

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.: VUL19-05

APPLICATION NO. : 19-106390-LD

NOTICE OF DECISION DATE: MAY 31, 2019

SUMMARY: A proposal to lawfully establish a unit of land that was created by sale through the recording of a deed in 1983.

REQUEST: An application to validate and lawfully establish a unit of land that was unlawfully created by sale through the recording of a deed in 1983 without receiving required land use approval. The unit of land proposed to be lawfully established though the validation process is approximately 6,269 square feet (0.14 acres) in size, zoned RS (Single Family Residential), and located in the 3800 Block of Dogwood Drive S (Marion County Assessor's Map and Tax Lot Number: 083W04CB04900).

APPLICANT: Dogwood Heights, LLC (Eric Jensen)

LOCATION: 3800 Block of Dogwood Drive S

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

FINDINGS: The findings are in the attached Decision dated May 29, 2019.

DECISION: The **Hearings Officer APPROVED** Validation of Units of Land VUL19-05 based upon the application materials deemed complete on March 29, 2019 and the findings as presented in this report.

Application Deemed Complete:	<u>March 29, 2019</u>
Public Hearing Date:	<u>May 9, 2019</u>
Notice of Decision Mailing Date:	<u>May 31, 2019</u>
Decision Effective Date:	<u>June 18, 2019</u>
State Mandate Date:	<u>July 27, 2019</u>

Case Manager: Bryce Bishop, bbishop@cityofsalem.net, 503-540-2399

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., Monday, June 17, 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 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

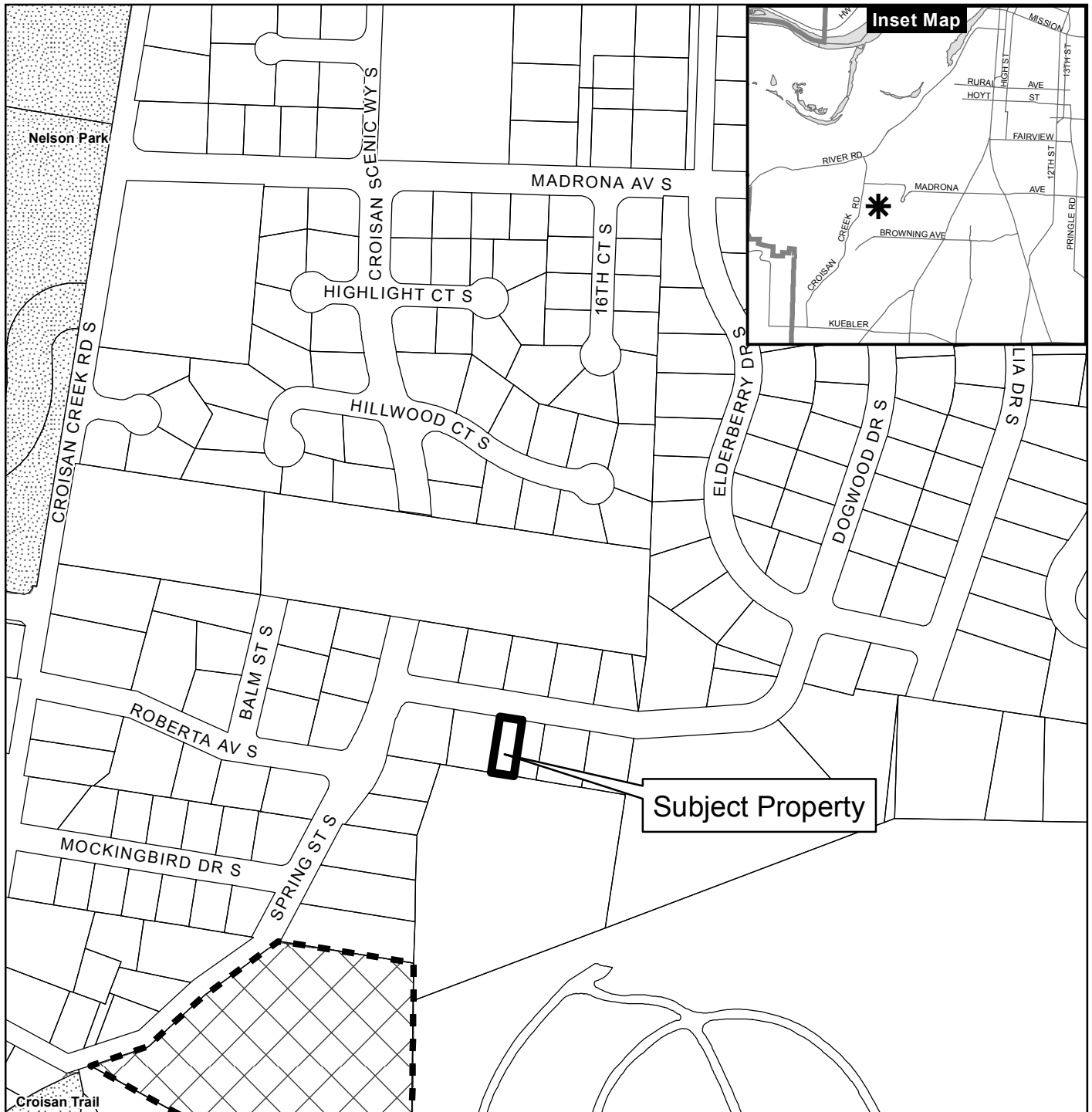
Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

