Dean McNulty". The signature is fluid and cursive, with a large loop at the end of the last name.

Dean McNulty.