

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.: VUL18-04

APPLICATION NO. : 18-124790-LD

NOTICE OF DECISION DATE: FEBRUARY 20, 2019

SUMMARY: A proposal to validate one land area that was created through a sale by deed in 1985.

REQUEST: The request is to establish lawfully a land area created in 1985, consisting of tax lots 1201 and 1400 together, which by deed relocated a property line and consolidated the land areas. The sale effectively divided the parent parcel and consolidated several units of land, without a land use approval. The applicant is requesting to validate property known as Marion County Tax Assessor's number 083W16DB /1201 together with 083W16DB /1400; also known as 197 Rainier Drive SE. The land area is approximately 7.7 acres in size, zoned RA (Residential Agriculture), and located at the 197 Rainier Drive SE (Marion County Assessor Map and Tax Lot Numbers: 083W16DB /1201 together with 083W16DB /1400).

APPLICANT: Mark B. Ferris for Project Delivery Group, LLC (Barbara and Keith Whisenhunt)

LOCATION: 197 Rainier Dr SE / 97306

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

FINDINGS: The findings are in the attached Decision dated February 20, 2019.

DECISION: The **Hearings Officer APPROVED** Validation of Units of Land VUL18-04 based upon the application materials deemed complete on December 31, 2018 and the findings as presented in this report.

Application Deemed Complete:	<u>December 31, 2018</u>
Public Hearing Date:	<u>February 13, 2019</u>
Notice of Decision Mailing Date:	<u>February 20, 2019</u>
Decision Effective Date:	<u>March 8, 2019</u>
State Mandate Date:	<u>April 30, 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., Thursday, March 7, 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 230. 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.

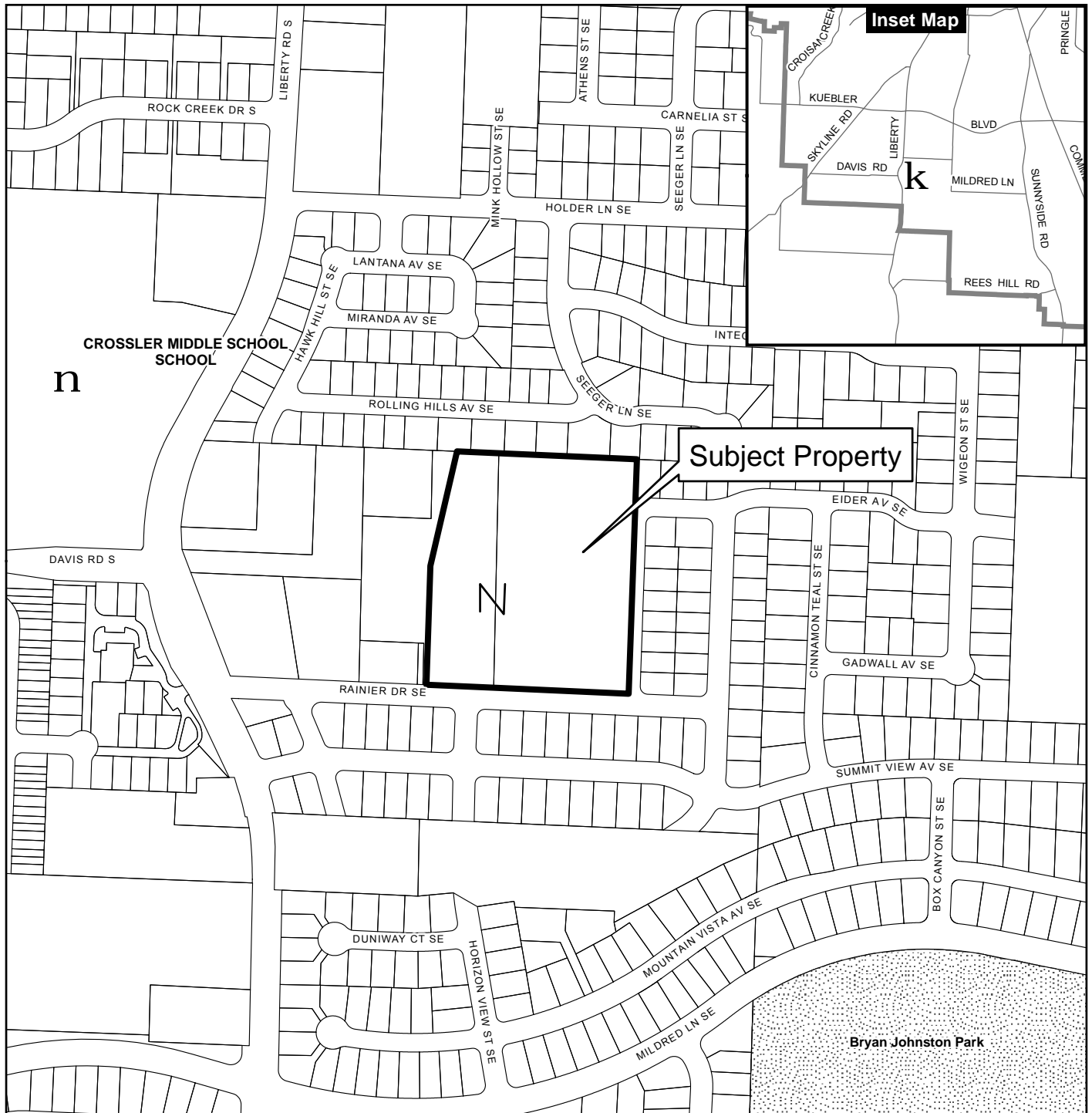
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

