



## City of Portland, Oregon Bureau of Development Services Land Use Services

1900 SW 4th Avenue, Suite 5000 Portland, Oregon 97201 503-823-7300 Fax 503-823-5630 TTY 503-823-6868 www.portlandonline.com/bds

**Date:** January 6, 2010 **To:** Interested Person

**From:** Sean Williams, Land Use Services

503-823-7612 / sean.williams@ci.portland.or.us

### NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-191731 LC

### GENERAL INFORMATION

**Applicant:** William Sells

Action Sand And Gravel 7951 SW 46<sup>th</sup> Avenue Portland, OR 97219

**Representative:** Jenelle Isaacson

Living Room Realtors 3122 SW Maricara Street Portland, OR 97219

**Site Address:** 7951-7953 SW 46<sup>th</sup> Avenue

**Legal Description:** BLOCK 2 N 1/2 OF LOT 13, PORTLAND PK ADD

**Tax Account No.:** R669400290 **State ID No.:** R51E19DA 09500

**Quarter Section:** 3824

**Neighborhood:** Multnomah, contact Mary Verghies at 503-244-3553.

**Business District:** None

**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-

4592.

**Plan District:** None

**Zoning:** Residential 7,000 (R7) **Case Type:** Lot Consolidation (LC)

**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use

Board of Appeals (LUBA).

### Proposal:

The applicant is proposing to consolidate lots 10, 11, and 12 of Block 2, Portland Park Addition and a portion of vacated SW 46<sup>th</sup> Avenue. The lot consolidation is in preparation for a future property line adjustment with the abutting Lot 13, which is under the same ownership. The property line adjustment is not part of this review.

### Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval standards of Title 33. The relevant criteria are found in Section **33.675.300**, **Lot Consolidation Standards**.

### ANALYSIS

**Site and Vicinity:** The site is relatively flat with the exception of the Multnomah Boulevard right of way to the north of the site which steeply slopes down from the northern property line of the site. The site is developed with a single family home, a guest house and garden shed. A majority of the surrounding homes are single family with a large subdivision to the west. To the east of SW 45<sup>th</sup> Avenue is commercial and multi dwelling zoning along Multnomah Boulevard.

**Zoning:** The R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

**Land Use History:** City records indicate the following prior land use review for this site:

- **VZ 226-82:** Site did not meet the 12,000 sq.ft. requirement for sites with guest houses. Guest house was 42' from the main house rather than the required 60'.
- **LU 09-101472 AD:** Approval of two Adjustments to 33.110.220.B to reduce 1) the required minimum north front building setback from 15 feet to 6.9 feet and 2) the west side building setback from 5 feet to 4.6 feet for the existing guest house and from 5 feet to 2.6 feet for the existing garden shed.
- **09-101475 PR:** This is a request for a property line adjustment that is currently under review to move a portion of the abutting lot line of lot 13, which is in the same ownership, in order to create two lots.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on January 6, 2009.

- **1. Agency Review:** All of the responding bureaus have no objection to approval of the lot consolidation. However, some bureaus have provided advisory comments relevant to approval of the subsequent property line adjustment. See agency responses under the E exhibits for further details.
- **2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

### **ZONING CODE APPROVAL CRITERIA**

### LOT CONSOLIDATIONS

### 33.675.010 Purpose

This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals. The lot consolidation process described in this chapter is different from (and does not replace) the process used by the county to consolidate lots under one tax account. A tax consolidation does not affect the underlying platted lots. A lot consolidation results in a new plat for the consolidation site.

### 33.675.050 When These Regulations Apply

A lot consolidation may be used to remove lot lines within a site. The applicant may also choose to remove such lot lines through a land division. A lot consolidation may be required by other provisions of this Title.

### 33.675.100 Review Procedure

- A. Generally. Lot consolidations are reviewed through Type I procedure.
- B. Sites in PUDs or PDs. If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.

**Findings:** The site is not involved in any past or proposed Planned Unit Development or Planned Developments. Therefore, the requested lot consolidation review has been reviewed under the Type I procedure.

### Approval Standards for a Lot Consolidation

### 33.675.300 Standards

A lot consolidation must meet the following standards:

- A. Lots. Consolidated lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:
  - 1. Lot dimension standards.
    - Minimum lot area. If the area of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot area requirements;
    - b. Maximum lot area. If any of the lots within the lot consolidation site are larger than the maximum lot area allowed, the lot consolidation site is exempt from maximum lot area requirements;
    - c. Minimum lot width. If the width of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot width requirements;
    - d. Minimum front lot line. If the front lot line of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum front lot line requirements;
    - e. Minimum lot depth. If the depth of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot depth requirements.

