

NOTICE OF DECISION

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



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

DECISION OF THE HEARINGS OFFICER

VALIDATION OF UNITS OF LAND CASE NO.: VUL18-01

APPLICATION NO. : 18-120422-LD

NOTICE OF DECISION DATE: DECEMBER 19, 2018

SUMMARY: A proposal to validate one of two parcels that were created as separate tax lots through a sale by deed in 1992.

REQUEST: The request is to establish lawfully a tax lot created in 1992, when a portion (TL 1202) of the parent parcel, which was bisected by Kuebler Boulevard right of way acquisition, was sold to a third party leaving the subject unit of land. The sale effectively divided the parent parcel into two separate units of land, without a land use approval. The applicant is requesting to validate property known as Marion County Tax Assessor's number 082W07C / 01200; also known as 4735 Turner Road SE. The subject property (lawfully established parent parcel) is approximately 12 acres in size, zoned IC (Industrial Commercial), IG (General Industrial) and Marion County IG (General Industrial), and located at the 4905 and 4735 Turner Road SE (Marion County Assessor Map and Tax Lot Numbers: 082W07C01202; and 082W07C01200).

APPLICANT: Gunner, LLC (Dean Pollman)

LOCATION: 4735 Turner Rd SE

CRITERIA: Salem Revised Code (SRC) Chapter 205.060(d)

FINDINGS: The findings are in the attached Decision dated December 19, 2018.

DECISION: The **Hearings Officer APPROVED** Validation of Units of Land VUL18-01 subject to the following conditions of approval:

The rights granted by the attached decision must be exercised, or an extension granted, by **January 4, 2021** or this approval shall be null and void.

Application Deemed Complete:	<u>October 29, 2018</u>
Public Hearing Date:	<u>December 12, 2018</u>
Notice of Decision Mailing Date:	<u>December 19, 2018</u>
Decision Effective Date:	<u>January 4, 2019</u>
State Mandate Date:	<u>February 26, 2019</u>

Case Manager: Olivia Glantz, OGlantz@cityofsalem.net, 503.540.2343

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., January 3, 2019**. Any person who presented evidence or

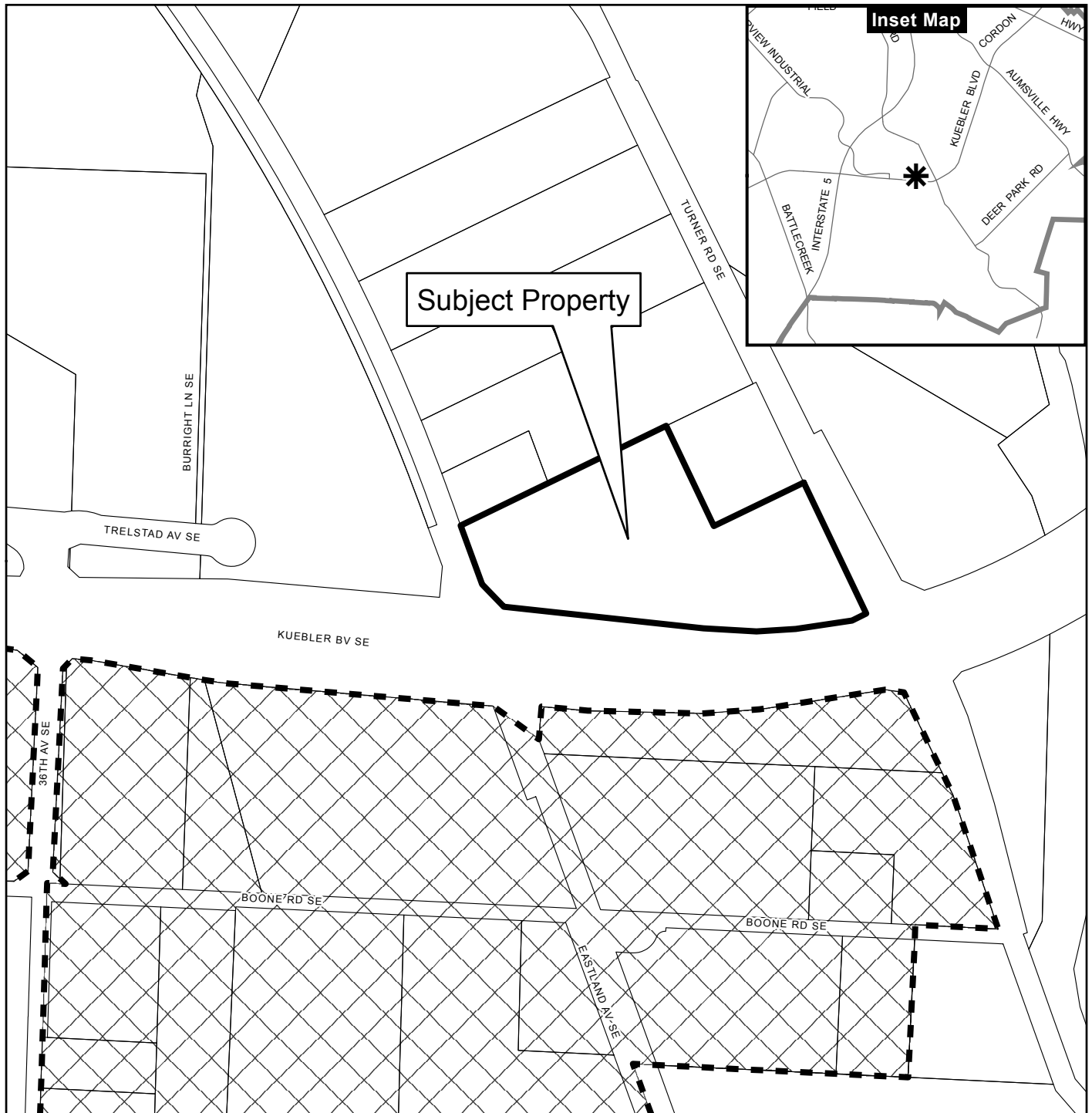
testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 205. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission 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 at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.





