



HEARING NOTICE

LAND USE REQUEST AFFECTING THIS AREA

There is a development proposal for the property listed in this notice and shown on the attached map. The City is seeking input from neighbors on the proposal. If you have questions or comments about the proposal, contact the case manager.

Esta carta es un aviso sobre una propuesta de desarrollo para la propiedad enumerada y que se muestra en el mapa adjunto. La ciudad está buscando la opinión de los vecinos sobre la propuesta. Si tiene preguntas o comentarios sobre la propuesta, póngase en contacto con nosotros al 503-588-6213

CASE NUMBER:	Appeal of the <i>Planning Administrator's</i> decision on Partition Case No. PAR20-02
PROPERTY LOCATION:	3121 Blossom Dr NE, Salem OR 97305
SUMMARY:	Appeal of the <i>Planning Administrator's</i> decision approving a tentative partition to divide approximately 5.94 acres into three parcels.
BASIS OF APPEAL:	See attached Notice of Appeal.
HEARING INFORMATION:	<p>DUE TO SOCIAL DISTACING MEASURES PUT INTO PLACE TO HELP STOP THE SPREAD OF THE COVID-19 VIRUS THIS HEARING WILL BE HELD DIGITALLY. THE COMMISSION WILL ONLY ACCEPT WRITTEN TESTIMONY. THE RECORD WILL BE HELD OPEN FOR ADDITIONAL WRITTEN COMMENTS AFTER THE HEARING.</p> <p>RESCHEDULED PUBLIC HEARING: <u>Salem Planning Commission, Tuesday, July 7, 2020 at 5:30 P.M.</u></p> <p>View this meeting LIVE on YouTube, just click this link: http://bit.ly/planningpublicmeetings</p> <p>This Public Hearing was originally scheduled for May 5, 2020. At the request of the applicant, this hearing has been rescheduled for July 7, 2020.</p>
TO PROVIDE WRITTEN TESTIMONY:	<p>PLEASE DIRECT COMMENTS REGARDING THIS CASE TO THE CASE MANAGER LISTED BELOW. Staff recommends emailing your comments to the case manager. Mailed comments will still be accepted but Staff cannot guarantee prompt receipt. Only those participating at the hearing by submission of written testimony have the right to appeal the decision.</p>
CASE MANAGER:	Brandon Pike, Planner I , City of Salem Planning Division, 555 Liberty Street SE, Room 305, Salem, OR 97301. Telephone: 503-540-2326; E-mail: bpike@cityofsalem.net .
NEIGHBORHOOD ORGANIZATION:	<p><i>Neighborhood associations are volunteer organizations of neighbors coming together to make neighborhoods the best they can be. They receive notice of land use applications within their boundaries, and they often submit comments on the applications to the City. Neighborhood association meetings are open to everyone. Contact your neighborhood association to get involved:</i></p> <p>Northgate Neighborhood Association, Frank Pack, Chair; Phone: 503-364-7353; Email: frankpack@gmail.com.</p>
STAFF REPORT:	The Staff Report will be available seven (7) days prior to the hearing and will thereafter be posted on the Community Development website: https://www.cityofsalem.net/notice .
ACCESS:	The Americans with Disabilities Act (ADA) accommodations will be provided on request.
CRITERIA:	Salem Revised Code (SRC) Chapters 205.005(d) - Partition Salem Revised Code (SRC) is available to view at this link: http://bit.ly/salemorcode . Type in the chapter number(s) listed above to view the applicable criteria.

OWNER(S):	Ferge Holdings, LLC (George Ferge and Karen Ferge) and Otto Family Trust
APPLICANT / AGENT(S):	Karl Goertzen on behalf of Karen Otto
APPELLANT:	Karl Goertzen on behalf of Karen Otto
DESCRIPTION of REQUEST:	Appeal of the <i>Planning Administrator's</i> decision approving a tentative partition to divide approximately 5.94 acres into three parcels, with Parcel 1 consisting of 2.49 acres, Parcel 2 consisting of 1.21 acres, and Parcel 3 consisting of 2.21 acres. Proposed Parcel 3 would retain the existing buildings. The subject property is zoned IG (General Industrial) and located at 3121 Blossom Drive NE (Marion County Assessor map and tax lot number(s): 073W01A / 01800 and 01900).
HEARING PROCEDURE:	<p>The hearing will be conducted with the staff presentation first, followed by the appellant's case, and questions from the Commissioners. Due to the Covid-19 pandemic, testimony from neighborhood organizations, persons in favor or opposition, and rebuttal by the applicant will be limited to written testimony. The applicant has the burden of proof to show that the approval criteria can be satisfied by the facts. Opponents may rebut the applicant's testimony by showing alternative facts or by showing that the evidence submitted does not satisfy the approval criteria.</p> <p>Failure to raise an issue prior to the close of the Public Hearing in person or in writing, or failure to provide statements or evidence with sufficient specificity to provide the applicant and Review Authority to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on this issue. A similar failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.</p> <p>Following the close of the Public Hearing, a decision will be issued and mailed to the applicant, property owner, affected neighborhood associations, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision.</p>
MORE INFORMATION:	Documents and evidence submitted by the applicant are available for review and paper copies can be obtained at a reasonable cost. You can also find out more information about the status of the proposed application on the City's online Permit Application Center at https://splash.cityofsalem.net/ . Just enter the permit number(s) listed here: 19 123854
NOTICE MAILING DATE:	April 15, 2020 <u>June 17, 2020</u>