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Vicinity Map

197 Rainier Drive 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.

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RAINIER RIDGE

LOCATED IN THE NW 1/4 OF THE SE 1/4 OF SECTION 16,
TOWNSHIP 8 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON
NOVEMBER 30, 2018

WALN CREEK ESTATES WEST NO.2
VOLUME 47, PAGE 42, BOTH

20 PPE TO THE CITY OF SALEM
B 92, PAGE 1765, MCLR

WALN CREEK ESTATES WEST
VOLUME 46, PAGE 67, BOTH

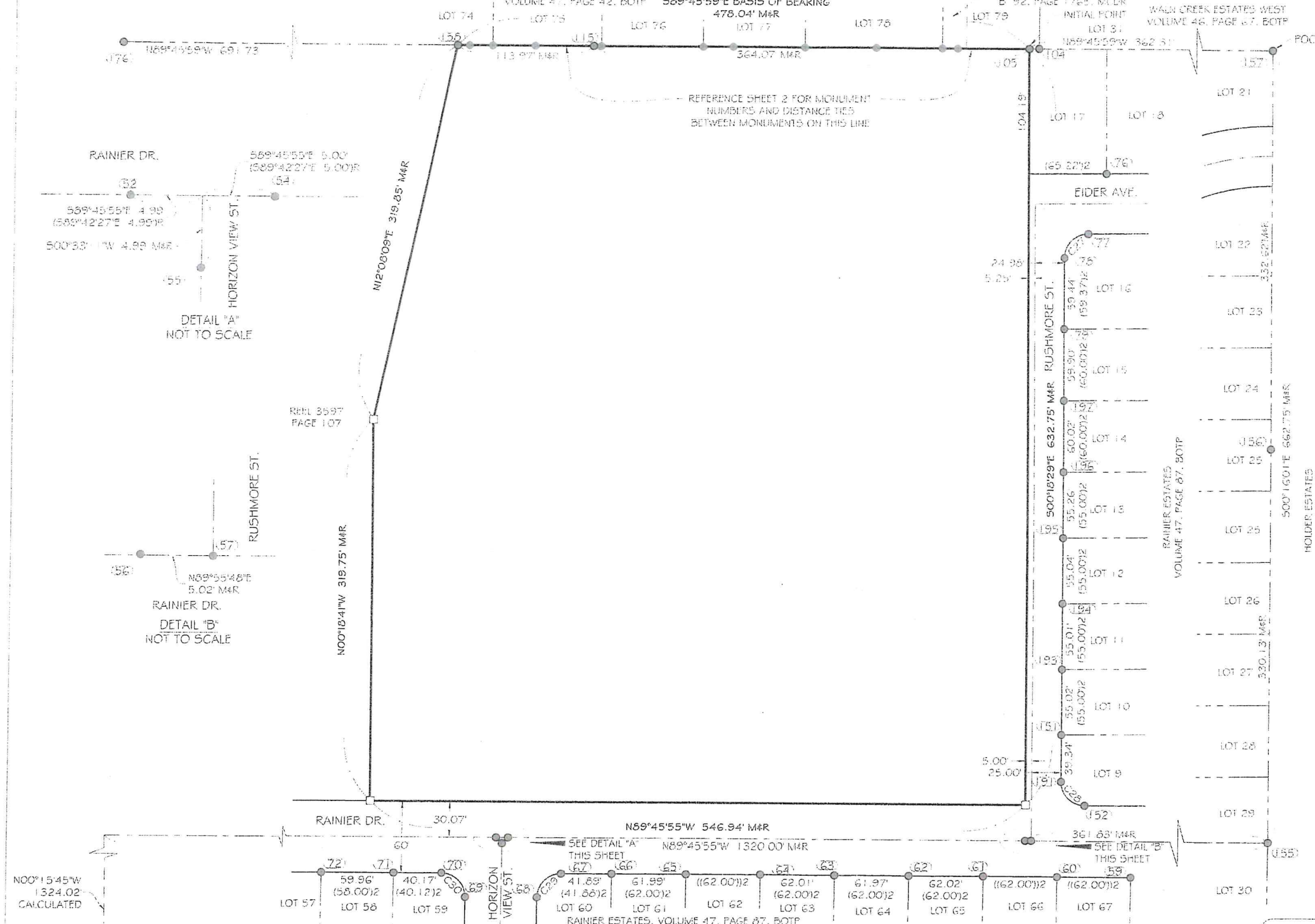
SHEET INDEX:

