



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: September 9, 2011
To: Interested Person
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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 11-116476 LDP

GENERAL INFORMATION

Applicant: Bob & Delores Beckman
2815 SE 133rd Avenue
Portland, OR 97236-3026

Representative: Rick Givens
204 SE 10th Avenue
Canby, OR 97013

Site Address: 2815 SE 133rd Avenue

Legal Description: TL 9700 0.52 ACRES, SECTION 11 1S 2E
Tax Account No.: R992113220
State ID No.: 1S2E11AB 09700
Quarter Section: 3344
Neighborhood: Powellhurst-Gilbert, contact Mark White at 503-761-0222.
Business District: Midway, contact Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin
Zoning: Residential 5,000 (R5) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to partition the subject property into 3 parcels of approximately 5,501 (Parcel 1), 4,341 (Parcel 2) and 8,643 (Parcel 3) square feet in size. Access to the lots will be accomplished via a private street tract.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or

services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 4 units of land (3 lots and 1 tract). Therefore this land division is considered a subdivision.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The site is located on the west side of SE 133rd Avenue approximately 800 feet south of the intersection with SE Division Street. Existing development consists of a single family dwelling that will be retained on Parcel 1 and a few detached accessory structures that will be removed. The surrounding vicinity is primarily composed of single dwelling development and comparable zoning with multi-dwelling and commercial zoning and development along the SE Division Street corridor.

Infrastructure:

- **Streets** – The site has approximately 79 feet of frontage on SE 133rd Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 133rd Avenue is classified as a local service street for all modes in the TSP. Tri-Met provides transit service approximately 800 feet north of the site on SE Division Street via Bus #4. Parking is currently allowed on both sides of SE 133rd Avenue. At this location, SE 133rd Avenue is improved with a 28 foot paved roadway surface within a 50 foot wide right-of-way. No curb or sidewalk is present along the site’s frontage.
- **Water Service** – There is an existing 4-inch CI water main in SE 133rd Avenue. The existing house is served by a 5/8-inch metered service from the main.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in SE 133rd Avenue.

Zoning: The R5 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.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the “a” overlay.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 21, 2010**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing 3 single family parcels for detached houses. The minimum and maximum density for the site is as follows:

Minimum = $(22,435 \text{ square feet} * .68) \div 5,000 \text{ square feet} = 3.05$ (which rounds down to a minimum of 3 parcels, per 33.930.020.A)

Maximum = (22,435 square feet * .85) ÷ 5,000 square feet = 3.81 (which rounds down to a maximum of 3 parcels, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 2.

The applicant is proposing 2 parcels. The density standards are therefore met.

The lot dimensions required and proposed are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	5,301		40	99.02	40
Parcel 2	4,341		78	60	64.6
Parcel 3	8,463		69	108	31

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

The findings above show that the applicable density and lot dimension standards are met. Therefore this criterion is met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). Six trees are located within the land division site of which one is exempt from preservation standards as it is considered a nuisance species (#103: Norway maple).

The total non-exempt tree diameter on the site is 60 inches. The applicant proposes to preserve trees #102 (10" Douglas fir) and #105 (15" Red pine), which comprise of 25 inches of diameter, or 41 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Preliminary Grading and Erosion Control Plan showing the preserved trees and the required root protection zones (Exhibit C-4).

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Parcels 1 and 2 be carried out in conformance with the Preliminary Grading and Erosion Control Plan (Exhibit C-4) and the applicant's arborist report (Exhibit A-2) and an acknowledgement of tree preservation requirements is recorded with the final plat.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

Findings:***Clearing and Grading***

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Grading and Erosion Control Plan (Exhibit C-4) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, undisturbed areas consistent with the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan, and the overall limits of disturbed area.

The proposed clearing and grading shown on Exhibit C-4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by an infiltration swale and individual drywells respectively to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street and the preparation of the lots, without being excessive. The limits of disturbance shown on the applicant's plan include grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns, assure that the necessary tree protection measures are in place before the grading begins and limit the disturbance on the adjacent properties. The limits of disturbance will also allow for the existing accessory structures on the site to be demolished and any debris associated with these buildings to be removed. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved.

