

TO: HEARINGS OFFICER

**FROM: LISA ANDERSON-OGILVIE, AICP
DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING
ADMINISTRATOR**

**SUBJECT: VALIDATION OF UNIT OF LAND CASE 18-01
4735 TURNER ROAD SE
AMANDA NO. 18-120422-LD**

REQUEST

A proposal to validate one of two parcels that were created as separate tax lots through a sale by deed in 1992.

The request is to establish lawfully a tax lot created in 1992, when a portion (TL 1202) of the parent parcel, which was bisected by Kuebler Boulevard right of way acquisition, was sold to a third party leaving the subject unit of land. The sale effectively divided the parent parcel into two separate units of land, without a land use approval. The applicant is requesting to validate property known as Marion County Tax Assessor's number 082W07C / 01200; also known as 4735 Turner Road SE.

The subject property (lawfully established parent parcel) is approximately 12 acres in size, zoned IC (Industrial Commercial), IG (General Industrial) and Marion County IG (General Industrial), and located at the 4905 and 4735 Turner Road SE (Marion County Assessor Map and Tax Lot Numbers: 082W07C01202; and 082W07C01200).

OWNER/APPLICANT: Dean Pollman (Gunner LLC)

AGENT: Greg Wilson for Barker Surveying

RECOMMENDATION

Based on the application and information presented in the staff report, staff recommends that the Hearings Officer adopt the Facts and Findings of the staff report and GRANT the request to validate one unit of land that was created through sale rather than through an approved subdivision or partition plat process, for property zoned IG (General Industrial) and located at 4735 Turner Road SE.

BACKGROUND/PROPOSAL

The proposal involves a unit of land, Tax Lot 1200, which was unlawfully created through a deed sale in 1992. In 1992, Tax Lot 1202 was sold separately from Tax Lot 1200. Prior to the sale of Tax Lot 1202, this unit of land and Tax Lot 1200 were part of a single parent parcel. The parent parcel is approximately 12 acres in size and bisected by Kuebler Boulevard. Because the division of the property into two units of land did not receive land use approval for a partition, the individual units of land were not lawfully established.

SRC 205.060 codifies the Oregon Legislative Assembly House Bill 2723 (2007), which provided authority to Oregon cities and counties to ‘validate’ units of land that were previously created by sale, but where the resulting land division did not comply with applicable law regulating such divisions.

Tax Lot 1202 should not have been sold as a separate unit of land from Tax Lot 1200 because it is not currently a legal lot. The validation of unit of land process provided in SRC 205.060 provides a method to correct this error. The single sales transaction which conveyed Tax Lot 1202, which is not part of the subject request for validation,¹ also had the effect of creating the other unit of land, Tax Lot 1200.

On October 4, 2018 Dean Pollman (Gunner LLC) filed a request to validate an existing unit of land that was created through sale rather than through an approved subdivision or partition plat process, for property zoned IG (General Industrial) and located at 4735 Turner Road SE.

The application was deemed complete for processing on October 29, 2018. Notice of the public hearing was mailed November 21, 2018. The state-mandated 120-deadline to issue a final local decision in this case is February 26, 2018.

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 to this staff report. Staff utilized the information from the applicant’s statements to evaluate the applicant’s proposal and to compose the facts and findings within the staff report.

FACTS AND FINDINGS

1. Salem Area Comprehensive Plan (SACP) Designation

Comprehensive Plan Map: The subject property, is designated “Industrial” and “Industrial Commercial” 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 outside of the Urban Service Area.

2. Zoning and Surrounding Land Use

The subject property is zoned IG (General Industrial) and IC (Industrial Commercial). The property subject to the validation request, Tax Lot 1700, is developed with an industrial manufacturing use. The surrounding properties are zoned and used as follows:

¹ Pursuant to ORS 92.177, the City “shall consider and may approve” an application for validation of unit of land pursuant to ORS 92.176, “notwithstanding that less than all of the owners of the existing lawfully established unit of land have applied for the approval.”

