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 <u>2000</u>.

REQUEST: An application to validate and lawfully establish a unit of land which was unlawfully created through the recording of a deed in 4943 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:

Notice of Decision Mailing Date:

Decision Effective Date:

State Mandate Date:

May 6, 2022

July 21, 2022

August 6, 2022

September 3, 2022

<u>Case Manager</u>: Olivia Dias, Current Planning Manager, <u>ODias@cityofsalem.net</u>, 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, 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.

VUL22-03 Notice of Decision July 21, 2022 Page 2

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)	FINDINGS AND ORDER
CASE NO. 22-03	ý	
4130 PORTLAND RD NE)	JULY 21, 2022

REQUEST

Summary: A proposal to validate a unit of land that was divided from its parent tract by deed in 4943 2000.

Request: An application to validate and lawfully establish a unit of land which was unlawfully created through the recording of a deed in 4943 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

- 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, <u>and</u>; 2) any materials, testimony, and comments from public agencies, City Departments, neighborhood associations,

VUL22-03 Decision July 21, 2022 Page 2

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; commercial

uses

South: CR (Retail Commercial) and within Portland Fairground Overlay; single family

and commercial uses

East: RS (Single Family Residential); Hallman Elementary School

West: Across Portland Rd NE, CR (Retail Commercial) and within Portland Fairground

Overlay; multi-family and industrial uses

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

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

<u>Salem City Fire Department</u> – 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.

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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 Statues (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

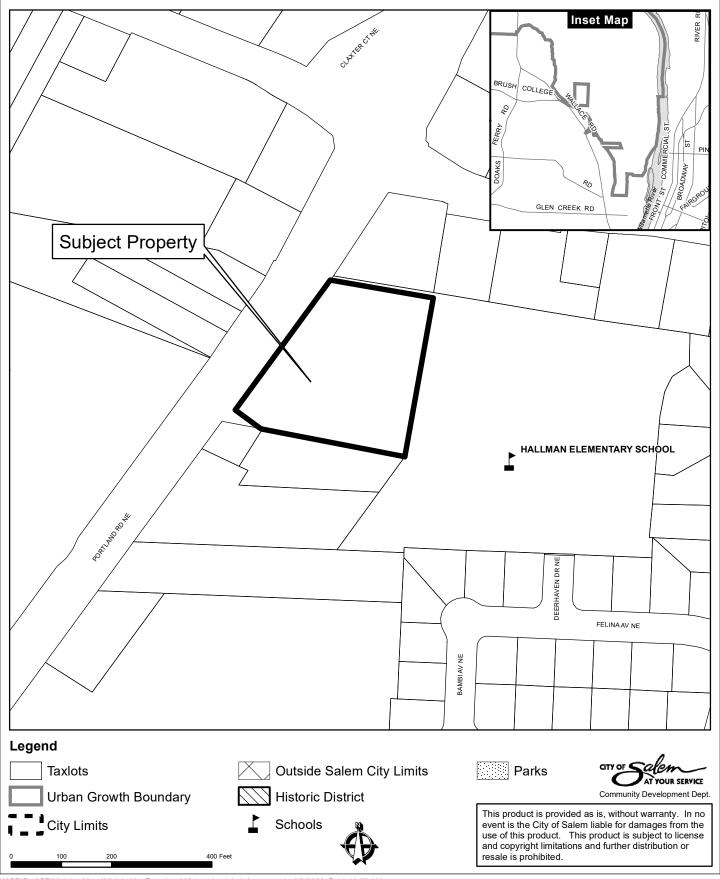
The Validation of Unit of Land Case No. 22-03, on property approximately 2.08 acres in size, CR (Retail Commercial), and located at 4130 Portland Rd NE - 97301 (Marion County Assessors Map and Tax Lot Number: 073W12AC / 3200) is hereby **APPROVED** subject to the applicable standards of the Salem Revised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

