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## DECISION OF THE PLANNING ADMINISTRATOR

**VALIDATION OF UNIT OF LAND CASE NO.: VUL19-09**

**APPLICATION NO. : 19-124713-LD**

**NOTICE OF DECISION DATE: JANUARY 30, 2020**

**SUMMARY:** A proposal to lawfully establish a unit of land that was created by sale through the recording of a deed in 1996.

**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 1996 without receiving required land use approval. The unit of land proposed to be lawfully established through the validation process is approximately 3.61 acres in size, zoned RA (Residential Agriculture), and located at 4567 Campbell Drive SE (Marion County Assessors Map and Tax Lot Numbers: 082W050 0700 and 0704).

**APPLICANT:** Will Kuenzi and Aaron Edelman on behalf of the City of Salem

**LOCATION:** 4567 Campbell Dr SE

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

**FINDINGS:** The findings are in the attached Decision dated January 30, 2020.

**DECISION:** The **Planning Administrator APPROVED** Validation of Units of Land VUL19-09 based upon the application materials deemed complete on December 20, 2019 and the findings as presented in this report.

The rights granted by the attached decision must be exercised, or an extension granted, by February 15, 2022 or this approval shall be null and void.

Application Deemed Complete:	<u>December 20, 2019</u>
Notice of Decision Mailing Date:	<u>January 30, 2020</u>
Decision Effective Date:	<u>February 15, 2020</u>
State Mandate Date:	<u>April 18, 2020</u>

**Case Manager:** Sally Long, [sjlong@cityofsalem.net](mailto:sjlong@cityofsalem.net), 503-540-2311

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, no later than 5:00 p.m., Friday, February 14, 2020. 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 Hearings Officer will

# NOTICE OF DECISION

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



review the appeal at a public hearing. After the hearing, the Hearings Officer 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 320, City Hall, 555 Liberty Street SE, during regular business hours.

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

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**BEFORE THE PLANNING ADMINISTRATOR  
OF THE CITY OF SALEM  
(VALIDATION OF UNIT OF LAND NO. 19-09)**

*Si necesita ayuda para comprender esta información, por favor llame 503-588-6173.  
<http://www.cityofsalem.net/planning>*

<b>IN THE MATTER OF THE VALIDATION OF UNIT OF LAND NO. 19-09; 4567 CAMPBELL DRIVE SE</b>	) ) ) )	<b>FINDINGS AND ORDER  JANUARY 30, 2020</b>
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**REQUEST**

Summary: A proposal to lawfully establish a unit of land that was created by sale through the recording of a deed in 1996.

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 1996 without receiving required land use approval. The unit of land proposed to be lawfully established through the validation process is approximately 3.61 acres in size, zoned RA (Residential Agriculture), and located at 4567 Campbell Drive SE (Marion County Assessors Map and Tax Lot Numbers: 082W050 / 0700 and 0704).

**DECISION**

The tentative plat for a validation of unit of land is APPROVED subject to the applicable standards of the Salem Revised Code and the findings contained herein.

**PROCEDURAL FINDINGS**

1. On November 26, 2019, Will Kuenzi, on behalf of the applicant, City of Salem, filed a request to validate an existing unit of land that was created through sale rather than through an approved land division process, for property zoned RA (Residential Agriculture), and located at 4567 Campbell Drive SE (Marion County Assessors Map and Tax Lot Numbers: 082W050 / 0700 and 0704) (see **Attachment A**).
2. The application was deemed complete for processing on December 20, 2019. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on December 20, 2019. The state-mandated local decision deadline is April 18, 2020.

**APPLICANT'S STATEMENT**

A request for a validation of unit of land must be supported by proof that it conforms to all applicable criteria imposed by the Salem Revised Code. The applicant submitted a written statement addressing the applicable approval criteria, which is included as **Attachment B** in this land use decision. Staff utilized the information from the applicant's statement, as

well as the pertinent zoning code which was in effect at the time the unit of land was created, to evaluate the applicant's proposal and to compose the facts and findings within the decision.