North: IG (General Industrial); Industrial development

South: Across Kuebler BLVD; Marion County - IG (General Industrial); Industrial development

East: IC (Industrial Commercial); vacant land

West: IG (General Industrial); vacant

3. Existing Site Conditions

The subject property (Tax Lot 1200) is irregular shaped tax lot, abutting Kuebler BLVD a parkway and Turner Road SE, a minor arterial. The parent parcel of Tax Lots 1200 and 1202, which is split by Kuebler BLVD, consisting of approximately 12 acres.

4. Neighborhood and Citizen Comments

The subject property is located within the boundaries of Southeast Mill Creek Association (SEMCA). Notification was sent to the neighborhood association and surrounding property owners within 250 feet of the property on November 21, 2018. Notice of the proposed application was also posted on the subject property. As of the date of this staff report, no written comments have been received from SE.

5. City Department 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.
 - 1) Plat Submittal: Require project surveyor to submit his or her Partition Plat to the City Surveyor for review as per ORS 672.005(2)(g)&(h), ORS 672.007(2)(b), ORS 672.045(2), ORS 672.060(4), OAR 820-020-0015(4)&(10), OAR 820-020-0020(2) and OAR 820-020-0045(5).
 - 2) Final Plat Application: Provide preliminary plat information to Development Services staff as outlined in the City of Salem Land Surveys and Plats webpage. Once the application has been deemed complete, complete the Final Plat Application.
 - 3) Pre-Plat Review Meeting: Please request a Pre-Plat Review Meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with comments (1) and (2) as described above.
 - 4) ORS and SRC: 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 ORS and 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 identified no apparent issues.
- The Salem Fire Department reviewed the proposal and indicated that they have no concerns for this land division.

6. Public Agency and Private Service Provider Comments

Public agencies and public and private service providers for the subject property were mailed notification of the proposal. No comments have been received at the time of the writing of this staff report.

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.² 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.

Applicant Statement: In 1992, the owners of TL 1200 and 1202 divided the land area by a deed selling TL 1202 and leaving TL 1200 as a remnant without land use approval.

Finding: Staff concurs with the applicant's statement. The property was annexed into the City of Salem in July, 1990. The original parcel of land was bisected by Kuebler Boulevard in 1988, which did not legally divide the property. The unit of land subject to the validation request was created in 1992 through a deed recorded selling Tax Lot 1202 separately. Therefore, Tax Lot 1200 was 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.

Applicant Statement: It appears that TL 1200 was a remnant when TL 1202 was first separately described in 1992.

Finding: Staff concurs with the applicant's written statement. The subject unit of land was not created solely to establish a separate tax account, and was not created by gift or any

² Notwithstanding criterion SRC 205.060(d)(3), the Hearings Officer 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 or placement of a dwelling or other building on the unit of land after the sale. No approval has been issued for such construction on Tax Lot 1200.

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 subject property was entirely zoned IG (General Industrial), when the land area was created by deed. The applicant provided Salem Revised Code Chapter 63, Subdivisions (repealed) and Chapter 158, IG Zone (repealed), which were in effect when the land area was created. The development standards of the IG zone did not have a minimum lot size or dimension requirement but had a minimum lot frontage of 16-feet. Tax Lot 1200 has more than 16-feet of frontage on Kuebler Blvd and Turner Road SE. The City of Salem Ordinance in effect when the deed was recorded in 1992 could have allowed the parcel as a lawful parcel through a land use determination decision. 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.

RECOMMENDATION

Based on the application and information presented in the staff report, staff recommends that the Hearings Officer adopt the Facts and Findings of the staff report and GRANT the request to validate one unit of land that was created through sale rather than through an approved subdivision or partition plat process, for property zoned IC (Industrial Commercial) and IG (General Industrial) and located at 4735 Turner Road SE (082W07C01200).

