



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

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Date: August 14, 2009
To: Interested Person
From: Ruth Shriber, Land Use Services
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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 08-161770 LDP

GENERAL INFORMATION

Applicant: Lewis and Teresa Woods
21445 Miles Drive
West Linn, OR 97068

Representative: Steve Nys, Nys Associates
10250 SW 87th
Tigard OR 97223

Site Address: 3829 SE 122ND AVE

Legal Description: LOT 1, PARTITION PLAT 2003-19
Tax Account No.: R649830730
State ID No.: 1S2E10DA 03101
Quarter Section: 3442
Neighborhood: Powellhurst-Gilbert, contact John McDonald at 503-753-4226.
Business District: Midway, contact Bill Dayton at 503-252-2017.
District Coalition: E Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin
Zoning: R1a – Multi-Dwelling Residential R1
Case Type: LDP – Land Division Partition
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to divide a 17,745 square foot parcel into two parcels. Proposed Parcel 1 will be 4,243 square feet in size (after street dedication) and will be made available for the development of a duplex. Proposed Parcel 2 will be 13,506 square feet in size (after street dedication) and will retain the existing 6,560 square foot 8-plex on the site. Presently, the water and sewer laterals that serve the 8-plex are located in an easement located between two parcels to the north of the site. These laterals connect to the sewer main in SE Bush. The applicant had originally proposed continued sewer and water service to the 8-plex from SE Bush during construction. Ultimately, the applicant had proposed to serve

both developments with sewer and water laterals from the mains in SE 122nd. An Arborist report and tree preservation plans have been submitted.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The site is located at the west side of SE 122nd Avenue. The area is relatively flat with an existing 8-plex and a detached garage. The surrounding area is a mixture of single family homes and apartments, with automobile oriented commercial uses predominating further north of site.

Zoning: The R1 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-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.

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 that there are two prior land use reviews for this site including:

- **LUR 95-000932 MP (Minor Partition):** The applicant proposed to divide the 27,500 square foot site to create 3-parcels. The minor Partition created Parcel 1, 17,740 square feet which retained an 8-unit apartment building; Parcel 2, 5,007 square feet and vacant; and Parcel 3, 4,924 square feet with an existing single-family residence. The site zoned R3 (multi-dwelling residential 3,000) until March 25, 1996. After March 25, 1996, the Outer Southeast Community Plan rezoned the site to R1 zone (multi-dwelling residential 1,000). The Adjustment proposal below (LUR 95 00931 was reviewed concurrently.
- **LUR 95-00931 AD (Adjustment):** The applicant proposed to reduce the lot depth for Parcel 2 from 80 feet to 74 feet. Additionally, the decision was rendered with the following conditions:
 - A. The "a" amenity bonus provision for increased density (Section 120.265) must be met prior to City approval of the final plat of minor partition case file LUR 95-00932 MP.
 - B. The applicant must submit documentation that the amenity provisions have been met at the time the final plat for the minor partition is submitted to the City for final approval. Documentation must include, but not be limited to, a building or development permit, with a copy of the final inspection sign-off by a City building inspector for all of the amenity improvements.

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

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

- 2. Neighborhood Review:** One written response was received from a notified property owner in response to the proposal.

Comment: The timing of the transition to utility lines on 122nd was questioned and it was pointed out the existing multi dwelling structure is an 8-plex, not a 12-plex.

Staff Response: Utility transitioning is discussed under Section L of this report. Staff has verified the existing structure is, in fact an 8-plex, not a 12-plex as originally indicated by the applicant.

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.

The relevant criteria are found in Section 33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones. 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 applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.612	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not applicable - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:**A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

Findings: Chapter 33.612 contains the lot standards applicable in the Multi-dwelling zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 17,745 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A public street dedications is required for this land division. Therefore the resulting lot size for calculating density is 17,045 square feet.

In this case, Parcel 1 is proposed for single duplex development. Therefore, the density requirements for this site are calculated as follows:

Minimum = $17,045 \text{ (site area)} \div 1,450 \text{ (minimum density from Table 120-3)} = 11.75$ (which rounds up to a minimum of 12 units, per 33.930.020.A).