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

Vicinity Map

4735 Turner 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.

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.

0 100 200 400 Feet



PARTITION PLAT NO. _____

IN THE S.W. 1/4 OF SECTION 7, T. 8 S., R. 2 W., W.M.,
CITY OF SALEM, MARION COUNTY, OREGON
SEPTEMBER 28, 2018

SHEET INDEX

- SHEET 1 - ORIGINAL PROPERTY LAYOUT, NARRATIVE, SURVEY AND DEED REFERENCES, FOUND MONUMENT LIST, LEGEND, EASEMENT DETAIL
- SHEET 2 - DETAIL SURVEY, DETAIL "A", EASEMENT DETAILS
- SHEET 3 - SURVEYOR'S CERTIFICATE, APPROVALS, DECLARATION, ACKNOWLEDGEMENTS

LEGEND:

- Found monument within 0.2' of ground surface unless otherwise noted.
- Set 5/8"x30" iron rod with yellow plastic cap flush with ground surface, stamped "WILSON PLS 2687"
- () Record per reference survey noted
- [] Record and Measured per Reference Survey Noted
- MCSR Marion County Survey Records
- MCDR Marion County Deed Records
- R. Reel
- P. Page
- V. Volume
- B.O.T.P. Book of Town Plats
- M Measured
- RB Radial Bearing
- COS City of Salem
- T.P.O.B True Point of Beginning