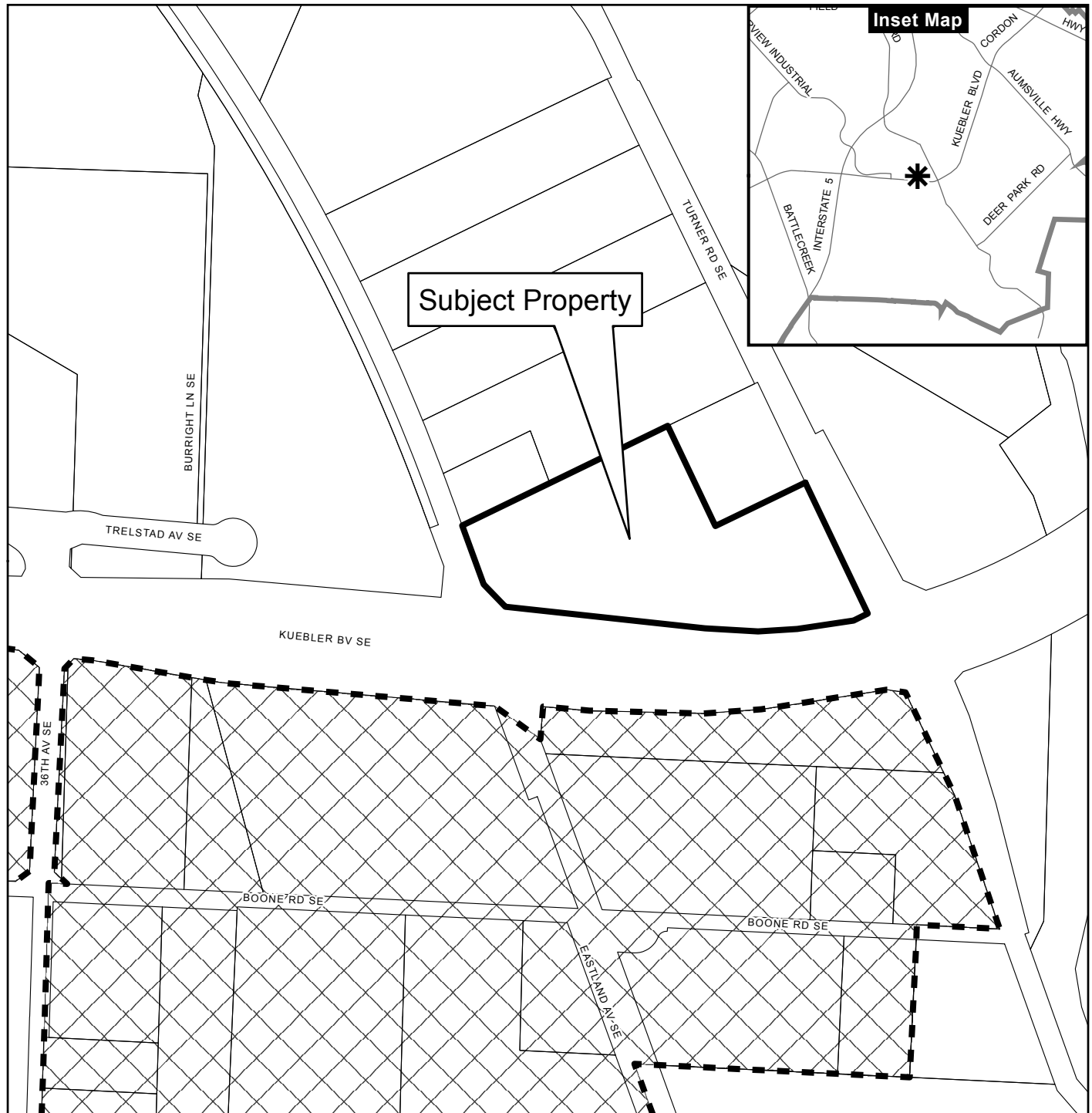
Prepared by Olivia Glantz, Planner III

Application Deemed Complete Date: October 29, 2018
State Mandated Decision Date: February 26, 2018

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

Vicinity Map

4735 Turner Road SE



Legend

- | | |
|-----------------------|---------------------------|
| Taxlots | Outside Salem City Limits |
| Urban Growth Boundary | Historic District |
| City Limits | 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





BARKER SURVEYING

3657 KASHMIR WAY SE SALEM OR 97317-9315

Written Statement

BLUEBOX CROSSING, LLC
Janet McCoslin and Dean Pollman
PO Box 626
Willsonville, OR 97070

It is our intention to validate that property known as Tax Lot 1200, Marion County Assessor's Map 08 2W 07C, commonly known as 4735 Turner Road SE, Salem, Oregon 97317, by creating a legal unit of land by a single Parcel Partition Plat. The Subject Property is the northerly portion of that property described in Volume 580, Page 98, Deed Records, which was separated by Kuebler Boulevard right of way acquisition described in Reel 610, Page 175 Deed Records. This property became unlawful when the southerly remnant of the original property was conveyed by deed recorded in Reel 938, Page 90 on April 1st, 1992 without City of Salem Planning approval.