Maximum = $17,045 \text{ (site area)} \div 1,000 \text{ (maximum density from Table 120-3)} = 17.04$ (which rounds down to a maximum of 17 units, per 33.930.020.B).

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

Because Parcel 2 is currently developed with an 8-plex and Parcel 1 will be developed with a duplex, the remainder of the minimum density for the site as a whole must be met on Parcel 2 at the time of redevelopment. The existing 8 plex and proposed duplex on Parcels 1 & 2 would only provide 10 units. Since the minimum density requirement is 12 units, a condition is needed to ensure the density requirement of the land division site will be met on Parcel 2.

With the condition that the remaining 2 units of minimum density are met on Parcel 2 at the time of redevelopment, this condition is met.

Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Chapter 33.612 of the Zoning Code):

	R1 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Lots for Multi-Dwelling Development			
Minimum Lot Area	10,000 sq. ft.		13,506 sq. ft.
Minimum Lot Width*	70 ft.		108 ft.
Minimum Lot Depth	70 ft.		125 ft.
Minimum Front Lot Line	70 ft.		108 ft.
Lots for Duplexes			
Minimum Lot Area	none	4,243 sq. ft.	
Minimum Lot Width*	none	32 ft.	
Minimum Lot Depth	none	125 ft.	
Minimum Front Lot Line	10 ft.	32 ft.	

*Width is measured from the midpoints of the side lot lines.

The findings above describe how the applicable lot standards are 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 C-1). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Apple	8		No	No	
2	Birch	6		No	No	
3	Birch	4		Yes	No	
4	Holly	8		Yes	No	
5	Cherry	8		No	No	
6	Ash	12		Yes	No	
7	Silver Maple	24		No	Yes	24 ft.
8	Silver Maple	30		No	Yes	24 ft.

The total non-exempt tree diameter on the site is 76 inches. The applicant proposes to preserve tree #7, a 24-inch Silver Maple and tree #8, a 30-inch Silver Maple. These two trees comprise 54 inches DBH, or 71 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 Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-3).

This criterion is met, subject to the condition that development on Parcels 1 & 2 is carried out in conformance with the Tree Preservation Plan (Exhibit C-3) and the applicant's arborist report (Exhibit A-2).

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

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

Findings: 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 primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated.

This criterion is met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

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 are three old cesspools on the site. The City has no record that the cesspools were 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 the cesspools on site.

An existing storage building is located on Parcel 2. The applicant has proposed to remove the existing storage building on Parcel 2 to develop the site. In order to ensure that the new lots are suitable for development, prior to final plat approval, a permit must be obtained and finalized for demolition of the storage building on Parcel 2.

With the conditions above, the new lots can be considered suitable for development, and this criterion is met.

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

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

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. 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 site has approximately 140-feet of frontage on SE 122nd Avenue which is classified as Major Traffic Street, Transit Access Street, City Bikeway and Walkway, Truck Access Street, and a Major Emergency Response Street. Tri-Met provides transit service approximately 50-feet from the site on SE 122nd Avenue via bus 17. Parking is currently not allowed on either side of SE 122nd Avenue. There is a driveway entering the site from SE 122nd that provides access to off-street parking for the existing 8-plex.

SE 122nd Avenue is improved with a paved roadway, curbs, and 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 discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, a duplex can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. Water is available to serve the proposed development from an existing 8-inch water main in SE 122nd Avenue. Parcel 2 has an existing water service from the water main on SE Bush Street. As a result of the proposed land division, the water line that provides service to Parcel 2 will no longer be located entirely on Parcel 2. Title 21 requires that the water service connection be

located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat the applicant is required to purchase a new metered service to the 8-plex on Parcel 2 from the 8-inch main in SE 122nd Avenue. The applicant may purchase the metered service for Parcel 1 for the proposed duplex at this time. In addition, prior to final plat, as built locations of the new water lines must be shown on the supplemental plan after required inspections are approved and permits are finalized to the satisfaction of Site Development. See Exhibits E-3 and E.5 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 12-inch public sanitary sewer main located in SE 122nd Avenue. There is an 8-inch public sanitary sewer main located in SE Bush which currently serves the 8-plex on Parcel 2.

