



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

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

Date: April 14, 2010

To: Interested Person

From: Sean Williams, Land Use Services

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

NOTICE OF A TYPE II 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 and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-113810 LC AD

GENERAL INFORMATION

Applicant: City of Portland

1120 SW 5th Avenue, #1000 Portland, OR 97204-1912

Representative: Ronda Fast

Bureau of Environmental Services

1120 SW 5th Avenue Portland, OR 97204

Site Address: 6830 SE 108th Avenue

Legal Description: LOT 3, ROLFE ACRES; LOT 4, ROLFE ACRES

Tax Account No.: R719300150, R719300200

State ID No.: 1S2E22BA 03303, 1S2E22BA 03304

Quarter Section: 3741

Neighborhood: Lents, contact David Hyde at 503-772-1376.

Business District: None

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District:Johnson Creek Basin - SouthOther Designations:Potential Landslide HazardZoning:Residential 10,000 (R10)

Case Type: Lot Consolidation (LC) w/ Adjustment (AD)

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to consolidate Lots 3 and 4 of Rolfe Acres into one parcel in conjunction with an adjustment to the maximum lot size of the residential 10,000 (R10) zone from 17,000 to approximately 26,470 square feet.

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 sections(s):

- 33.675.300, Standards for Lot Consolidations.
- 33.805.040 A.-F., Approval Criteria for Adjustments.

ANALYSIS

Site and Vicinity: The subject properties are located on the east side of SE 108th Avenue approximately 1,500 feet south of the intersection with SE Foster Road. There are currently no improvements within the lot consolidation site. The site contains a moderate slope and is populated with a number of mature deciduous trees. Johnson Creek is located approximately 450 feet north of the site. The surrounding vicinity is primarily a mix of single dwelling and open space zoning with corresponding uses and development.

Zoning: The R10 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate that prior land use reviews include the following:

• **LUR 97-00176 MP:** Approval of a 4 lot land division. Lots 3 and 4 of this platted land division are the subject of this land use request.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 8, 2010**. The Bureau of Transportation, Urban Forestry, Site Development and Life Safety Plans Examiner all have no concerns regarding the adjustment proposal (Exhibit E-4). The following Bureaus have responded with comments:

<u>Bureau of Environmental Services</u>: "BES has no objection to the requested lot consolidation or the adjustment to maximum lot size. It appears the sewer for former development on 6830 SE 108th was capped with the demolition (permit 06-127670-RS). Note that BES will review the new development on the consolidated lot for route of sanitary service and method of stormwater treatment/disposal that meets the Stormwater Management Manual during the building permit review. If street improvements are part of the project, the applicant should coordinate with the Public Works Permitting group (503-823-1987) for requirements." See Exhibit E-1.

<u>Water Bureau</u>: "The Water Bureau has no objections to the proposed consolidation of lots 3 and 4 for the properties at 6830 SE 108th Ave. The Water Bureau has no metered service to this location, as it is on a well water system. There is an existing 8" DI main that is fed from and existing 4" CI main in SE 108th Ave that fronts this property." See Exhibit E-2.

<u>Fire Bureau</u>: "The Fire Bureau does not have any concerns with the lot consolidation, but when a structure is moved onto the property or a new structure is built on the property, all Fire Code requirements related to access and water supply will apply. There is currently not a fire hydrant on SE 108th which will be required to be addressed as well as any access issues." See Exhibit E-3.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 8, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

LOT CONSOLIDATIONS

33.675.010 Purpose

This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other

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

33.675.050 When These Regulations Apply

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

33.675.100 Review Procedure

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

Findings: The site is not involved in any past or proposed Planned Unit Development or Planned Developments. Therefore, the requested lot consolidation review has been reviewed under the Type I procedure, However, with the concurrent adjustment review, the overall procedure will be a Type 2.

Approval Standards for a Lot Consolidation 33.675.300 Standards

A lot consolidation must meet the following standards:

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

Findings: The proposed site is in the R10 zone. Approval standards 1.a through 1.e are related to the required lot dimensions and creation of a consolidated parcel that will either meet the lot dimension standards of the zone or meet the listed exceptions. The proposed consolidated lot exceeds maximum lot area requirement for the zone as shown in the table below (this information is found in Table 610-2 of the Zoning Code). However, an adjustment to this standard has been requested as addressed later in this report. The proposed consolidated lot meets all other lot dimension standards of the R10 zone. This standard is met.