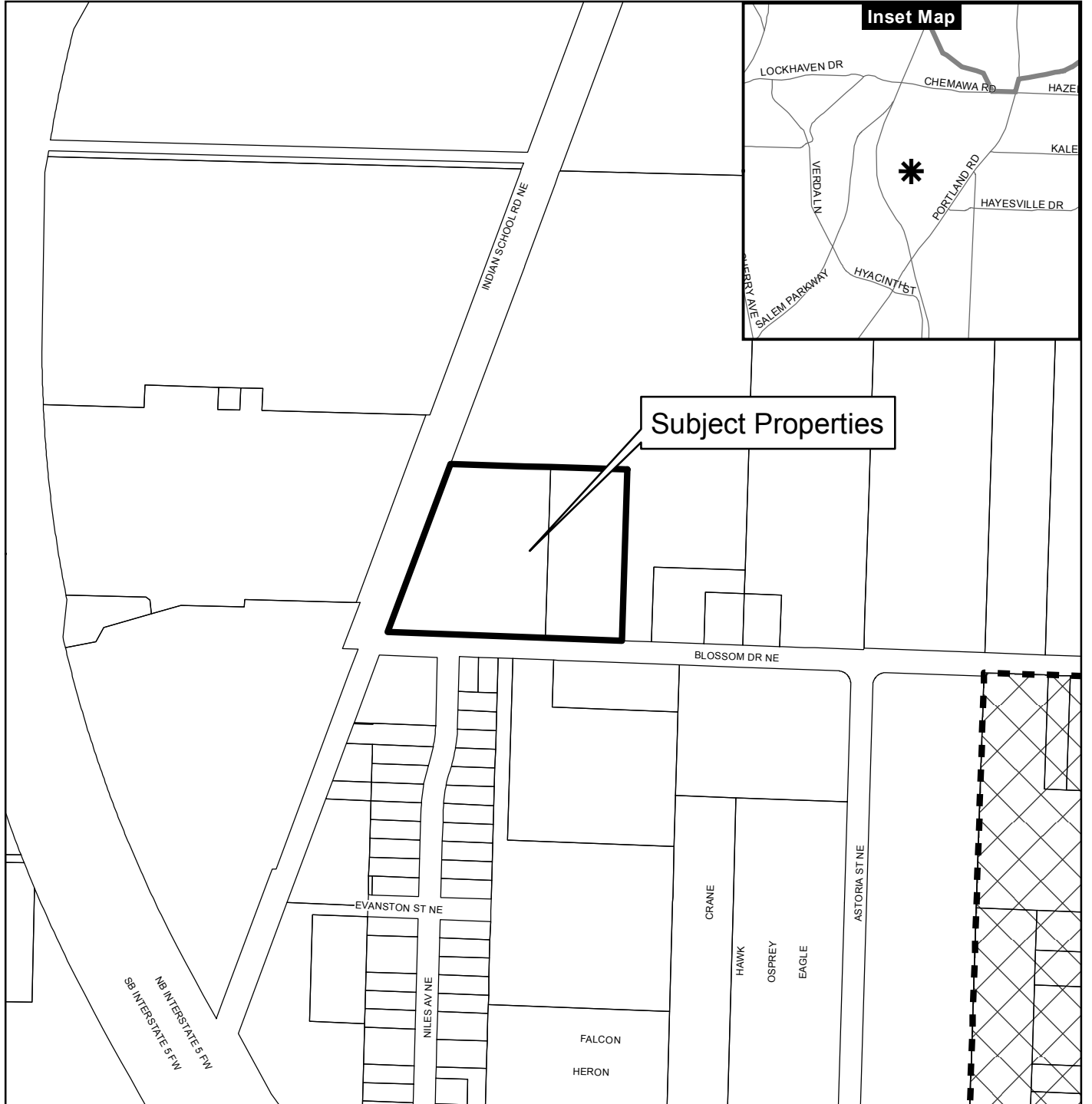
**PLEASE PROMPTLY FORWARD A COPY OF THIS NOTICE TO ANY OTHER OWNER, TENANT OR LESSEE.
For more information about Planning in Salem:
<http://www.cityofsalem.net/planning>**

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, as provided by Salem Revised Code Chapter 97. The City of Salem also fully complies with Title VI of the Civil Rights Act of 1964, and related statutes and regulations, in all programs and activities. Disability-related modification or accommodation, including auxiliary aids or services, in order to participate in this meeting or event, are available upon request. Sign language and interpreters for languages other than English are also available upon request. To request such an accommodation or interpretation, contact the Community








Development Department at 503-588-6173 at least three business days before this meeting or event.

