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503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

VALIDATION OF UNIT OF LAND CASE NO.: VUL20-01

APPLICATION NO.: 20-103450-LD

NOTICE OF DECISION DATE: MAY 15, 2020

**REQUEST:** An application to validate and lawfully establish a unit of land which was unlawfully created though the recording of a deed in 2004 without receiving the required land use approval, for property approximately 3.25 acres in size, zoned RS (Single Family Residential), and located at 255 Cordon Road NE 97301 (Marion County Assessor map and tax lot number: 072W29C / 00199).

**APPLICANT:** Brandie Dalton, Multi-Tech Engineering on behalf of East Park, LLC (Kiril Ivanov and Randy Meyers)

**LOCATION:** 255 Cordon Road NE

**CRITERIA:** Salem Revised Code (SRC) Chapters 205.060(d) – Validation of Unit of Land

**FINDINGS:** The findings are in the attached Decision dated May 15, 2020.

**DECISION:** The **Planning Administrator APPROVED** Validation of Unit of Land VUL20-01 based upon the application materials deemed complete on April 3, 2020 and the findings as presented in this report.

The rights granted by the attached decision must be exercised, or an extension granted, by June 02, 2022 or this approval shall be null and void.

Application Deemed Complete:	<u>April 3, 2020</u>
Notice of Decision Mailing Date:	<u>May 15, 2020</u>
Decision Effective Date:	<u>June 02, 2020</u>
State Mandate Date:	<u>August 1, 2020</u>

Case Manager: Aaron Panko, [APanko@cityofsalem.net](mailto:APanko@cityofsalem.net), 503-540-2356.

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division by 5:00 p.m., Monday, June 01, 2020. **PLEASE NOTE: Due to the COVID-19 pandemic, City of Salem Offices are closed to the public until further notice.** The notice of appeal can be submitted electronically at [planning@cityofsalem.net](mailto:planning@cityofsalem.net) or mailed to City of Salem Planning, Room 320, 555 Liberty Street SE, Salem OR 97301. The appeal must be received by the above date and time. 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

NOTICE OF DECISION

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

**CITY OF Salem**  
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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 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. For access to case related documents during the closure of City Hall to the public because of the Covid-19 pandemic, please contact the Case Manager.

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

**BEFORE THE PLANNING ADMINISTRATOR  
OF THE CITY OF SALEM  
(VALIDATION OF UNIT OF LAND NO. 20-01)**

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

**IN THE MATTER OF THE  
VALIDATION OF UNIT OF LAND  
NO. 20-01;  
255 CORDON ROAD NE - 97301**

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)  
)  
)

**FINDINGS AND ORDER  
  
MAY 15, 2020**

**REQUEST**

Summary: A proposal to validate a unit of land that was created through the recording of a deed in 2004.

Request: An application to validate and lawfully establish a unit of land which was unlawfully created through the recording of a deed in 2004 without receiving the required land use approval, for property approximately 3.25 acres in size, zoned RS (Single Family Residential), and located at 255 Cordon Road NE 97301 (Marion County Assessor map and tax lot number: 072W29C / 00199).

**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 February 25, 2020, Brandie Dalton, Multi-Tech Engineering Inc., on behalf of the applicant and property owner, East Park LLC, represented by Kiril Ivanov, 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 RS (Single Family Residential), and located at 255 Cordon Road NE - 97301 (Marion County Assessors Map and Tax Lot Number: 072W29C / 00199) (see **Attachment A**).
2. The application was deemed complete for processing on April 3, 2020. Notice to surrounding property owners was mailed pursuant to Salem Revised Code on April 3, 2020. The state-mandated local decision deadline is August 1, 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 such statements and proof, which are included in their entirety as **Attachment B** in this land use

decision. Staff utilized the information from the applicant's statements 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 "Single 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, an Urban Growth Area Preliminary Declaration has been approved for the subject property (UGA09-07MOD1).