	R10 Zone Requirement	Lot 1 (after consolidation)	
Minimum Lot Area	6,000 square feet	26,470 square feet	
Maximum Lot Area	17,000 square feet		
Minimum Lot Width*	50 feet	104 feet	
Minimum Front Lot	30 feet	104 feet	
Line			
Minimum Lot Depth	60 feet	263 feet	

^{*} Width is measured at the minimum front building setback line

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

Findings: The maximum density of the consolidated lot is (26,470/10,000) = 2.64 = 2 lots. The site is currently vacant; therefore this standard does not apply.

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

Findings: Both lots in the lot consolidation site have street frontage, therefore this standard does not apply.

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

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

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

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

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

Findings: As noted above, there is a previous land use case (LUR 97-00176 MP) which created the lots that are now proposed for consolidation. There are no applicable conditions of approval relevant to the lot consolidation and adjustment request. This standard is met.

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the

purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant is requesting an adjustment to the maximum lot size of 17,000 square feet in the R7 zone to facilitate a lot consolidation that will result in a 26,470 square foot lot. The purpose of the lot dimension standards for lots in the RF through R5 zones (33.610.200) ensure that:

- Each lot has enough room for a reasonably-sized house and garage;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with existing lots;
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street
- Each lot has adequate access from the street;
- Each lot has access for utilities and services; and
- Lots are not landlocked.

The resulting consolidated lot will contain enough room and be of a size and shape that may accommodate a reasonably sized house and garage that can meet the development standards of the zoning code. In accordance with density standards for lots in RF through R5 zones, the consolidated lot will contain a maximum density of 2 parcels. The maximum density for the subject property will not change as a result of the lot consolidation and is therefore not so large as to create an appearance to be able to be further divided to exceed maximum allowed density in the future.

Lots that contain frontage on SE 108th Avenue and in the vicinity of the site are of the same size as the resulting consolidated lot or generally much larger. Additionally, the prevalence of Open Space (OS) zoning on a number of these lots in the vicinity will ensure continuity in the large lot size pattern of the area based on the lack of development potential. Therefore, the compatibility of the subject property will not be compromised as a result of the increase in maximum lot size resulting from the lot consolidation.

The consolidated lot is rectangular in shape and will contain a width of approximately 104 feet, which is more than sufficient to allow for future development to be oriented towards the street. The consolidated lot will maintain adequate access from SE 108th Avenue that contains services and utilities that may accommodate future development. The lot consolidation will not result in a landlocked property nor will it preclude the ability to allow for a reasonably sized outdoor area. Therefore, this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The subject property is zoned for single dwelling use and is located within the Lents neighborhood. Because the site is vacant, the result of consolidating Lots 3 and 4 into one parcel will not generate any negative visual impacts to the area. As demonstrated in the findings above, the consolidated lot will be configured to allow future development to be compatible with existing development within the neighborhood. Therefore, the livability of the residential area will not be compromised as a result of the proposal. This criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: The site does not contain any scenic or historic resource designations. This criterion is not applicable.

E. Any impacts resulting from the adjustments are mitigated to the extent practical;

Findings: As addressed in the preceding findings, there are no discernable impacts that will result from the proposed adjustment. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental overlay zone. This criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant proposes to consolidate Lots 3 and 4 of Rolfe Acres into one parcel in conjunction with an adjustment to the maximum lot area of the R10 zone. As discussed above, the requested lot consolidation has been reviewed and shown to be able to meet all the required standards for lot consolidations as laid out in Section 33.675.300. In addition, the adjustment to maximum lot area is able to meet the adjustment approval criterion based on substantial conformance with applicable standards and established situations on the site and in the surrounding neighborhood.

ADMINISTRATIVE DECISION

Approval of an adjustment to the maximum lot area standard of the R10 zone (33.610.200) from 17,000 square feet to 26,470 square feet as the result of a lot consolidation per the approved plat (Exhibit C-1).

Approval of a Lot Consolidation to create one parcel of Lots 3 and 4, Rolfe Acres, as illustrated by Exhibit C-1, signed and dated April 9, 2010.

