

# 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 PLANNING ADMINISTRATOR

**VALIDATION OF UNIT OF LAND CASE NO.: VUL22-03**

**APPLICATION NO.: 22-103079-LD**

**NOTICE OF DECISION DATE: JULY 21, 2022**

**SUMMARY:** A proposal to validate a unit of land that was divided from its parent tract by deed in ~~1943~~ 2000.

**REQUEST:** An application to validate and lawfully establish a unit of land which was unlawfully created through the recording of a deed in ~~1943~~ 2000 without receiving required land use approval. The land area is approximately 2.08 acres in size, zoned CR (Retail Commercial), and located at 4130 Portland Rd NE - 97301 (Marion County Assessors Map and Tax Lot Number: 073W12AC / 3200).

**APPLICANT:** Saalfeld Griggs Lawyers on behalf of Salem-Keizer School District 24J

**LOCATION:** 4130 Portland Rd NE

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

**FINDINGS:** The findings are in the attached Decision dated July 21, 2022.

**DECISION:** The **Planning Administrator APPROVED** Validation of Units of Land Case No. VUL22-03 based upon the application materials and the findings as presented in this report.

The rights granted by the attached decision must be exercised, or an extension granted, by August 6, 2024, or this approval shall be null and void.

Application Deemed Complete:	<u>May 6, 2022</u>
Notice of Decision Mailing Date:	<u>July 21, 2022</u>
Decision Effective Date:	<u>August 6, 2022</u>
State Mandate Date:	<u>September 3, 2022</u>

Case Manager: Olivia Dias, Current Planning Manager, [ODias@cityofsalem.net](mailto:ODias@cityofsalem.net), 503-540-2343

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m., Friday, August 5, 2022. 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 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 by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

# BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

## DECISION

IN THE MATTER OF THE  
VALIDATION OF UNIT OF LAND  
CASE NO. 22-03  
4130 PORTLAND RD NE

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)

FINDINGS AND ORDER  
  
JULY 21, 2022

## REQUEST

**Summary:** A proposal to validate a unit of land that was divided from its parent tract by deed in ~~1943~~ 2000.

**Request:** An application to validate and lawfully establish a unit of land which was unlawfully created through the recording of a deed in ~~1943~~ 2000 without receiving required land use approval. The land area is approximately 2.08 acres in size, zoned CR (Retail Commercial), and located at 4130 Portland Rd NE - 97301 (Marion County Assessors Map and Tax Lot Number: 073W12AC / 3200).

## PROCEDURAL FINDINGS

1. On February 1, 2022, an application was filed and accepted for a validation of unit of land to establish a tax lot of 2.08 acres created through the recording of a deed in 2000 without receiving required land use approval (Marion County Assessor Map and Tax Lot Number 073W12AC / 3200).
2. A memorandum of understanding (MOU) was approved for the application to be deemed complete early on May 6, 2022. After additional information was submitted by the applicant, notice to surrounding property owners was mailed on June 6, 2022, pursuant to Salem Revised Code. The state-mandated local decision deadline is September 3, 2022.

## SUBSTANTIVE FINDINGS

### 1. Proposal

The proposed validation is for property located at 4130 Portland Rd NE (**Attachment A**). The application for a Validation of Unit of Land will establish a tax lot of 2.08 acres created through the recording of a deed in 2000 without receiving required land use approval. The applicant is requesting to validate the property, zoned CR (Retail Commercial), and located at 4130 Portland Rd NE - 97301 (Marion County Assessors Map and Tax Lot Number: 073W12AC / 3200).

The request statement noticed a deed being recorded in 1943 which was the original legal unit of land. The current configuration of the subject property was recorded in Reel 1691, Page 563 on March 22, 2000.

### 2. Summary of Record

The following items are submitted to the record and are available: 1) All materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) any materials, testimony, and comments from public agencies, City Departments, neighborhood associations,

and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 22 103079.

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

*Comprehensive Plan Map:* The subject property is designated COM (Commercial") 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 inside the Urban Service Area.