### **2. Zoning and Surrounding Land Use**

The subject property is zoned RS (Single Family Residential). The land area subject to the validation request is currently vacant, a Planned Unit Development and Subdivision has been tentatively approved for the subject property (CPC-ZC-PUD-SUB-ADJ Case No. 19-08). The surrounding properties are zoned and used as follows:

North: RS (Single Family Residential); Vacant

South: RM I and II (Multiple Family Residential) and CR (Retail Commercial); Vacant

East: Across Cordon Road NE – Marion County AR (Acreage Residential) I (Industrial), and P (Public)

West: Marion County RM (Multiple Family Residential); manufactured dwelling parks

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

The subject land area (Tax Lot 00199) is rectangle shaped, approximately 1,770 feet in length and 80 feet in depth. The property has 80 feet of frontage along Cordon Road NE.

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

The subject property is located within the boundaries of the East Lancaster Neighborhood Association (ELNA). The East Salem Suburban Neighborhood

Association (ESSNA) located in Marion County, also receives notices for applications in ELNA. Notification was sent to the neighborhood associations and surrounding property owners and residents within 250 feet of the property on April 3, 2020.

ELNA has reviewed the application and indicated no objections. Five public comments were received with this application, three indicating no objections, one indicating objections, and one indicating objections and concerns with increased traffic.

**Staff Response:** The proposed Validation of Unit of Land request is not an application to develop the property, and therefore has no impact on traffic. A previously approved development application for a Planned Unit Development and Subdivision with 659 single family units and a 36-unit multi-family residential use was approved for the subject property (CPC-ZC-PUD-SUB-ADJ19-08). As a condition of approval, the applicant is required to validate this unit of land prior to plat approval for the PUD.

## 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.
  - Based on the deeds, it appears the property was created by (Reel 2289 Page 327) on March 10, 2004.
  - No title report was provided for Survey Staff Review.
  - With additional work the Validation Plat as submitted appears to have a path towards recording.
  - Survey retains the right to re-review all submitted materials at the conformance stage and the right for a final comprehensive review of ORS 92 and 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.
  - Applicant must provide a title report for the subject property no older than 15 days at the time of final plat submittal.
- The Building and Safety Division reviewed the proposal and indicated that they have no concerns.
- The Salem Fire Department reviewed the proposal and indicated that they have no concerns.

## 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. No comments were received.

## 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 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 land area was annexed into the City of Salem in April of 2011. The unit of land subject to the validation request was created in 2004 through a deed recording, which sold tax lot 072W29C00199, which was formerly railroad right-of-way, as a separate unit of land. Therefore, tax lot 072W29C00199 is not a lawfully-established unit 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 2289 Page 327) on March 10, 2004. 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 unit of land was created while it was under the jurisdiction of Marion County. The applicant provided a Marion County zoning map from 2004 indicating the property was zoned RM (Multiple Family Residential), UD (Urban Development) and IP (Industrial Park) and a copy of Marion County Zoning Code Chapter 4 for the RM zone,

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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.

Chapter 10 for the IP zone, and Chapter 15 for the UD zone, each of which were in effect in 2004 when the unit of land was created. The development standards of the IP zone did not specify minimum lot size or dimensions. In the RM zone, the minimum lot size is 6,000 square feet, and the minimum lot dimensions are 40 feet in width and 70 feet in depth. The in UD zone, the minimum lot size for partitioning is 6,000 square feet. The subject property is approximately 3.25 acres in size, with a lot width of 80 feet a depth of approximately 1,770 feet, exceeding minimum lot standards of each of the three zones. The Marion County land division ordinance could have allowed the parcel as a lawful parcel through a land use action in 2004. 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. 20-01, on property approximately 3.25 acres in size, zoned RS (Single Family Residential), and located at 255 Cordon Road NE - 97301 (Marion County Assessor map and tax lot number: 072W29C00199) is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code and the findings contained herein.

