

*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.: VUL19-03

APPLICATION NO. : 19-105876-LD

NOTICE OF DECISION DATE: APRIL 18, 2019

SUMMARY: A proposal to validate one land area that was created through a sale by deed in 1983.

REQUEST: The request is to establish lawfully a land area created in 1983, consisting of tax lot 700, which by deed conveyed the land area. The sale effectively divided Tax Lot 700 from the parent parcel (062W31D / 01100), without a land use approval. The applicant is requesting to validate property known as Marion County Tax Assessor's number 062W32C/ 700, located north of 4485 Kale Street NE. The land area is approximately 19,602 square feet in size, zoned RM-II (Multiple Family Residential), and located at 4485 Kale Street NE (Marion County Assessor Map and Tax Lot Numbers: 062W32C/ 700).

APPLICANT: Brandie Dalton of Multi-Tech Engineering on behalf of I & E Construction, Inc.

LOCATION: 4485 Kale St NE

CRITERIA: Salem Revised Code (SRC) Chapter 205.050(d)

FINDINGS: The findings are in the attached Decision dated April 17, 2019.

DECISION: The **Hearings Officer APPROVED** Validation of Units of Land VUL19-03 based upon the application materials deemed complete on March 6, 2019 and the findings as presented in this report.

Application Deemed Complete:	<u>March 6, 2019</u>
Public Hearing Date:	<u>April 10, 2019</u>
Notice of Decision Mailing Date:	<u>April 18, 2019</u>
Decision Effective Date:	<u>May 4, 2019</u>
State Mandate Date:	<u>July 4, 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., Friday, May 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 205. The appeal must be filed in duplicate with the City of Salem Planning