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

The subject property is zoned CR (Retail Commercial) and within Portland Fairground Overlay. The property subject to the validation request is proposed for development in conjunction with the existing elementary school, Hallman Elementary School. The surrounding properties are zoned and used as follows:

North:	CR (Retail Commercial) and within Portland Fairground Overlay; <i>commercial uses</i>
South:	CR (Retail Commercial) and within Portland Fairground Overlay; <i>single family and commercial uses</i>
East:	RS (Single Family Residential); <i>Hallman Elementary School</i>
West:	Across Portland Rd NE, CR (Retail Commercial) and within Portland Fairground Overlay; <i>multi-family and industrial uses</i>

### **Existing Site Conditions**

The subject property is approximately 2.08 acres in size and has street frontage on Portland Road NE. Is proposed for a new parking lot in conjunction with Hallman Elementary School.

### **5. Neighborhood Association and Public Comments**

#### Neighborhood Association Comment

Notice of the application was provided to the Northgate Neighborhood Association pursuant to SRC 300.620(b)(2)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. No comments have been received from the neighborhood association.

#### Public Comment

Notice was also provided, pursuant to SRC 300.620(b)(2)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. No comments have been received from the public.

### Homeowners Association

The subject property is not located within a Homeowners Association.

## **6. City Departments and Public Agency Comments**

City of Salem Building and Safety Division – Reviewed the proposal and indicated no concerns with the proposal.

Salem City Fire Department – Reviewed the proposal and indicated that they have no concerns with the proposal.

## **7. Private Agency and Service Provider Comments**

Private agencies and private service providers for the subject property were mailed notification of the proposal. No comments were received.

## **DECISION CRITERIA FINDINGS**

## **8. 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 is a response and/or finding relative to the proposed tentative partition. The applicant provided justification for all applicable criteria can be found in the record.

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

**Finding:** The subject property was created in its current configuration via Bargain and Sale deed recorded in the Marion County Real Property Records on March 22, 2000, at Reel 1691, Page 563, conveying the subject property from Ronald E. Moser, to himself, in the current configuration. The abutting unit of land (4000 Deerhaven Drive) was later conveyed to the School District on March 26, 2000, via a Warranty Deed (Reel 1692, Page 558). The deeds have been provided by the applicant. The City of Salem would have required a partition application at that time; therefore, the property was not lawfully established. 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:** The subject property was first described in its current configuration in the Bargain and Sale deed recorded in the Marion County Real Property Records on March 22, 2000, at Reel 1691, Page 563. As this conveyance was prior to January 1, 2007, this criterion is satisfied.

**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 in 2000; the subject property was zoned RS (Single Family Residential). Therefore, the analysis of this criterion applies the standards of the RS zone from 2000. The RS zone requirements were as follows: lot area, minimum 6,000 square feet; lot depth, minimum 80 feet; lot width, minimum 40 feet; minimum street frontage, 40 feet. The unit of land, as it was configured in 2000, met all of these lot standards and could have complied with the applicable criteria; therefore, 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 B**). At the time of final Plat submittal, the application shall provide the required field survey and Deed as per the statute and code requirements outlined in the Oregon Revised Statutes (ORS) and the Salem Revised Code (SRC). If said documents are not in compliance with the requirements outlined in the ORS and the SRC, and as per SRC 205.055, the approval of the validation of units of land plat by the City Surveyor may be delayed or held indefinitely based on the non-compliant violation.

## **9. Conclusion**

Based upon review of SRC 205.060, the findings contained under Section 8 above, and the comments described, the validation of units 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 Validation of Unit of Land Case No. 22-03, on property approximately 2.08 acres in size, CR (Retail Commercial), and located at 4130 Portland Rd NE - 97301 (Marion County Assessors Map and Tax Lot Number: 073W12AC / 3200) is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code and the findings contained herein.