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

3800 Block of Dogwood Drive S



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 2019-
IN THE NE 1/4 SEC. 4, T. 8 S., R. 3 W., W.M.
CITY OF SALEM, MARION COUNTY, OREGON

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

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO VALIDATE A TRACT OF LAND ORIGINALLY DESCRIBED IN R. _____, P. _____, MARION COUNTY DEED RECORDS. THE BASIS OF BEARING IS ALONG THE SOUTH RIGHT OF WAY OF DOGWOOD DRIVE PER GRETTIE'S SUBDIVISION.

I HELD ALL FOUND MONUMENTS TO RETRACE A PORTION OF BLOCK 2 OF GRETTIE'S SUBDIVISION AS SHOWN. THE SURVIVING FRONT LOT CORNERS FIT WELL TO A COMMON LINE. THE REAR LOT CORNERS DID NOT FIT A COMMON LINE, SO I HELD EACH ONE AS AN ANGLE POINT. WHERE FRONT LOT CORNERS WERE MISSING, I MADE SIDE LOT LINES PARALLEL TO ADJACENT LOTS WITH INTACT MONUMENTATION. I DIVIDED LOT 3 IN HALF PER DEED.

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:

THE WEST HALF OF LOT 3, BLOCK 2, GRETTIE'S SUBDIVISION AS RECORDED IN VOLUME 18, PAGE 49, MARION COUNTY BOOK OF TOWN PLATS IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 8 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON AND CONTAINING 6,269 SQUARE FEET, MORE OR LESS.

MULTI/TECH ENGINEERING SERVICES, INC.
BY:

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

NOTES:

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

- = FOUND 1/2" IRON PIPE PER GRETTIE'S SUBDIVISION
● = FOUND 3/4" IRON PIPE PER GRETTIE'S SUBDIVISION
● = FOUND 1" IRON PIPE PER GRETTIE'S SUBDIVISION
○ = SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP SCRIBED "MULTI/TECH ENG"
X = CALCULATED POINT

REFERENCE SURVEYS:

1. GRETTIE'S SUBDIVISION, V. 18, P. 49, BOTP

REFERENCE DEEDS:

- D1. R. 321, P. 571, MCDR

MCSR = MARION COUNTY SURVEY RECORD

MCDR = MARION COUNTY DEED RECORD

BOTP = BOOK OF TOWN PLATS

R. = REEL

B. = BOOK

V. = VOLUME

P. = PAGE

[] = RECORD AND MEASURED DATA PER GRETTIE'S SUBDIVISION

() = RECORD DATA PER GRETTIE'S SUBDIVISION

DECLARATION:

KNOW ALL MEN BY THESE PRESENTS THAT DOGWOOD HEIGHTS, 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 J. JENSEN, MANAGER
DOGWOOD HEIGHTS, LLC.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
ROBERT D. HAMMAN
64202LS

EXPIRES: 6-30-2019

STATE OF OREGON

COUNTY OF MARION

S.S.