**Findings:** The proposed site is in the R7 zone. Approval standards 1.a through 1.e are related to the required lot dimensions and creation of a consolidated parcel that will either meet the lot dimension standards of the zone or meet the listed exceptions. The subject property contains two street frontages but is not considered a through lot as the streets are not parallel and is not considered a corner lot as the streets are not intersecting. The proposed consolidated lot meets the lot dimension standards of the R5 zone as shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R7 Zone Requirement	Lot 1 (after consolidation)
Minimum Lot Area	4,200 square feet	8,876 square feet
Maximum Lot Area	12,000 square feet	
Minimum Lot Width*	40 feet	118 feet
Minimum Front Lot	30 feet	118 feet
Line		
Minimum Lot Depth	55 feet	75 feet

<sup>\*</sup> Width is measured at the minimum front building setback line

As noted herein, the proposed consolidated lot meets the standards of 1.a through 1.e.

2. Maximum density. If the consolidation brings the lot consolidation site closer to conformance with maximum density requirements, the consolidation does not have to meet maximum density requirements;

**Findings:** The maximum density of the consolidated lot is (8,876/7,000) = 1.26 = 1 unit. The site is developed with one single-family dwelling. Therefore the maximum density will not be exceeded by consolidating the historic lots that currently make up this site. This standard is met.

3. Lots without street frontage. If the lot consolidation consolidates lots that do not have street frontage with a lot that has street frontage, the consolidation does not have to meet minimum density and maximum lot area requirements;

**Findings:** The lot consolidation will consolidate Lot 11, which does not have street frontage, with Lot 10 and 12 which do contain street frontage. Therefore, the consolidation does not have to meet minimum density and maximum lot area requirements.

4. Through lots. If any of the existing lots within the lot consolidation site are through lots with at least one front lot line abutting an arterial street, then the consolidated lot may be a through lot;

**Findings:** The existing lots within the lot consolidation site are not through lots and proposed consolidated Parcel 1 will not be a through lot. Therefore this standard does not apply.

5. Split zoning. If any of the existing lots within the lot consolidation site are in more than one base zone, then the consolidated lot may be in more than one base zone.

**Findings:** This site contains only one zoning designation; therefore the consolidated lot will not have split zoning. This standard does not apply.

B. Conditions of land use approvals. Conditions of land use approvals continue to apply, and must be met.

**Findings:** Two Adjustments (LU 09-101472 AD) were approved on the subject property to: 1) reduce the required minimum north front building setback from 15 feet to 6.9 feet and 2) reduce the west side building setback from 5 feet to 4.6 feet for the existing guest house and from 5 feet to 2.6 feet for the existing garden shed in anticipation of the proposed property line adjustment (09-101475 PR) to occur after the lot consolidation. All conditions of this adjustment approval shall continue to apply to this site.

### **DEVELOPMENT STANDARDS**

Unless specifically required in the approval standards listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

### **CONCLUSIONS**

The applicant proposes to consolidate historic lots 10, 11, and 12 of Block 2, Portland Park Addition and a portion of vacated S.W. 46<sup>th</sup> Avenue into one parcel. No City Bureaus raised objection to the proposal.

As discussed above, the requested lot consolidation has been reviewed and shown to be able to meet all the required standards for lot consolidations as laid out in Section 33.675.300.

### **ADMINISTRATIVE DECISION**

Approval of a Lot Consolidation to create one parcel of historic lots 10, 11, and 12 of Block 2, Portland Park Addition and a portion of vacated S.W. 46<sup>th</sup> Avenue, as illustrated by Exhibit C.1, signed and dated December 31, 2009.