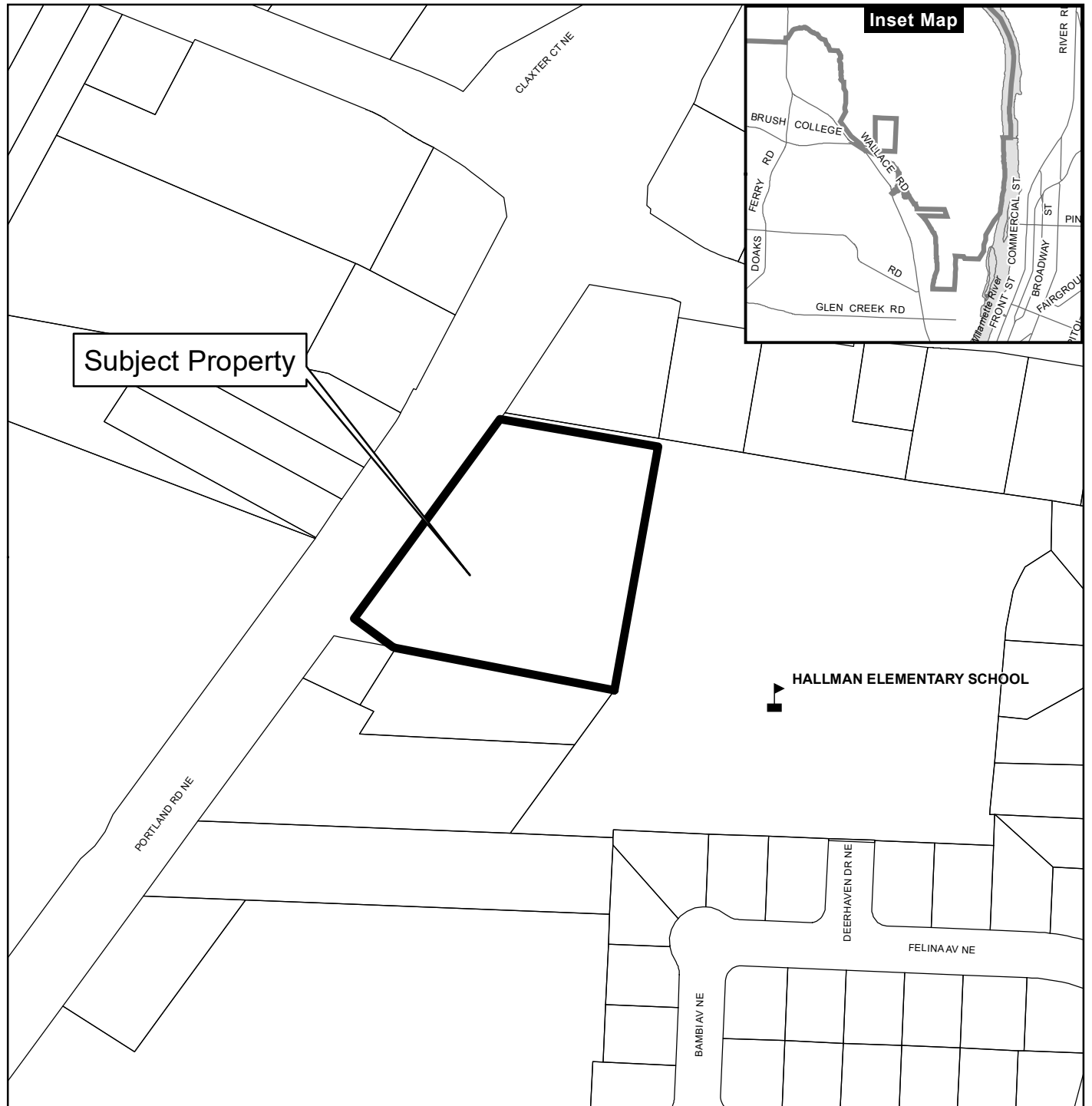


Olivia Dias, Current Planning Manager,  
on behalf of Lisa Anderson-Ogilvie,  
AICP, Planning Administrator

