

*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

VALIDATION OF UNIT OF LAND CASE NO.: VUL21-01

APPLICATION NO.: 21-102765-LD

NOTICE OF DECISION DATE: April 16, 2021

SUMMARY: A proposal to validate a unit of land that was divided from its parent tract by deed in 1994.

REQUEST: The request is to lawfully establish a tax lot divided from its parent tract in 1994 without land use approval. The applicant is requesting to validate the property, zoned IG (General Industrial), located in the 4000 Block of Salem Industrial Drive NE (directly east of 4175 Salem Industrial Dr NE, and known as Marion County Tax Assessor number 073W12B / 5300).

APPLICANT: Brandie Dalton on behalf of Matthew Fitzmaurice

LOCATION: 4000 Block of Salem Industrial Dr NE, Salem OR 97301

CRITERIA: Salem Revised Code (SRC) Chapters 205.060(d) – Validation of Unit of Land

FINDINGS: The findings are in the attached Decision dated April 16, 2021

DECISION: The **Planning Administrator APPROVED** Validation of Units of Land Case No. VUL21-01 subject to the following conditions of approval:

Condition 1: Prior to final plat review, the applicant shall provide easements to Portland General Electric for existing infrastructure.

The rights granted by the attached decision must be exercised, or an extension granted, by May 4, 2023, or this approval shall be null and void.

Application Deemed Complete:	<u>March 3, 2021</u>
Notice of Decision Mailing Date:	<u>April 16, 2021</u>
Decision Effective Date:	<u>May 4, 2021</u>
State Mandate Date:	<u>July 1, 2021</u>

Case Manager: Kirsten Straus, kstraus@cityofsalem.net, 503-540-2347

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m. Monday, May 3, 2021. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 205. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



proper fee, the appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

**BEFORE THE PLANNING ADMINISTRATOR
OF THE CITY OF SALEM
(VALIDATION OF UNIT OF LAND NO. 21-01)**

*Si necesita ayuda para comprender esta información, por favor llame 503-588-6173.
<http://www.cityofsalem.net/planning>*

IN THE MATTER OF THE VALIDATION OF UNIT OF LAND NO. 21-01; 4000 Block of Salem Industrial Dr NE))))	FINDINGS AND ORDER April 16, 2021
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REQUEST

Summary: A proposal to validate a unit of land that was divided from its parent tract by deed in 1994.

Request: The request is to lawfully establish a tax lot divided from its parent tract in 1994 without land use approval. The applicant is requesting to validate the property, zoned IG (General Industrial), located in the 4000 Block of Salem Industrial Drive NE directly east of 4175 Salem Industrial Dr NE, and known as Marion County Tax Assessor number 073W12B / 5300.

DECISION

APPROVED subject to the applicable standards of the Salem Revised Code, the findings contained herein, conformance with the approved site plans, and the following conditions of approval:

Condition 1: Prior to final plat review, the applicant shall provide easements to Portland General Electric for existing infrastructure.

PROCEDURAL FINDINGS

1. On February 3, 2021, an application for a validation of unit of land was filed proposing to legally establish the subject property identified as tax lots 073W12B / 5300, located in the 4000 Block of Salem Industrial Drive NE directly east of 4175 Salem Industrial Dr NE, (**Attachment A**). The application was accepted on February 3, 2021 when the applicant submitted materials supporting the request.
2. After requesting additional information from the applicant, the application was deemed complete for processing on March 3, 2021 and notice to surrounding property owners was mailed the same day, pursuant to Salem Revised Code. The state-mandated local decision deadline is July 1, 2021.

APPLICANT'S STATEMENT

A request for a validation of unit of land must be supported by proof that it conforms to all applicable criteria imposed by the Salem Revised Code. The applicant submitted such statements and proof, which are included in their entirety as **Attachment B** in this land use decision. Staff utilized the information from the applicant's statements to evaluate the applicant's proposal and to compose the facts and findings within the decision.

SUBSTANTIVE FINDINGS

1. Salem Area Comprehensive Plan (SACP) Designation

Comprehensive Plan Map: The subject property is designated IND (Industrial) on the Salem Area Comprehensive Plan (SACP) Map.

Urban Growth Policies: The subject property is located inside the Salem Urban Growth Boundary and inside the corporate city limits.

Growth Management: The subject property is located outside the Urban Service Area.