Parcel 2: As a result of the proposed land division, the existing sewer connection serving the 8-plex would cross over a portion of Parcel 1. Prior to final plat approval, the applicant will be required to provide a new connection for the 8-plex on Parcel 2 from the main line on SE 122nd Avenue. The applicant will also be required to obtain a plumbing permit to cap the existing sewer connection to the main on SE Bush and receive final inspection approval for all plumbing permits prior to final plat approval. Additionally, as built with the new and capped sanitary lines shall be provided on a supplemental plan to the satisfaction of BES prior to final plat approval.

Parcel 1: A supplemental plan dated June 12, 2009 proposes sanitary service to the new duplex on Parcel 1 from the existing line to SE Bush. The existing line runs across 12130 SE Bush. The supplemental plan shows a 10 foot easement on the eastern edge of 12130 SE Bush. That easement was granted as part of an earlier partition, for then Parcel 1. It is unclear whether the existing easement language is adequate for use by the new Parcel 1. The easement may need to be modified, re-confirmed with the property owner at 12130 SE Bush, and/or re-recorded depending on the exact language of the existing document. Alternatively, the development retains the option to connect the new duplex to the main line in SE 122nd, either at the time of development, or it may be constructed at the same time as the branch for Parcel 2. With the conditions that prior to final plat it must be determined whether modified easement language is needed and if so is revised and rerecorded prior to final plat approval. The supplemental plan must show the new and capped sanitary lines. Alternatively, the new duplex on parcel 1 may connect to the sewer main in SE 122nd. See Exhibits E-1 and E. 8 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved

method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-), and the Bureaus have responded as follows (Exhibits E-1, E-5, E-8, and E-9):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.
- **Parcel 2:** The existing 8-plex is connected to 2 drywells and the parking lot serving the building is connected to another drywell. The drywell near the northwest corner of the building is located beyond the new property line and must be decommissioned. Final approval of a drywell decommissioning permit for the drywell near the northwest corner of the building is required prior to final plat approval. Additionally, modifications will be needed for the existing rain drain system. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the rain drain system and install a replacement drywell on the existing 8-plex that will result in properly functioning rain drain system, and disposal points, located outside of required setbacks. However, to assure that an adequate area for the soakage trench is retained when the lot is developed, Site Development has recommended a minimum 10-foot setback from any structure and 5-feet to any property lines, as measured from the middle of the facility. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval by BES.
- **Parcel 1:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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. Site Development has indicated conceptual approval of the drywell. However, to assure that an adequate area for the soakage trench for the new house is retained when the lot is developed, Site Development has recommended a minimum 10-foot setback from any structure and 5-feet to any property lines, as measured from the middle of the facility. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval by BES.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable - No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable - No public or private street is proposed.
33.654.120.C.3.c	Turnarounds	Not applicable - No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable - No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable - There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable - No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable - No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable - There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable - No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable - No partial public streets are proposed or required.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. Through streets should generally be provided no more than 530 feet apart and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**

- b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
- d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
- e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: The site is located between SE Bush Street and SE Boise Street, which have a distance between them of approximately 820-feet. There are no other east/west through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be an east-west through street provided in the vicinity of the site. The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division. The site is within the Portland Master Street Plan for the Far Southeast District, but a through street is not identified for this location. Therefore, the proposal is consistent with the master street plan.

There are no new through pedestrian connections included in the proposal. There will be an improvement to the existing sidewalk along the frontage of the site along SE 122nd Avenue.

For the reasons described above, this criterion is met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

- A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.**

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the existing right-of-way 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

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. 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 2. 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 R1 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one Zoning Code standard that relates to existing development on the site:

- Minimum Setbacks – The existing 8-plex 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 wall plane of the existing 8-plex will be 10.65 feet from the new property line. 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.

