



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

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Date: November 8, 2011
To: Interested Person
From: Rachel Whiteside, Land Use Services
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NOTICE OF A TYPE II_x 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 11-174695 LDP AD

GENERAL INFORMATION

Applicant: Anthony Weller,
CES NW Inc.
13190 SW 68th Pkwy, Ste 150
Tigard OR 97223

Owner: Clarana Sells
171 C Ave
Lake Oswego, OR 97034

Site Address: 10494 SW 62nd Dr

Legal Description: TL 2200 4.50 ACRES, SECTION 30 1S 1E
Tax Account No.: R991301300
State ID No.: 1S1E30CD 02200
Quarter Section: 4023

Neighborhood: Ashcreek, contact Jack Klinker at 503-246-7872.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Plan District: None
Other Designations: Potential Landslide Hazard
Zoning: R10cp – Single-Dwelling Residential with Environmental Conservation (c) and Environmental Protection (p) Overlay Zones

Case Type: Land Division Partition (LDP) and Adjustment (AD)
Procedure: Type II_x – an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant proposes to divide the 4.5-acre site into one parcel and one open space tract. The site is currently developed with a single-family residence and associated accessory

structures. The applicant proposes to keep the existing development on a 72,827 square foot parcel. The remainder of the site, including all of the environmental protection area, existing water bodies, and the forested area, will be placed into an open space tract. It is the applicant's intention to transfer ownership of the open space tract to Portland Parks and Recreation.

The existing property is developed, no new building sites are being created, and no development is proposed for either the parcel or the tract, therefore the proposal is exempt from Environmental Review (PCC 33.430.080.C.12). The trees on the proposed parcel outside of the environmental conservation zone are subject to the tree preservation requirements and the applicant has provided a Tree Preservation Plan prepared by a certified arborist.

The proposed lots site for Parcel 1 exceeds the maximum lot size of 17,000 square feet in the R10 zone. For this reason, a Type II Adjustment is required. For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (*See ORS 92.010*). *ORS 92.010* defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 1 parcel and 1 tract. Therefore, this land division is considered a partition.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- Section 33.660.120, Approval Criteria for Land Divisions in Commercial, Employment, and Industrial zones.
- Section 33.805.040.A-F, Approval Criteria for Adjustments.

FACTS

Site and Vicinity: The site is developed with a single-family residence, barn, shed, and fenced swimming pool on the western third. The development is accessed via a paved driveway from SW 62nd Drive. There is a second gravel access to the barn also from SW 62nd Drive. The western third of the site is planted in lawn, fruit trees, and ornamentals. The eastern two-thirds of the site are within mapped environmental zones. At the edge of the mapped environmental zones are thickets of Himalayan blackberries. The overstory of the forested area is comprised of Douglas fir, big-leaf maple, and Oregon ash. There are scattered Oregon grape and sword ferns throughout the forested area, but the ground cover is dominated by English ivy. There is a drainage that bisects the property from north to south and another that runs from the east property line to the north-south channel.

Houses in the area are modest in size and range from one to two stories. The lot and block pattern is regular, except where topography has forced development into a less regular pattern. The eastern property line is immediately across SW 57th Place from Dickinson Park. Properties west of Dickinson Park are zoned R7 (except for the subject site) and properties on the other three sides of the park are zoned R10. A third of a mile to the south is the Interstate-5 and Barbur Boulevard corridor.

Infrastructure:

- **Streets** – The site has approximately 174 feet of frontage on SW 62nd Drive and 320 feet of frontage on SW 57th Avenue. There are two driveways entering the site that serve the existing house and barn on the site from. At this location, SW 62nd Drive is classified as a Neighborhood Collector, Community Transit street, City Bikeway, City Walkway and a Local Service street (Street Design classification), in the City's Transportation System Plan. Southwest 57th Place is classified as a Local Service street for all modes. Tri-Met provides transit service approximately one-third of a mile from the site at SW Taylors Ferry Road via Bus 43.

According to City GIS database resources, SW 62nd Drive is improved with 20 feet of paving within a 60-foot right-of-way (no curb or sidewalk). Southwest 57th Place is improved with 20 feet of paving within a 40-foot right-of-way (no curb or sidewalk).

- **Water Service** – There is an existing 4-inch CI water main in SW 62nd Drive. The existing house is served by a .75-inch metered service from the main. There is also a 4-inch CI water main in SW 57th Place.
- **Sanitary Service** - There is an existing 8-inch concrete public sanitary sewer located in SW 57th Place and an 8-inch public sanitary sewer in an easement adjacent to and just west of the project site. Parcel 1 has an existing sewer service from that main.

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. The “c” overlay is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review. The “p” overlay provides the highest level of protection to the most important resources and functional values. Development will be approved in the environmental protection zone only in rare and unusual circumstances through environmental review.

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 **September 27, 2011**. One written response was received from the Neighborhood Association supporting the proposal with the understanding that the tract will be transferred to Parks.

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.
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	The proposal is for one lot which is already developed with a single-family home.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.

L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	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.C.3.c - Turnarounds	No turnarounds 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 maximum density in the R10 zone is one unit per 10,000 square feet, or 20 units for this site. Because the site is within the environmental zone and a potential landslide hazard area, the site has no minimum required density. The applicant is proposing 1 parcel. 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)
R10 Zone	6,000	17,000	50	60	30
Parcel 1	72,827		174	591	174

* 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 applicant has requested an Adjustment to maximum lot size concurrent with the land division request. The findings above together with the Adjustment findings found later in this report 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 provided an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.6). As shown in Exhibit A.4, 21 trees have been exempted because they are too small, unhealthy, a nuisance species, or located partially off the property. Of these exempt trees, 15 are proposed for removal.