2. Zoning and Surrounding Land Use

In 2020, the applicant applied for a Property Line Adjustment concerning the subject property. During the review process, the subject tax lot was found to be illegally created by deed in 1994 and the applicant applied for validation. The land area was created by deed in 1994 without a land use review. The validation of the property is necessary in order to continue with the originally proposed property line adjustment. The surrounding properties are zoned and used as follows:

North: IG (General Industrial)

South: IG (General Industrial)

East: Across Salem Industrial Dr NW - IG (General Industrial)

West: Across Railroad Right of Way - IC (Commercial Industrial)

3. Existing Site Conditions

The land area abuts Salem Industrial Dr NE to the east. It is irregularly shaped and averages approximately 86-feet in depth, approximately 260-feet in width and has approximately 270 ft. of street frontage. There is an existing building located at 4175 Salem Industrial Dr NE (Tax Lot 2500) and access through Tax Lot 5300 is necessary to access Tax Lot 2500.

4. Neighborhood and Citizen Comments

The subject property is located within the boundaries of the Northgate Neighborhood Association. Notification was sent to the neighborhood association and surrounding property owners and residents within 250 feet of the property on March 3, 2021. One comment was received from a surrounding resident indicating no concerns with the proposal.

5. City Departments and Public Agency Comments

- The Public Works Department, Development Services, and City Surveyor staff reviewed the proposal and provided these comments and recommendations for plat approval.
 - Final Plat Submittal: The application shall provide the required field survey and partition plat as per the statute and code requirements outlined in the Oregon Revised Statutes (ORS) and the Salem Revised Code (SRC). If the said documents are not in compliance with the requirements outlined in the ORS and the SRC, and as per SRC 205.035, the approval of the partition plat by the City Surveyor may be delayed.
- The Building and Safety Division reviewed the proposal and had no comments.
- The Salem Fire Department reviewed the proposal and indicated that they have no concerns with the validation of unit of land. Items including fire department access and water supply will be required for any construction.

6. Private Agency and Service Provider Comments

Public agencies and public and private service providers for the subject property were mailed notification of the proposal.

- Portland General Electric (PGE) reviewed the proposal and provided these comments and recommendations prior to plat approval.
 - As part of this land partition, easements across the newly created parcel (small one) will be necessary. We have both overhead and underground cable passing across the small parcel to supply the large parcel.

Staff Response: In order to ensure that the proper easements are recorded to benefit PGE infrastructure on the site, the following condition will apply:

Condition 1: Prior to final plat review, the applicant shall provide easements to Portland General Electric for existing infrastructure.

7. Criteria for Granting a Validation of Unit of Land

SRC 205.060(d) establishes the criteria that must be met before a unit of land can be validated.¹ In order to approve a validation of unit of land, the review authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria and factors are satisfied.

The applicable criteria are stated below in bold print. Following each criterion is a response and/or finding relative to the proposed tentative partition. The applicant provided justification for all applicable criteria (**Attachment B**).

SRC 205.060(d)(1): The unit of land is not a lawfully established unit of land.

Finding: The subject property was annexed into the City of Salem in April of 1970. The subject property, in its current configuration, was created in 1994 (Reel 1155, Page 328) by a quitclaim/warranty deed which was recorded in the Marion County Deed records. The above-mentioned deed divided the property without a land use application, therefore illegally dividing the property. Because the subject property was not created through proper land use procedures, this criterion is met.

SRC 205.060(d)(2): The unit of land was created through sale or deed or land sales contract executed and recorded before January 1, 2007.

Finding: According to the written statement and staff research, the unit of land was created prior to January 1, 2007, by a recorded deed (Reel 1155, Page 328) in 1994. The applicant has provided a copy of the 1994 recorded deed creating the subject unit of land through sale as evidence. The subject unit of land was not created solely to establish a separate tax account and was not created by gift or any other method that is not considered a sale. This criterion is met.

SRC 205.060(d)(3): The unit of land could have complied with applicable criteria for the creation of the unit of land in effect when the unit of land was sold.

Finding: The property is zoned IG (General Industrial) and has not gone through any zone changes, thus the IG standards from 1994 are applicable. The applicant provided City of Salem zoning code, Chapter 158; IG zone – General Industrial, which was in effect when the unit of land was created by deed. The development standards of the IG zone had no minimum lot area or dimension requirements, except for the minimum 16 feet of street frontage requirements of SRC 130.260. The subject property has approximately 270 feet of street frontage and would have complied with the applicable criteria for the creation of the unit of land in effect when the property was created in 1994. This criterion is met.