- SHEET 1 BOUNDARY & NARRATIVE
- SHEET 2 LOT LAYOUT
- SHEET 3 DETAILS & MONUMENT TABLE
- SHEET 4 APPROVALS & SIGNATURES

NARRATIVE:
THE PURPOSE OF THIS SURVEY IS TO
DIVIDE THE LAND DESCRIBED IN MARION
COUNTY DEED RECORDS REEL 3874, PAGE
246 INTO STREETS AND LOTS AS SHOWN
HEREON.

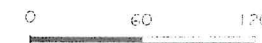
THE BOUNDARY OF THE SUBJECT
PROPERTY WAS RESOLVED AS INDICATED
ON MCLR 38676. THE BOUNDARY WAS
FIELD PURSUANT TO SAID SURVEY.

THE BASIS OF BEARING IS ALONG THE
NORTH LINE OF THE SUBJECT PROPERTY AS
INDICATED HEREON.



N00°15'45\"/>

CURVE TABLE											
CURVE #	LENGTH	(LENGTH)2	RADIUS	(RADIUS)2	DELTA	(DELTA)2	CHORD	(CHORD)2	DISTANCE	(DISTANCE)2	RECORD
C27	31.33'	(31.42)2	20.00'	(20.00)2	89°45'03"	(90°00'00")2	S44°48'17"W	(N44°37'40"E)2	28.23'	(28.28)2	S47-067
C26	31.40'	(31.24)2	20.00'	(20.00)2	89°57'24"	(89°30'06")2	S45°02'19"E	(N45°07'23"W)2	28.27'	(28.16)2	S47-067
C29	31.38'	(31.39)2	20.00'	(20.00)2	89°54'31"	(89°54'47")2	S45°16'34"W	(N45°10'11"E)2	28.26'	(28.26)2	S47-067
C30	31.45'	(31.45)2	20.00'	(20.00)2	90°05'54"	(90°05'13")2	N44°44'56"W	(S44°49'49"E)2	28.31'	(28.31)2	S47-067



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
MAY 15, 2012
KEITH WHISENHUNT
62675
RENEWAL DATE: JUNE 30, 2020

PROJECT DELIVERY GROUP
PROJECT DELIVERY GROUP, LLC
3772 PORTLAND RD NE
SALEM, OR 97301
503.364.4004
PROJECT NO. 16190

RAINIER RIDGE

LOCATED IN THE NW 1/4 OF THE SE 1/4 OF SECTION 16,
TOWNSHIP 8 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON
NOVEMBER 30, 2018

SURVEYOR'S CERTIFICATE:

I, KEITH WHISENHUNT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND AS REFERENCED HEREON, THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:

A PORTION OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 8 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM A POINT LABELED "157" AND "FOC", SAID POINT BEING A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "LAZER SITE 54550 LB", SAID IRON ROD BEING THE NORTHEAST CORNER OF LOT 48 OF SUNNYSIDE FRUIT FARMS NO. 3 AND THE NORTHEAST CORNER OF RAINIER ESTATES, RECORDED IN BOTH 547-087.