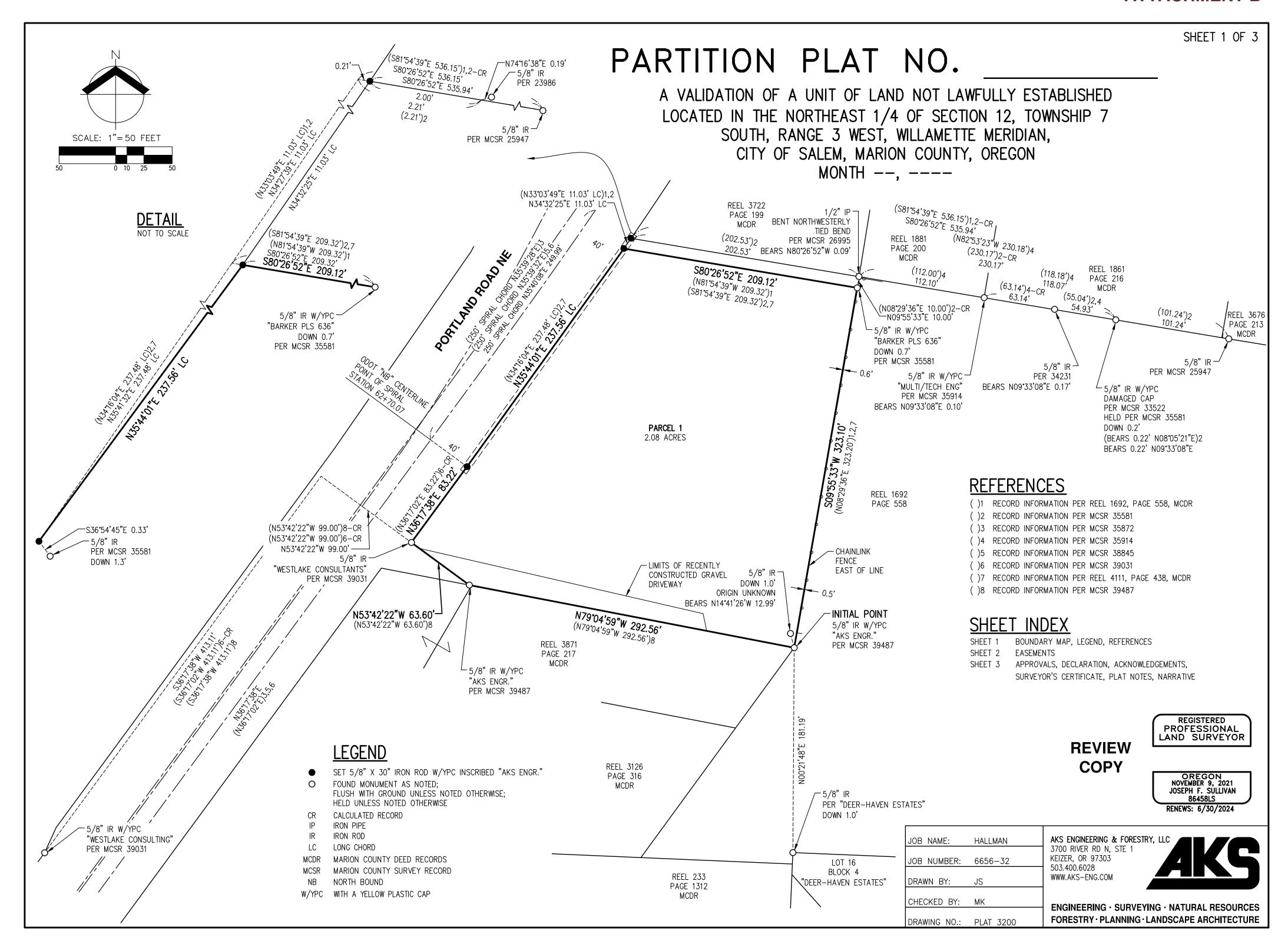
Olivia Dias, Current Planning Manager, on behalf of Lisa Anderson-Ogilvie, AICP, Planning Administrator