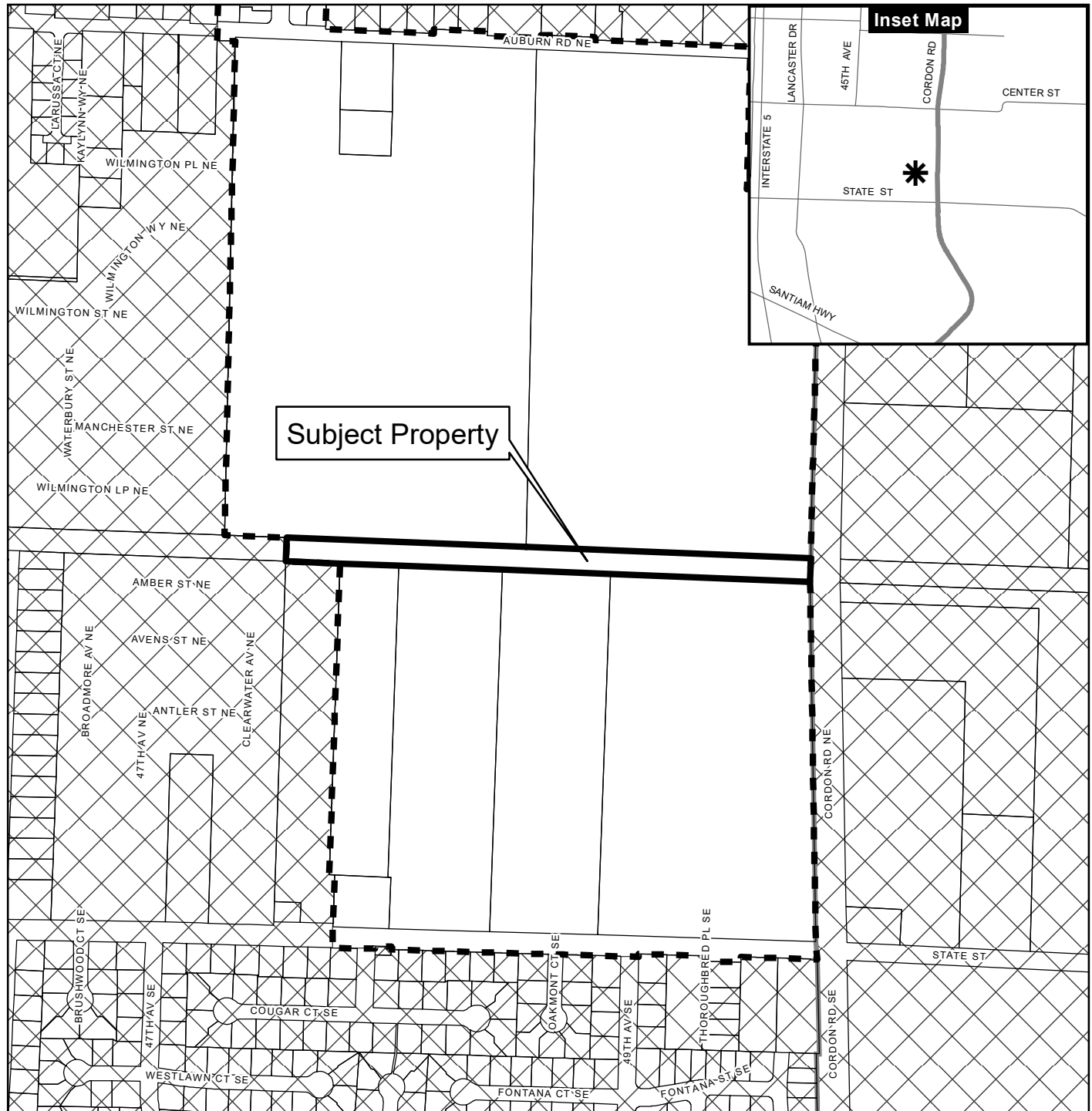


Aaron Panko, Planner III  
Planning Administrator Designee

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

# Vicinity Map

## 255 Cordon Road NE



### 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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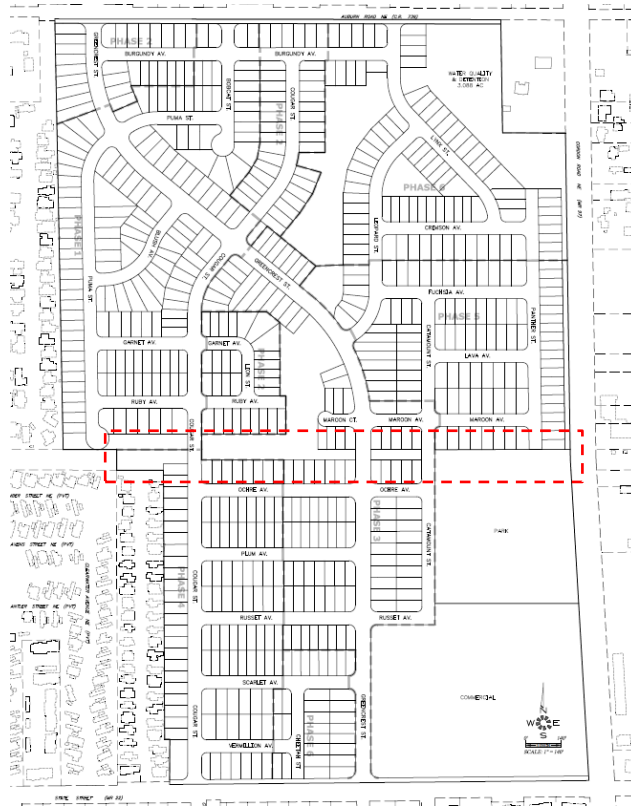
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## **Validation of Unit of Land**

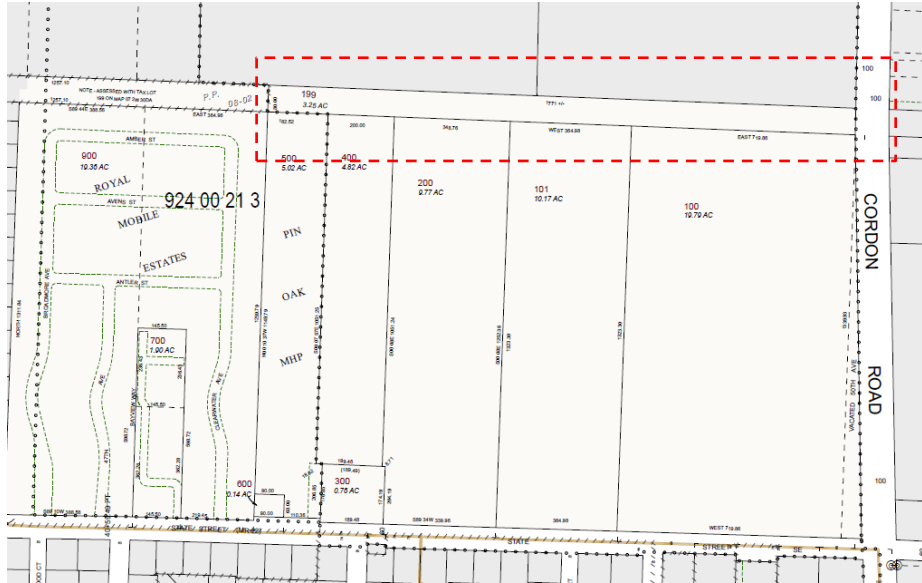
### **January 29, 2020**



#### **Criteria SRC 205.060(d)**

1. ***The unit of land is not a lawfully established unit of land;***

**Findings:** The subject property is identified as 072W29C/Tax Lot 199). It has been determined by staff that the subject property is not a unit of land that was lawfully established. Therefore, in order to lawfully establish the subject property as a legal unit of land, the applicant is requesting a Validation of Unit of Land review and approval.



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

**Findings:** The subject property was illegally created through Partition Plat No. 2008-2. The property to the west of the site was created legally as Parcels 1 through 3 via recorded Partition Plat No. 2008-2, which in turn create an illegal parcel (Tax Lot 199). The deed is attached and identified as Reel 4230 Page 252. See attached Partition Plat No. 2008-2.