## **SUBSTANTIVE FINDINGS**

### **1. Salem Area Comprehensive Plan (SACP) Designation**

*Comprehensive Plan Map:* The subject property is designated MF ("Multi-Family Residential") on the Salem Area Comprehensive Plan (SACP) Map.

*Urban Growth Policies:* The subject property is located inside 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 properties subject to the validation request, Tax Lots 700 and 704 are separated by Campbell Drive SE. Tax Lot 700 is currently used as a City Park (Bill Riegel Park). Tax lot 704, a remnant that was created when Campbell Drive was extended, is currently vacant. The surrounding properties are zoned and used as follows:

North: Across North Santiam Highway SE, RS (Single Family Residential); Elementary school and single-family dwellings and IC (Industrial Commercial); Vacant property.

South: Across Campbell Drive SE, RM-2 (Multiple Family Residential 2); Multiple family developments.

East: RM-2 (Multiple Family Residential 2); Multiple family developments.

West: Across Campbell Drive SE, RM-2 (Multiple Family Residential 2); Multiple family developments.

### **3. Existing Site Conditions**

The land areas (Tax Lots 700 and 704) are irregularly shaped and approximately 542 feet in width and 684 feet in depth. Campbell Drive SE, a local street, separates the two lots at the southwestern corner of Tax Lot 700.

### **4. Neighborhood and Citizen Comments**

The subject property is located within the boundaries of the Southeast Mill Creek

Association (SEMCA). Notification was sent to the neighborhood association and surrounding property owners and residents within 250 feet of the property on December 20, 2019. No comments were received from the neighborhood association.

Prior to the end of the comment period, two comments were received from surrounding residents who indicated no objections to the proposal.

## 5. City Departments 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.
  - The Tentative Plan Plat Map appears to meet the minimum requirements for acceptance at the completeness stage. It appears there is a path towards recording for this validation partition.
  - 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 had no comments.
- The Salem Fire Department reviewed the proposal and indicated that they have no concerns with the validation of unit of land. Any new structures will be required to comply with items such as fire department access and water supply.

## 6. Private Agency and Service Provider Comments

Public agencies and public and private service providers for the subject property were mailed notification of the proposal. The following comment was received:

- Portland General Electric (PGE) reviewed the proposal and commented that development cost would be per current tariff and service requirements and a 10-foot public utility easement is required on all front street lots.
- Cherriots Public Transit reviewed the proposal and indicated they had no concerns.

## 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.<sup>1</sup> In order to approve a validation of unit of land, the review authority shall

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<sup>1</sup> Notwithstanding criterion SRC205.060 (d)(3), the Review Authority may approve an application to validate a unit of land that was unlawfully created prior to January 1, 2007, if approval was issued for a permit to allow the construction of placement of a dwelling or other building on the unit of land after the sale. No approval has been issued for such construction on the subject land area.

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 (**Attachment B**).

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

**Finding:** The subject property was annexed into the City of Salem in May of 1989. The subject unit of land, as described as a meets and bounds description in Reel 1310, Page 763, includes Parcel 1 and a portion of Parcel 2 described in Partition Plat 95-129. When the subject unit of land was created, Campbell Drive SE had not yet bisected the property. Since dedication of right-of-way does not legally divide property, the subject unit of land includes two tax lots (700 and 704) on the east and west side of Campbell Drive SE. This is the subject unit of land, which was created in 1996 through a deed recording without the required land use approval, therefore, tax lots 700 and 704, together, are not lawfully-established units of land. 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.**

**Finding:** According to the written statement and staff research, the unit of land was created prior to January 1, 2007, by a recorded deed (Reel 1310, Page 763) on May 16, 1996. 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.**

**Finding:** The applicant provided City of Salem zoning code Chapter 145, RA zone – Residential Agriculture, which was in effect when the unit of land was created by deed. The development standards of the RA zone required a minimum lot size of 4,000 square feet for single family dwellings with a minimum lot width of 40-feet, an average lot depth between the front and rear lot lines of not less than 70-feet, and not more than 300 percent of the average width between the side lot lines. All other uses were required to occupy lots of 6,000 square feet or more (except for public buildings and structures such as libraries and fire stations), with a minimum lot depth of 80-feet, and a minimum lot width of 60-feet, provided the minimum lot area is met.