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	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/

Bureau	Code Authority	Topic	Contact Information
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 http://www.bds.ci.portland.or.us

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 must meet the requirements of the Fire Bureau in regards to limiting the height of construction to 30-feet to ensure aerial fire department access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting. This requirement is based on the standards of Title 20. Street trees will be required to be planted adjacent to Parcel 2 after the sidewalk is constructed and before final plat approval. Street trees will be reviewed for Parcel # 1 during building permit application. See Exhibit E.6 for more details.

CONCLUSIONS

The applicant has proposed a 2-lot partition, 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 include stormwater management, utility lines, tree protection, street dedication and improvements and land suitability. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition that will result in two parcels. Parcel 1 will be made available for a duplex development. Parcel 2 will retain an existing 8-plex and will be made available for 2 additional dwelling units at the time of future redevelopment as illustrated with Exhibits C-1-4 and subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. 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 as-built locations of the new and previous sanitary sewer and water service connections for Parcel 2 shall be shown on the supplemental plan after required inspections are approved and permits are finalized to the satisfaction of Site Development.
- The as-built location of the new on-site stormwater management facilities for Parcel 2 shall be shown on the supplemental plan after required inspections are approved and permits are finalized to the satisfaction of Site Development.
- The conceptual building and development footprint and proposed drywell, sanitary sewer, and water service for Parcel 1 shall be shown on the supplemental plan to the satisfaction of Site Development.
- The proposed general location of existing building footprints and new stormwater management facilities, water service lines and sanitary sewer lines.
- The supplemental plan must show the new and capped sanitary and water lines.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 122nd Avenue. The required right-of-way dedication must be shown on the final plat.
2. Private utility easement across adjacent property to the north for the benefit of Parcel 1, if needed.

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 frontage of SE 122nd Avenue. The applicant must obtain an approved Right of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip. The improvements along the frontage of Parcel 2, where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of the remaining lots may constructed with new development on that lot.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the three existing cesspools on the site.
3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing drywell on the north side of the site.
4. The applicant shall purchase a new water service for the existing 8-plex and for the proposed duplex on Parcel 1.
5. The applicant will be required to provide a new sewer connection for the 8-plex on Parcel 2 from the main line on SE 122nd Avenue. The applicant will also be required to obtain a plumbing permit to cap the existing sewer connection to the main on SE Bush and receive final inspection approval for all plumbing permits prior to final plat approval.
6. The applicant may connect the new duplex on parcel 1 to the sanitary sewer main in SE Bush via the lateral that is located within an existing easement. It must be determined whether modified easement language is needed and if so is revised and rerecorded. Alternatively, the new duplex on parcel 1 may connect to the sewer main in SE 122nd, either at the time of development, or it may be constructed at the same time as the branch for Parcel 2.

Existing Development

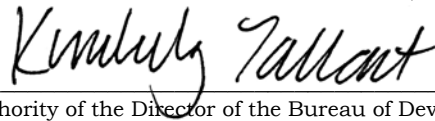
7. The applicant must obtain a finalized demolition permit for removing the accessory structure on Parcel 2.
8. The applicant must meet the requirements of Site Development for the stormwater system for the existing 8-plex on Parcel 2. Specifically, the rain drain system and install a replacement drywell located on the north side of the 8-plex. The applicant must obtain finalized plumbing permits for this work prior to final plat approval.
9. Street trees will be required to be planted adjacent to Parcel 2 after the sidewalk is constructed and before final plat approval. Street trees will be chosen from the City's approved street tree list. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain

the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

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

1. Development on Parcels 1 & 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-3) and the applicant's arborist report (Exhibit A-2). Specifically, trees numbered 7 and 8 are required to be preserved, with the root protection zones indicated on Exhibit A-2. 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. The report from an arborist and any revisions to permit plans reflecting new root protection zones must be submitted and approved by Planning and Zoning prior to any working occurring in the root protection zone. If work is conducted in the RPZ and Planning & Zoning approval is not obtained before the work begins and the tree subsequently falls, it may result in a violation.
2. Street trees must be provided for Parcel 1 and will be reviewed during building permit application.
3. The remaining 2 units of minimum density must be met on Parcel 2 at the time of future redevelopment.
4. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

Decision rendered by:



on August 12, 2009

By authority of the Director of the Bureau of Development Services

Staff Planner: Ruth Shriber

Decision mailed August 12, 2009

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 September 11, 2008, and was determined to be complete on March 2, 2009.