The clearing and grading plan does not indicate show topsoil storage, or a stockpile area, but there is ample room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit indicate the location of stockpile areas and the limits of disturbance be extended to include these areas.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan, this criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: The proposal includes a Private Street and Stormwater Management Tract. With a condition that the proposed tract be owned in common by the owners of Parcels 1 through 3, this criterion can be met.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract described above and facilities within this area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

“A Declaration of Maintenance agreement for (Private Street and Stormwater Management Tract) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, this criterion is met.

K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.
The water standards of 33.651 have been verified. Water is available to serve the proposed development from the 4-inch CI water main in SE 133 rd Avenue. Parcel 1 has an existing water service from that main.
The water line that provides service to property addressed 2821-2823 SE 133 rd Avenue is located within the land division site and will be impacted by required frontage improvements discussed later in this report. Therefore, prior to final plat, service for the existing development at 2821-2823 SE 133 rd Avenue must be relocated, so that the service connection will be located along the frontage of this lot.
33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.
The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer main in SE 133 rd Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will be located within the private street tract in the area of the stormwater infiltration swale. Therefore, prior to final plat approval, the applicant is required to obtain final inspection approval of a plumbing permit to relocate the sewer lateral on Parcel 1 outside of the private street tract. Due to the proximity of the sewer lateral to the private street tract, BES is requesting additional documentation to verify the location of the relocated lateral relative to the new property line prior to final plat approval.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

- **Private Street:** Stormwater will be directed to an infiltration swale located within the street tract. The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed swale can accommodate the volume of stormwater runoff from the impervious areas of the street. The Site Development Section has indicated conceptual approval of the proposed swale location and size
- **Public Street Improvements:** Stormwater from these new impervious areas will be directed into an infiltration swale located between the curb and the new sidewalk. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the proposed swale is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site must be provided on the final plat.

BES requires a Public Works Permit for the construction of such a swale. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval.

- **Parcel 1 (the parcel with the existing house):** The existing house has downspouts that drain onto the ground. BES has indicated that there appears to be adequate area for the existing downspouts and splash blocks to meet required setbacks to the new property lines and development subject to minor relocation of the proposed parking pad as shown on submitted site plans.
- **Parcels 2 and 3:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.

33.654.110.B.1 -Through streets and pedestrian connections

33.654.130.B - Extension of existing public dead-end streets & pedestrian connections

33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west through street provided in the vicinity of the site. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal:

The subject property is located ~800-feet south of SE Division Street. Additionally, SE 133rd Ave ends in a cul-de-sac located ~ 500-feet to the south of the subject property. Though the subject property location supports the above criteria for additional connectivity, the alignment with the adjacent property and its structures (located to the west) do not allow for the likely completion of an east/west connection at this location. No additional connectivity is required based on the above considerations.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.

The proposal includes a private dead-end street. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately

176 feet in length from the frontage along SE 133rd. This criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030
33.654.120.B & C Width and elements of the street right-of-way
33.654.130.D Partial Rights of way

The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area based on a number of evaluation factors:

Based on the available information, the estimated increase in daily trips is less than 20 total trips per day with the majority of trips occurring during non peak hours, as provided by the Institute of Transportation Engineers – Trip Generation Manual (8th Edition). Additionally, consideration is also given to the likely division of the anticipated increase of <20 total trips per day being factored by two possible route directions to and from this location. Other consideration in determining potential impacts include this location's proximity to public transit access (see Transit Availability: listed below) which provides on-going availability to an alternative mode of transportation located <1000-feet from the subject property. In consideration of the availability of transit service, the limited increase in anticipated traffic generated from this proposal and the availability of alternative routes for vehicle access to and from the subject site, it is reasonably anticipated by PBOT staff (including registered traffic engineers) that this minimal increase to the existing transportation system facilities and capacity will not create a significant impact. A Transportation Study is not required at this time.

At this location, SE 133rd Avenue is improved with a 28 foot paved roadway surface within a 50 foot wide right-of-way. There are no curbs, planter strips, or sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility previously discussed in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The applicant has proposed a variable width dead-end private street tract. The Administrative Rules for Private Rights of Way are the standards that govern the construction of private streets. These rules recommend a width of 16 feet for dead-end streets less than 300 feet long that will serve 1-3 lots. No sidewalk, turn-around or on-street parking is required based on the length of the street and number of lots it will serve. The elements of the proposed private street consist of a 16-20 foot paved roadway surface that allows two travel lanes, two 6-inch curbs and a 1-foot setback between the street improvements and private property. The applicant will be disposing of stormwater from the private street via an infiltration swale located at the entrance of the private street tract. Street trees are required within the new street tract. However, since no planter strip is incorporated as a part of the street design, the applicant will be required to plant trees within the front yard of each parcel, within 5 feet of the street tract. The applicant will be required to execute a covenant to plant the required trees that is required to be recorded and referenced on the final plat. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 3 lots by the *Administrative Rules* governing private streets.