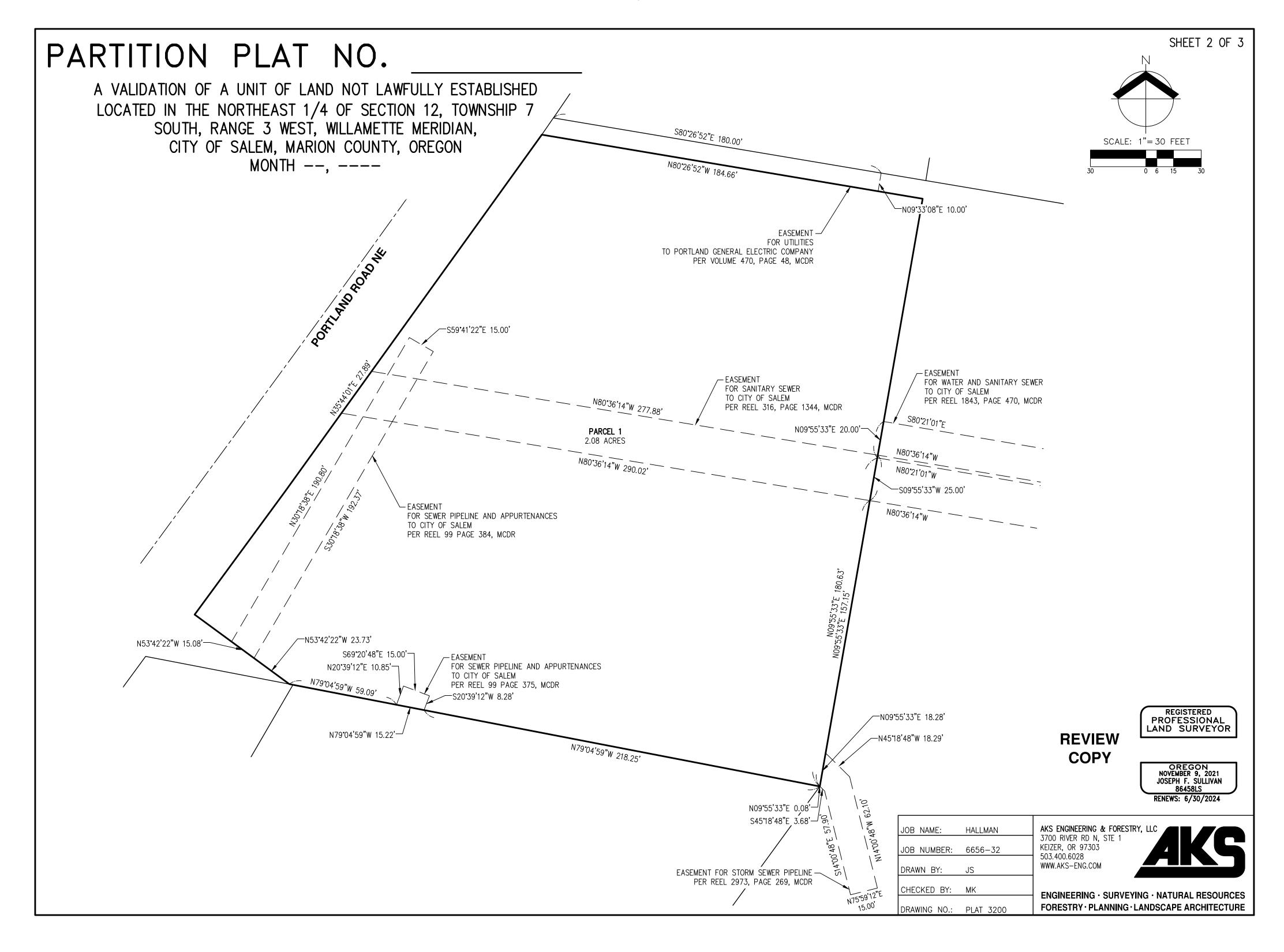
Attachments: A. Vicinity Map

B. Applicant's Proposed Plat

Vicinity Map 4130 Portland Rd NE







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 --, ----

CITY OF SALEM APPROVALS:

APPROVED THIS DAY OF	, 20
BY: CITY OF SALEM PLANNING ADMINISTRATOR CASE NO. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	

APPROVED THIS DAY OF	, 20
BY: CITY OF SALEM SURVEYOR	

MARION COUNTY APPROVALS: ALL TAXES AND ASSESSMENTS ON THE ABOVE DESCRIBED PROPERTY, AS PROVIDED BY ORS 92.095, HAVE BEEN PAID THROUGH
APPROVED THIS DAY OF, 20
BY: MARION COUNTY TAX COLLECTOR

APPROVED THIS DAY OF, 20
BY: MARION COUNTY ASSESSOR

STATE OF OREGON)
STATE OF OREGON)) SS COUNTY OF MARION)
I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT NO. WAS RECEIVED FOR RECORDING ON THE DAY OF, 20, AT O'CLOCK _! AND RECORDED IN THE BOOK OF PARTITION PLATS. IT IS ALSO RECORDED IN MARION COUNTY DEED RECORDS AS REEL, PAGE
BILL BURGESS, MARION COUNTY CLERK

DEPUTY COUNTY CLERK

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS THAT MARION COUNTY SCHOOL DISTRICT 24J, AN OREGON MUNICIPAL CORPORATION, IS THE OWNER OF THE LAND DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON AND HAS CAUSED THE SAME TO BE SURVEYED AND PLATTED IN ACCORDANCE WITH THE PROVISIONS OF THE OREGON REVISED STATUTES CHAPTER 92.