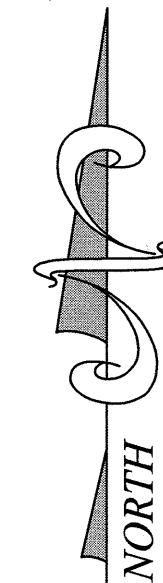
ON THIS _____ DAY OF _____, 2019, THAT PERSONALLY APPEARED BEFORE ME, A NOTARY PUBLIC FOR OREGON, ERIC J. JENSEN, MANAGER OF DOGWOOD HEIGHTS, LLC., WHO ACKNOWLEDGED THE FOREGOING INSTRUMENT TO BE HIS VOLUNTARY ACT AND DEED.

NOTARY SIGNATURE

NOTARY PUBLIC FOR OREGON

COMMISSION NO. _____

MY COMMISSION EXPIRES: _____



1" = 30'
01/29/2018
#6427

APPROVALS:

CITY PLANNING ADMINISTRATOR _____ DATE _____
PARTITION CASE NO. PAR _____

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 _____

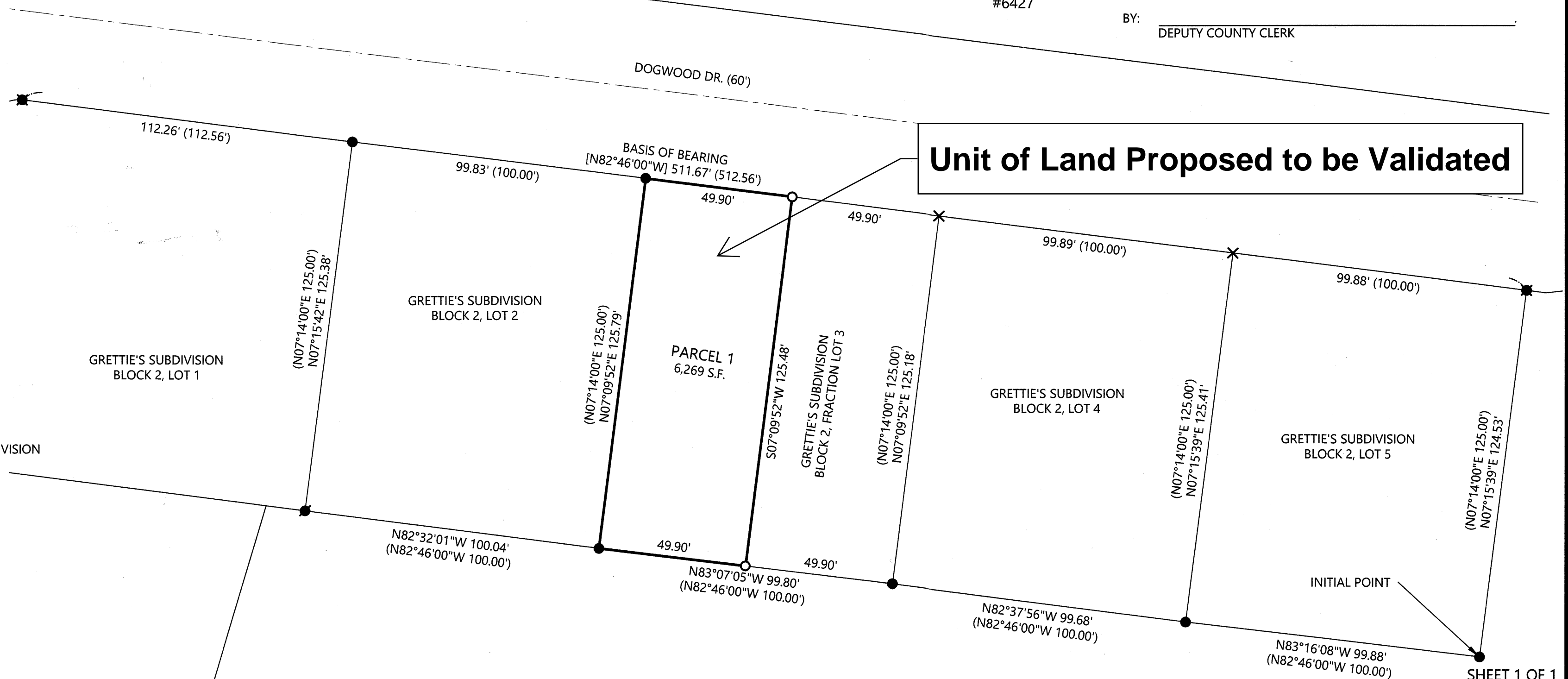
STATE OF OREGON }
COUNTY OF MARION } S.S.