REFERENCE SURVEYS

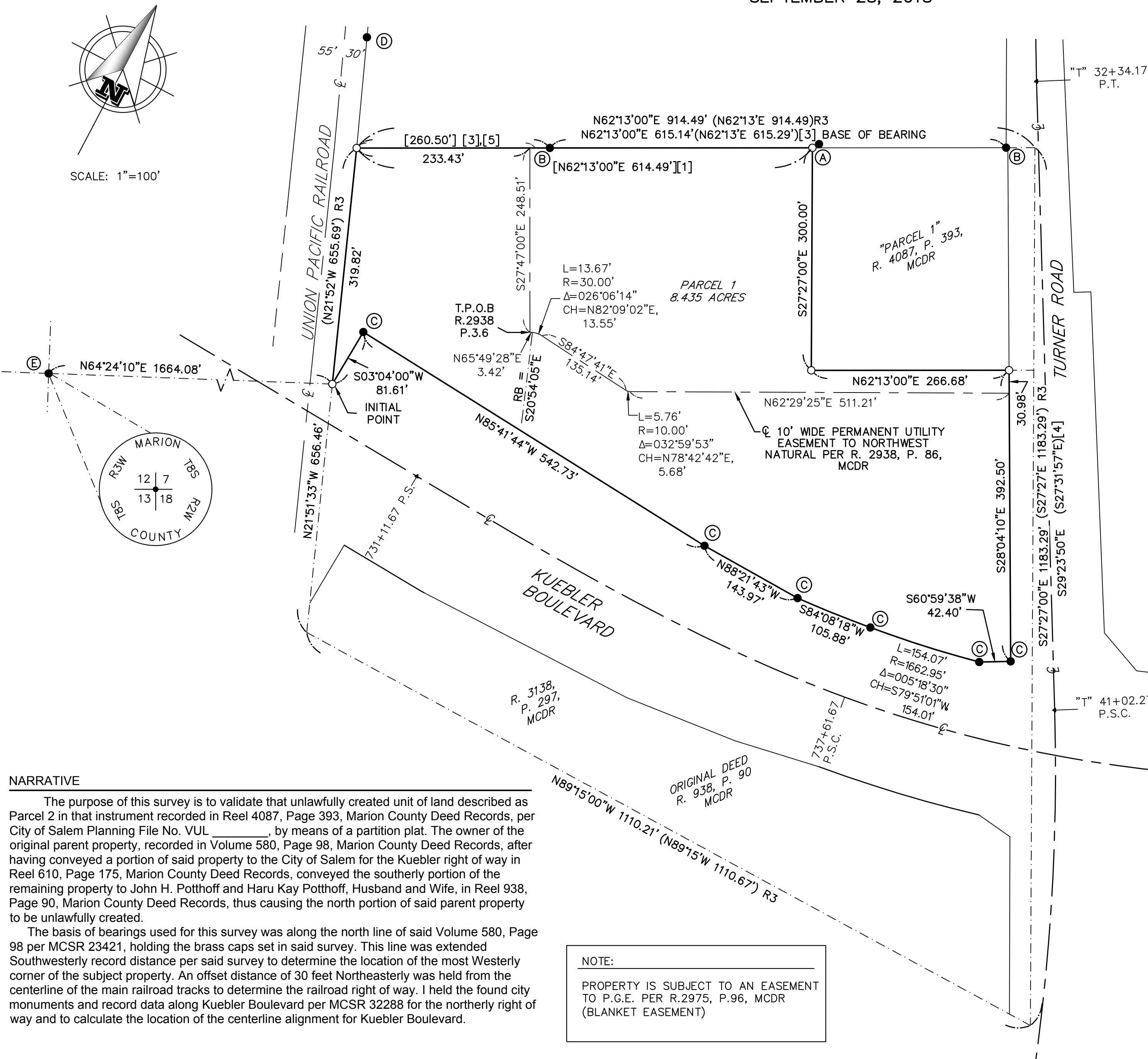
- [1] MCSR 15252
[2] MCSR 20026
[3] MCSR 23421
[4] MCSR 32288
[5] MCSR 37285
[6] MCSR 32365
[7] MCSR 15253
[8] MCSR 4409C073

REFERENCE DEEDS:

- R1 R. 4087, P. 393, MCDR
R2 R. 610, P. 175, MCDR
R3 V. 580, P. 98, MCDR
R4 R. 938, P. 90, MCDR
R5 R.2968,P.36, MCDR

FOUND MONUMENT LIST

- (A) 1/2" iron pipe, set in [2]. Bears N 33° 03' 48" E 0.54' from most northerly corner.
- (B) 2" iron pipe with brass cap stamped "SPRR PROP COR", set in [3]. Held for basis of bearings along north line.
- (C) 5/8" iron rod with aluminum cap stamped "CITY OF SALEM", set in [4].
- (D) 5/8" iron rod with yellow plastic cap stamped "QUERY PLS 1653", set in [5].
- (E) 3" brass disk, "MARION COUNTY", down 1.0' in monument box in the centerline of Boone Road, section corner, set in [8]
- (F) Calculated position of 1/2" iron pipe set in [7], as shown in [5] - now destroyed



NARRATIVE

The purpose of this survey is to validate that unlawfully created unit of land described as Parcel 2 in that instrument recorded in Reel 4087, Page 393, Marion County Deed Records, per City of Salem Planning File No. VUL _____, by means of a partition plat. The owner of the original parent property, recorded in Volume 580, Page 98, Marion County Deed Records, after having conveyed a portion of said property to the City of Salem for the Kuebler right of way in Reel 610, Page 175, Marion County Deed Records, conveyed the southerly portion of the remaining property to John H. Potthoff and Haru Kay Potthoff, Husband and Wife, in Reel 938, Page 90, Marion County Deed Records, thus causing the north portion of said parent property to be unlawfully created.