TTD/TTY telephone 503-588-6439 is also available 24/7

Vicinity Map 3121 Blossom Drive NE



Legend

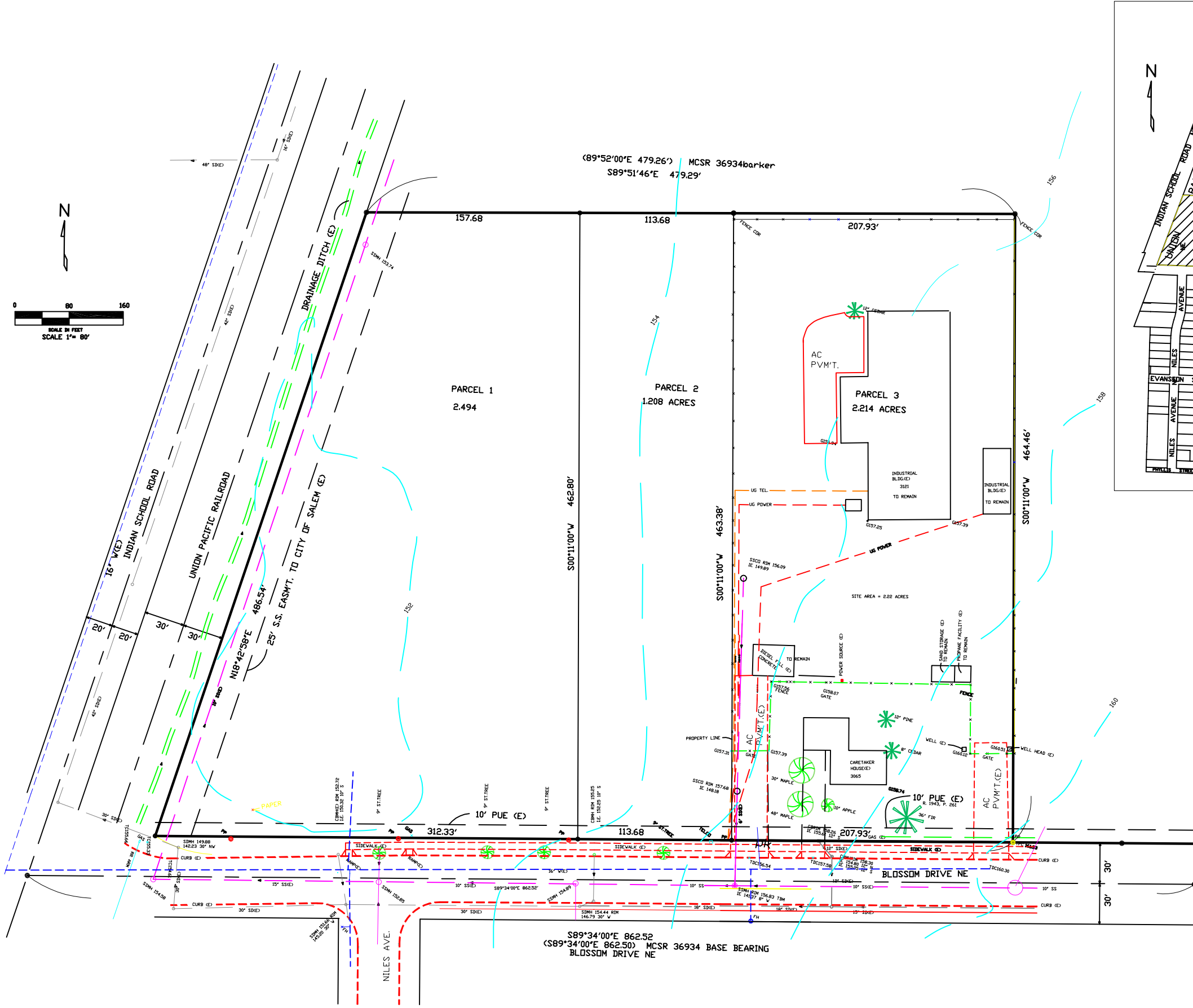
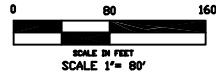
-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