NOTICE OF DECISION

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

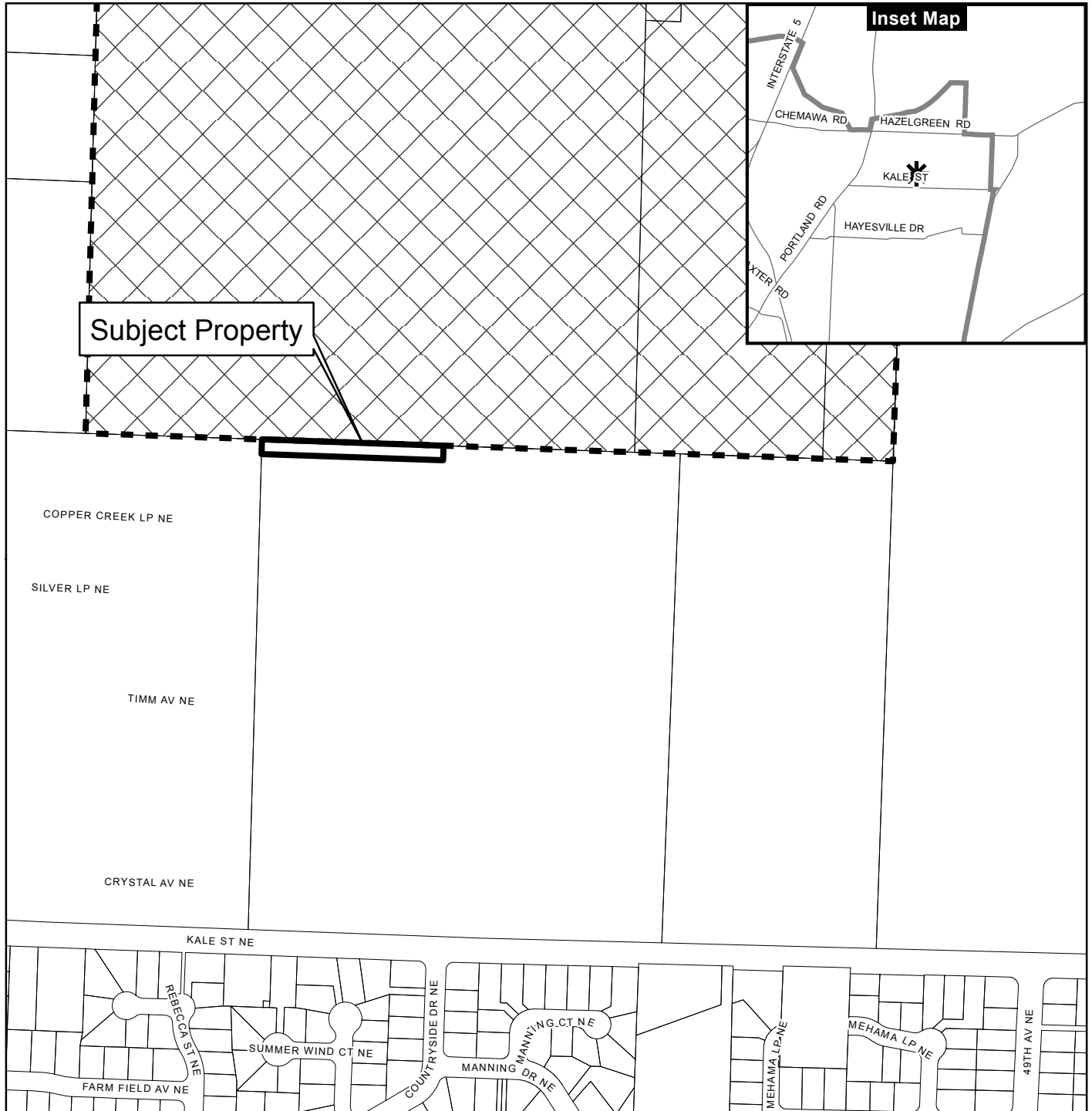


Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or 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 North of 4485 Kale Street NE



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.

PARTITION PLAT 2019-

IN THE SE 1/4 SEC. 31, & THE SW 1/4 SEC. 32, T. 6 S., R. 2 W., W.M.
CITY OF SALEM, COUNTY, OREGON

NOTES:
1. ALL MONUMENTS FOUND IN GOOD CONDITION AND WITHIN 0.2' OF THE SURFACE OF THE GROUND UNLESS OTHERWISE NOTED.

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO VALIDATE A TRACT OF LAND ORIGINALLY DESCRIBED IN REEL 327, PAGE 928, MARION COUNTY DEED RECORDS. THE BASIS OF BEARING IS ALONG THE WEST LINE PER MCSR 38715.

THIS TRACT WAS ORIGINALLY CONVEYED TO CLEAR TITLE BETWEEN TWO MUCH LARGER TRACTS. VOLUME 42, PAGE 476 DESCRIBES THE NORTH-SOUTH DIMENSION OF A LARGER TRACT AS 20 CHAINS (1320 FEET), WHILE VOLUME 212, PAGE 257, DESCRIBES IT AS 20.60 CHAINS (1359.60 FEET). REEL 237, PAGE 328 USED THESE TWO ORIGINAL DESCRIPTIONS TO CREATE A TRACT, WITHOUT ANY PLANNING ACTION OR RECORD OF SURVEY, 7.50 CHAINS X 0.60 CHAINS IN SIZE.

THE EAST BOUNDARY OF PARCEL 1 IS THE NORTH-SOUTH DIVISION LINE OF THE W.B. STEPHENS DONATION LAND CLAIM. I LOCATED ITS SOUTH END BY HOLDING RECORD DISTANCE FROM THE NORTHEAST CORNER OF THE A. STANTON DONATION LAND CLAIM #49 PER MCSR 26669 AND 37346. I LOCATED ITS NORTH END BY HOLDING RECORD DISTANCE FROM THE 3/4" IRON PIPE SET IN MCSR 16094 AND TIED IN MCSR 26669 AND 37346.

I HELD THE DEED DISTANCE OF 20 CHAINS FROM THE SOUTH LINE OF THE COLLINS DLC TO DETERMINE THE SOUTH LINE OF PARCEL 1. I HELD ITS NORTH AND WEST LINES FROM MCSR 38715, A RETRACEMENT OF MCSR 37346.

SURVEYOR'S CERTIFICATE:

I, ROBERT D. HAMMAN, 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:

COMMENCING AT A 5/8" IRON ROD AT THE SOUTHWEST CORNER OF THE TRACT OF LAND DESCRIBED IN REEL 3978, PAGE 175, MARION COUNTY DEED RECORDS IN THE NORTHEAST CORNER OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON; THENCE NORTH 00°29'19" WEST 1320.25 FEET TO A 3/4" IRON PIPE AT THE MOST WESTERLY NORTHWEST CORNER OF SAID TRACT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE MOST WESTERLY NORTH LINE OF SAID TRACT NORTH 89°45'46" EAST 494.01 FEET TO A 5/8" IRON ROD ON THE NORTH-SOUTH DIVISION LINE OF THE W.B. STEPHENS DONATION LAND CLAIM; THENCE ALONG SAID DIVISION LINE SOUTH 00°33'32" EAST 36.31 FEET TO A 5/8" IRON ROD; THENCE NORTH 89°59'54" WEST 494.07 FEET TO A 5/8" IRON ROD ON THE WEST LINE OF SAID TRACT; THENCE NORTH 00°29'19" WEST 34.25 FEET TO THE TRUE POINT OF BEGINNING AND CONTAINING 17,429 SQUARE FEET, MORE OR LESS.

MULTI/TECH ENGINEERING SERVICES, INC.

BY:

Robert D. Hamman
ROBERT D. HAMMAN
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 64202LS

MONUMENT TABLE:

- A. 3" BRASS CAP IN MONUMENT BOX, SEE DETAIL
B. 5/8" IRON ROD WITH ALUMINUM CAP SCRIBED "BARKER PLS 636" PER MCSR 37346
C. 5/8" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "BARKER PLS 636" PER MCSR 37346
D. 3/4" IRON PIPE SET IN MCSR 16094
E. 5/8" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "BARKER PLS 636" PER MCSR 37346

REFERENCE SURVEYS:

1. MCSR 5400
2. MCSR 16094
3. MCSR 26669
4. MCSR 37346
5. MCSR 38715
REFERENCE DEEDS:
D1. V. 42, P. 476, MCDR
D2. V. 212, P. 257, MCDR
D3. R. 327, P. 928, MCDR

MCSR = MARION COUNTY SURVEY RECORD

MCDR = MARION COUNTY DEED RECORDS

AC = ACRE

SF. = SQUARE FOOT

V. = VOLUME

R. = REEL

P. = PAGE

() = RECORD DATA PER SURVEY/DEED

[] = NOTED

[] = RECORD AND MEASURED DATA PER SURVEY/DEED NOTED

● = FOUND MONUMENT PER

○ = SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "MULTI/TECH ENG."

X = CALCULATED POINT

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

CAP DETAIL

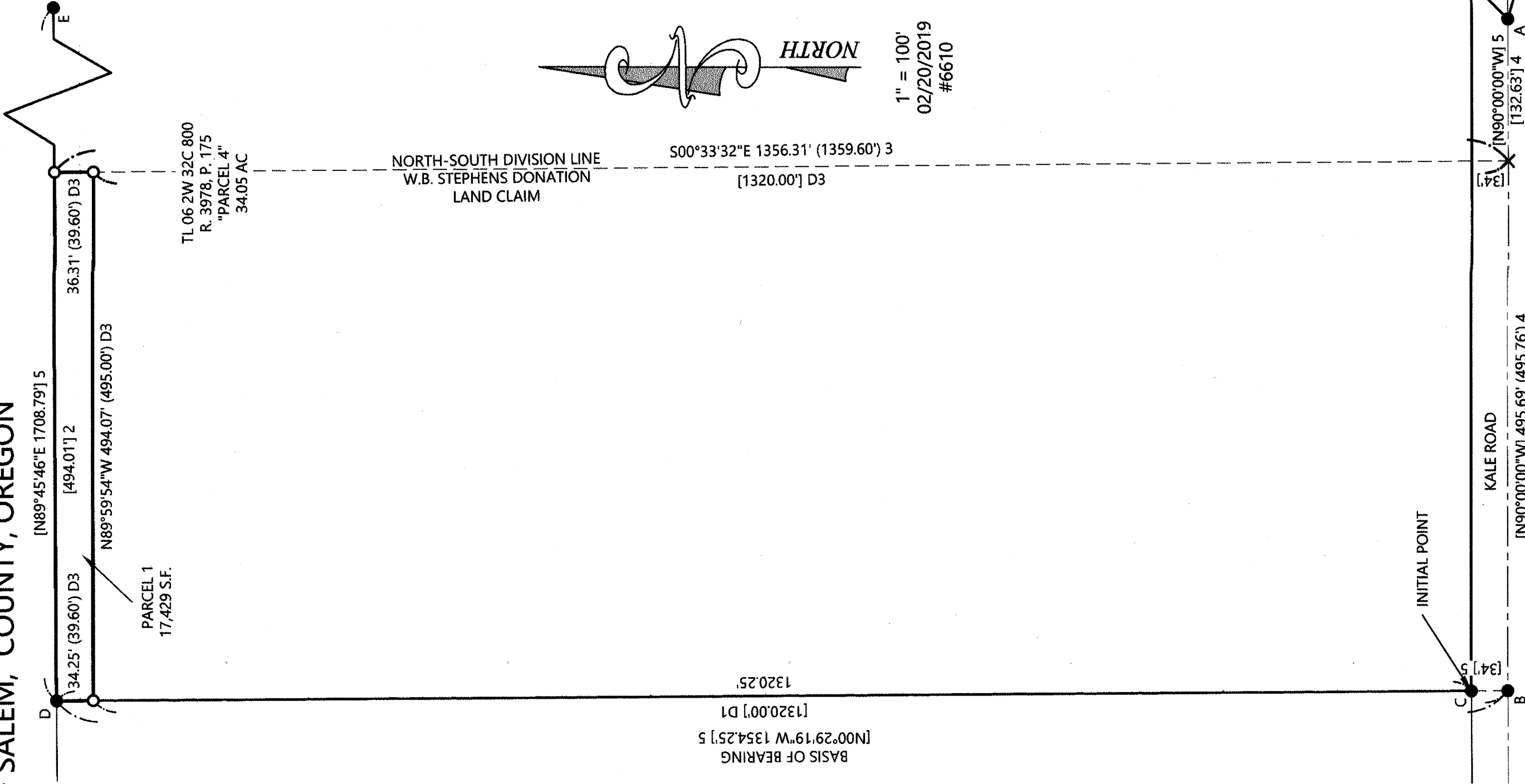
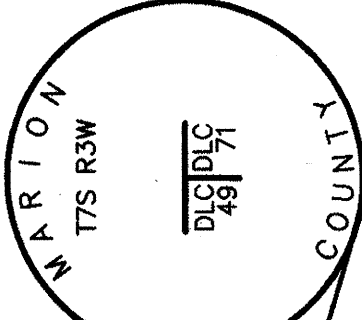
FOUND 3" BRASS CAP
DOWN 0.60 FEET
IN MONUMENT BOX
PER MCSR 4409R062

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Robert D. Hamman

OREGON
JULY 13, 2004
ROBERT D. HAMMAN
64202LS

EXPIRES: 6-30-2019



PARTITION PLAT 2019-

IN THE SE 1/4 SEC. 31, & THE SW 1/4 SEC. 32, T. 6 S., R. 2 W., W.M.

CITY OF SALEM, COUNTY, OREGON

BY:

MULTI/TECH ENGINEERING SERVICES, INC.
1155 13TH ST. S.E. SALEM, OREGON 97302

503-363-9227

DECLARATION:

KNOW ALL MEN BY THESE PRESENTS THAT NORTHSTAR COMMUNITIES, LLC., 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:

ERIC LEE MEURER, AS TRUSTEE OF THE ERIC LEE MEURER REVOCABLE LIVING TRUST
DATED JULY 5, 2012, MEMBER MANAGED NORTHSTAR COMMUNITIES, LLC

STATE OF OREGON
COUNTY OF MARION

S.S. }

ERIC MEURER, MEMBER, NORTHSTAR COMMUNITIES LLC., 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 FOR OREGON

COMMISSION NO.

MY COMMISSION EXPIRES:

APPROVALS:

CITY PLANNING ADMINISTRATOR
PARTITION CASE NO. PAR _____ 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

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 _____ 2019, 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

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Richard D. Brown

OREGON
JULY 13, 2004
ROBERT D. HAMMAN
64202LS

EXPIRES: 6-30-2019

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST TO VALIDATE PROPERTY THAT IS APPROXIMATELY 19,602 SQUARE FEET IN SIZE, ZONED RM-II (MULTIPLE FAMILY RESIDENTIAL), AND LOCATED AT 4485 KALE STREET SE (MARION COUNTY ASSESSOR MAP AND TAX LOT NUMBERS: 062W32C/700).	}	VUL19-03 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
---	---	--

DATE AND PLACE OF HEARING:

April 10, 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>	I & E Constriction, Inc., Applicant, and Brandie Dalton, Multi-Tech Engineering, Representative 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 April 10, 2019, regarding a request to establish lawfully a land area created in 1983 when tax lot 700 was described separately by a deed creating the land area. The sale effectively divided the parent parcel creating several units of land without a land use approval.

During the hearing, Olivia Glantz requested the Staff Report be entered into the Record, and the Hearings Officer granted the request. Prior to the close of the public hearing, the applicant waived the additional 7-day period for additional testimony.

The Staff Report and Staff presentation stated the following:

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

Comprehensive Plan Map: The subject property, is designated “Single Family” 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 Multiple Family Residential (RM-II). The property subject to the validation request, Tax Lot 700, is undeveloped. The surrounding properties are zoned and used as follows:

North: UD-20-IND (Urban Transition – 20 - Industrial); Farmland

South: RM-I (Multiple Family Residential); Vacant

East: RS (Single Family Residential); Vacant

West: RM-II (Multiple Family Residential); Manufactured Dwelling Park

3. Existing Site Conditions

The land area (Tax Lot 700) is 490-feet by 40-feet rectangular shape. The property has access to Kale Street NE, a minor arterial, through common ownership to the south.

4. Neighborhood and Citizen Comments

The subject property is located within the boundaries of Northgate Neighborhood Association (Northgate). Notification was sent to the neighborhood associations and surrounding property owners within 250 feet of the property on March 21, 2019. Notice of the proposed application was also posted on the subject property. As of the close of the hearing, no written comments or testimony or appearances have been received from either neighborhood association.

The Hearings Officer agrees with City Staff and adopts the findings in paragraphs 1-4, above.

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.

- o The City Surveyor will review all submitted materials for a final comprehensive review of ORS 92 & SRC at the Final Plat Stage.
- o 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 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 at the time of the writing of the staff report.

The Hearings Officer notes the statements in paragraphs 5 and 6 are uncontested and finds the same useful in addressing the criteria below.

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 finding relative to the proposed tentative partition. The applicant provided justification for all applicable criteria which is included of the staff report as Attachment B.

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

City staff reported that the property was annexed into the City of Salem in August 1998. The unit of land subject to the validation request was created in 1983, prior to annexation, through a deed recorded selling the subject land area. Therefore, Tax Lot 700 was not a lawfully established unit of land.

The Hearings Officer finds 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.

City staff reported that staff agreed with the applicant's written statement, (except concerning the nature of the zoning in 1983, discussed regarding SRC 205.060(d)(3), below). 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; and that 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.

No participant objected to this testimony, challenged whether the Applicant submitted a copy of a recorded deed or challenged whether the deed satisfied this criterion.

On the basis of the Record, as developed through testimony, the Hearings Officer finds this criterion 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.

City Staff stated that they do not agree with the applicant's written statement concerning the zoning of the land area. The Applicant states that the property was zoned UT-20 (Urban Transition-20) by Marion County and did not and could not comply with the standards of that zone at the time the property was created. Staff reported that they checked with Marion County Planning Department, which provided evidence that the land area was zoned RA (Residential Agriculture), not UT-20 (Urban Transition-20) in 1983. The land area was rezoned to UT-20 on May 30, 1990. The unit of land did comply with the applicable RA criteria of the [Marion County] 1983 zone requirements at the time it was created as a separate unit. The applicable RA zone (Marion County Code Chapter 129) required a minimum lot size of 6,000 square feet and a minimum width of 60-feet at the front building line.

When applying the relevant criteria, Staff finds that the land area was sold in 1983, by a deed per Reel 327 Page 928. In 1983, the Marion County Code Chapter 129 was applicable to the land area. As mentioned above, the RA zone required a minimum lot size of 6,000 square feet and a minimum width of 60-feet at the front building line. The land area sold in 1983 has the dimensions of 490-feet by 40-feet, with the 490-foot dimension being considered the front building line and did meet the minimum lot size and minimum 60-foot width of the 1983 RA zone.

No participant objected to or challenged the testimony or evidence. Based on the Record and testimony, the Hearings Officer finds this criterion met.

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

City Staff orally and in writing stated that the applicant submitted a copy of a proposed plat which is included as Attachment C of the staff report. The Public Works Department reviewed the proposal and submitted comments describing the procedure and submittal requirements for recording of a final plat.

No participant objected to or challenged the testimony or evidence. Based on the Record and testimony, the Hearings Officer finds this criterion met.

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 RM-II (Multiple Family Residential) and located at the Marion County Tax Assessor's number 062W32C/ 700, located north of 4485 Kale Street NE.

DATED: April 17, 2019.

A handwritten signature in black ink, appearing to read 'James K. Brewer', with a long horizontal line extending to the right.

James K. Brewer, Hearings Officer