¹ Notwithstanding criterion SRC205.060 (d)(3), the Review Authority may approve an application to validate a unit of land that was unlawfully created prior to January 1, 2007, if approval was issued for a permit to allow the construction of placement of a dwelling or other building on the unit of land after the sale.

SRC 205.005(d)(4): The plat complies with SRC 205.035 and ORS 92.

Finding: The applicant submitted a copy of a proposed plat (**Attachment C**). The Public Works Department reviewed the proposal and submitted comments describing the procedure and submittal requirements for recording of a final plat.

8. Conclusion

Based upon review of SRC 205.060, the findings contained under Section 7 above, and the comments described, the validation of unit of land complies with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

IT IS HEREBY ORDERED

The tentative Plat for the Validation of Unit of Land Case No. 21-01, on property approximately 10,000 sq. ft., zoned IG (General Industrial), located in the 4000 Block of Salem Industrial Drive NE directly east of 4175 Salem Industrial Dr NE, and known as Marion County Tax Assessor number 073W12B / 5300) is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the following condition of approval:

Condition 1: Prior to final plat review, the applicant shall provide easements to Portland General Electric for existing infrastructure.



Kirsten Straus, Planner I, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

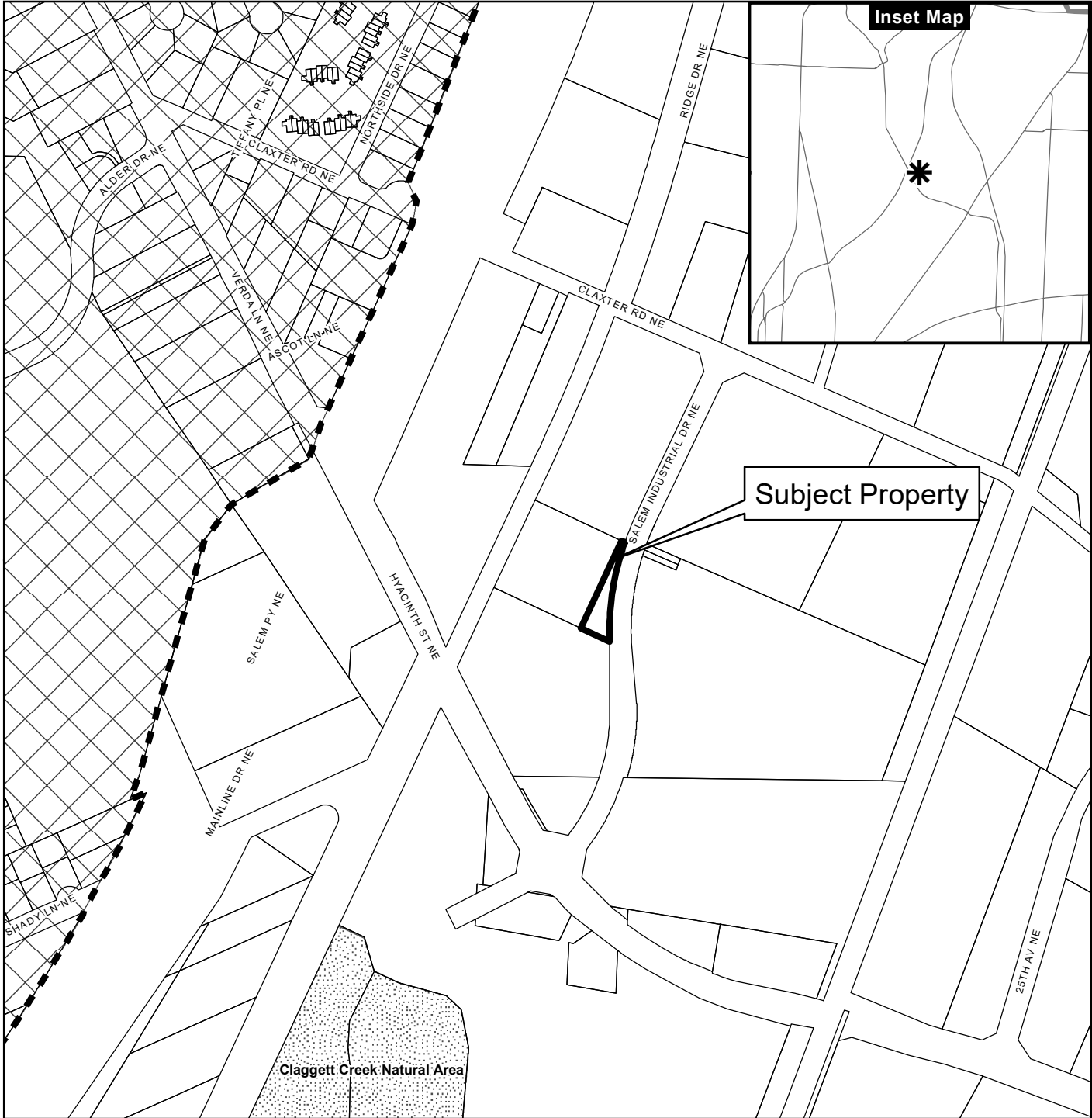