The unit of land could have complied with applicable criteria for the creation of the unit of land when the unit of land was sold per SRC Chapter 63.

The plat complies with SRC 205.035 as well as ORS 92 and the land is adequately served by City infrastructure.

Respectfully submitted,

Gregory L. Wilson
on behalf of
BLUEBOX CROSSING, LLC.

WWW.BARKERWILSON.COM

OFFICE 503-588-8800 FAX 503-363-2469 INFO@BARKERWILSON.COM

SHEET 1 OF 3

SHEET INDEX

NARRATIVE

The purpose of this survey is to validate that unlawfully created unit of land described as Parcel 2 in that instrument recorded in Reel 4087, Page 393, Marion County Deed Records, per City of Salem Planning File No. VUL _____ by means of a partition plat. The owner of the original parent property, recorded in Volume 580, Page 98, Marion County Deed Records, after having conveyed a portion of said property to the City of Salem for the Kuebler right of way in Reel 610, Page 175, Marion County Deed Records, conveyed the southerly portion of the remaining property to John H. Potthoff and Haru Kay Potthoff, Husband and Wife, in Reel 938, Page 90, Marion County Deed Records, thus causing the north portion of said parent property to be unlawfully created.

The basis of bearings used for this survey was along the north line of said Volume 580, Page 98 per MCSR 23421, holding the brass caps set in said survey. This line was extended Southwesterly record distance per said survey to determine the location of the most Westerly corner of the subject property. An offset distance of 30 feet Northeasterly was held from the centerline of the main railroad tracks to determine the railroad right of way. I held the found city monuments and record data along Kuebler Boulevard per MCSR 32288 for the northerly right of way and to calculate the location of the centerline alignment for Kuebler Boulevard.

The survey map illustrates a complex land area bounded by several key features:

- Union Pacific Railroad:** Located at the top left, running generally North-South. A section labeled "N64°24'10\"E 1664.08'" is shown near point E.
- Turner Road:** Located at the bottom left, running generally East-West. It includes points B and C, and a bearing of "S27°27'00\"E 300.00'".
- Kuebler Boulevard:** A diagonal road running from the bottom left towards the top right. It contains points D, A, B, C, and E. Key bearings include "N62°13'00\"E 914.49'", "N62°13'00\"E 615.29'[3]", "N62°13'00\"E 614.49'[1]", "N85°41'44\"W 542.73'", "N88°21'43\"W 143.97'", "S60°59'38\"W 42.40'", and "N89°15'00\"W 1110.21' (N89°15'W 1110.67') R3".
- Other Features:** The map shows "PARCEL 1" (8.435 ACRES), "T.P.O.B R.2938 P.3.6", "ORIGINAL DEED P.90 R. MCDR", and "DEED P.3138 P.297 MCDR". It also indicates a "10' WIDE PERMANENT UTILITY EASEMENT TO NORTHWEST NATURAL PER R. 2938; P. 86, MCDR".

NOTE:

PROPERTY IS SUBJECT TO AN EASEMENT TO P.G.E. PER R.2975, P.96, MCDR (BLANKET EASEMENT)

SCALE: 1"=100'

COMPASS: A circular compass rose indicating North (N) and other cardinal directions (S, E, W).

The purpose of this survey is to validate that unlawfully created unit of land described as Parcel 2 in that instrument recorded in Reel 4087, Page 393, Marion County Deed Records, per City of Salem Planning File No. VUL _____, by means of a partition plat. The owner of the original parent property, recorded in Volume 580, Page 98, Marion County Deed Records, after having conveyed a portion of said property to the City of Salem for the Kuebler right of way in Reel 610, Page 175, Marion County Deed Records, conveyed the southerly portion of the Remaining property to John H. Potthoff and Haru Kay Potthoff, Husband and Wife, in Reel 938, Page 90, Marion County Deed Records, thus causing the north portion of said parent property to be unlawfully created.