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 September 11, 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 A.6.

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 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 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. Narrative
 - 2. Arborist Report (attached)
 - 3. Submittal of 2/24/09
 - 4. Submittal of 3/02/09
 - 5. Submittal of 3/03/09
 - 6. Extension Request
 - 7. Submittal of 6/24/09
 - 8. Submittal of August 9, 2009 including Exhibit C.5)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Supplemental plan
 - 3. Tree Preservation Plan (attached)
 - 4. Conceptual Plan for Parcel 2 (attached)
 - 5. Elevation of Existing 8-plex (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice

E. Agency Responses:

1. Bureau of Environmental Services
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
8. Bureau of Environmental Services Addendum
9. Site Development Review Section of BDS Addendum

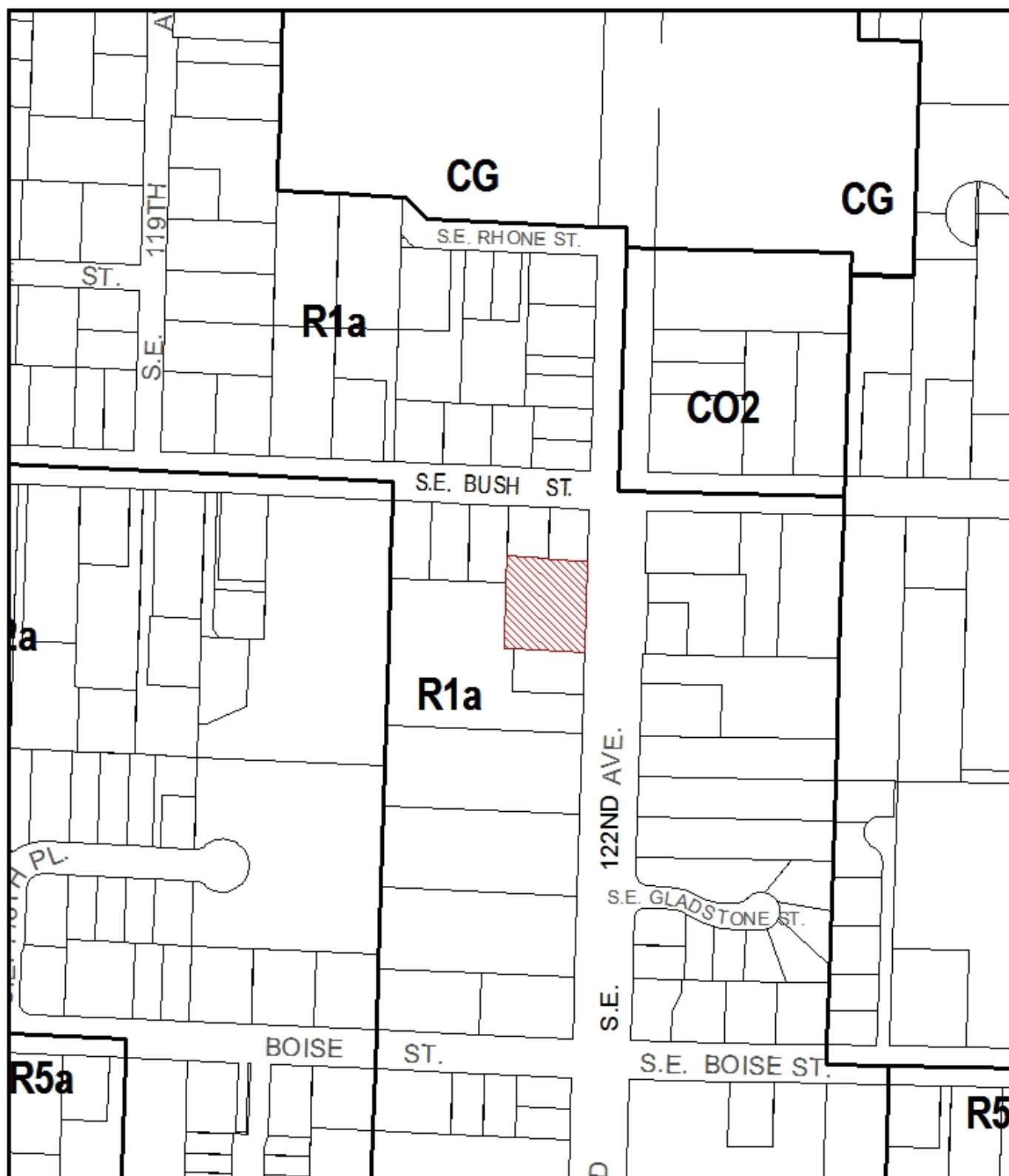
F. Correspondence:

1. Flaming, Gary, 3/11/09, timing of utility line change, multi unit is 8-plex

G. Other:

1. Original LU Application
2. Incomplete Letter dated September 29, 2008
3. Site History
4. Correspondence of 1/28/09

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

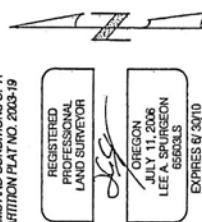
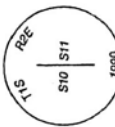
File No. LU 08-161770 LDP
 1/4 Section 3442,3443
 Scale 1 inch = 200 feet
 State_Id 1S2E10DA 3101
 Exhibit B (Sep 11,2008)

PARTITION PLAT No. .
SHEET 1 OF 2

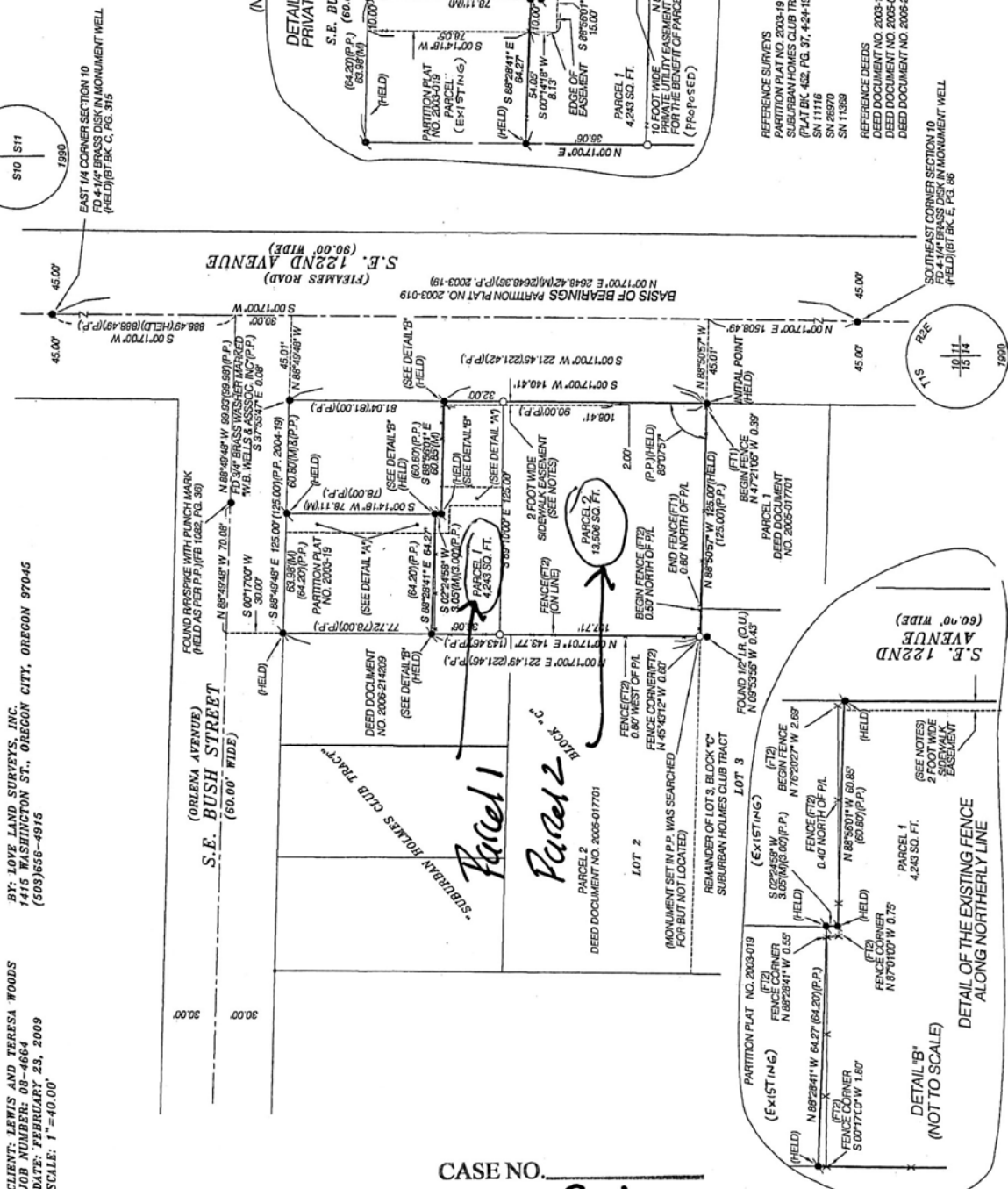
1. ALL BEARINGS AND DISTANCES ON THE ATTACHED SURVEY MAP ARE CALCULATED UNLESS SPECIFICALLY STATED OTHERWISE.