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

Unit of Land Proposed to be Validated



**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST TO VALIDATE PROPERTY	}	VUL19-05
THAT IS APPROXIMATELY 6,269 SQUARE		
FEET (0.14 ACRES) IN SIZE, ZONED RS	}	FINDINGS OF FACT, CONCLUSIONS, AND DECISION
(SINGLE FAMILY RESIDENTIAL), AND		
LOCATED IN THE 3800 BLOCK OF	}	
DOGWOOD DRIVE S (MARION COUNTY		
ASSESSOR'S MAP AND TAX LOT NUMBER:	}	
083W04CB04900).		

DATE AND PLACE OF HEARING:

May 9, 2019, Salem City Council Chambers, Room 240, Civic Center, 555
Liberty Street SE, Salem, Oregon.

APPEARANCES:

Staff: Bryce Bishop, Planner II

Neighborhood Association: None

Proponents: Dogwood Heights, LLC, Applicant, and Brandie
Dalton, Multi/Tech Engineering, Representative
for Applicant

Opponents: None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on May 9, 2019, regarding a request to establish lawfully a unit of land that was created by sale through recording of a deed in 1983. When the eastern half of Lot 3 was sold, it resulted in two properties being created. However, because the property was located within the City, and the City's land division ordinance at that time (SRC Chapter 63) required review and approval of a partition in order to lawfully divide a unit of land into up to three separate parcels, the two properties resulting from the 1983 sale did not receive the required land use approval and therefore were not created as legal unit of land.

During the hearing, Bryce Bishop requested that the Staff Report and Staff Presentation 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, observed, noted and alleged the following:

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

Comprehensive Plan Map: The subject property is designated “Single Family Residential” 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

The subject property is zoned RS (Single Family Residential). Zoning of surrounding properties includes:

North: Across Dogwood Drive S, RS (Single Family Residential)

South: RS (Single Family Residential)

East: RS (Single Family Residential)

West: RS (Single Family Residential)

3. Existing Conditions

The subject property is approximately 6,269 square feet in size with a lot width of approximately 50 feet and a lot depth of approximately 125 feet.

4. Neighborhood Association Comments

The subject property is located within the Southwest Association of Neighbors (SWAN) Neighborhood Association. As of the date of completion of the staff report, no comments were received from the neighborhood association.

5. Public Comments

Notice of the proposal was mailed to property owners and tenants within 250 feet of the subject property. Notice of public hearing was also posted on the

subject property. As of the date of completion of the staff report, no comments were received from area property owners or tenants.

The Hearings Officer agrees with City Staff and adopts the findings in paragraphs 1-5, above.