Prepared by Kirsten Straus, Planner I

Attachments: A. Vicinity Map
B. Applicant's Written Statement
C. Applicant's Proposed Plat




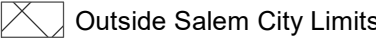

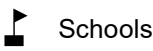

Vicinity Map

Tax Lot: 073W12B05300

(Adjacent to 4175 Salem Industrial Rd NE)



Legend

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

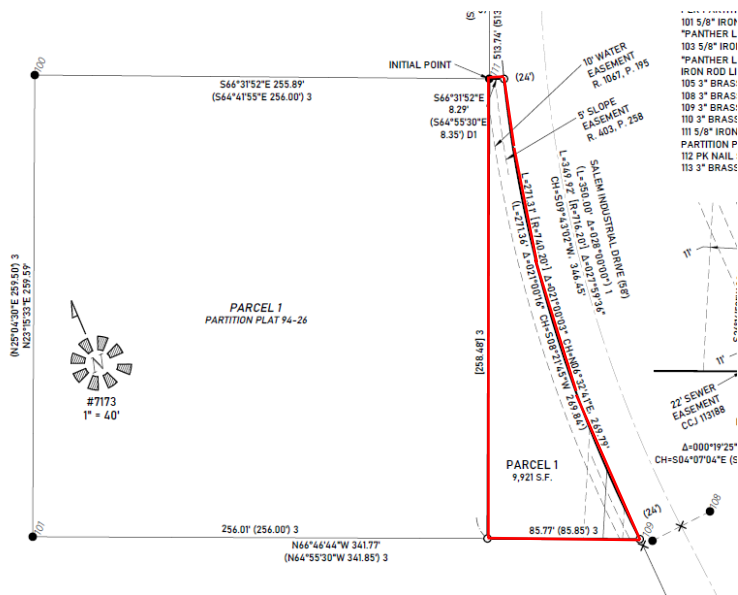


0 100 200 400 Feet



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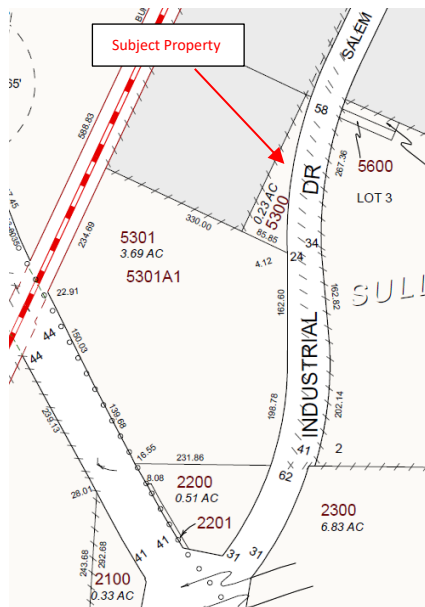
Validation of Unit of Land Revised-February 24, 2021



Criteria SRC 205.060(d)

- The unit of land is not a lawfully established unit of land;*

Findings: The subject property is identified as 073W12B/Tax Lot 5300). It has been determined by staff that the subject property is not a unit of land that was lawfully established. Therefore, in order to lawfully establish the subject property as a legal unit of land, the applicant is requesting a Validation of Unit of Land review and approval.



2. *The unit of land was created through sale by deed or land sales contract executed and recorded before January 1, 2007;*

Findings: In 1992, the subject property and the property to the south were (073W12B/Tax Lot 5301) were conveyed together through deeds (Reel 943/Page 170). The in 1993 (Reel 1061/Page 377) the property to the south (Tax Lot 5301) was sold and the subject property was omitted. The subject property was created in 1994 through deeds (Reel 1155/Page 328). The deeds are attached.