**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; and**

**Findings:** The subject property was illegally created through Partition Plat No. 2008-2. The property to the west of the site was created legally as Parcels 1 through 3 via recorded Partition Plat No. 2008-2, which in turn create an illegal parcel (Tax Lot 199). The subject property is currently zoned RS and is part of the East Park PUD. However, until 2019 the subject property was zoned IP (Industrial Park) and was park of the railroad. This unit of land did comply with the applicable IP criteria when it was originally created for the railroad, and when it was created due to Partition Plat No. 2008-2.

**IP Zone Requirements**

**Lot Area:**

Required: None                      Existing: 3.25 acres

**Lot Width:**

Required: None                      Existing: 80 feet

**Lot Depth:**

Required: None                      Existing: 1769.98 feet

**Street Frontage:**

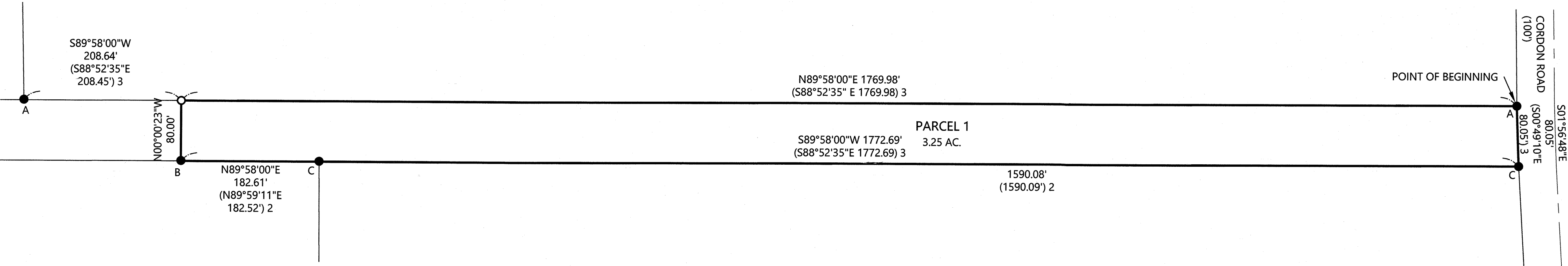
Required: 16 feet                      Existing: 80 feet

***The plat complies with SRC 205.035 and ORS 92. Development with the tentative partition plan can be adequately served by City infrastructure.***

**Findings:** The plat has been prepared by a certified Survey and is in compliance with the requirements of SRC 205.035 and ORS 92. See the attached plat. As determined through the East Park PUD approval process, the subject property as conditioned can be adequately served by City infrastructure.

PARTITION PLAT 2020-  
IN THE SW 1/4 SEC. 29, T. 7 S., R. 2 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 THE SURVEY WAS FIX THE ILLEGALLY CREATED TRACT FROM  
PARTITION PLAT 2008-2, A REMAINDER WAS CREATED WHEN THE EXISTING UNION  
PACIFIC RIGHT OF WAY WAS PARTITION INTO 3 PARCELS AND A REMAINDER OF  
THE RIGHT OF WAY WAS NOT DEALT WITH TO THE EAST.

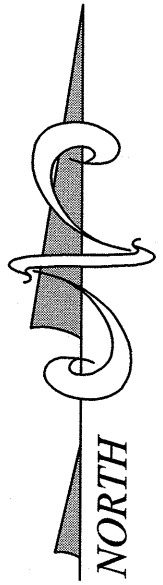
MONUMENT TABLE

A.	5/8" IRON ROD WYPC SCRIBED "DLT ASSOC. PLS 1362" PER C.S. 31002
B.	1/2 IRON BAR ORIGIN UNKNOWN
C.	5/8" IRON ROD WYPC SCRIBED "BARKER PLS 636" PER MCSR 36837

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

- = FOUND MONUMENT SEE TABLE
- = SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC  
CAP SCRIBED "MULTI/TECH ENG."

REFERENCE SURVEYS  
1. MCSR 31002  
2. MCSR 36837  
3. P.P. 2008-2



1" = 100'  
11/08/2019  
#6437

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
  
OREGON  
JULY 13, 2004  
ROBERT D. HAMMAN  
64202LS  
EXPIRES: 6-30-2021