The basis of bearings used for this survey was along the north line of said Volume 580, Page 98 per MCSR 23421, holding the brass caps set in said survey. This line was extended Southwesterly record distance per said survey to determine the location of the most Westerly corner of the subject property. An offset distance of 30 feet Northeasterly was held from the centerline of the main railroad tracks to determine the railroad right of way. I held the found city monuments and record data along Kuebler Boulevard per MCSR 32288 for the northerly right of way and to calculate the location of the centerline alignment for Kuebler Boulevard.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRATION DATE: 6-30-2020

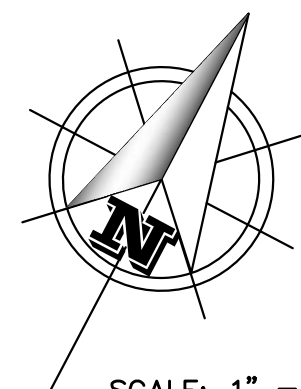


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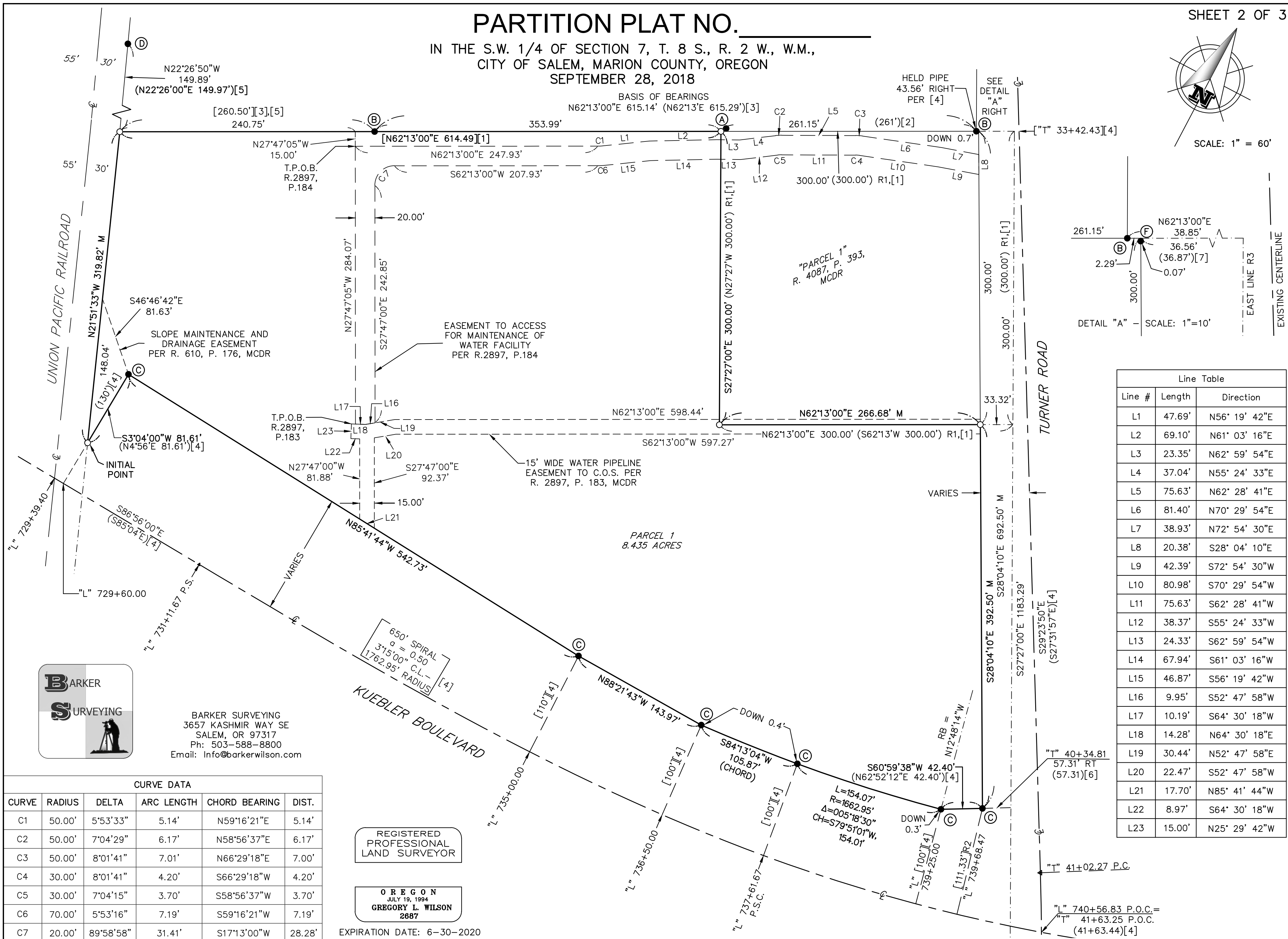
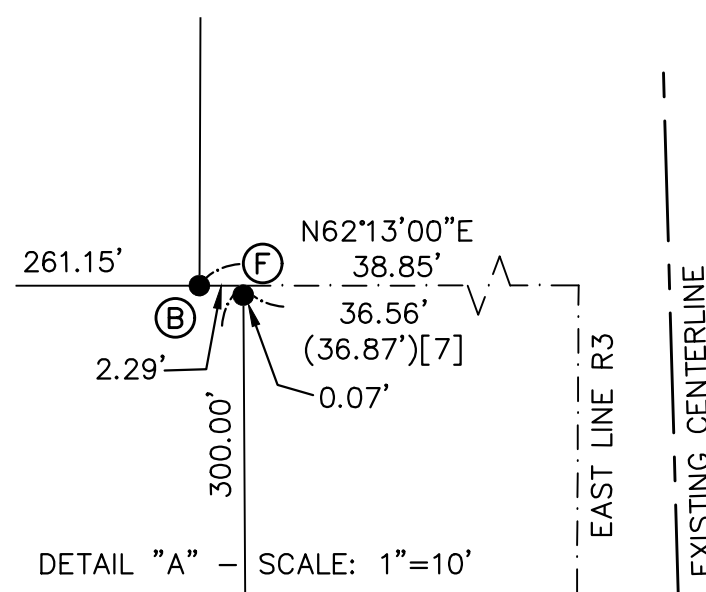
PARTITION PLAT NO. _____