The total non-exempt tree diameter on the site is 249 inches. The applicant proposes to preserve trees 5454, 5455, 5458, 6011, and 6012, which comprise 77 inches of diameter, or 31 percent of the total non-exempt tree diameter. In addition, two of the three significant trees

will be retained, or 67 percent of the significant trees on site. This proposal complies with Option 2 of the tree preservation standards, which requires at least 30 percent of the total tree diameter and 50 percent of the significant trees on the site to be preserved. The report by the applicant's arborist identifies the required root protection zones for each tree to be preserved (Exhibit A.6).

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 Parcel 1 be carried out in conformance with the Tree Preservation Plan (Exhibit A.6) and an acknowledgement of tree preservation requirements is recorded with the final plat.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

Findings: A portion of this site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited. In order to evaluate the proposal against this criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.3). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation has concluded that current stormwater management at the site appears adequate and will not pose an adverse effect on slope stability.

Site Development has concurred with the findings of the applicant's geotechnical report. This criterion is met.

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 has steep grades (over 20%), and is located in the Potential Landslide Hazard area. However, the only lot created through the proposal is already developed with a single-family home. Therefore, no clearing and grading is required and 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. As indicated above, the site is already fully developed. The landslide hazard study notes that slopes on the site are generally smooth and uniform, consistent with relatively stable conditions. Additionally, the geologic units underlying the site are considered to have a low susceptibility to instability on gentle slopes (Exhibit A.3). Therefore, there are no anticipated land suitability issues. This criterion is met.

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

Findings: One Open Space (Environmental Resource and Drainage Reserve) tract is proposed. The tract may be owned by the owner of Parcel 1 or ownership may be transferred to the City of Portland.

A 15-foot wide Public Walkway Easement is proposed to provide access to Tract A. There are also existing sanitary sewer on the site that are not proposed for removal and will be carried forward on the proposed plat.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the proposed tract and easement described above and facilities within those areas. Language describing allowed development and activities in the environmental zones must be included. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, 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.”

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. There is an existing .75-inch metered service which provides water from the existing 4-inch CI water main in SW 62 nd Avenue. There is water available to service Tract A from the existing 4-inch CI water main in SW 57 th Avenue.
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 concrete public sanitary sewer located in SW 57 th Place and an 8-inch public sanitary sewer in an easement adjacent to and just west of the project site. Parcel 1 has an existing sewer service from that main.
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 existing house has downspouts that drain into underground pipes. The Bureau of Environmental Services has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. If the stormwater disposal system for the existing house will not be fully located on the parcel it serves after

the land division, then appropriate easements must be provided on the final plat. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of BES and obtain finalized plumbing permits for the modifications prior to final plat approval.

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. Pedestrian connections should be provided no more than 330 feet apart. A through street is provided approximately 100 feet to the south of the site.

Portland Transportation responded that no street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The spacing requirements for public through streets and public connections are generally met in this area, and better than many other parts of south-west Portland. The topography, existing development and lot sizes/lot patterns throughout this part of the City has prevented any meaningful connectivity; however, in the area around the subject site, connectivity is provided, including in an east-west direction (towards a large City park) via SW Huddleson. PBOT has no concerns relative to connectivity or locations of rights-of-way associated with the proposed land division partition.

For the reasons described above, 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

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.

The applicant's proposal is to create one lot with the existing single-family residence and to place the remainder of the site into an open space tract. With no new developable parcels being created in association with the subject request, the evaluation factors noted above are not triggered. There is no need to assess the transportation system in this case since the resulting partition will not generate any new additional vehicular trips into the transportation system nor will there be any new impacts resulting from the proposed land use request. The transportation system will continue to be able to support existing uses in the area. Therefore, street and storm waivers must be provided at this time.

This criterion is met with a condition that the applicant provide waivers at the time of final plat.

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.

ADJUSTMENT REVIEW

33.805.010 Purpose (Adjustments)

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 providing certainty and rapid processing for land use applications.

33.805.040 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.

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

Findings: The maximum lot size in the R10 zone is 17,000 square feet. Parcel 1 is proposed to be 72,827 square feet. The lot dimension regulations 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.

Granting the adjustment will equally meet the stated purposes of the lot dimension standards because:

- Parcel 1 is already developed with a house, barn, off-street parking, and related accessory structures;
- The development currently meets all development standards of the R10 zone and will continue to meet all standards following the partition;
- As noted under the density findings above, the maximum density for this site is 20 units. This proposal creates one parcel and one tract. Parcel 1 would be eligible for a maximum density of 7 units should it be redeveloped in the future. Tract A is going to be transferred into public ownership with Portland Parks, however if it were to be redeveloped the proposed lot size would allow 13 units. Therefore, Parcel 1 is not so large as to allow maximum density to be exceeded in the future.
- Parcel 1 includes adequate outdoor area;
- While Parcel 1 will remain the largest lot in the vicinity, a majority of the lots adjacent to Dickinson Park exceed the maximum lot size in the R10 zone. Thus, Parcel 1 is consistent with existing lots.
- The existing development on Parcel 1 is and will remain oriented towards SW 62nd Drive;
- