

*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.: VUL19-04

APPLICATION NO. : 19-105764-LD

NOTICE OF DECISION DATE: MAY 8, 2019

SUMMARY: A proposal to validate units of land that were created as separate tax lots through a sale by deed in 1988.

REQUEST: The request is to lawfully establish tax lots created by deed in 1988, when tax lot 1600 and 1603 were described separately than the original tax lot 1603. 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 zone CO (Commercial Office) known as Marion County Tax Assessor numbers 073W12A / 1600 and 1603.

APPLICANT: North River Partners, LLC (Timothy Moneke)

LOCATION: 4265 Claxter Ct NE

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

FINDINGS: The findings are in the attached Decision dated May 8, 2019.

DECISION: The **Hearings Officer APPROVED** Validation of Units of Land VUL19-04 based upon the application materials deemed complete on March 28, 2019 and the findings as presented in this report.

Application Deemed Complete:	<u>March 28, 2019</u>
Public Hearing Date:	<u>April 24, 2019</u>
Notice of Decision Mailing Date:	<u>May 8, 2019</u>
Decision Effective Date:	<u>May 24, 2019</u>
State Mandate Date:	<u>July 26, 2019</u>

Case Manager: Britany Randall, brandall@cityofsalem.net, 503-540-2304

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, May 23, 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.

NOTICE OF DECISION

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



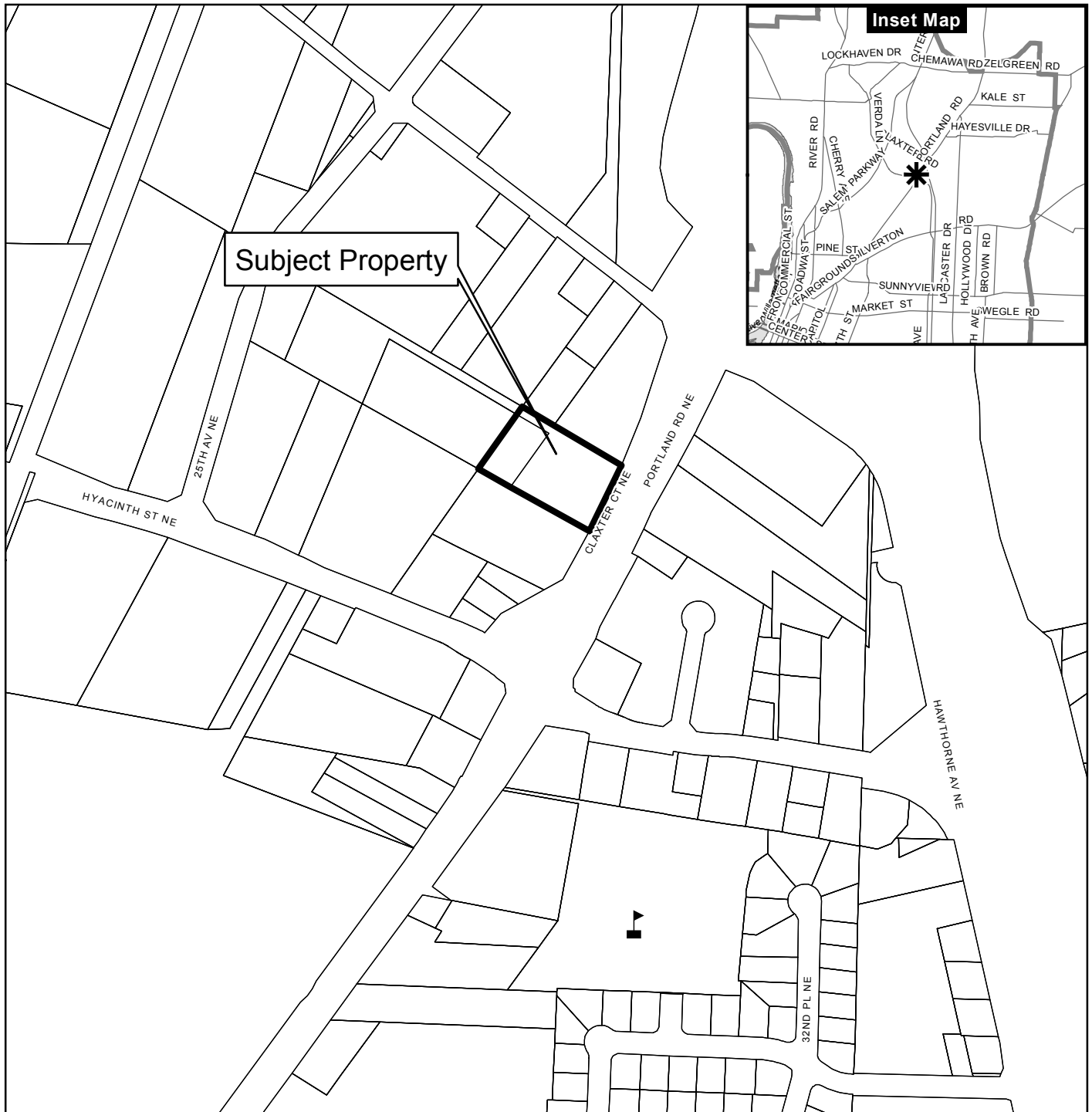
After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

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

4285 Claxter Ct. NE & Tax Lot 073W12A / 1603



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





0' 40' 80'
SCALE: 1 INCH = 40 FEET

PARTITION PLAT NO. _____

IN THE NE 1/4 OF SECTION 12, T.7S., R.3W., W.M.
CITY OF SALEM, MARION COUNTY, OREGON

DATE: MARCH 28, 2019

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA	CH. BEARING	CH. LEN.
C1	18.78'	1909.86'	00°33'49"	S33°27'43"W	18.78'

MONUMENT/CONTROL LIST

- A IP 1-1/2", DOWN 1.3' (2)
B IR 1/2", DOWN 1.0' (7)
BEARS 0.22' S. OF LINE
C IP 1-1/2", DOWN 0.8' (7)
D IP 1-1/2", DOWN 1.0', SHOWN IN (3)
E IP 1-1/4", FLUSH (2)
F IR 5/8" W/YPC MARKED
"S&K INC. LS447 LS548", FLUSH (5)
BEARS S33°12'44"W, 0.14' FROM CORNER
G IP 1/2", DOWN 0.4' (1)
H IP 1", DOWN 0.4' (1)
BEARS S61°15'18"E, 1.99' FROM CORNER
I IR 5/8" W/YPC MARKED
"S&K INC. LS447 LS548", FLUSH (5)
J IP 3/4" (1)
K IR 5/8" IN CONCRETE, DOWN 0.3' (4)
L MAG NAIL W/WASHER MARKED
"OTAK CONTROL", FLUSH (6)
(CONTROL POINT #1 PER MCSR 35872)
M MAG NAIL W/WASHER MARKED
"OTAK CONTROL", FLUSH (6)
(CONTROL POINT #6 PER MCSR 35872)

SURVEY/DEED REFERENCES

NOTE: ALL REFERENCES ARE FROM
MARION COUNTY RECORDS

- (1) MCSR 9160
(2) MCSR 10595
(3) MCSR 26883
(4) MCSR 31266
(5) MCSR 32299
(6) MCSR 35872
(7) TIMOTHY PARK
VOLUME 34, PAGE 5, B.O.T.P
(8) ODOT DRAWING NO. 6B-23-21

- (D1) REEL 4163, PAGE 129 (TL 1600)
(D2) REEL 1861, PAGE 265 (TL 1603)
(D3) REEL 4168, PAGE 320 (TL 900)

PROJECT CONTROL COORDINATES

SALEM ZONE (HELD PER THIS SURVEY)

CONTROL POINT 'L' N:236096.64 E:186611.66
CONTROL POINT 'M' N:233824.19 E:185273.08

LOCAL DATUM PLANE PER MCSR 35872

CONTROL POINT 'L' N:489147.76 E:7557129.06
CONTROL POINT 'M' N:486919.26 E:7555718.53

MARTIN E. HENNER
R.3941, P.33

PARCEL 2
P.P. 88-21M
CLAXTER VILLAS, LLC

CHADWICK LEE MARTIN
R.4087, P.422

LYCHE
PARCEL III OF
R.2374, P.387

LYCHE
PARCEL II OF
R.2374, P.387

LYCHE
PARCEL I OF
R.2374, P.387

NORTH RIVER PARTNERS, LLC
R.4168, P.320

LOTS 1-4
MID-WILLAMETTE VALLEY
SENIOR SERVICES AGENCY
R.1308, P.436

LOT 7
BASEL AL-AWADH
R.1273, P.93

TIMOTHY PARK
V.34, P.5 B.O.T.P.

IS LOCATED AT THE NE
CORNER OF PORTLAND
RD. NE AND WAYSIDE
TERRACE NE

REVISED 6B-23-21
CENTERLINE

PORTLAND ROAD
(VARIABLE WIDTH PUBLIC RIGHT OF WAY)

ORIGINAL 6B-23-21
CENTERLINE

LEGEND

- FOUND MONUMENT AS NOTED
○ SET 5/8"x30" IR W/YPC MARKED
"HOWELL LS 91569"
⊗ MONUMENT REFERENCE
[DATA(#)] RECORD DATA & REFERENCE
IR IRON ROD
IP IRON PIPE
W/YPC WITH YELLOW PLASTIC CAP
N:, E: NORTHING, EASTING
MCSR MARION COUNTY SURVEY RECORD
B.O.T.P. BOOK OF TOWN PLATS

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
SEPTEMBER 12, 2017
STEVEN LEE HOWELL
91569

RENEWAL: 6-30-2019

SURVEYED FOR: NORTH RIVER PARTNERS, LLC



**FORTY FIVE NORTH
SURVEYING, LLC**

1583 Country Glen Ave. NE, Keizer, OR 97303
P: (503) 558-3330 E: info@ffnsurveying.com

JOB NO. 18-037

SHEET **1/2**

PARTITION PLAT NO. _____

IN THE NE 1/4 OF SECTION 12, T.7S., R.3W., W.M.
CITY OF SALEM, MARION COUNTY, OREGON

DATE: MARCH 28, 2019

APPROVAL AND ACCEPTANCE OF DEDICATION

CITY PLANNING ADMINISTRATOR
XXXX CASE NO. XXXX

DATE

APPROVALS

CITY OF SALEM SURVEYOR

DATE

MARION COUNTY ASSESSOR

DATE

TAXES AND ASSESSMENTS ON THE PROPERTY DESCRIBED IN THE SURVEYOR'S
CERTIFICATE, AS PROVIDED BY ORS 92.095, HAVE BEEN PAID IN FULL
THROUGH _____

MARION COUNTY TAX COLLECTOR

DATE

STATE OF OREGON }
COUNTY OF MARION } SS

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT NO. _____
WAS RECEIVED FOR RECORDING ON THE ____ DAY OF _____, 20____,
AT _____ O'CLOCK ____ M., AND RECORDED IN THE BOOK OF PARTITION
PLATS. IT IS FURTHER RECORDED IN MARION COUNTY DEED RECORDS IN
REEL _____ AT PAGE _____.

BILL BURGESS, MARION COUNTY CLERK

BY: _____
DEPUTY COUNTY CLERK

DECLARATION

KNOW ALL MEN BY THESE PRESENTS THAT NORTH RIVER PARTNERS,
LLC IS THE OWNER OF THE LAND DESCRIBED IN THE SURVEYOR'S
CERTIFICATE HEREON, AND HAS CAUSED THIS PARTITION PLAT TO BE
PREPARED AND THE LAND TO BE PARTITIONED INTO ONE PARCEL AS
SHOWN, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 92 OF
THE OREGON REVISED STATUTES.

RANDY FULTZ, MEMBER
NORTH RIVER PARTNERS, LLC

ACKNOWLEDGEMENT

STATE OF OREGON }
COUNTY OF _____ } SS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____.
BY RANDY FULTZ, MEMBER, NORTH RIVER PARTNERS, LLC

NOTARY SIGNATURE

NOTARY PUBLIC – OREGON (PRINTED)

COMMISSION NO. _____

MY COMMISSION EXPIRES: _____

NOTES

- 1) PARCEL 1 IS SUBJECT TO A 5.00 FOOT UTILITY EASEMENT TO
PORTLAND GENERAL ELECTRIC COMPANY PER VOLUME 424, PAGE
526, MARION COUNTY DEED RECORDS, ALONG THE NORTH LINE AS
SHOWN.

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO PARTITION THAT TRACT OF LAND
CONVEYED TO NORTH RIVER PARTNERS, LLC BY REEL 4163, PAGE 129,
MARION COUNTY DEED RECORDS, AND REEL XXXX, PAGE XXXX, MARION
COUNTY DEED RECORDS, INTO ONE PARCEL PER CITY OF SALEM XXXX CASE
NO. XXX.

FOR MY BASIS OF BEARINGS, I HELD THE OREGON COORDINATE REFERENCE
SYSTEM "SALEM ZONE", NAD83(2011), EPOCH 2010.00.

THE "ORIGINAL 6B-23-21" AND "REVISED 6B-23-21" CENTERLINES WERE
ESTABLISHED BY HOLDING THE "CALCULATED POINTS" NOTED ALONG SAID
CENTERLINES PER MCSR 35872, ALONG WITH RECORD GEOMETRY. PROJECT
CONTROL POINTS 'L' AND 'M' (OTAK CONTROL POINTS 6 & 1 PER MCSR
35872) WERE HELD FOR HORIZONTAL LOCATION WHEN PLACING THE
CALCULATED CENTERLINES.

THE NORTH LINE WAS ESTABLISHED BY HOLDING A LINE THROUGH
MONUMENTS 'G' AND 'K'.

THE EAST LINE WAS ESTABLISHED BY HOLDING A DEED DISTANCE OF 107.00
FEET FROM THE "ORIGINAL 6B-23-21" CENTERLINE, AS MEASURED ALONG
SAID NORTH LINE, AND MONUMENT 'D'.

THE SOUTH LINE WAS ESTABLISHED BY HOLDING MONUMENTS 'D' AND 'E'.

THE WEST LINE WAS ESTABLISHED BY HOLDING MONUMENTS 'E' AND 'I'.

SURVEYOR'S CERTIFICATE

I, STEVEN L. HOWELL, HEREBY CERTIFY THAT I HAVE SURVEYED AND MARKED
WITH PROPER MONUMENTS THE LANDS REPRESENTED ON THE ATTACHED
PARTITION PLAT, IN THE NORTHEAST ONE-QUARTER OF SECTION 12,
TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, CITY OF
SALEM, MARION COUNTY, OREGON, THE BOUNDARIES OF WHICH BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, BEING A FOUND 1-1/4" IRON PIPE AT THE
NORTHWEST CORNER OF THAT PROPERTY CONVEYED TO NORTH RIVER
PARTNERS, LLC BY REEL 4168, PAGE 320, MARION COUNTY DEED RECORDS,
BEING ALSO ON THE EAST LINE OF THAT PROPERTY CONVEYED TO LYCHE BY
REEL 2374, PAGE 387, MARION COUNTY DEED RECORDS; THENCE, ALONG
THE EAST LINE OF SAID LYCHE PROPERTY, NORTH 33°12'44" EAST, 206.26
FEET TO THE SOUTH LINE OF THAT PROPERTY CONVEYED TO HENNER BY
REEL 3941, PAGE 33, MARION COUNTY DEED RECORDS; THENCE, ALONG THE
SOUTH LINE OF SAID HENNER PROPERTY, THE SOUTH LINE OF PARTITION
PLAT 88-21M, MARION COUNTY PLAT RECORDS, AND THE SOUTH LINE OF
THAT PROPERTY CONVEYED TO MARTIN BY REEL 4087, PAGE 422, MARION
COUNTY DEED RECORDS, SOUTH 61°15'18" EAST, 313.63 FEET TO THE WEST
RIGHT OF WAY LINE OF CLAXTER COURT; THENCE, ALONG SAID WEST RIGHT
OF WAY LINE, SOUTH 24°54'19" WEST, 198.46 FEET TO THE NORTH LINE OF
SAID NORTH RIVER PARTNERS PROPERTY; THENCE, ALONG LAST SAID NORTH
LINE, NORTH 62°31'35" WEST, 343.06 FEET TO THE INITIAL POINT.