0 100 200 400 Feet



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VICINITY MAP
NO SCALE

LOCATION

- NOTES & LEGEND:
- = EXISTING FEATURE
 - = PROPOSED FEATURE
 - = EXISTING OBJECT
 - = POWER POLE
 - = CURRENT CONTOUR

REVISION NO. 1-22-20 REMOVE PROPOSED EASEMENT ALONG NORTH LINE OF PARCELS 1 & 2

TENTATIVE PARTITION PLAN
LOCATION

LAND OWNERS:
OTTO FAMILY TRUST OF 2001
FERGE HOLDINGS LLC

KARL D. GOERTZEN
4753 FIR DELL DRIVE SE
SALEM, OREGON 97302
PH. 503.378.0952
E-mail: KGoertz@comcast.net

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Karl D. Goertz
O R E G O N
SEPTEMBER 23, 1977
KARL D. GOERTZEN
C 1155

SEC. 1A) T. 7 S. J. R. 3 W. J. W.M.
T. 7 S. J. R. 3 W. J. W.M.

DESIGNED BY: KDG
DRAWN BY: KDG
DATE: OCT. 2019
REV. NO. 1-22-20
SHEET

April 13, 2020
City of Salem Planning Administrator
555 Liberty St. SE
Salem, Or 97301

SUBJECT: Appeal of Land Use Decision Case Number PAR20-02

I am the applicant and one of the owners of the property which is the subject of the proposed Partitioning as represented in the "DECISION OF THE PLANNING ADMINISTRATOR" City Partition Case No.: PAR20-02. The reason for this appeal is to remove Condition 4 of said Decision which reads "Future development of Parcels 1 and/or 2 shall accommodate a street connection to the property to the north".

Before, actually presenting the appeal based on specific code criteria I would like to mention two items:

1. A pre-application conference was held in October of 2019 for the purpose of determining any major City concerns or hurdles to developing the western 3.72 acre portion of this property (Parcel 3 is already developed). I find it unfathomable that no mention was made at that meeting of the City wanting a street to connect the 15 acre property to the north, through our property, to Blossom Drive. The first we heard of such a proposed street was seeing Condition 4 of the Decision on March 28, 2020. This proposed street represents a roughly a \$300K hurdle, or rough one-half the value of the undeveloped property within the Partition limits and the idea of such a street has already lost me committed buyers of both Parcels 1 and 2.
2. It has been difficult to file this Appeal due to the disruption in work schedules and communications during this pandemic, and those effects on the limited time period for an Appeal. Due to these factors we may present additional information at the hearing.

Now for the specific code criteria that supports our position that Condition 4 should be removed:

Code Citation: SRC 205.005(d)(2): the tentative partition plan does not impede the future use of development of the property or adjacent land.

This criteria requires that the tentative plan "does not impede" future use or development of **the property** or adjacent land. Clearly a future street located on parcel 1 or 2 would "impede" its future use or development, by taking a significant percentage of the available land out of one or both of those parcels. A 60 foot wide right-of-way through parcel 1 represents 26% of the land area of parcel 1. A 60 foot wide right-of-way through parcel 2 represents 53% of the land area of parcel 2. A 60 foot wide right-of-way represents 17% of the total land area of parcels 1 and 2. In addition, it would decrease the width of each parcel, especially parcel 2, which very well might impede its development by making it impractical to develop and meet setbacks, etc. For these reasons, the condition appears to violate this criterion.

In addition, the lack of this required street does not impede the future development of the property to the north since it has an 80 foot wide access to Blossom Drive (see Exhibit A - attached). That access is wider than required for a local or a collector street, and it extends to

the approximate center of that 15 acre property. So that property can develop without this additional access and its development will not be impeded.

In addition, Condition 4 reads: "Future development of Parcels 1 and/or 2 shall accommodate a street connection to the property to the north". The SRC provides no definition for the word "accommodate". Taking the common meaning, it means "shall provide for" or "make available". In this context the condition requires that the 60 foot wide strip be left undeveloped, and available for future street construction. Although unstated, it also means future building would have to maintain the required setbacks from the street, an additional burden. The condition does not say the property owner has to dedicate the right of way or build the street. Presumably, the City would require the owner to the north to buy the land and pay for the street as a condition of development, as that is the benefitted party. That creates a significant cost to the owner, which impedes the development of that property.