JOEL T. SMALLWOOD, DIRECTOR OF MAINTENANCE AND CONSTRUCTION SERVICES MARION COUNTY SCHOOL DISTRICT

ACKNOWLEDGMENT

STATE OF OREGON) SS COUNTY OF MARION)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS ___ DAY OF ______, 20___ BY JOEL T. SMALLWOOD, DIRECTOR OF MAINTENANCE AND CONSTRUCTION SERVICES OF MARION COUNTY SCHOOL DISTRICT 24J, AN OREGON MUNICIPAL CORPORATION.

NOTARY SIGNATURE

NOTARY PUBLIC - OREGON (PRINTED NAME)

COMMISSION NO.

MY COMMISSION EXPIRES

PLAT NOTES

THIS PLAT IS SUBJECT TO THE CITY OF SALEM PLANNING ADMINISTRATOR CONDITIONS OF APPROVAL FOR CASE FILE NO. XXXXXXXXX.

- 2. PARCEL 1 IS SUBJECT TO AN EASEMENT OVER ITS ENTIRETY FOR SCHOOL BUS ACCESS AND TURNAROUND PER REEL 2973, PAGE 268, MCDR.
- 3. PARCEL 1 IS SUBJECT TO VOLUME 453, PAGE 76, MARION COUNTY DEED RECORDS. A SLOPE EASEMENT DESCRIBED BY SAID DOCUMENT FALLS WITHIN THE EXISTING RIGHT—OF—WAY. A RIGHT OF ACCESS DESCRIBED WITHIN SAID DOCUMENT IS SUPERCEDED BY VOLUME 466, PAGE 3, MARION COUNTY DEED RECORDS.
- 4. PARCEL 1 IS SUBJECT TO VOLUME 466, PAGE 3, MARION COUNTY DEED RECORDS, PARTICULARLY REGARDING RIGHT OF ACCESS TO PORTLAND ROAD NE.

SURVEYOR'S CERTIFICATE

I, JOSEPH F. SULLIVAN, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED HEREON, SITUATED IN THE NORTHEAST ONE-QUARTER OF SECTION 12, TOWNSHIP 7 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE UNIT OF LAND PER REEL 3871, PAGE 217, MARION COUNTY DEED RECORDS, BEING A POINT WHICH BEARS NORTH 00°21′48″ EAST 181.19 FEET FROM THE NORTHWEST CORNER OF LOT 16, BLOCK 4, "DEER—HAVEN ESTATES", RECORDED IN VOLUME 34, PAGE 46, MARION COUNTY BOOK OF TOWN PLATS; THENCE ALONG THE NORTH LINE OF SAID UNIT OF LAND, NORTH 79°04′59″ WEST 292.56 FEET TO THE EASTERLY RIGHT—OF—WAY LINE OF PORTLAND ROAD NE; THENCE ALONG SAID EASTERLY RIGHT—OF—WAY LINE, NORTH 53°42′22″ WEST 63.60 FEET TO A POINT 40.00 FEET FROM THE ODOT "NB" CENTERLINE; THENCE NORTH 36°17′38″ EAST 83.22 FEET TO A POINT OPPOSITE THE ODOT "NB" CENTERLINE STATION 67+70.07; THENCE ALONG A SPIRAL TO THE LEFT, THE CHORD OF WHICH BEARS, NORTH 35°44′01″ EAST 237.56 FEET TO THE WESTERLY LINE OF THE UNIT OF LAND PER REEL 1692, PAGE 558, MARION COUNTY DEED RECORDS; THENCE SOUTH 80°26′52″ EAST 209.12 FEET; THENCE CONTINUING ALONG SAID WESTERLY LINE, SOUTH 09°55′33″ WEST 323.10 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 2.08 ACRES, MORE OR LESS.

NARRATIVE

BEARINGS ARE BASED ON THE OREGON STATE PLANE COORDINATE SYSTEM OF 1983, NORTH ZONE, NAD 83(2011) EPOCH 2010.00 AND ESTABLISHED USING THE TRIMBLE VRS NOW NETWORK.

MARION COUNTY SURVEY RECORD (MCSR) 35581 BY CLARENCE BARKER WAS RECORDED IN AUGUST OF 2000 FOLLOWING THE RECORDING OF SAID DEED PER REEL 1692, PAGE 558 IN MAY OF 2000. BARKER MONUMENTED THE NORTHEAST, NORTHWEST AND SOUTHWEST CORNERS AND THE POINT OF SPIRAL ON THE WEST LINE OF THE PROPERTY LATER GRANTED IN AUGUST OF 2018 BY SAID REEL 4111, PAGE 438.