Staff Planner: Sean Williams

Decision rendered by: ______ on April 9, 2010

By authority of the Director of the Bureau of Development Services

Decision mailed: April 14, 2010

About this Decision. This land use decision is not a permit for development. THE SIGNED FINAL PLAT MUST BE RECORDED WITH MULTNOMAH COUNTY DEED RECORDS WITHIN 90 DAYS OF THE DATE OF THIS DECISION (July 8, 2010), OR THIS DECISION WILL BECOME NULL AND VOID. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on February 23, 2010, and was determined to be complete on March 3, 2010.

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 23, 2010.

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: July 1, 2010.**

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.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed by 4:30 PM on April 28, 2010 at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. An appeal fee of \$250 will be charged. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

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.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording concurrent approvals. The lot consolidation approval also includes concurrent approval of an adjustment to maximum lot area. This other concurrent approval must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with the concurrent land use review. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

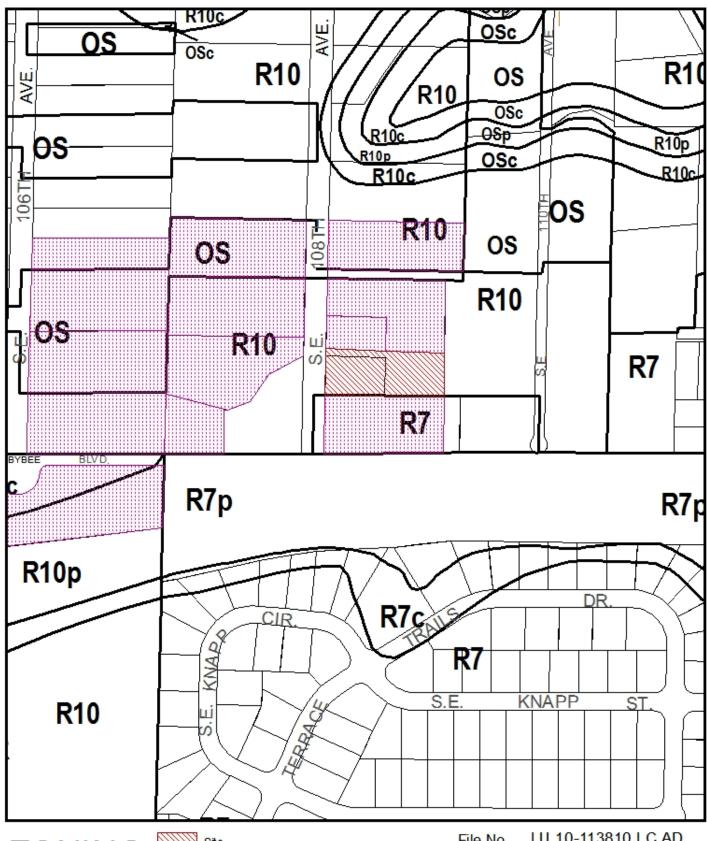
- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