In addition:

1. The Transportation Systems Plan (TSP) shows no proposal for such a future street connection through this partition boundary.
2. The public works memo (Attachment C) to the Planning Administrator Decision does not recommend a street connection through this property boundary.
3. As stated in the findings on page 9, SRC 803.015(b) a Traffic Impact Analysis is not required as part of the partition.
4. To maintain the 600 foot block lengths as prescribed in SRC 803.030 the future street network for the northern 15 acres and properties to the east should look something like shown in attachment A. In discussion with City staff, they agree that in the future the local street network east of the 15 acres site, should look like that shown in Exhibit A. Such a network would align the north-south street well with the existing streets to the south (Astoria Avenue and Lilac lane, thereby maximizing the safety of the intersection of the local streets with the Collector street (Blossom Dr.). As seen on Exhibit A portion of this local street network is located on the adjacent northern 15 acre tract. When this network of local streets is constructed a second access to the 15 acre tract will be available
5. With the street network diagram shown in Attachment A, a block length between Indian School Road and the 80' existing street frontage of the northern is about 634 feet as noted on page 3 of the Decision. This is marginally more than the 600 feet maximum distance prescribed in SRC 803.030 and SRC 803.035. Actually, if consideration could be given to the partial pie shape of the partition property the proposed block length would be less than 600 feet. The length of the rear property line is 479 feet, making the average block length 556 feet (see Exhibit A). Also since ODOT will not allow access within 100 feet of the railroad, it seems the actual block length to the 80 foot access strip is $634' - 100' = 534$ feet.

In addition, there are exceptions in both SRC 803.030 and SRC 803.035, where staff has the ability to increase the strict maximum allowed block distance. We believe staff has the flexibility to extend this length under SRC 803.030(a)(4) and SRC 803.035(a)(1). With respect to SRC 803.030(a)(4) we believe a local street connection on the north side of Blossom Drive would

be less beneficial to vehicular, pedestrian, or bicycle traffic because the intersection would be offset from Niles Avenue to the south which creates an unsafe situation. With respect to SRC 803.035(a)(1), it is the existing railroad that cuts off any access to Indian School Road that is driving the City's desire to have a second connection to Blossom Drive (through the partition property). Such a connection is both impracticable and unsafe (as mentioned under SRC 803.030(a)(4). It is impracticable because of the short block lengths that would be result in the creation of highly undesirable properties having double street/ railroad frontages (see Exhibit B).

6. The circulation of traffic on the adjacent northern 15 acre tract can be handled internally if developed as one tax lot. The City can control this through the Site Review and building Permit process at the time of development (look at Depot Ct. that serves Home Depot and Amazon developments off of Aumsville Highway SE as an example- See Exhibit C). If this northern adjacent property is partitioned or subdivided the City can control where public streets are positioned to provide acceptable traffic circulation.

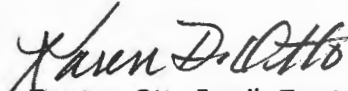
Code Citation: SRC 205.005(d)(5): The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

1. As above noted, the future street network for the northern 15 acres and properties to the east should look something like shown in Exhibit A. Such a network would align the north-south street well with the existing streets to the south (Astoria Avenue and Lilac lane, thereby maximizing the safety of the intersection of the local streets with the Collector street (Blossom Dr.). As seen on Exhibit A portion of this local street network is located on the adjacent northern 15 acre tract. When this network of local streets is constructed a second access to the 15 acre tract will be available. As can be seen a large portion this proposed local street network is located on the adjacent northern 15 acre tract. In discussion with City staff, they agree that future connectivity east of the 15 acres, should look like that shown in Exhibit A.

2. As above noted, circulation of traffic on the adjacent northern 15 acre tract can be handled internally if developed as one tax lot. The City can control this through the Site Review and building Permit process at the time of development (look at Depot Ct. SE serving Home Depot and Amazon developments off of Aumsville Highway SE as an example - see Exhibit C). Surely, if this works for the extreme traffic generated at the Home Depot and Amazon sites, a similar street layout will work at the 15 acre site adjacent to this partition. If this northern adjacent property is partitioned or subdivided the City can control where public streets are positioned within the 15 acre site to provide safe, orderly and efficient circulation of traffic.

3. The fire department response shown on page 5 of the Decision indicated they had no concerns.

Sincerely,


Karen Otto, Trustee, Otto Family Trust of 2001

cc: Karl D. Goertzen

07 3W 01A

07 3W 01A
SALEM

EXHIBIT "A"

MARION COUNTY, OREGON
NE1/4 SEC1 T7S R3W W.M.
SCALE 1" = 200'

LEGEND

- LINE TYPES
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary
 - Waterline - Non Bndry

- CORNER TYPES
- + 1/16TH Section Cor.
 - ⊙ D/C Corner
 - ⊕ 1/4 Section Cor.
 - ⊕ Section Corner
 - 16, 15, 21, 22

NUMBERS
Tax Code Number
000 00 00 0

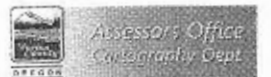
Acreage 0.25 AC All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES
Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW

CANCELLED NUMBERS

301	2202A7
481	2202A8
500	2300A1
600	2300A2
700	2300A3
800	2300L1
900	2500
1600	2600U2
1900	2700U2
1900	2801
2200	3000
2202	3100
2202A1	
2202A2	
2202A3	
2202A5	
2202A6	

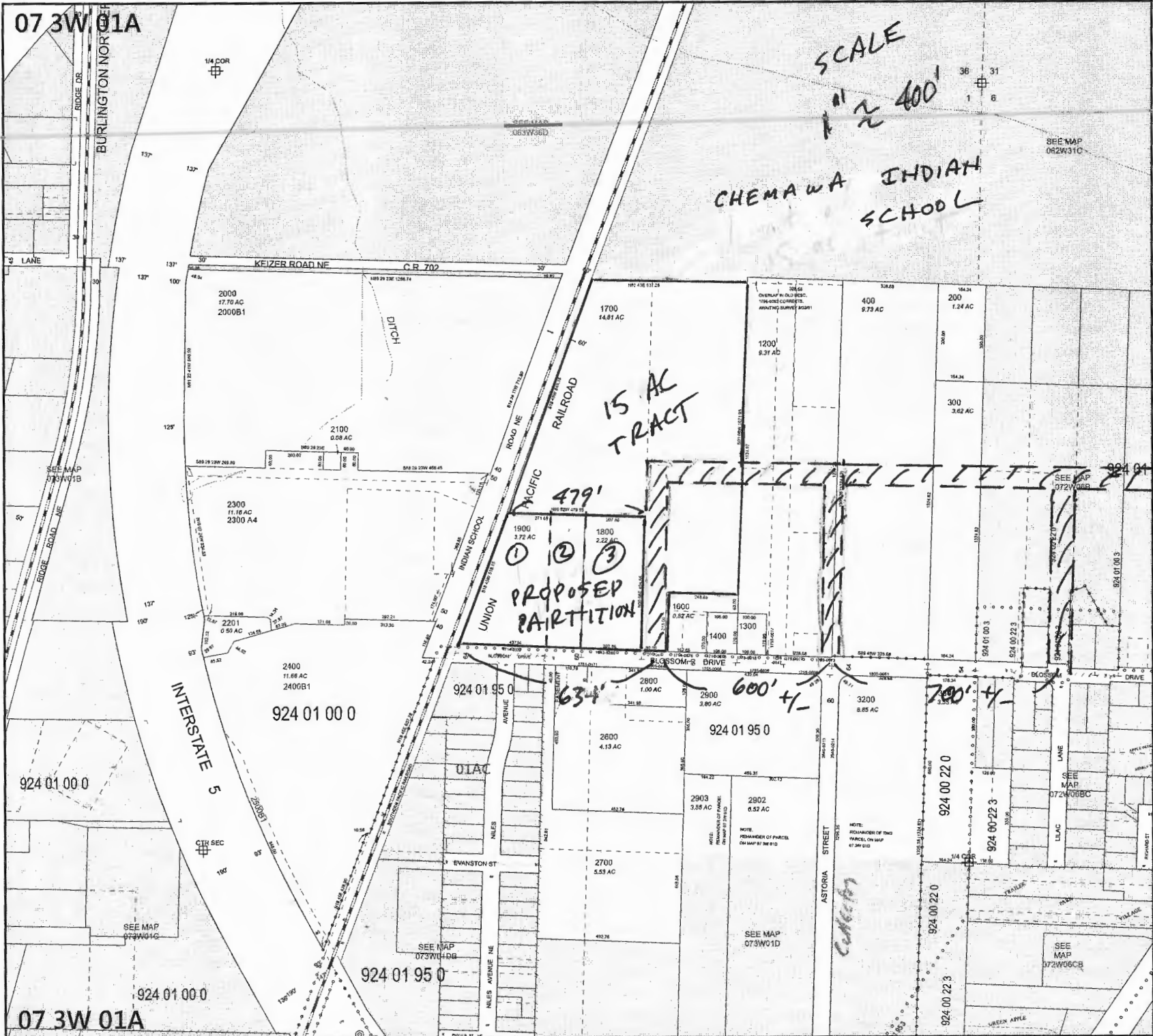
DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT www.co.marion.or.us

PLOT DATE: 1/24/2018

SALEM
07 3W 01A



07 3W 01A

07 3W 01A
SALEM



MARION COUNTY, OREGON
NE1/4 SEC1 T7S R3W W.M.
SCALE 1" = 200'

LEGEND

- LINE TYPES
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Flat Bndry
 - Waterline - Taxlot Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary
 - Waterline - Non Bndry

- CORNER TYPES
- + 1/16TH Section Cor.
 - ⊕ 1/4 Section Cor.
 - ⊙ DLC Corner
 - 16, 15 Section Corner
 - 21, 22