*1992: Reel 943/Page 170-The subject property (Tax Lot 5300) along with Tax Lot 5301 were conveyed together.

*1993: Reel 1061/Page 377-Tax Lot 5301 was sold/convey on its own and the subject property (Tax Lot 5301) was omitted.

*1994: Reel 1155/Page 328-The subject property (Tax Lot 5301) was created through deeds.

3. *The unit of land could have complied with applicable criteria for the creation of the unit of land in effect when the unit of land was sold; and*

Findings: The subject property was created in 1993 through deeds (Reel 1061/Page 377) and in 1994 through deeds (Reel 1155/Page 328). The subject property is currently zoned IG. At this time, there are no documents available that identify the 1993 or 1994 lot standards. However, this unit of land currently is in compliance with the applicable IG criteria and was in compliance in 1982. From 1982 to now the lot standards within the IG zone have not changed. Therefore, concluding that the site was in compliance with the Code requirements was it was established.

IG Zone Requirements-Current

Lot Area:

Required: None Existing: 0.21 acres (9,321 square feet)

Lot Width:

Required: None Existing: 269.84 feet

Lot Depth:

Required: None Existing: 85.77 feet

Street Frontage:

Required: 16 feet Existing: 269.84 feet

IG Zone Requirements-1982

Lot Area:

Required: None Existing: 0.21 acres (9,321 square feet)

Lot Width:

Required: None Existing: 269.84 feet

Lot Depth:

Required: None Existing: 85.77 feet

Street Frontage:
Existing: 269.84 feet

4. ***The plat complies with SRC 205.035 and ORS 92. Development with the tentative partition plan can be adequately served by City infrastructure.***

Findings: The plat has been prepared by a certified Survey and is in compliance with the requirements of SRC 205.035 and ORS 92. See the attached plat. City serves are available adjacent to the site. The subject property can be adequately served by City infrastructure.

SURVEYOR'S CERTIFICATE

I LEO LITOWICH, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON DO HEREBY CERTIFY THAT I HAVE SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THE ATTACHED MAP, THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD AT THE NORTHEAST CORNER OF PARCEL 1, PARTITION PLAT 94-26, MARION COUNTY BOOK OF PARTITION PLATS; THENCE ALONG THE EAST LINE OF SAID PARCEL 1, SOUTH 23°14'00" WEST 258.48 FEET TO A 5/8" IRON ROD AT THE SOUTHEAST CORNER THEREOF; THENCE ALONG THE SOUTH LINE OF THE TRACT OF LAND FIRST DESCRIBED IN REEL 1155, PAGE 328, MARION COUNTY DEED RECORDS SOUTH 66°46'44" EAST 85.77 FEET TO THE WEST RIGHT OF WAY OF SALEM INDUSTRIAL DRIVE; THENCE ALONG SAID WEST RIGHT OF WAY 271.31 FEET ALONG A 740.20 FOOT RADIUS CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS NORTH 06°32'41" EAST 269.79 FEET TO A 5/8" IRON ROD AT THE NORTHEAST CORNER OF SAID TRACT; THENCE NORTH 66°31'52" WEST 8.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 9,921 SQUARE FEET, MORE OR LESS.

MULTI/TECH ENGINEERING SERVICES, INC.
BY:

REGISTERED PROFESSIONAL LAND SURVEYOR

LEO LITOWICH
JULY 14, 2020
LEO LITOWICH
91070
RENEWS: 12-31-2022

LEO LITOWICH
REGISTERED PROFESSIONAL LAND SURVEYOR 91070

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO VALIDATE A TRACT OF LAND FIRST DESCRIBED IN REEL 1155, PAGE 328, MARION COUNTY DEED RECORDS AS ALLOWED BY CITY OF SALEM PLANNING CASE NO VUL-_____. THE BASIS OF BEARING IS GRID, OREGON COORDINATE REFERENCE SYSTEM, SALEM ZONE, NAD83(2011) EPOCH 2010.00 BETWEEN MONUMENTS 103 AND 111.

FOR THE CENTERLINE OF SALEM INDUSTRIAL, I HELD MONUMENTS 112 AND 108 ALONG WITH RECORD RADIUS AND GEOMETRY.