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



ZONING Site Also Owned

File No. LU 10-113810 LC,AD

1/4 Section 3741

Scale 1 inch = 200 feet

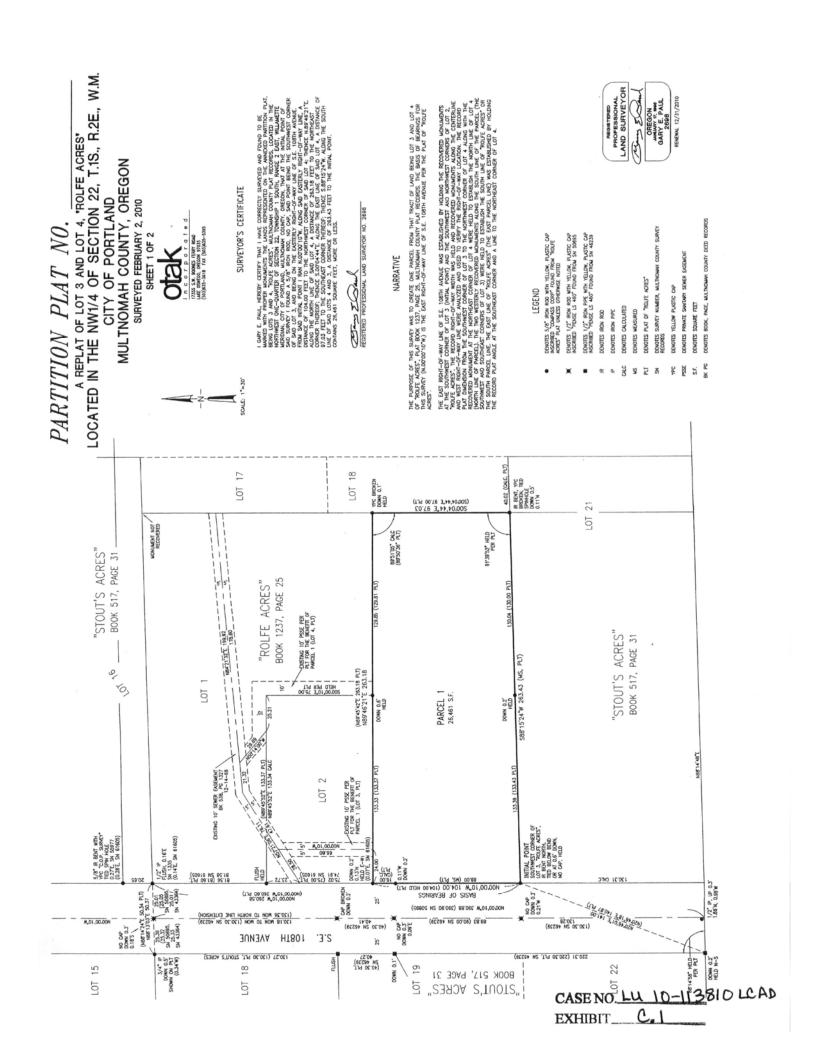
State Id 1S2E22BA 3303

(Feb 24,2010)

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Exhibit ...





PARTITION PLAT NO.

A REPLAT OF LOT 3 AND LOT 4, "ROLFE ACRES"
LOCATED IN THE NW1/4 OF SECTION 22, T.1S., R.2E., W.M.
CITY OF PORTLAND
MULTNOMAH COUNTY, OREGON
SURVEYED FEBRUARY 2, 2010

KNOWN ALL PERSONS OF NEES PRESENTS: THAN THE CUT OF POPILIAM, A MUNICAR ALL PROSONATION, DOES HEREN WAGE, ESTABLISH AND DELLARE THE AMENZED PARTITION OF SECRETICAL THE AMENZED PARTITION SUPERIOR SUPERIOR CERTIFICATE OR A THILE AND CHARET MAY AND PALT THEREOF, AND THAS CAUSED THE PARTITION TO BE PREPARED MAD THE RODGERTH PARTITIONED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 92, OREGON REVISED 57AUTURS.

DECLARATION

CITY OF PORTLAND A MUNICIPAL CORPORATION

BY: BUREAU OF ENVIRONMENTAL SERVICES

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ACKNOWLEDGEMENT

2010, SS COUNTY OF MULTNOWAH STATE OF OREGON

NOTARY SIGNATURE

NOTARY PUBLIC - OREGON MY COMMISSION EXPIRES COMMISSION NUMBER

THIS PLAT IS SUBJECT TO THE CONDITIONS OF APPROVAL IN THE CITY OF PORTLAND CASE FILE NO. LU 10-113810 LC AD. NOTES

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CITY OF PORTLAND BUREAU OF PLANNING	BY DIRECTOR'S D	APPROVED THIS	GITY OF PORT

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY ORS 92,095 HAVE BEEN PAID AS OF

2010

COUNTY SURVEYOR, MULTNOMAH COUNTY, OREGON

DIRECTOR DIVISION OF ASSESSMENT AND TAXATION, MULTNOMAH COUNTY, OREGON

STATE OF OREGON

DEPUTY

COUNTY OF MULTNOWAH

MULTNOMAH COUNTY RECORDING OFFICE

DEPUTY

DOCUMENT NO.

PROFESSIONAL
LAND SURVEYOR

OREGON JAMIARY 7, 1966 GARY E. PAUL 2698 RENEWAL 12/31/2010 2750

THIS IS AN EXACT COPY OF THE ORIGINAL PARTITION PLAT P.L.S. NO. 2698