The subject land area exceeds these standards, with a lot area of approximately 195,041 square feet and would have complied with the applicable criteria for the creation of the unit of land in effect when the property was created in 1996. This criterion is met.

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

**Finding:** The applicant submitted a copy of a proposed plat (**Attachment C**). The Public Works Department reviewed the proposal and submitted comments describing the procedure and submittal requirements for recording of a final plat.

**8. Conclusion**

Based upon review of SRC 205.060, the findings contained under Section 7 above, and the comments described, the validation of unit of land complies with the requirements for an affirmative decision. Approval will not adversely affect the safe and healthful development and access to any adjoining lands.

**IT IS HEREBY ORDERED**

The tentative Plat for the Validation of Unit of Land Case No. 19-09, on property approximately 3.61 acres in size, zoned RA (Residential Agriculture), and located at 4567 Campbell Drive SE (Marion County Assessors Map and Tax Lot Numbers: 082W050 / 0700 and 0704) is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code and the findings contained herein.



Sally Long, Planner I, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

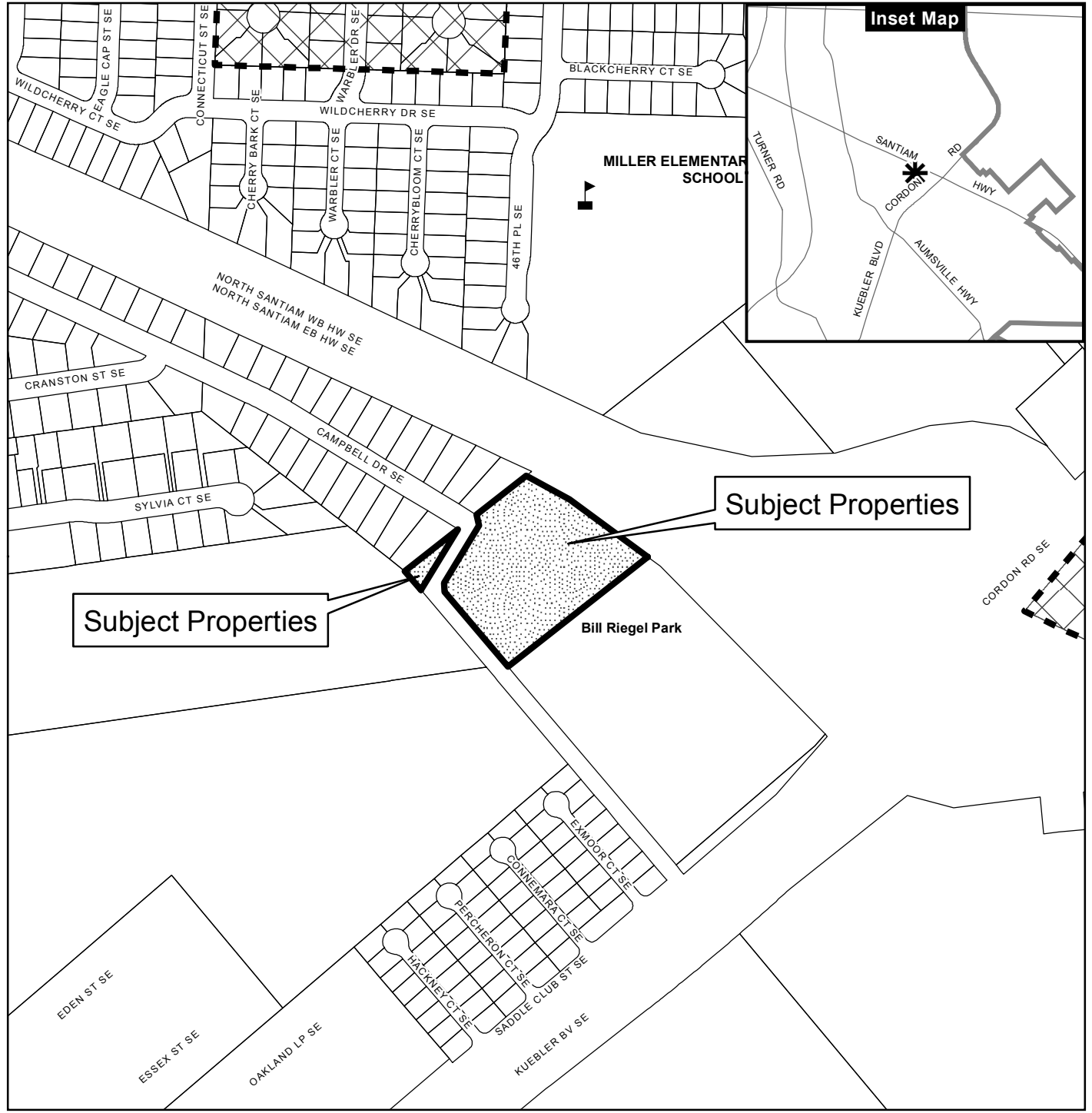
Prepared by Sally Long, Planner I

Attachments: A. Vicinity Map  
B. Applicant's Written Statement  
C. Applicant's Proposed Plat

# Vicinity Map

## 4567 Campbell Drive SE

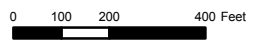