I RESET THE NORTHEAST CORNER BY EXTENDING A LINE THROUGH MONUMENTS 100 AND 111 TO THE WEST RIGHT OF WAY OF SALEM INDUSTRIAL.

I RESET THE SOUTH LINE BY EXTENDING THE LINE THROUGH MONUMENTS 103 AND 111 RECORD DISTANCE. I RETRACED A LINE FROM MONUMENT 101 THROUGH THAT POINT TO THE WEST RIGHT OF WAY OF SALEM INDUSTRIAL.

DECLARATION

KNOW ALL MEN BY THESE PRESENTS THAT FFI INVESTMENTS, LLC., AN OREGON LIMITED LIABILITY COMPANY, BEING THE OWNER OF THE LAND DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON, AND DESIRING TO DISPOSE OF THE SAME INTO A PARCEL, HAS CAUSED THE SAME TO BE SURVEYED AND PLATTED.

BY:

MATTHEW FITZMAURICE, MEMBER
FFI INVESTMENTS LLC., AN OREGON LIMITED LIABILITY COMPANY

STATE OF OREGON }
COUNTY OF MARION } S.S.

MATTHEW FITZMAURICE, MEMBER, FFI INVESTMENTS, LLC., AN OREGON LIMITED LIABILITY COMPANY, PERSONALLY APPEARED BEFORE ME, A NOTARY PUBLIC FOR OREGON, WHO ACKNOWLEDGED THE FOREGOING INSTRUMENT TO BE HIS VOLUNTARY ACT AND DEED.

NOTARY SIGNATURE

NOTARY PUBLIC - OREGON

COMMISSION NO. _____

MY COMMISSION EXPIRES: _____

PLAT NOTES

MINERAL RESERVATION RECORDED IN REEL 1155, PAGE 329, MARION COUNTY DEED RECORDS.

DEED OF TRUST RECORDED IN REEL 2290, PAGE 358, MARION COUNTY DEED RECORDS.