NOTE:

PROPERTY IS SUBJECT TO AN EASEMENT
TO P.G.E. PER R.2975, P.96, MCDR
(BLANKET EASEMENT)

REGISTERED
PROFESSIONAL
LAND SURVEYOR

O R E G O N
JULY 19, 1994
GREGORY L. WILSON
2687

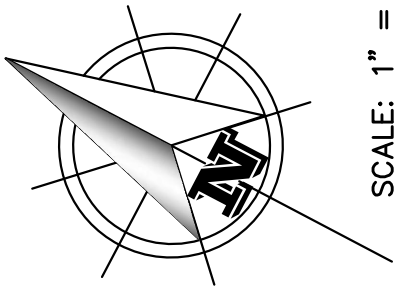
EXPIRATION DATE: 6-30-2020

Email: Info@barkerwilson.com



SHEET 2 OF 3

BASIS OF BEARINGS



Line Table		
Line #	Length	Direction
L1	47.69'	N56° 19' 42"E
L2	69.10'	N61° 03' 16"E
L3	23.35'	N62° 59' 54"E
L4	37.04'	N55° 24' 33"E
L5	75.63'	N62° 28' 41"E
L6	81.40'	N70° 29' 54"E
L7	38.93'	N72° 54' 30"E
L8	20.38'	S28° 04' 10"E
L9	42.39'	S72° 54' 30"W
L10	80.98'	S70° 29' 54"W
L11	75.63'	S62° 28' 41"W
L12	38.37'	S55° 24' 33"W
L13	24.33'	S62° 59' 54"W
L14	67.94'	S61° 03' 16"W
L15	46.87'	S56° 19' 42"W
L16	9.95'	S52° 47' 58"W
L17	10.19'	S64° 30' 18"W
L18	14.28'	N64° 30' 18"E
L19	30.44'	N52° 47' 58"E
L20	22.47'	S52° 47' 58"W
L21	17.70'	N85° 41' 44"W
L22	8.97'	S64° 30' 18"W
L23	15.00'	N25° 29' 42"W

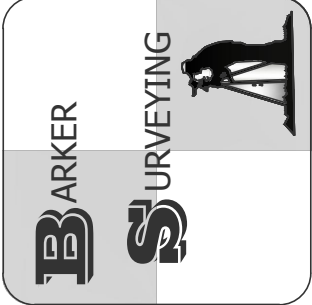
CURVE DATA					
CURVE	RADIUS	DELTA	ARC LENGTH	CHORD BEARING	DIST.
C1	50.00'	5°53'33"	5.14'	N59°16'21"E	5.14'
C2	50.00'	7°04'29"	6.17'	N58°56'37"E	6.17'
C3	50.00'	8°01'41"	7.01'	N66°29'18"E	7.00'
C4	30.00'	8°01'41"	4.20'	S66°29'18"W	4.20'
C5	30.00'	7°04'15"	3.70'	S58°56'37"W	3.70'
C6	70.00'	5°53'16"	7.19'	S59°16'21"W	7.19'
C7	20.00'	89°58'58"	31.41'	S171°3'00"W	28.28'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

O R E G O N
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRATION DATE: 6-30-2020

BARKER SURVEYING
3657 KASHMIR WAY SE
SALEM, OR 97317
Ph: 503-588-8800
Email: Info@barkerwilson.com



PARTITION PLAT NO. _____
IN THE S.W. 1/4 OF SECTION 7, T. 8 S., R. 2 W., W.M.,
CITY OF SALEM, MARION COUNTY, OREGON
SEPTEMBER 28, 2018

SURVEYOR'S CERTIFICATE:

I, Gregory L. Wilson, being first duly sworn, depose and say that I have surveyed and will mark with proper monuments the land represented on the herewith partition map, which is described as follows:

A tract of land situated in the southwest one-quarter of Section 7, Township 8 South, Range 2 West of the Willamette Meridian, in the City of Salem, Marion County, Oregon, more particularly described as follows:

Beginning at the Initial Point of this partition plat, said point being marked with a 5/8-inch iron rod with yellow plastic cap stamped "WILSON PLS 2687" set at the southwest corner of that property described as "Parcel 2" in that instrument recorded in Reel 4087, Page 393, Marion County Deed Records, said point being on the northeasterly right of way of the Union Pacific Railroad and opposite Engineer's Centerline Station "L" 729+60, said point being North 64°24'10" East 1664.08 feet from the southwest corner of said Section 7, and running thence:

North 21°51'33" West 319.82 feet along said northeasterly right of way to the northwest corner of said "Parcel 2",
thence North 62°13'00" East 614.49 feet along the northwesterly line of said "Parcel 2" to the most Northerly corner thereof;
thence South 27°27'00" East 300.00 feet along the northeasterly line of said "Parcel 2" to an angle point thereof;
thence North 62°13'00" East 266.68 feet along the northwesterly line of said "Parcel 2" to a point on the southwesterly right of way line of Turner Road;

thence South 28°04'10" East 392.50 feet along said southwesterly right of way to a point on the northerly right of way of Kuebler Boulevard 111.33 feet Northerly and opposite Engineer's Centerline Station "L" 739+68.47;

thence along said northerly right of way the following six courses:

thence South 60°59'38" West 42.40 feet to a point 100 feet Northerly and opposite Engineer's Centerline Station "L" 739+25.00 to the beginning of a non-tangent curve concave to the Northwest;

thence Southwesterly along the arc of a 1662.95 foot radius curve to the right (whose radius point bears North 12°48'14" West and the chord of which bears South 79°51'01" West 154.01 feet) 154.07 feet to a point 100 feet Northerly and opposite Engineer's Centerline Station "L" 737+61.67 P.S.C.;

thence South 84°13'04" West 105.87 feet along the chord of an offset spiral curve to a point 100 feet Northerly and opposite Engineer's Centerline Station "L" 736+50.00;

thence North 88°21'43" West 143.97 feet to a point 110 feet Northerly and opposite

Engineer's Centerline Station "L" 735+00.00;

thence North 85°41'44" West 542.73 feet to a point 130 feet Northerly and opposite

Engineer's Centerline Station "L" 729+60.00;

thence South 3°04'00" West 81.61 feet to the Point of Beginning, containing 8.435 acres of land, more or less.

Gregory L. Wilson
Registered Land Surveyor No. 2687
License expires June 30, 2020



BARKER SURVEYING
3657 KASHMIR WAY SE
SALEM, OR 97317
Ph: 503-588-8800
Email: Info@barkerwilson.com

THE WITHIN PLAT IS HERBY APPROVED:

Planning Administrator, City of Salem
Planning File VUL-

Date

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

STATE OF OREGON
COUNTY OF _____

SS.

I do hereby certify that the attached Partition Plat No. _____
was received for record on the ____ day of _____, 20____,
at ____ o'clock ____m. and recorded in the Book of Partition Plats. Also referenced in Marion
County Deed Records Reel _____, Page _____.

Bill Burgess, Marion County Clerk

By: _____
Deputy County Clerk

Notary Signature

Notary Public for Oregon (print)

Commission No.

My Commission expires

DECLARATION:

Know all people by these presents that BLUEBOX CROSSINGS, LLC, an Oregon limited liability company, being the owner of the property described in the Surveyor's Certificate herein made and desiring to dispose of the same in a single parcel, have caused the same to be partitioned and surveyed in accordance with the provisions of Chapter 92 of the Oregon Revised Statutes, as shown on the attached map.

In witness whereof I set my hand and seal this ____ day of _____, 20____.

BLUEBOX CROSSINGS, LLC

By: _____
Dean Pollman, Manager

On this ____ day of _____, 20____, personally appeared the above named Dean Pollman as Manager of BLUEBOX CROSSINGS, LLC, an Oregon limited liability company, who acknowledged the foregoing instrument to be his voluntarily act and deed.