With the conditions of approval described above, this criterion is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing building will be 22 feet from the new rear property line and 3.6 feet from the new side property line. A reduced side setback of 3 feet is allowed adjacent to a new street tract. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 and within the private street tract must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A paved parking pad provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located within the private street tract. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.
- Street-Facing Facades in R10 through R2.5 Zones -- In this zone, street-facing facades of residential structures are required to have windows that comprise at least 15 percent of the façade area. The existing house that will remain on Parcel 1 currently meets this standard on the front of the house, which is oriented toward the street. After the land division, the new private street will provide additional street frontage adjacent to the northern elevation of the house. The applicant has

provided an elevation drawing (Exhibit G-4) that demonstrates continued compliance with 33.110.232.C after the land division is recorded.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 www.portlandonline.com/bds

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to:
 - Fire apparatus access
 - Ensuring adequate hydrant flow from the nearest fire hydrant
 - Fire hydrant spacing
 - Turning radius
 - Posting of "No Parking" signs
 - Providing an Emergency Vehicle Access Easement over the private street tract

These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E-4).

- The applicant must meet the requirements of Urban Forestry for street tree planting in the new planter strip adjacent to Parcel 1 after the street improvements are complete. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3-parcel partition with a private street tract, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: transportation impacts and services and utilities.

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition that will result in 3 standard lots and a private street tract, as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use and Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 133rd Avenue. The required right-of-way dedication must be shown on the final plat.
2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the private street to the satisfaction of the Fire Bureau.
3. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B-11 through B-13 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

C. The following must occur prior to Final Plat approval:

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's SE 133rd Avenue frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.3 and the Private Street Administrative Rule.

3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The design for the private street must include a driveway approach and curbs cuts in a location that can provide access to the new parking space required on the lot with the existing house that will remain on Parcel 1. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

Utilities

4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.
5. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcels 2 and 3, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcels 2 and 3, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
7. The applicant shall meet the requirements of the Water Bureau concerning relocation of the water service connection to property addressed 2821-2823 SE 133rd Avenue.
8. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) concerning relocation of the sanitary sewer service for Parcel 1, entirely outside of the private street tract. A plumbing permit is required and must be finalized prior to BES approval. Documentation of the location of the new sewer line relative to the new property line is required (photographs may be adequate if the sewer line and surveyed property corners are both within a single picture).

Existing Development

9. The applicant must obtain a finalized demolition permit for removing the accessory structures on Parcel 2 and within the area of the private street tract. If a building permit is not required based on the size of the structures, documentation of removal may be accomplished through submittal of photographs.
10. A parking space shall be installed on Parcel 1 that must be a minimum of 9' x 18' and located out of the side setback for the lot with the existing house. In addition, it must be in a location that can be accessed from the new private street. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. A connecting driveway can be provided after the new street has been constructed. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan.

Required Legal Documents

11. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of


Parcels 1-3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

12. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1 and 2 and street tree requirements that apply to Parcels 1-3 per condition D-2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

D. The following conditions are applicable to site preparation and the development of individual lots:

1. Development on Parcels 1 and 2 shall be in conformance with the Preliminary Grading and Erosion Control Plan (Exhibit C-4) and the applicant's arborist report (Exhibit A-2). Specifically, trees numbered #102 (10" Douglas fir) and #105 (15" Red pine) are required to be preserved, with the root protection zones indicated on Exhibit C-4. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant shall plant one street tree on each lot within 5-feet of the street tract boundary, per the Private Street Administrative Rule. The trees shall be selected from the City Forester's most current approved list of acceptable street trees.
3. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
4. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
5. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
6. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcels 2 and 3. Please refer to the final plat approval report for details on whether or not this requirement applies.
7. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Sean Williams

Decision rendered by:  **on September 7, 2011**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 9, 2011

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 February 25, 2011, and was determined to be complete on **June 17, 2011**.

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 February 25, 2011.