Decision rendered by: Sew Wood on December 31, 2009

By authority of the Director of the Bureau of Development Services

Decision mailed: January 6, 2010

Staff Planner: Sean Williams

About this Decision. This land use decision is not a permit for development. THE SIGNED FINAL PLAT MUST BE RECORDED WITH MULTNOMAH COUNTY DEED RECORDS WITHIN 90 DAYS OF THE DATE OF THIS DECISION (MARCH 31, 2010), OR THIS DECISION WILL BECOME NULL AND VOID. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on December 29, 2008, and was determined to be complete on December 31, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 29, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit G-3.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

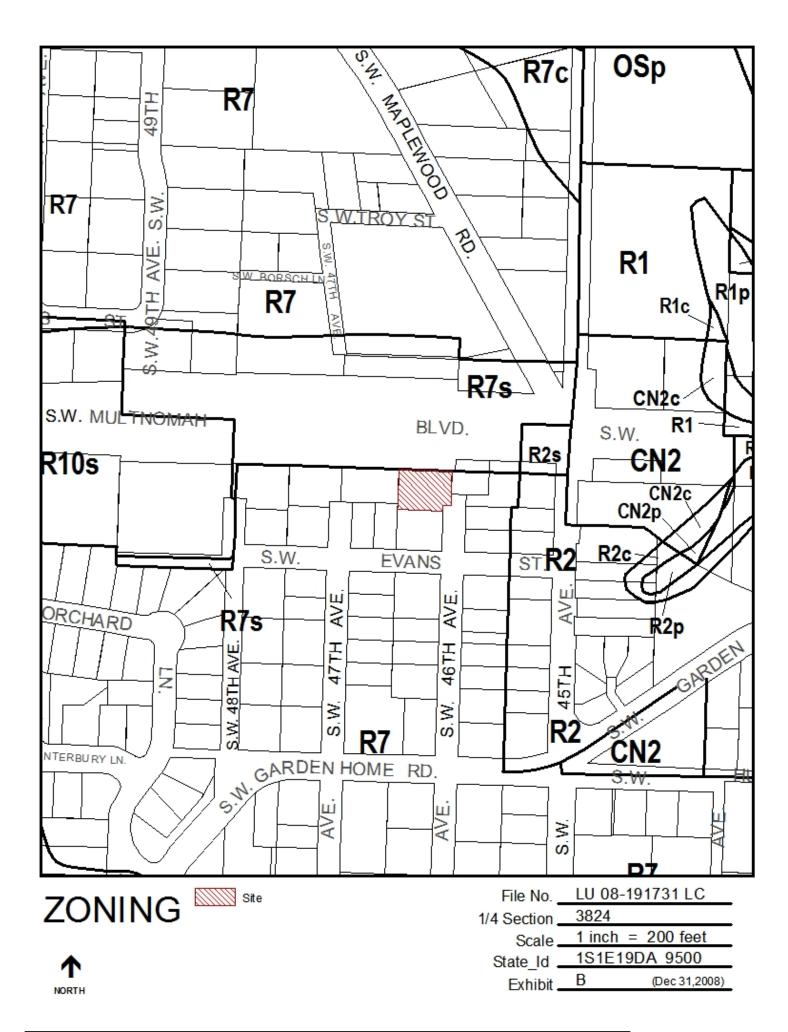
**Recording the Final Plat.** The signed plat must be recorded by the applicant with the County Deed Records within 90 days following approval by the Bureau of Development Services or the approval will be null and void.