CONTAINING 66,254 SQUARE FEET OR 1.52 ACRES, MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
SEPTEMBER 12, 2017
STEVEN LEE HOWELL
91569

RENEWAL: 6-30-2019

SURVEYED FOR: NORTH RIVER PARTNERS, LLC



FORTY FIVE NORTH
SURVEYING, LLC

1583 Country Glen Ave. NE, Keizer, OR 97303
P: (503) 558-3330 E: info@ffnsurveying.com

JOB NO. 18-037

SHEET 2/2

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST TO VALIDATE PROPERTY	}	VUL19-04
THAT IS APPROXIMATELY 1.48 ACRES IN		
SIZE, ZONED CO (COMMERCIAL OFFICE)	}	FINDINGS OF FACT, CONCLUSIONS, AND DECISION
AND LOCATED AT THE 4285 Claxter CT NE		
(MARION COUNTY ASSESSOR MAP AND	}	
TAX LOT NUMBERS: 073W12A / 1600 and		
1603).		

DATE AND PLACE OF HEARING:

April 24, 2019, Salem City Council Chambers, Room 240, Civic Center, 555
Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Britany Randall, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	North River Partners, LLC, 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 24, 2019, regarding a request to establish tax lots created by deed in 1988, when tax lots 1600 and 1603 (along with tax lots 1601 and 1602) were described and sold separately from the original parcel. The sale effectively divided the parent parcel into four units of land, without a land use process or decision to partition the property.

During the hearing, Britany Randall requested the Staff Report, PowerPoint presentation, and all attachments 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 “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 inside of the Urban Service Area.

2. Zoning and Surrounding Land Use

The subject property is zoned Commercial Office (CO) within the Portland/Fairgrounds Road Overlay. The properties subject to the validation request, Tax Lots 1600 and 1603, are occupied by an assortment of structures built in the 1930’s according to accessor records. The surrounding properties are zoned and used as follows:

North: CO (Commercial Office) within the Portland/Fairgrounds Road Overlay and RM2 (Multiple Family Residential 2); Multiple Family Developments

South: CO (Commercial Office) within the Portland/Fairgrounds Road Overlay; Single family dwelling and outbuildings

East: (Across Claxter Ct NE and Portland Road NE) RM2 (Multiple Family Residential 2 and Portland/Fairgrounds Road Overlay; Vacant property and a church

West: IG (General Industrial); Metal and timber manufacturing/warehousing

3. Existing Site Conditions

The land areas (Tax Lots 1600 and 1603) are approximately 328-feet by 200-feet rectangular shape. The property has access to Claxter Ct NE, a local street, under ODOT jurisdiction.

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 April 4, 2019. Notice of the proposed application was also posted on the subject property. No written comments were received from either the neighborhood association nor neighbors and tenants within 250 feet. The neighborhood association and neighbors or tenants did not appear at the hearing.

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.

- Survey will review all submitted materials for a final comprehensive review of ORS 92 & SRC at the Final Plat Stage.
- 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 with the validation of units of land.

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 have been received at the time of the writing of this staff report.

The Hearings Officer notes the statements in paragraphs 5 and 6 are uncontested and finds these statements are 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 findings relative to the proposed tentative partition. The applicant provided justification for all applicable criteria that is 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 City Staff reported that the property was annexed into the City of Salem in January 1971. The unit of land subject to the validation request was created in 1988, after annexation, through a deed recorded selling the subject land area. Therefore, Tax Lots 1600 and 1603 were not lawfully established units 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.

The Hearings Officer notes that City Staff reported that the deeds selling Tax Lots 1600 and 1603 were recorded in July of 1988 in Reel 630, Page 321. Therefore, the deeds were executed and recorded before January 1, 2007.

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.

The Hearings Officer notes that City Staff reported that the subject properties exceeded the minimum required lot width, depth, and area standards for the CO (Commercial Office) zone that was in place at the time the properties were created by deed. Consequently, when the properties were sold, the properties could have conformed to the requirements of a land division.

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.

The Hearings Officer notes that the applicant submitted a copy of a proposed plat, which was included as Attachment C to 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 is met.

DECISION

The Hearings Officer **GRANTS** the request to validate two units of land that were created through sale rather than through an approved subdivision or partition plat process, for property zoned CO (Commercial Office) and located at 4285 Claxter Ct NE.

DATED: May 8, 2019.

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

James K. Brewer, Hearings Officer