THENCE, ON A LINE COINCIDENT WITH THE NORTH BOUNDARY OF SAID RAINIER ESTATES, ON A BEARING OF NORTH 89° 45' 59" WEST, A DISTANCE OF 362.31 FEET TO A POINT LABELED "105", SAID POINT BEING A 1/2" IRON PIPE SET IN MCSR 11655, SAID IRON PIPE BEING THE NORTHWEST CORNER OF SAID RAINIER ESTATES, THE NORTHEAST CORNER OF THE LAND BEING DIVIDED, AND ALSO THE INITIAL POINT.

THENCE, LEAVING THE NORTHWEST CORNER OF SAID RAINIER ESTATES AND COMMENCING ON A LINE COINCIDENT WITH THE NORTHERLY WEST BOUNDARY OF SAID RAINIER ESTATES ON A BEARING OF SOUTH 00° 18' 29" EAST, A DISTANCE OF 632.75 FEET TO POINT ON THE NORTH RIGHT-OF-WAY LINE OF RAINIER DRIVE BEING A SET 5/8" BY 30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "F D GROUP LLC", SAID IRON ROD BEING THE SOUTHEAST CORNER OF THE LAND BEING DIVIDED.

THENCE, LEAVING SAID NORTHERLY WEST BOUNDARY, AND COMMENCING ON A LINE COINCIDENT WITH THE NORTH RIGHT-OF-WAY OF RAINIER DRIVE, SAID LINE ALSO BEING THE WESTERLY NORTH BOUNDARY OF SAID RAINIER ESTATES, ON A BEARING OF NORTH 89° 45' 59" WEST A DISTANCE OF 546.94 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF RAINIER DRIVE BEING A SET 5/8" BY 30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "F D GROUP LLC", SAID IRON ROD BEING THE SOUTHWEST CORNER OF THE LAND BEING DIVIDED AND THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN MARION COUNTY DEED RECORDS REEL 3597, PAGE 107.

THENCE, LEAVING SAID NORTH RIGHT-OF-WAY OF RAINIER DRIVE AND COMMENCING ON A LINE COINCIDENT WITH THE EAST BOUNDARY OF THE LAND DESCRIBED IN SAID MARION COUNTY DEED RECORD AND THE WEST BOUNDARY OF THE LAND BEING DIVIDED, ON A BEARING OF NORTH 00° 18' 41" WEST, A DISTANCE OF 319.75 FEET TO A POINT BEING A SET 5/8" BY 30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "F D GROUP LLC".

THENCE, CONTINUING ALONG A LINE COINCIDENT WITH SAID MARION COUNTY DEED RECORD AND THE WESTERLY BOUNDARY OF THE LAND BEING DIVIDED, A BEARING OF NORTH 12° 08' 09" EAST, A DISTANCE OF 319.85 FEET TO A POINT LABELED "158", BEING A 1/2" IRON PIPE WITH A YELLOW PLASTIC CAP MARKED "LS 1631", SAID IRON PIPE BEING THE NORTH EAST CORNER OF SAID MARION COUNTY DEED RECORD AND THE NORTHWEST CORNER OF THE LAND BEING DIVIDED.

THENCE LEAVING SAID WEST BOUNDARY AND COMMENCING ON A LINE COINCIDENT WITH THE NORTH LINE OF THE LAND BEING DIVIDED, A BEARING OF SOUTH 89° 45' 59" EAST, A DISTANCE OF 478.04 FEET TO THE INITIAL POINT.

THE ABOVE DESCRIBED LAND CONTAINS 7.69 ACRES, MORE OR LESS.

APPROVALS:

THE WITHIN PLAT IS HEREBY APPROVED AND DEDICATION ACCEPTED.