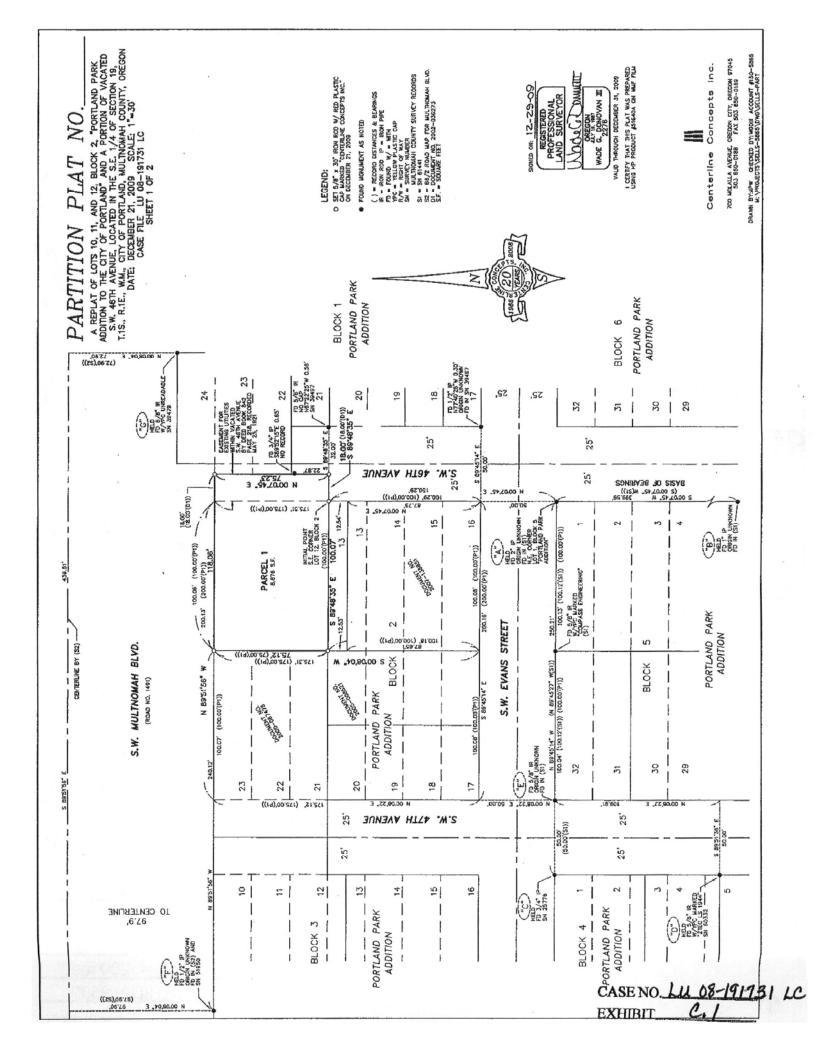
### **EXHIBITS**

### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Approved Plat (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Water Bureau
  - 3. Site Development Review Section of BDS
  - 4. Bureau of Parks, Forestry Division; Life Safety Plans Examiner; Bureau of Transportation Engineering and Development Review; Fire Bureau
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Request for 120 day extension

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).





### NARRATIVE:

1 — THE PUBEOSE OF THIS SURVEY IS TO ISSTALLS! THE ENCHANCY LINES TO ELONG Y.

11. AND 12. BLOKA Y.

PORTLAND PARK ADDITION TO THE CITY OF PORTLAND AND A PROPERTY OF S. M. SHI A NEED, WICH TO PORTRY TO SERVENCE OF THE AND THE CITY OF PORTRY OF S. M. SHI A NEED, S. M. S.

2 — THE BASIS OF DELABRICS IS FROM SHI GHAN USING HELD PROMO LYCHUGHERS "A" AND "B". SAGU MUNUMPINS WERF PROMO AND PELD IN SAGU SURVEY AS THE WEST RIGHT OF WAY PROMO STAN "A NAVINE AND I ALSO LELD AS SUCH, ALSO BEING THE EAST LINE OF SAUD BLOCK".

3 — I RECOVERED MOMUNENTS "A", "C" AND "E" AND, AS PER SUSTAINCY NOS PETER, NOT NO PETER AND THE PART OF POSITIONAL PARK SHOUTH, OF AND PARALLE, THE USE EXPENSES FOR THE STOTH LIKE OF THE STOTH LIKE OF THE STOTH LIKE OF THE OF

4 -- I HELD RECOVERED MONUMENT "E" AND A POINT SBB-51'38"E 50.00 FEET FROM RECOVERED MONUMENT "D" FOR THE WEST LINE OF SAID BLOCK 2.

5 — I RECOVERD UCRUMENT 7° FROM THE UAP FROM UNL'INDOLA PER SOUTH OF THE CENTERALE AND RECOVERED UCRUMENT 0° FROM SHOW AND HELD SHOWN OF THE CENTERURE OF THE SHAPE OF THE SHA

4. — THE END DOCUMENT NO. 2005—202323 PLUIS (FOR A PERTUR) OF VICENTIA OF VICENTIA OF THE SUMH IN LIE OF SUMH IN LIE OF THE SUMH IN LIE OF SUM LOIT 12. LESTEN'S TO A POAT HAAT IS 700 FET WEST OF THE VICENTIA OF WAY USE OF THE VICENTIA OF WAY USE OF THE VICENTIA OF WAY USE OF THE VICENTIA OF THE VICENTIA OF WAY USE OF THE VICENTIA OF

# NOTES AND PLAT RESTRICTIONS 1. THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE PILE NO. LU 08-19731.

2. THIS PLAT IS SUBJECT TO ROAD MAINTENANCE AGREEMENT, AS RECORDED JANUARY 30, 1884 IN BODK 1723, PAGE 598, MULTHOMAH COUNTY OFED RECORDS.