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

# Vicinity Map

## 4130 Portland Rd 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.

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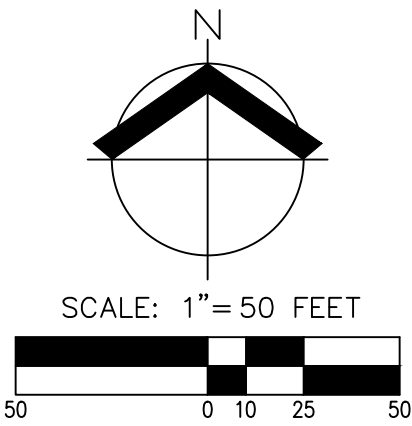
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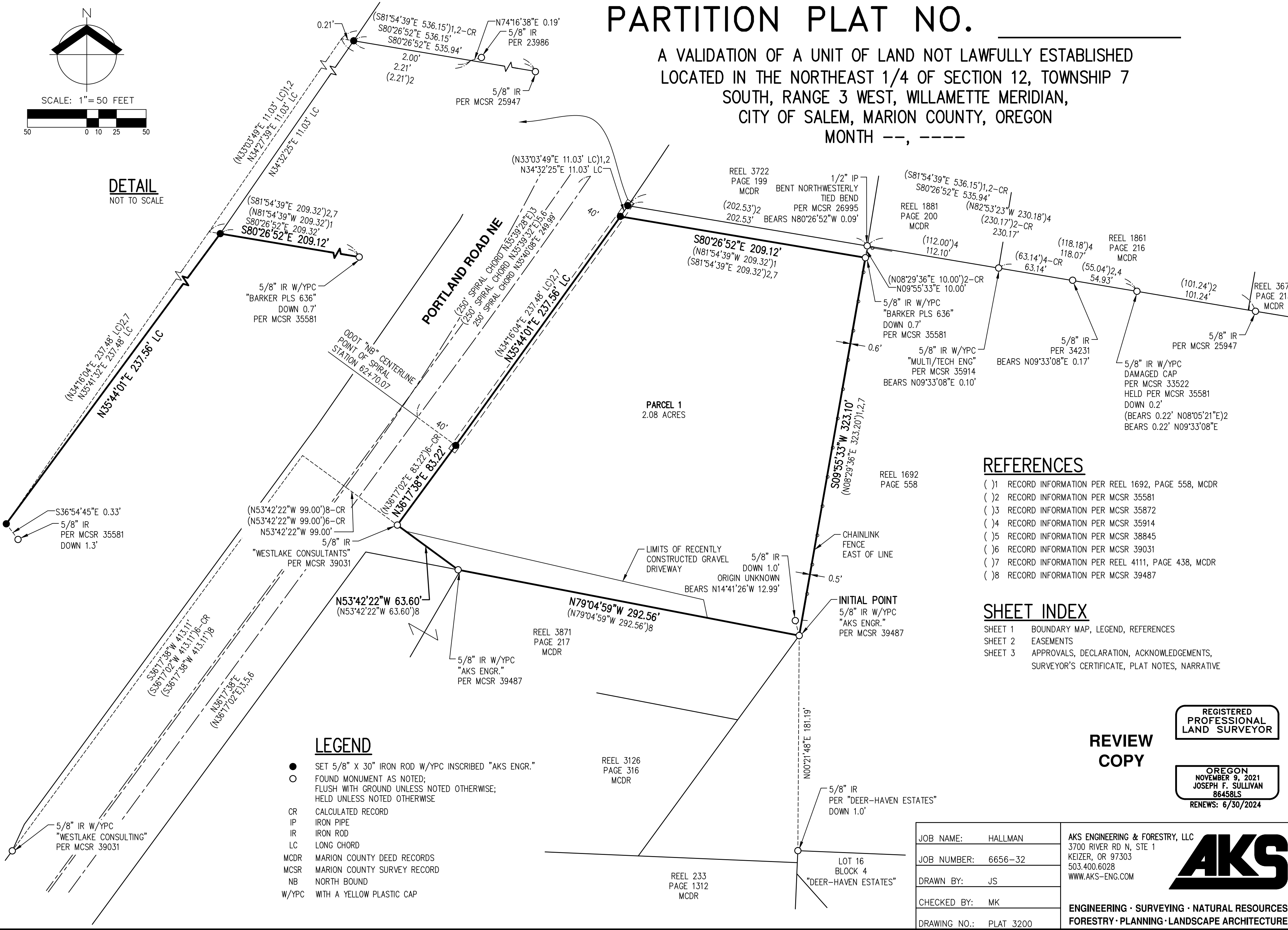