CITY PLANNING ADMINISTRATOR

DATE

ISSUED SUBDIVISION NO. SUB 17-05

MARION COUNTY/CITY OF NAME SURVEYOR

DATE

MARION COUNTY BOARD OF COMMISSIONERS

DATE

MARION COUNTY TAX COLLECTOR

DATE

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

MARION COUNTY ASSESSOR

MARION COUNTY BOARD OF COMMISSIONERS

DATE

CONDITIONS OF APPROVAL FOR THIS PLAT ARE RECORDED IN MARION COUNTY DEED RECORDS, REEL _____, PAGE _____.

AN AFFIDAVIT OF CONSENT FOR THAT CERTAIN TRUST DEED RECORDED ON JUNE 26, 2018, IN REEL 4092, PAGE 220, MARION COUNTY DEED RECORDS IS RECORDED AT MARION COUNTY DEED RECORDS REEL _____, PAGE _____.

STATE OF OREGON)

1955

COUNTY OF MARION)

I DO HEREBY CERTIFY THAT THE ATTACHED SUBDIVISION PLAT WAS RECEIVED FOR RECORDING

ON THIS _____ DAY OF _____, 2018, AT _____ O'CLOCK _____ AND

RECORDED IN THE BOOK OF TOWN PLATS, VOLUME _____, PAGE _____.

ALSO REFERENCED IN MARION COUNTY DEED RECORDS, REEL _____, PAGE _____.

BILL BURGESS, MARION COUNTY CLERK

BY: _____

DEPUTY COUNTY CLERK

DECLARATION:

KNOWN ALL MEN AND WOMEN BY THESE PRESENTS THAT CITY GLEANNS, LLC, BEING THE OWNER OF THE LAND AS DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND DESIRING OF SAID LAND TO BE DIVIDED INTO LOTS AND STREETS, HAVE CAUSED THE LAND TO BE SURVEYED AND SUBDIVIDED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 92, OREGON REVISED STATUTES, THE NAME TO BE KNOWN AS RAINIER RIDGE.

I HEREBY DEDICATE EIDER AVENUE SE, HORIZON VIEW STREET SE, AND THE PORTION OF RUSHMORE STREET SE AS SHOWN HEREIN, TO THE PUBLIC.

I HEREBY DEDICATE 0.07 FEET OF RAINIER DRIVE TO THE PUBLIC.

I HEREBY DEDICATE THE PUBLIC UTILITY EASEMENTS AND THE PUBLIC STORM DRAINAGE EASEMENT AS SHOWN HEREIN.

I HEREBY DEDICATE THE PUBLIC STORMWATER FACILITY AS INDICATED HEREIN.

I HEREBY GRANT THE PRIVATE STORM DRAINAGE EASEMENTS, PRIVATE SANITARY SEWER EASEMENTS, PRIVATE SANITARY SEWER AND STORM DRAIN EASEMENTS, PRIVATE UTILITY AND ACCESS EASEMENTS AS SHOWN HEREIN.

BY: _____

JAMES W. FOWLER, MANAGER, CITY GLEANNS, LLC

STATE OF OREGON)

1955

COUNTY OF MARION)

ON THIS _____ DAY OF _____, 2018, PERSONALLY APPEARED BEFORE ME, A NOTARY PUBLIC FOR THE STATE OF OREGON, THE ABOVE NAMED JAMES W. FOWLER.

NOTARY PUBLIC, STATE OF OREGON

PRINTED NAME

COMMISSION NUMBER

MY COMMISSION EXPIRES

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Keith Whisenhunt 12/1/18

OREGON
MAY 15, 2012
KEITH WHISENHUNT
62679

RENEWAL DATE: JUNE 30, 2020

CENTER LINE AND INTERIOR CORNER MONUMENTATION:

IN ACCORDANCE WITH O.R.S. 92.070, THE CENTER LINE AND INTERIOR MONUMENTS OF THIS SUBDIVISION HAVE BEEN CORRECTLY SET WITH PROPER MONUMENTS. AN AFFIDAVIT HAS BEEN PREPARED REGARDING THE SETTING OF SAID MONUMENTS AND IS RECORDED IN