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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: October 15, 2011.**

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.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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 are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final

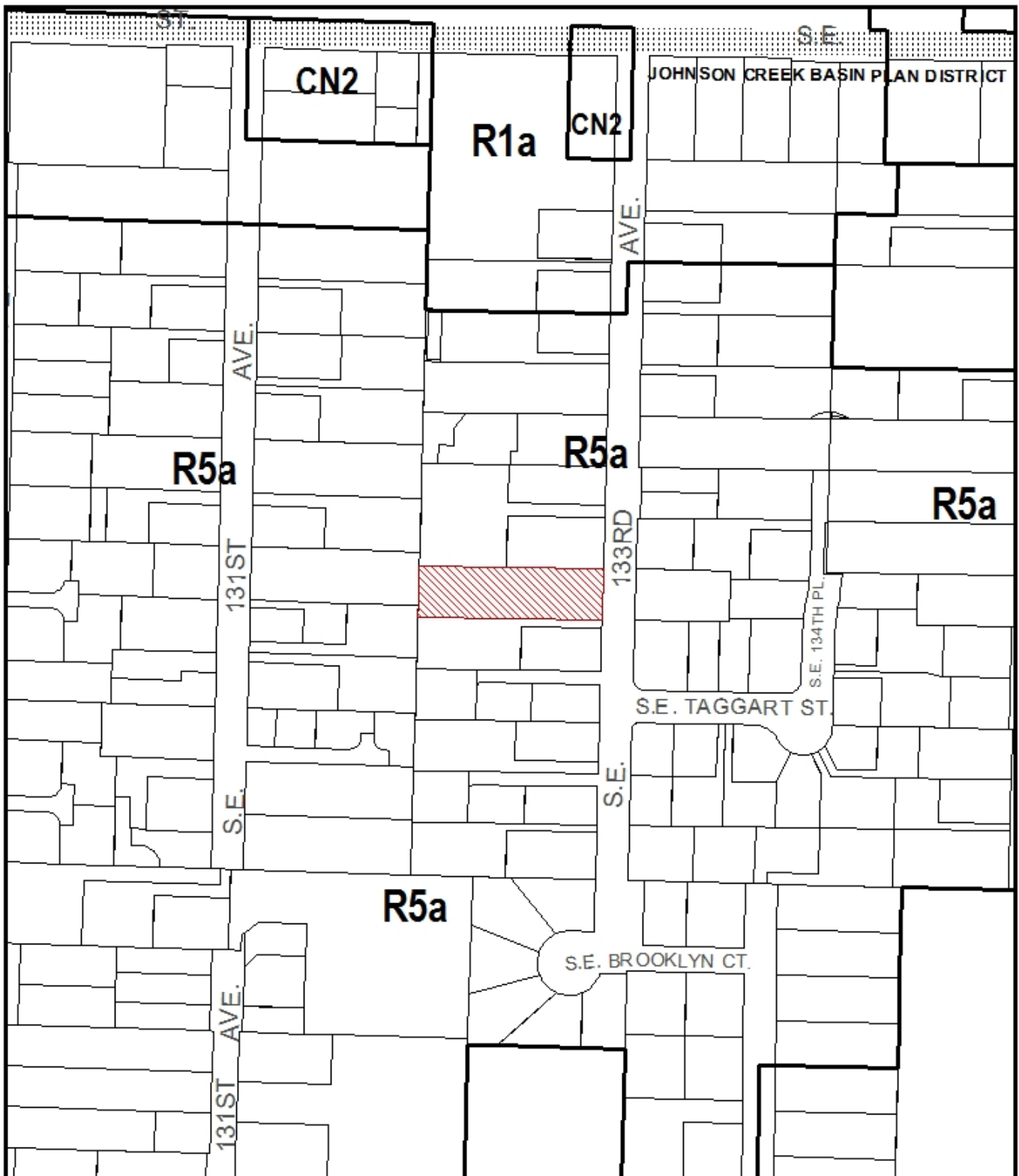
plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Land Division Approval Criteria
 - 2. Arborist Report
 - 3. Preliminary Storm Calculations
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Partition Plat (attached)
 - 2. Existing Conditions Plan
 - 3. Preliminary Site & Utility Plan (attached)
 - 4. Preliminary Grading & Erosion Control Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services w/ addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Site History Research
 - 2. Original LU Application
 - 3. Incomplete Letter
 - 4. North Elevation of existing house