# PARTITION PLAT NO. \_\_\_\_\_

A VALIDATION OF A UNIT OF LAND NOT LAWFULLY ESTABLISHED  
LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 7  
SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN,  
CITY OF SALEM, MARION COUNTY, OREGON  
MONTH --, ----



**DETAIL**  
NOT TO SCALE



**REFERENCES**

- ( )1 RECORD INFORMATION PER REEL 1692, PAGE 558, MCDR
- ( )2 RECORD INFORMATION PER MCSR 35581
- ( )3 RECORD INFORMATION PER MCSR 35872
- ( )4 RECORD INFORMATION PER MCSR 35914
- ( )5 RECORD INFORMATION PER MCSR 38845
- ( )6 RECORD INFORMATION PER MCSR 39031
- ( )7 RECORD INFORMATION PER REEL 4111, PAGE 438, MCDR
- ( )8 RECORD INFORMATION PER MCSR 39487

**SHEET INDEX**

- SHEET 1 BOUNDARY MAP, LEGEND, REFERENCES
- SHEET 2 EASEMENTS
- SHEET 3 APPROVALS, DECLARATION, ACKNOWLEDGEMENTS, SURVEYOR'S CERTIFICATE, PLAT NOTES, NARRATIVE

**LEGEND**

- SET 5/8" X 30" IRON ROD W/YPC INSCRIBED "AKS ENGR."
- FOUND MONUMENT AS NOTED; FLUSH WITH GROUND UNLESS NOTED OTHERWISE; HELD UNLESS NOTED OTHERWISE
- CR CALCULATED RECORD
- IP IRON PIPE
- IR IRON ROD
- LC LONG CHORD
- MCDR MARION COUNTY DEED RECORDS
- MCSR MARION COUNTY SURVEY RECORD
- NB NORTH BOUND
- W/YPC WITH A YELLOW PLASTIC CAP