PARTITION PLAT 2021-_____
IN THE NW 1/4 SEC. 12, T. 7 S., R. 3 W., W.M.
CITY OF SALEM, MARION COUNTY, OREGON

DATE OF MAP: 01/26/2021

BY:
MULTI/TECH ENGINEERING SERVICES, INC.
1155 13TH ST. S.E. SALEM, OREGON 97302
503-363-9227

REFERENCE SURVEYS

1. MCSR 1684
2. MCSR 32739
3. PARTITION PLAT 94-26

REFERENCE DEED

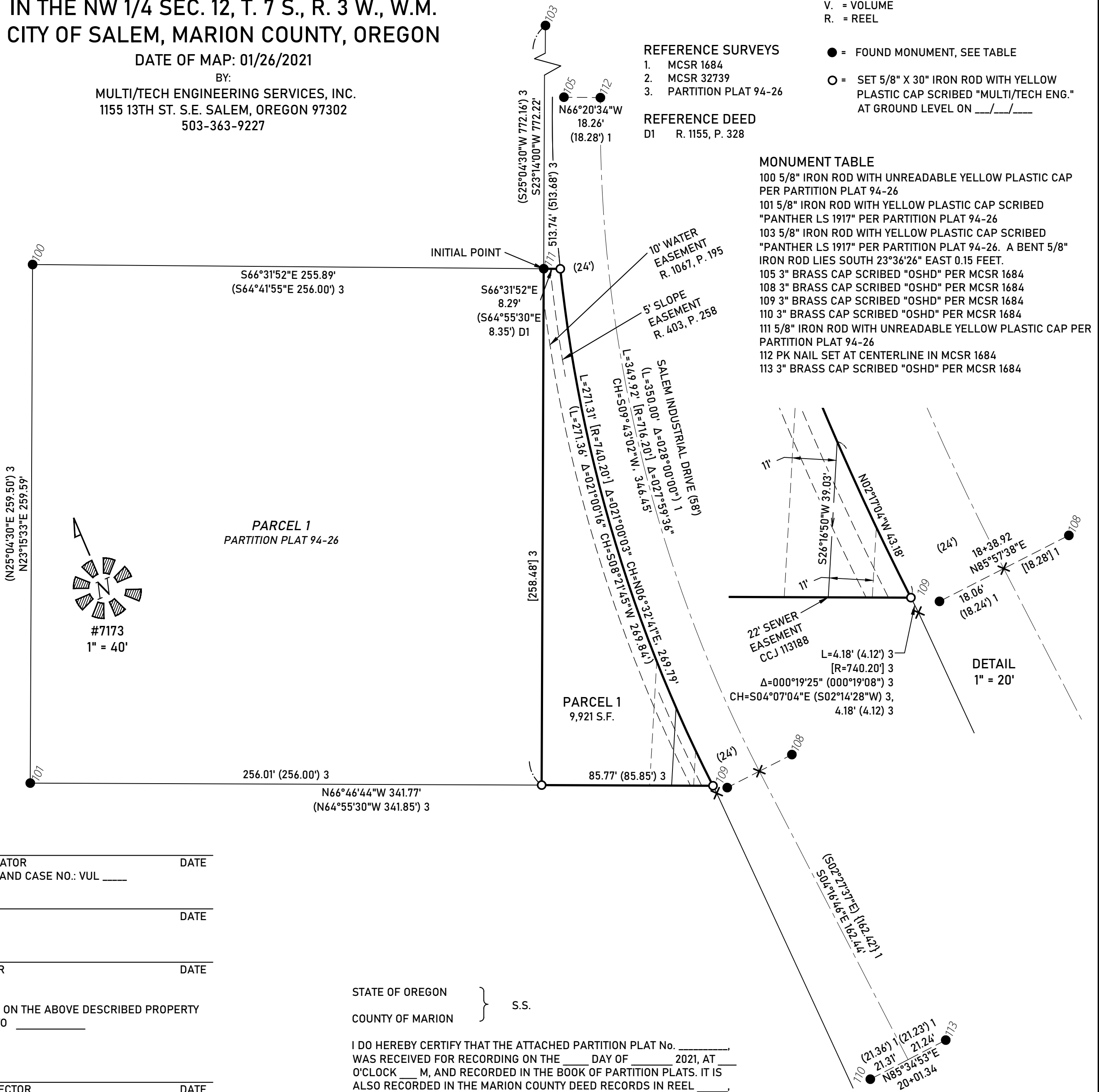
D1 R. 1155, P. 328

MCSR = MARION COUNTY SURVEY RECORD
P. = PAGE
V. = VOLUME
R. = REEL

- = FOUND MONUMENT, SEE TABLE
- = SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "MULTI/TECH ENG." AT GROUND LEVEL ON ___/___/___

MONUMENT TABLE

- 100 5/8" IRON ROD WITH UNREADABLE YELLOW PLASTIC CAP PER PARTITION PLAT 94-26
- 101 5/8" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "PANTHER LS 1917" PER PARTITION PLAT 94-26
- 103 5/8" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "PANTHER LS 1917" PER PARTITION PLAT 94-26. A BENT 5/8" IRON ROD LIES SOUTH 23°36'26" EAST 0.15 FEET.
- 105 3" BRASS CAP SCRIBED "OSHD" PER MCSR 1684
- 108 3" BRASS CAP SCRIBED "OSHD" PER MCSR 1684
- 109 3" BRASS CAP SCRIBED "OSHD" PER MCSR 1684
- 110 3" BRASS CAP SCRIBED "OSHD" PER MCSR 1684
- 111 5/8" IRON ROD WITH UNREADABLE YELLOW PLASTIC CAP PER PARTITION PLAT 94-26
- 112 PK NAIL SET AT CENTERLINE IN MCSR 1684
- 113 3" BRASS CAP SCRIBED "OSHD" PER MCSR 1684



APPROVALS

CITY PLANNING ADMINISTRATOR _____ DATE _____
VALIDATION OF UNITS OF LAND CASE NO.: VUL _____

CITY OF SALEM SURVEYOR _____ DATE _____

MARION COUNTY ASSESSOR _____ DATE _____

TAXES AND ASSESSMENTS ON THE ABOVE DESCRIBED PROPERTY
HAVE BEEN PAID IN FULL TO _____

MARION COUNTY TAX COLLECTOR _____ DATE _____

STATE OF OREGON }
COUNTY OF MARION } S.S.

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT No. _____
WAS RECEIVED FOR RECORDING ON THE _____ DAY OF _____ 2021, AT _____
O'CLOCK _____ M, AND RECORDED IN THE BOOK OF PARTITION PLATS. IT IS
ALSO RECORDED IN THE MARION COUNTY DEED RECORDS IN REEL _____,
PAGE _____.

BILL BURGESS, MARION COUNTY CLERK

BY: _____
DEPUTY COUNTY CLERK