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



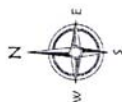
Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 11-116476 LDP
1/4 Section	3344
Scale	1 inch = 200 feet
State_Id	1S2E11AB 9700
Exhibit	B (Mar 04, 2011)

SHEET 1 OF 2

[illegible]

1. CLIENT: CITY OF WASH.

2. PURPOSE OF THIS STUDY: TO LOCATE AND MONITOR THAT TRACT OF LAND DISCOVERED IN 1927 TO BE A REMNANT OF THE 1860-1870 SURVEY OF THE NORTHWEST ONE-QUARTER OF SECTION 17, T.5S., R.12E., NEAR HARTMAN CANYON, OREGON, AS DOCUMENTED AND SHOWN AS 1860-1870. BY ACTION OF PLAT NO. 1995-27, WAS HELD AS THE BASIS OF DEEDS FOR THIS MAP.

3. BASIS OF DEEDS: THE WEST LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 17, T.5S., R.12E., NEAR HARTMAN CANYON, OREGON, AS DOCUMENTED AND SHOWN AS 1860-1870. BY ACTION OF PLAT NO. 1995-27, WAS HELD AS THE BASIS OF DEEDS FOR THIS MAP.

4. THE SUBJECT TRACT IS DESCRIBED IN DEED DOCUMENT NO. 19-10685, WHICH CALLS CORNERED DATA AS SHOWN ON S.W. 25, 1995-27, AN ADJACENT PLAT, DATED JANUARY, 1946, CALLED "WATKINS PLAT, SURVEYED BY REBECCAH AND DONALD WATKINS, A PART OF THE 1860-1870 SURVEY OF THE NORTHWEST ONE-QUARTER OF SECTION 17, T.5S., R.12E., NEAR HARTMAN CANYON, OREGON, AS DOCUMENTED AND SHOWN AS 1860-1870. AFTER PART OF THE TRAIL DATA SECOND AND THIRD DATA, THE FOLLOWING ARE HELD TO CONSTITUTE THE BOUNDARY OF THE SUBJECT TRACT:

A) THE NORTHWEST ONE-QUARTER CORNER AND THE CENTER LINE OF THE SOUTHERLY CORNER WERE LOCATED AND HELD ON THE BASIS OF PLATINGS AND TO CORNER, AND THE CENTER LINE OF THE WEST LINE OF THE SUBJECT TRACT.

B) THE SOUTH LINE OF THE SUBJECT TRACT WAS HELD ON THE BOUNDARY OF THE SOUTH LINE OF PARADISE PLAT NO. 1995-27, AS SHOWN. THE DOCUMENTED CORNER WAS ESTABLISHED AT THE INTERSECTION OF THE SOUTH LINE OF PARADISE PLAT NO. 1995-27, AND THE WEST LINE OF THE INTERSECTION CORNER AS NOTED.

C) THE WEST BOUNDARY OF THE TRACT (SEE PLAT NO. 11953 (2ND EDITION) WAS HELD AS ADJACENT AND SHOWN BY THE INTERSECTION CORNER OF THE SUBJECT TRACT WAS HELD IN THE INTERSECTION OF THE SOUTH LINE OF PARADISE PLAT NO. 1995-27, AND THE WEST LINE OF S.E. 15802. THE RESULTANT EAST-WEST CORNER, ALONG THE SOUTH BOUNDARY, WAS LOCATED SECOND AND THIRD DATA, WHICH DATA AS NOTED.

D) THE NORTH LINE OF THE SUBJECT TRACT WAS HELD 1920 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF PLAT NO. 1995-27 AND RED CALLS AS SHOWN, INTERSECTING THE PROPOSED SECTION LINE AND WEST POINT OF TRACT OF PLAT NO. 15802.

E) THE PARITON LINES WERE ESTABLISHED FOR THE CLIENT'S DIRECTION AND CITY APPROVAL.

FOLLOWING: PARADISE PLAT NO. 1995-27, WAS HELD WITH A SECOND NORTH STATION.