NUMBERS
Tax Code Number
000 00 00 0

Acreage
0.23 AC
All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES
Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW

EXHIBIT "B"

CANCELLED NUMBERS

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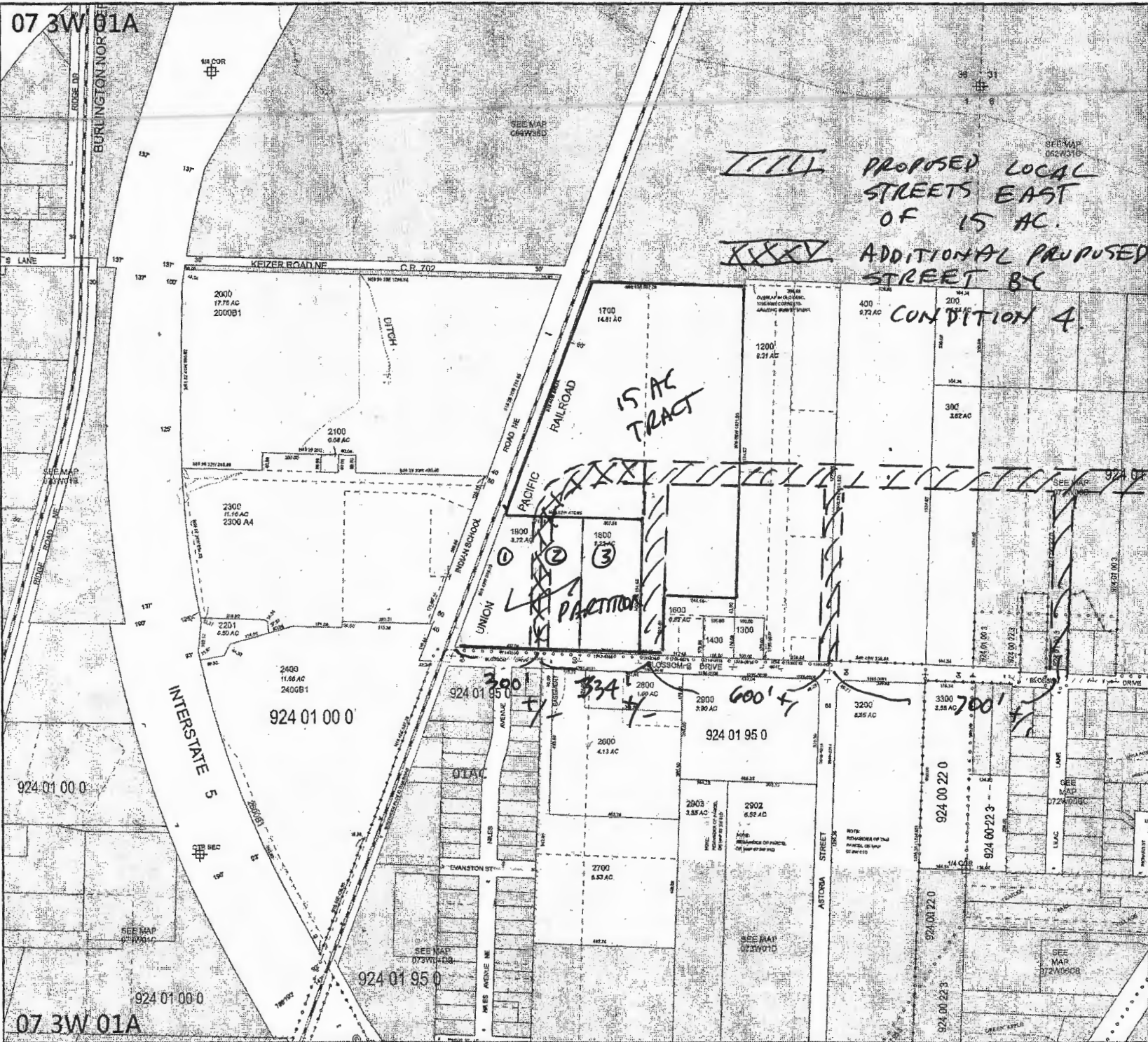
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PLOT DATE: 1/24/2018

SALEM
07 3W 01A



2009-47

PARTITION PLAT NO. 2009-47

A REPLAT OF PARCEL 1, PARTITION PLAT 2007-11
 IN SECTION 5 AND THE SE 1/4 OF SECTION 6, T8S, R2W, W.M.,
 CITY OF SALEM, MARION COUNTY, OREGON