6. City Department and Public Agency Comments

The Salem Fire Department, Building and Safety Division, and Public Works Department reviewed the proposal and indicated no objections.

7. Public Agency and Private Service Provider Comments

Notice of the proposal was provided to public agencies and to public & private service providers for the subject property. As of the date of completion of the staff report, no comments from public agencies or public and private service providers were received.

The Hearings Officer notes that the statements in paragraphs 6 and 7 are uncontested and finds the same useful in addressing the criteria below.

8. Criteria for Granting a Validation of Unit of Land

SRC 205.060(d) sets forth the approval criteria which must be met in order for a unit of land to be validated. In order to approve a validation of a unit of land, the review authority shall make findings based on evidence provided by the applicant demonstrating that all of the applicable approval criteria are met.

The following subsections are organized with approval criteria shown in **bold**, followed by findings evaluating the proposal's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the validation, or for the issuance of certain conditions to ensure the criteria are met.

(1) The unit of land is not a lawfully established unit of land.

The Hearings Officers notes that the City Staff reported that the subject property was annexed into the City of Salem in December of 1967, along with other properties in the surrounding area. Based on review of Marion County survey records, the subject property was originally part of Lot 3 of the Grettie's Subdivision plat.

According to deed records provided by the applicant, the subject property was created as a remnant property in September of 1983 as a result of the

sale of the eastern half of the original Lot 3 of Grettie's Subdivision (Warranty Deed – Reel 321, Page 571).

In 1983, when the property was created, the City had a land division ordinance (SRC Chapter 63) that required approval of a partition or subdivision in order divide a property into two or parcels or lots. The subject property, however, never received the requisite partition approval and instead was created through sale by recording of a deed.

Because the subject property was not created through an approved partition, the property is not a lawfully established unit of land.

The Hearings Officer finds this criterion met.

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

The Hearings Officer notes that the staff concurs with the written statement provided by the applicant. Based on deed records provided by the applicant, the subject property was created as a remnant property in September of 1983 as a result of the sale of the eastern half of the original Lot 3 of Grettie's Subdivision (Warranty Deed – Reel 321, Page 571).

Because the warranty deed which created the subject property, and the abutting property to the east, was recorded in 1983, the sale and recording of the deed occurred prior to January 1, 2007.

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.

(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 is currently zoned RS (Single Family Residential). In review of past zoning maps for the property, it was also zoned RS in 1983, which was the time the property was created.

When the property was created in September of 1983, the following lot area and dimension standards from the Subdivision Code (SRC Chapter 63) and the RS Zone (SRC Chapter 146) would have applied:

Requirement	Subdivision Code (SRC 63)	RS Zone (SRC 146)
Lot Area	Min. 6,000 ft. ² <i>(but deferred to zone district if different standard established in specific zone)</i>	Min. 4,000 ft. ²
Lot Width	Min. 60 ft. <i>(but deferred to zone district if different standard established in specific zone)</i>	Min. 40 ft.
Lot Depth	Min. 80 ft.	Min. 70 ft.
	Max. 250% of average lot width	Max. 300% of average lot width

Based on the above, the identified lot standards that would have applied to a partition of the property in 1983, the subject property with its approximately 6,269 square-foot lot size, 49.9-foot lot width, and 125-foot lot depth would have complied with the applicable criteria for the creation of the unit of land in effect when the property was created.

The Hearings Officer finds this approval criterion met.

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

The Hearings Officer notes that the applicant submitted a copy of the proposed plat required to validate the unit of land. The Public Works Department reviewed the proposal and submitted comments indicating that the validation plat appears to meet the minimum platting requirements of SRC 205 and ORS 92.

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 and lawfully establish a unit of land that was unlawfully created by sale through the recording of a deed in 1983 without receiving required land use approval; for property approximately 6,269 square feet (0.14 acres) in size, zoned RS (Single Family Residential), and located in the 3800 Block of Dogwood Drive S.

DATED: May 29, 2019.



James K. Brewer, Hearings Officer