IN THE S.W. 1/4 OF SECTION 7, T. 8 S., R. 2 W., W.M.,
CITY OF SALEM, MARION COUNTY, OREGON
SEPTEMBER 28, 2018

SHEET 2 OF 3



SCALE: 1" = 60'



Line Table		
Line #	Length	Direction
L1	47.69'	N56° 19' 42"E
L2	69.10'	N61° 03' 16"E
L3	23.35'	N62° 59' 54"E
L4	37.04'	N55° 24' 33"E
L5	75.63'	N62° 28' 41"E
L6	81.40'	N70° 29' 54"E
L7	38.93'	N72° 54' 30"E
L8	20.38'	S28° 04' 10"E
L9	42.39'	S72° 54' 30"W
L10	80.98'	S70° 29' 54"W
L11	75.63'	S62° 28' 41"W
L12	38.37'	S55° 24' 33"W
L13	24.33'	S62° 59' 54"W
L14	67.94'	S61° 03' 16"W
L15	46.87'	S56° 19' 42"W
L16	9.95'	S52° 47' 58"W
L17	10.19'	S64° 30' 18"W
L18	14.28'	N64° 30' 18"E
L19	30.44'	N52° 47' 58"E
L20	22.47'	S52° 47' 58"W
L21	17.70'	N85° 41' 44"W
L22	8.97'	S64° 30' 18"W
L23	15.00'	N25° 29' 42"W

CURVE DATA					
CURVE	RADIUS	DELTA	ARC LENGTH	CHORD BEARING	DIST.
C1	50.00'	5°53'33"	5.14'	N59°16'21"E	5.14'
C2	50.00'	7°04'29"	6.17'	N58°56'37"E	6.17'
C3	50.00'	8°01'41"	7.01'	N66°29'18"E	7.00'
C4	30.00'	8°01'41"	4.20'	S66°29'18"W	4.20'
C5	30.00'	7°04'15"	3.70'	S58°56'37"W	3.70'
C6	70.00'	5°53'16"	7.19'	S59°16'21"W	7.19'
C7	20.00'	89°58'58"	31.41'	S17°13'00"W	28.28'