2. THIS PARTITION PLAT IS SUBJECT TO THE TERMS AND CONDITIONS IMPOSED BY CITY OF PORTLAND CASE FILE NUMBER LU 08-161770 LDP.
3. THIS PLAT IS SUBJECT TO TERMS AND CONDITIONS OF A SIDEWALK EASEMENT AS PER PARTITION PLAT NO. 2003-19

BY: LOVE LAND SURVEYS, INC.
1415 WASHINGTON ST., OREGON CITY, OREGON 97045
(503) 656-4915

CLIENT: LEWIS AND TERESA WOODS
JOB NUMBER: 08-4664
DATE: FEBRUARY 23, 2009
SCALE: 1"=40.00'



I CERTIFY THAT THIS MAP WAS PREPARED USING
HP PRODUCT # 51645A ON A/E IMAGING WMF
ARCHIVAL WATERPROOF INKJET FILM



910

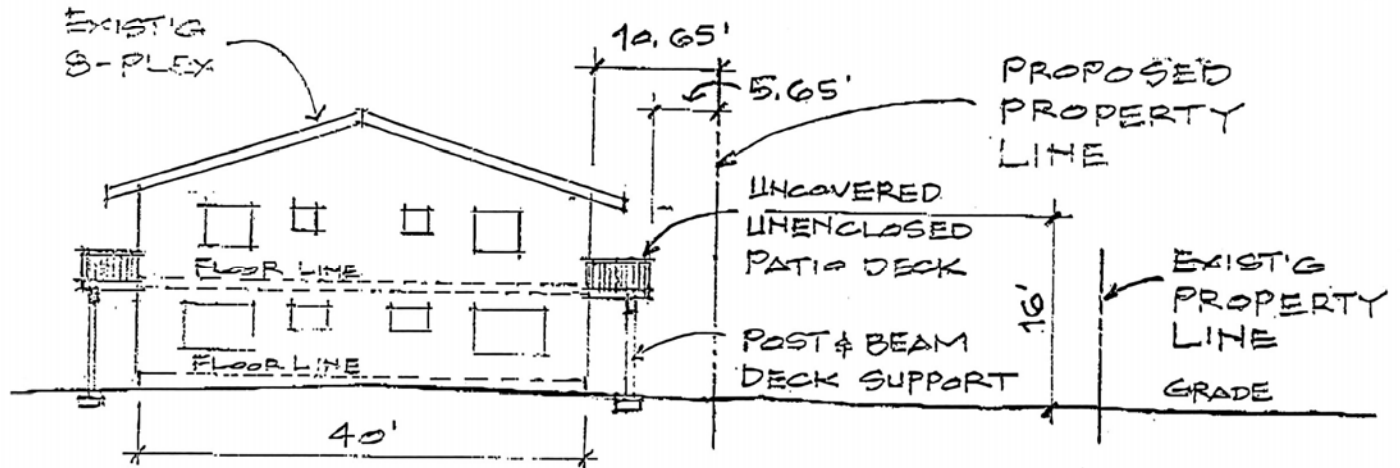
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CASE NO. _____
EXHIBIT C.1