**REVIEW  
COPY**

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

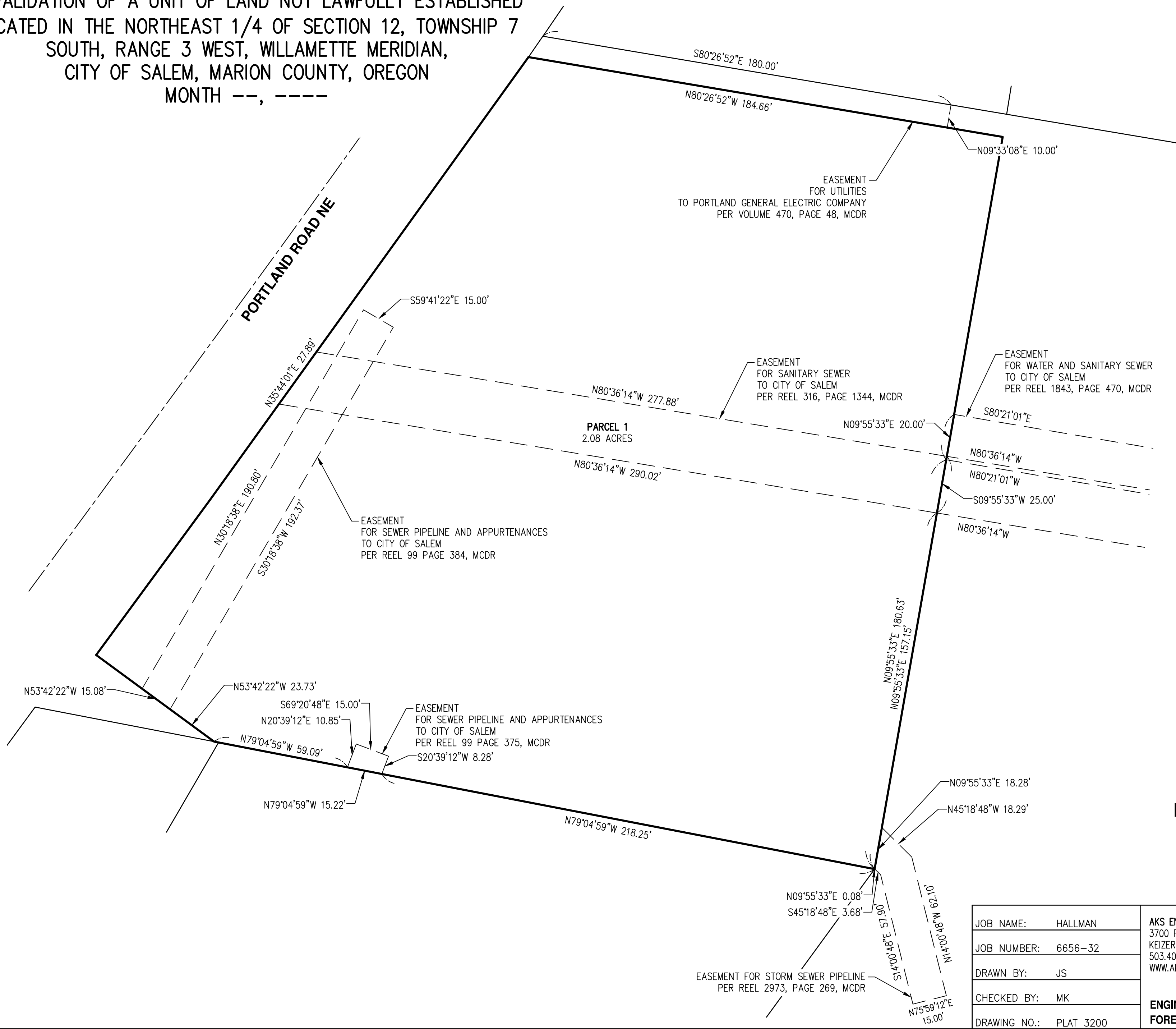
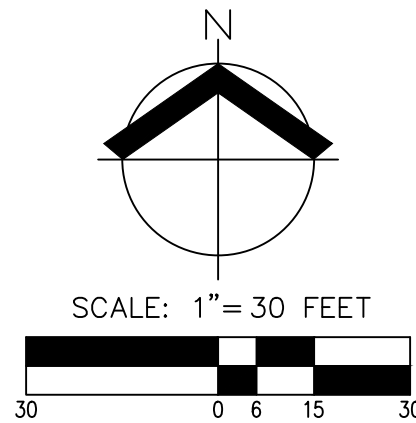
OREGON  
NOVEMBER 9, 2021  
JOSEPH F. SULLIVAN  
86458LS  
RENEWS: 6/30/2024

JOB NAME:	HALLMAN	<div>AKS ENGINEERING &amp; FORESTRY, LLC 3700 RIVER RD N, STE 1 KEIZER, OR 97303 503.400.6028 WWW.AKS-ENG.COM</div> <div>AKS</div>
JOB NUMBER:	6656-32	
DRAWN BY:	JS	
CHECKED BY:	MK	
DRAWING NO.:	PLAT 3200	
		ENGINEERING · SURVEYING · NATURAL RESOURCES FORESTRY · PLANNING · LANDSCAPE ARCHITECTURE



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A VALIDATION OF A UNIT OF LAND NOT LAWFULLY ESTABLISHED  
LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 7  
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REVIEW  
COPY

REGISTERED  
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