### Taxlots: 082W0500700 and 704



#### Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

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Community Development Dept.



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## Bill Riegel Park Validation Written Statement

11/26/2019

Prepared by Will Kuenzi (City of Salem Public Works/ Engineering)

Please see the applicants response in italics and bold below.

- The unit of land is not a lawfully established unit of land  
***The legal description for the park property was a new metes and bounds descriptions over a portion 2 lawful parcels. This conveyance did not occur through a lawful City of Salem land use approval process.***
- The unit of land was created through sale by deed or land sales contract executed and recorded before January 1, 2007.  
***The unit of land was created by deed in 1996.***
- 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 and the plat complies with SRC 205.035 and ORS 92.  
***The unit of land appears to meet the existing criteria at the time of creation; City of Salem Planning Department to confirm. The tentative plat does not yet fully comply with SRC 205.035 and ORS 92, but appears to be possible. The plat will be completed upon land use approval and sent to the City Surveyor for approval prior to recording.***



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TENTATIVE  
 PARTITION PLAN

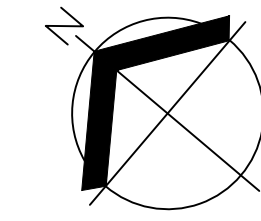
DESIGNED BY:  
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 MANAGED BY: NSW  
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 NICK WHITE  
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REVISIONS