REEL _____, PAGE _____, MARION COUNTY DEED RECORDS

**PROJECT
DELIVERY
GROUP**
PROJECT DELIVERY GROUP, LLC
8772 PORTLAND RD NE
SALEM, OR 97301
503-364-4004
PROJECT NO. 16190

SHEET 4 OF 4

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST TO VALIDATE PROPERTY KNOWN AS MARION COUNTY TAX ASSESSORS NUMBER 083W16DB /1201 TOGETHER WITH 083W16DB /1400; ALSO KNOWN AS 197 RAINIER DRIVE SE. THE LAND AREA IS APPROXIMATELY 7.7 ACRES IN SIZE, ZONED RA (RESIDENTIAL AGRICULTURE), AND LOCATED AT THE 197 RAINIER DRIVE SE (MARION COUNTY ASSESSOR MAP AND TAX LOT NUMBERS: 083W16DB /1201 TOGETHER WITH 083W16DB /1400).	} } } } } } } } } } } }	VUL18-04 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

February 13, 2019, 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>	Don James, Applicant, and Mark Ferris, 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 February 13, 2019, regarding a request to validate one unit of land that created through sale rather than through an approved subdivision or partition plat process, for property zoned RA (Residential Agriculture) and located at the 197 Rainier Drive 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 “Residential Agriculture” 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 RA (Residential Agriculture). The property subject to the validation request, Tax Lot 1201 and 1400, are currently vacant.

The surrounding properties are zoned and used as follows:

North: RS (Single Family Residential); Residential Subdivision

South: Across Rainier Drive SE; RS (Single Family Residential); Residential Subdivision

East: RS (Single Family Residential); Residential Subdivision

West: RA (Residential Agriculture); Vacant

3. Existing Site Conditions

The subject property (Tax Lot 1201 and 1400 together) is mostly rectangular. Rainer Drive SE, a local street, provides access to the subject property along the south of Mt Rushmore Street SE, a local street, along the east. The subject property has been previously approved for a tentative subdivision to create 35 residential lots.

The overall subject property is sloping, varying in elevation from approximately 578 feet in elevation near the northwest corner to approximately 618 feet in elevation at the southeast corner.

4. Neighborhood and Citizen Comments

The subject property is located within the boundaries of South Gateway Neighborhood Association (SGNA). Notification was sent to the neighborhood association and surrounding property owners within 250 feet of the

property on January 24, 2019. 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 SGNA. Neither SGNA nor any member of the public appeared at the hearing.

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 the staff report was completed, and no comments were received prior to the 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 is a response and/or finding relative to the proposed tentative partition. The applicant provided justification for all applicable criteria that is included as Attachment B of the staff report.

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 February of 2007. The land area was under Marion County jurisdiction at the time of creation (1985). The applicant has provided the Marion County Code for the Residential Agriculture (RA) zone. The original parcel of land consisted of Tax Lots 1000, 1100, 1300, 1200, and 1201 separately from Tax Lot 1400. The unit of land subject to the validation request was created in 1985, after a previous land division by deed and then ultimately consolidation of Tax Lots 1201 and 1400, together, through a deed recorded selling of the subject property. Therefore, the land area of Tax Lots 1201 and 1400 was not a lawfully established unit of land. The Hearings Officer finds this criterion is satisfied.

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, which includes Tax Lot 1201 and 1400, together, 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 (R 396, P184) creating the subject unit of land through sale as evidence that this criterion is met. The Hearings Officer finds that this criterion is satisfied.

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 notes that the subject property was entirely zoned RA (Residential Agriculture) under Marion County jurisdiction, when the land area was created by deed. The applicant provided the 1985 Marion County Code Chapter 129, RA Zone, which were in effect when the land area was created. The development standards of the RA zone had a minimum

6,000 square foot lot size, and 60-foot width dimension requirement. The land area has more than 60-feet in width, and more than 6,000 square foot square footage. The Marion County RA Zone in effect when the deed was recorded in 1985 could have allowed the parcel as a lawful parcel through a land use determination decision. The Hearings Officer finds that this criterion is satisfied.

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. The Public Works Department reviewed the proposal and submitted comments describing the procedure and submittal requirements for recording of a final plat. 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 RA (Residential Agriculture) and located at 197 Rainier Drive SE.

DATED: February 20, 2019.

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

James K. Brewer, Hearings Officer