I, Gregory L. Wilson, being first duly sworn, depose and say that I have surveyed and will mark with proper monuments the land represented on the herewith partition map, which is described as follows:

Beginning at the Initial Point of this partition plat, said point being marked with a 5/8-inch iron rod with yellow plastic cap stamped "WILSON PLS 2687" set at the southwest corner of that property described as "Parcel 2" in that instrument recorded in Reel 4087, Page 393, Marion County Deed Records, said point being on the northeasterly right of way of the Union Pacific Railroad and opposite Engineer's Centerline Station "L" 729+60, said point being North 64°24'10" East 1664.08 feet from the southwest corner of said Section 7; and running thence:

THE WITHIN PLAT IS HERBY APPROVED:

Date _____

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 _____

DECLARATION:

Know all people by these presents that BLUEBOX CROSSINGS, LLC, an Oregon limited liability company, being the owner of the property described in the Surveyor's Certificate herein made and desiring to dispose of the same in a single parcel, have caused the same to be partitioned and surveyed in accordance with the provisions of Chapter 92 of the Oregon Revised Statutes, as shown on the attached map.

In witness whereof I set my hand and seal this ____ day of _____, 20__.

BLUEBOX CROSSINGS, LLC

By: _____
Dean Pollman, Manager

STATE OF OREGON
COUNTY OF _____ SS.

On this _____ day of _____, 20____, personally appeared the above named Dean Pollman as Manager of BLUEBOX CROSSINGS, LLC, an Oregon limited liability company, who acknowledged the foregoing instrument to be his voluntarily act and deed.

Notary Signature

Notary Public for Oregon (print)

Commission No. _____

My Commission expires _____

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRATION DATE: 6-30-2020



BARKER SURVEYING
3657 KASHMIR WAY SE
SALEM, OR 97317
Ph: 503-588-8800
Email: Info@barkerwilson.com

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST TO VALIDATE ONE OF TWO	}	
PARCELS THAT WERE CREATED AS	}	VUL18-01
SEPARATE TAX LOTS THROUGH A SALE BY	}	
DEED IN 1992; SUBJECT PROPERTY	}	
(LAWFULLY ESTABLISHED PARENT	}	FINDINGS OF FACT, CONCLUSIONS, AND
PARCEL) IS APPROXIMATELY 12 ACRES IN	}	DECISION
SIZE, ZONED IC (INDUSTRIAL	}	
COMMERCIAL), IG (GENERAL INDUSTRIAL)	}	
AND MARION COUNTY IG (GENERAL	}	
INDUSTRIAL), AND LOCATED AT THE 4905	}	
AND 4735 TURNER ROAD SE (MARION	}	
COUNTY ASSESSOR MAP AND TAX LOT	}	
NUMBERS: 082W07C01202; AND	}	
<u>082W07C01200).</u>	}	

DATE AND PLACE OF HEARING:

December 12, 2018, Salem City Council Chambers, Room 240, Civic Center,
555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Olivia Glantz, Planner III
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Greg Wilson for Barkers Surveying, Agent for Applicant
<u>Opponents:</u>	None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on December 12, 2018, regarding a request to establish lawfully a tax lot created in 1992, when a portion (TL 1202) of the parent parcel, which was bisected by Kuebler Boulevard right of way acquisition, was sold to a third party leaving the subject unit of land. The sale effectively divided the parent parcel into two separate units of land, without a land use approval. The applicant is requesting to validate property known VUL18-01

December 19, 2018

Page 1

as Marion County Tax Assessor's number 082W07C / 01200; also known as 4735 Turner Road SE. Prior to the close of the public hearing, the applicant waived the additional 7-day period for additional testimony.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

Comprehensive Plan Map: The subject property, is designated "Industrial" and "Industrial Commercial" on the Salem Area Comprehensive Plan (SACP) Map.