TO CERTIFY THIS IS AN EXACT COPY OF THE ORIGINAL PLAT

Survey created by:

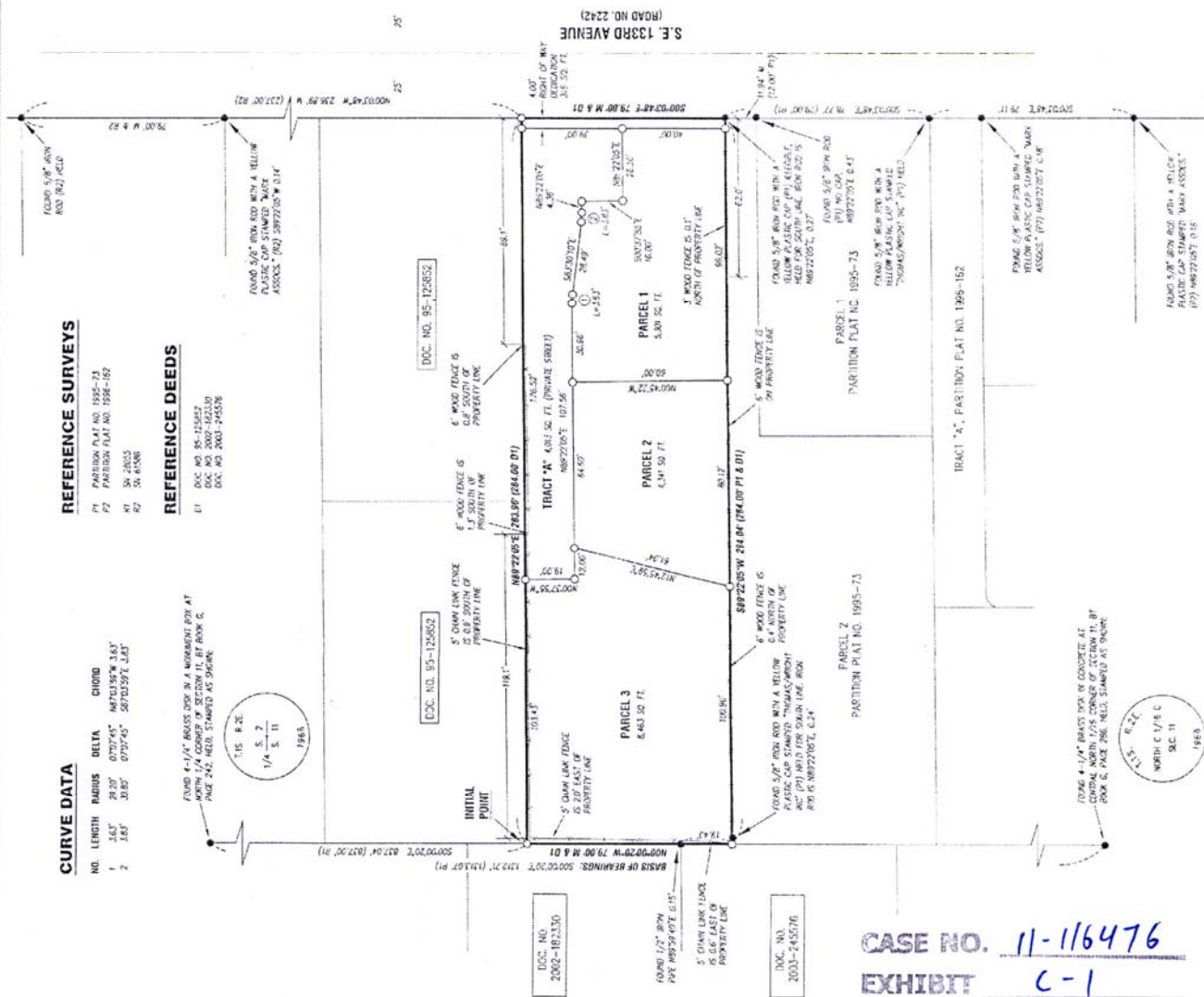
Compass Engineering
#105 International Way, Suite 501
Milwaukie, Oregon 97222
Phone: 503-653-9093
6836 Part.dwg
Job No. 10-6836 (Partition)

STATE OF CALIFORNIA

5836 Part.dwg
Job No. 10-5836 (Partition)

FOUND 4-1/4" BRASS DISK IN A MONUMENT BOX AT NORTH 1/4 CORNER OF SECTION 11, BT BOOK 6, PAGE 242, HELD, STAMPED AS SHOWN:

DOI: 10.1002/9781118000000.ch10



CASE NO. 11-116476
EXHIBIT C-1



6

CASE NO. 11-116476
EXHIBIT C-3