### DECLARATION:

NAOW ALL PEDGLE TO THESE RECENTS THAT WILLIAM ACREM SELLS.
THE OWNER OF THE LAND REPRESENTED ON THE AMENDED MAY AND
MAKE PARTICULAR!! DESCRIPTION IN THE AMENDED MAY TO REPRESENT OF THE AMENDED WAT THE REPRESENT OF THE AMENDED WAT THE PERMISH OF SAID PROPERTIES MAY OF THE PARTICULAR OF THE PROVISO'S OF CAMPITIES TO A OF MERCHE PRINCE WHAT THE PROVISO'S OF CAMPITIES TO A OF MERCHE PRINCE OF STANDING.



# ACKNOW EDGEMENT:

STATE OF ORECON
SOUNTY OF COLUMN SS

ANOTOWING THE PRESENCE OF THE SECURITY OF SECURITY OF

VACTARY SICHATURE

COMMISSION NO.: 413576 VICTOR Saldonha

# SURVEYOR'S CERTIFICATE:

A REPLAT OF LOTS 10, 11, AND 12, BLOCK 2, "PORTLAND PARK ADDITION TO THE CITY OF PORTLAND" AND A PORTION OF VACATED S.W. 46TH AVENUE, LOCATED IN THE S.E. 1/4 OF SECTION 19, T.1S., R.1E., W.M., GITY OF PORTLAND, MULTINOMAH COUNTY, OREGON DATE: DECEMBER 21, 2009 CASE FILE LU 08-191731 LC SHEET 2 OF 2

PARTITION PLAT NO.

I, WACE G, DONOVAN III, HIDEBY CENTRY THAT I HAVE CORRECTLY STRAYCH AND MULBHYS, THE LIVED TERRESAFTED ON THE ATTACHED PARTITION MAP, SAID LIVED BEING DESCRIBED AS FOLLOWS:

CITY OF PORTLAND LAND DINISION CASE FILE LU 08-191731 LC APPROVED THIS 31st DAY OF DECEMBER 2009

APPROVALS:

LOTS 10, 11, AED 12, BLOCK 2, "POSTLAND PARK ADDITION TO THE COTY OF CHERLAND." HOLDS THE AND THE COTY OF CHERLAND." HOUSENESS, AND TO STORE TRECHOLD MAY 25, 1971. IN BOOK 642, PAGE 721, LUTKNAMAN COMPATE RESERVED MAY SECONDS. LOCATED IN THE SEE 1/4 OF SECOND 10, LICK TO PRETAMAND, ULLINGMAN COUNTY, ORIGICAL, BLOCK MAN BARRILLAND COUNTY, ORIGICAL, BENG MARRILLAND, ULLINGMAND COUNTY, ORIGICAL, EDING MARRILLAND.

APPROVED THIS 31 DAY OF DECEMBER 20 20 29 BY: Xeen MALLY COTTOR'S DELEGATE ONLY OF PORTLAND, PLANNING DIRECTOR'S DELEGATE

Seen July

CITY OF PORTLAND, CITY ENGINEER'S DELEGATE

APPROVED THIS DAY OF COUNTY SURVEYOR.
MULTHOMAH COUNTY OREGON

Dr. Cheese m Ludaler

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVOED OR OSES, SEGOS HATC BEEN PAID AS OF TOTAL OF ASSESSMENT & TAXATION UNLINGUAL COUNT, ORECON

DEPUTY

SAID TRACT OF LAND CONTAINS 8,876 SQUARE FEET.

STATE OF OREGON SS
COUNTY OF MULTNOWAH SS

COUNTY RECORDING OFFICE

DEPUTY DOCUMENT NO.

Centerline Concepts Inc.

700 MOLALLA AVENUE, DREGON CITY, OREGON 97045 503 650-0188 FAX 503 650-0189

DRAWN BY:WPW CHECKED BY: WODII ACCOUNT \$150-5865 W. \PROJECTS\SELLS-5865\DWG\SELLS-PART

VALID THROUGH DECEMBER 31, 2009 Vode G Down OREGON LLT, 16, 1867 WADE G. DONOVAN III 2276 SIGNED ON: 12-29-09 REGISTERED PROFESSIONAL LAND SURVEYOR

I CERTIFY THAT THIS PLAT WAS PREPARED USING HP PRODUCT #51640A ON WAF FILM