I FOUND AND HELD BARKER'S MONUMENT AT THE NORTHEAST CORNER. I FOUND AND HELD THE MONUMENT AT THE SOUTHEAST CORNER, REMONUMENTED BY ABRAHAM KAHNAMOOIAN PER MCSR 39487 AND THE MONUMENT SET BY KAHNAMOOIAN AT THE ANGLE POINT IN THE SOUTH LINE ESTABLISHED BY A RIGHT-OF-WAY DEDICATION PER REEL 2080, PAGE 315, MCDR. I FOUND AND HELD A MONUMENT SET BY GARY ANDERSON FALLING ON THE EASTERLY RIGHT-OF-WAY LINE OF PORTLAND ROAD NE. ALSO BEING THE WESTERLY CORNER OF THE SUBJECT PROPERTY AS ESTABLISHED BY SAID RIGHT-OF-WAY DEDICATION DEED PER REEL 2080, PAGE 315, MCDR, PER MCSR 39031, A POST-CONSTRUCTION SURVEY FOR THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM BASED ON STEVEN HOWELL'S PRE-CONSTRUCTION SURVEY PER MCSR 38845 AND MARK MAYER'S PRE-CONSTRUCTION SURVEY PER MCSR 35872. ANDERSON REPORTS IN MCSR 39031 THAT THE MONUMENT SET BY BARKER AT THE POINT OF SPIRAL (STATION 60+70.07 OF ODOT "NB" CENTERLINE) WAS DESTROYED DURING CONSTRUCTION AND NOT RESET. I FOUND THIS MONUMENT EASTERLY OF THE POINT OF SPIRAL. TO REMONUMENT THIS CORNER I DETERMINED THE ALIGNMENT OF THE RIGHT-OF-WAY BY HOLDING A MONUMENT SET BY ANDERSON AND FALLING ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID PORTLAND ROAD NE. USING THIS ALIGNMENT I PROJECTED A RECORD DISTANCE OF 83.22 FEET PER ANDERSON FROM HIS MONUMENT AT THE WESTERLY CORNER OF THE SUBJECT PROPERTY.

BARKER'S MONUMENT AT THE NORTHWEST CORNER OF THE SUBEJECT PROPERTY WAS NOT FOUND NOR WAS BARKER'S MONUMENT AT THE NORTHWEST CORNER OF THE PROPERTY PER SAID REEL 1691, PAGE 558. I FOUND A MONUMENT PER MCSR 23968 NEAR THE NORTHWEST CORNER OF THE PROPERTY PER SAID REEL 1691, PAGE 558, ALSO FOUND BY BARKER, BUT NOW OUT OF POSITION, WHICH IS CONSISTENT WITH A COMPARISON OF MAYER'S REPORTED LOCATION TO HOWELL'S AND ANDERSON'S REPORTED LOCATIONS. TO REMONUMENT THE NORTHWEST CORNER OF THE PROPERTY PER SAID REEL 1691, PAGE 558, I FIRST ESTABLISHED THE NORTH LINE OF SAID PROPERTY BY HOLDING A MONUMENT AT AN ANGLE POINT IN ITS NORTH LINE, BY HOLDING A RECORD 0.22 FEE PER BARKER FROM A MONUMENT ALONG ITS NORTH LINE AND BY HOLDING A RECORD 10.00 FEET PER BARKER FROM HIS MONUMENT AT THE NORTHEAST CORNER OF THE SUBJECT PROPERTY. THE IRON PIPE NORTH OF THE SAID NORTHEAST CORNER WAS FOUND BENT AND WESTERLY OF THE CALCULATED LOCATION BUT ON LINE. A MONUMENT SET BY JEFFREY WHEELER IN MCSR 35914 WITHIN 0.3 FEET OF THIS PIPE WAS NOT FOUND, INDICATING THAT THIS AREA HAS BEEN DISTURBED. OTHER MONUMENTS SET BY WHEELER AND FOUND WITH THIS SURVEY FALL NEAR TO BUT NORTHERLY OF THE NORTH LINE OF SAID PROPERTY PER REEL 1692, PAGE 558. THE NORTH LINE OF THE SUBJECT PROPERTY WAS HELD PARALLEL. THIS RESOLUTION CONFORMS WITH BARKER'S SURVEY AS DETAILED ON THE MAP, BUT I HELD A 40-FOOT OFFSET FROM THE PORTLAND ROAD NE ODOT "NB" CENTERLINE SPIRAL PER HOWELL AND ANDERSON TO COMPLETE THE RESOLUTION OF THE WESTERLY LINE AND ESTABLISH THE NORTHWEST CORNER OF THE SUBJECT PROPERTY.

REVIEW COPY

REGISTERED
PROFESSIONAL
LAND SURVEYOR

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

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