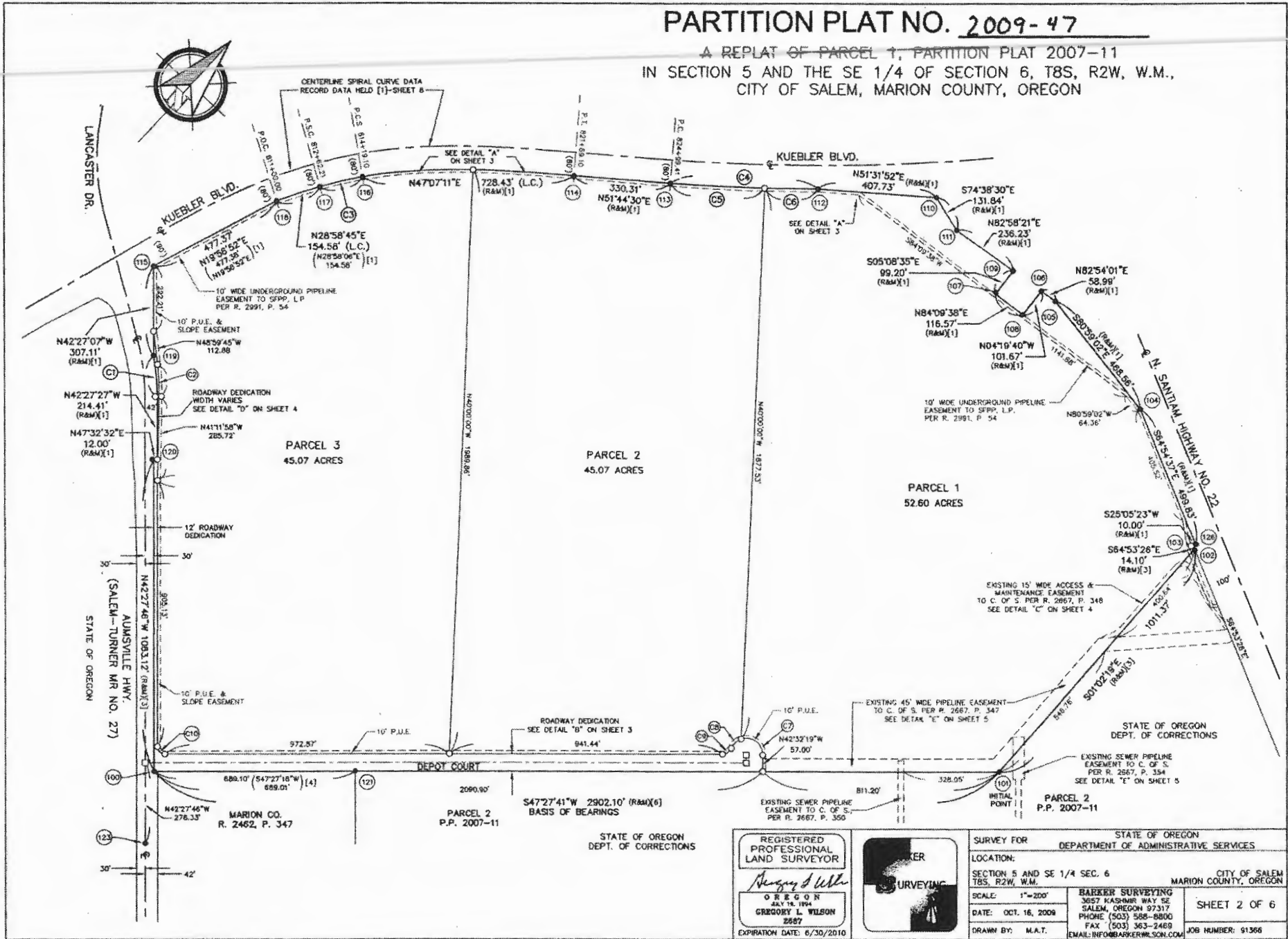


EXHIBIT 'C'

REGISTERED PROFESSIONAL LAND SURVEYOR <i>Gregory L. Wilson</i> O R & S O R JULY 18, 1994 GREGORY L. WILSON 2887 EXPIRATION DATE: 6/30/2010		SURVEY FOR STATE OF OREGON DEPARTMENT OF ADMINISTRATIVE SERVICES	
		LOCATION: SECTION 5 AND SE 1/4 SEC. 6 T8S, R2W, W.M. CITY OF SALEM MARION COUNTY, OREGON	
SCALE: 1"=200' DATE: OCT. 16, 2009 DRAWN BY: M.A.T.		BARKER SURVEYING 3657 KASHMIR WAY SE SALEM, OREGON 97317 PHONE (503) 588-8800 FAX (503) 363-2469 EMAIL: INFO@BARKERWILSON.COM	
		SHEET 2 OF 6 JOB NUMBER: 91366	

EXHIBIT 'C'