NYS Associates * 10250 S.W. 87th Ave. * Tigard, OR * 503-245-6721

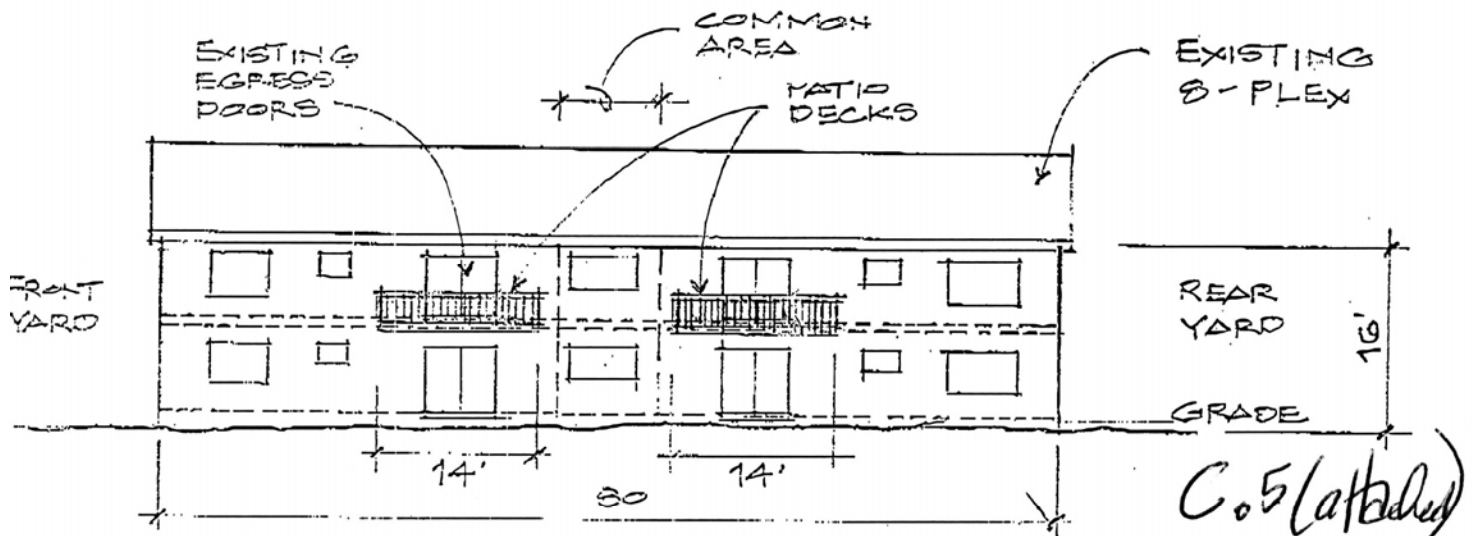
WOODS PARTITION

#08 - 161770 LDP



FRONT (122ND) ELEVATION

SCALE: 1/16" = 1'-0"



SIDE (FACING PROPOSED LOT) ELEVATION

SCALE: 1/16" = 1'-0"

FACADE AREA
16' x 30' = 1280