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

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

2. Zoning and Surrounding Land Use

The subject property is zoned IG (General Industrial) and IC (Industrial Commercial). The property subject to the validation request, Tax Lot 1700, is developed with an industrial manufacturing use. The surrounding properties are zoned and used as follows:

North: IG (General Industrial); Industrial development

South: Across Kuebler BLVD; Marion County - IG (General Industrial); Industrial development

East: IC (Industrial Commercial); vacant land

West: IG (General Industrial); vacant

3. Existing Site Conditions

The subject property (Tax Lot 1200) is an irregular, with Kuebler Blvd abutting the south and Turner Road SE to the east. The overall subject property is relatively flat, with an elevation of 238 near the north end of the property and 234 abutting Kuebler Blvd.

4. Neighborhood and Citizen Comments

The subject property is located within the boundaries of Southeast Mill Creek Neighborhood Association (SEMCA). Notification was sent to the neighborhood association and surrounding property owners within 250 feet

of the property on November 19, 2018. Notice of the proposed application was also posted on the subject property. As of the date of the staff report, no written comments were received from SEMCA or surrounding property owners.

5. City Department 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.

1) Plat Submittal: Require project surveyor to submit his or her Partition Plat to the City Surveyor for review as per ORS 672.005(2)(g)&(h), ORS 672.007(2)(b), ORS 672.045(2), ORS 672.060(4), OAR 820-020-0015(4)&(10), OAR 820-020-0020(2) and OAR 820-020-0045(5).

2) Final Plat Application: Provide preliminary plat information to Development Services staff as outlined in the City of Salem Land Surveys and Plats webpage. Once the application has been deemed complete, complete the Final Plat Application.

3) Pre-Plat Review Meeting: Please request a Pre-Plat Review Meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with comments (1) and (2) as described above.

4) ORS and SRC: 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 ORS and SRC, and as per SRC 205.035, the approval of the partition plat by the City Surveyor may be delayed or held indefinitely based on the non-compliant violation.

The Building and Safety Division reviewed the proposal and identified no apparent issues.

The Salem Fire Department reviewed the proposal and indicated that they have no concerns for this land division.

6. Public Agency and Private Service Provider Comments

Public agencies and public and private service providers for the subject property were mailed notification of the proposal. No comments were received by the time of the written staff report nor at the December 12, 2018 hearing.

7. Criteria for Granting a Validation of Unit of Land

SRC 205.060(d) sets forth the criteria that must be met before a unit of land can be validated. 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 are the findings relative to the proposed tentative partition. The applicant provided justification for all applicable criteria included in the staff report as Attachment B.

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

The Hearings Officer notes that the property was annexed into the City of Salem in July, 1990. The original parcel of land was bisected by Kuebler Boulevard in 1988, which did not legally divide the property. The unit of land subject to the validation request was created in 1992 through a deed recorded selling Tax Lot 1202 separately. Therefore, Tax Lot 1200 was not a lawfully established unit of land.

The Hearings Officer find 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.

The Hearings Officer notes that 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. The applicant has provided a copy of the recorded deed creating the subject unit of land through sale as evidence that 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.

The Hearings Officer finds that the subject property was entirely zoned IG (General Industrial), when the land area was created by deed. The applicant provided Salem Revised Code Chapter 63, Subdivisions (repealed) and Chapter 158, IG Zone (repealed), which were in effect when the land area was created. The development standards of the IG zone did not have a minimum lot size or dimension requirement but had a minimum lot frontage of 16-feet. Tax Lot 1200 has more than 16-feet of frontage on Kuebler Blvd and Turner Road SE. The City of Salem Ordinance in effect when the deed was

recorded in 1992 could have allowed the parcel as a lawful parcel through a land use determination decision. The Hearings Officer finds that this criterion is met.

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

The Hearings Officer notes that the applicant submitted a copy of a proposed plat that is included in the staff report as attachment C. The Public Works Department reviewed the proposal and submitted comments describing the procedure and submittal requirements for recording of a final plat. Based on these comments, the Hearings Officer finds that this criterion is satisfied.

DECISION

The Hearings Officer **GRANTS** the request to validate one unit of land that was created through sale rather than through an approved subdivision or partition plat process, for property zoned IC (Industrial Commercial) and IG (General Industrial) and located at 4735 Turner Road SE.

DATED: December 19, 2018

A handwritten signature in dark ink, appearing to read 'James K. Brewer', written over a horizontal line.

James K. Brewer, Hearings Officer