JOB NUMBER  
 6163-09

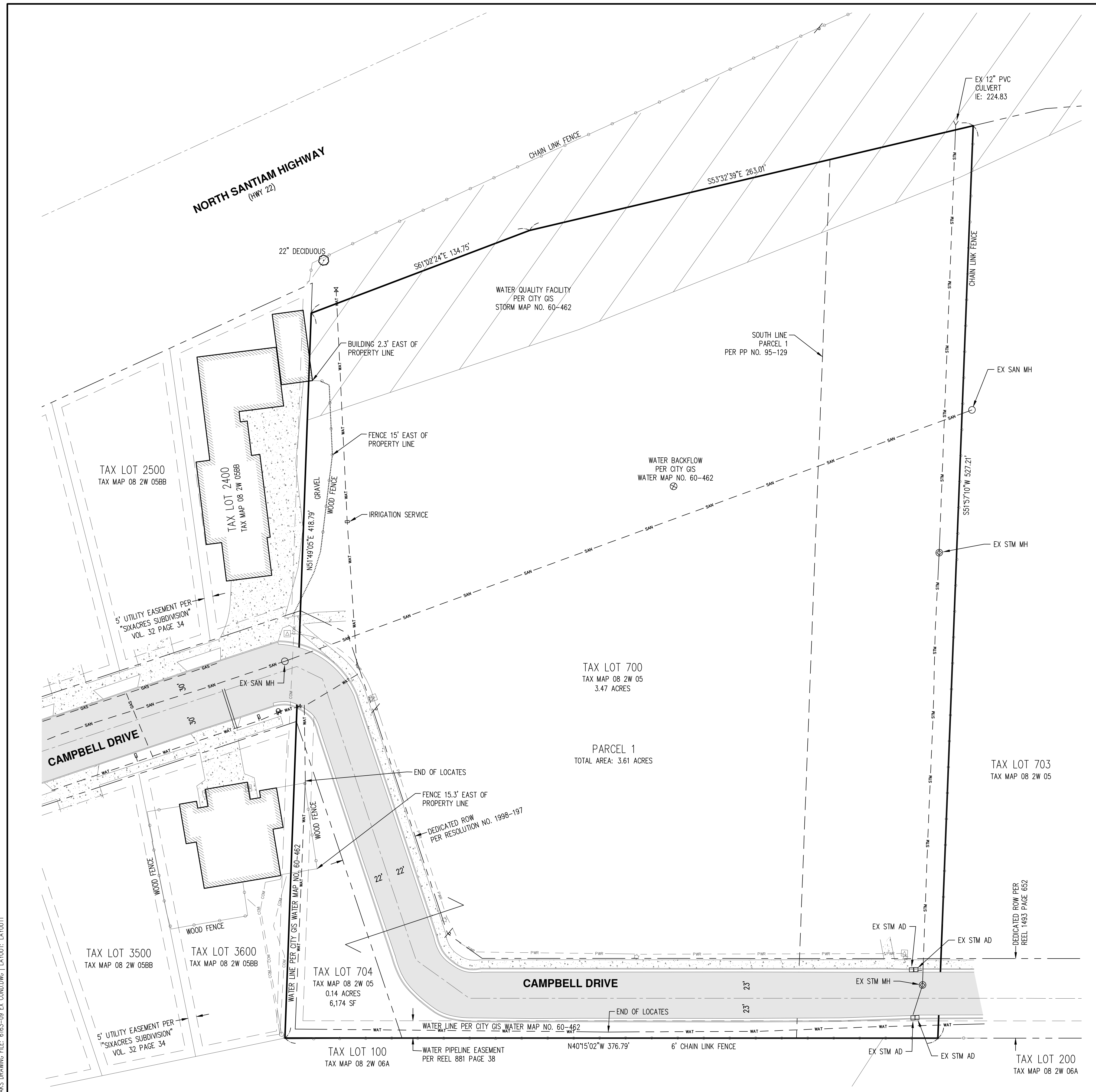
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 ORIGINAL PAGE SIZE: 22" x 34"

**NOTES:**

- TAX LOT 700 & 704 ARE OWNED BY THE CITY OF SALEM. ADDRESS: 555 LIBERTY STREET SE, SALEM, OREGON 97301.
- UTILITIES SHOWN ARE BASED ON UNDERGROUND UTILITY LOCATE MARKINGS AS PROVIDED BY OTHERS, PROVIDED PER UTILITY LOCATE TICKET NUMBER 19291454 & 19291437. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND LOCATES REPRESENT THE ONLY UTILITIES IN THE AREA. CONTRACTORS ARE RESPONSIBLE FOR VERIFYING ALL EXISTING CONDITIONS PRIOR TO BEGINNING CONSTRUCTION.
- FIELD WORK WAS CONDUCTED OCTOBER 23-24, 2019.
- THIS IS NOT A BOUNDARY SURVEY TO BE RECORDED WITH THE COUNTY. BOUNDARIES MAY BE PRELIMINARY AND SHOULD BE CONFIRMED WITH THE STAMPING SURVEYOR PRIOR TO RELYING ON FOR DETAILED DESIGN OR CONSTRUCTION.
- BUILDING FOOTPRINTS ARE MEASURED TO SIDING UNLESS NOTED OTHERWISE. CONTACT SURVEYOR WITH QUESTIONS REGARDING BUILDING TIES.



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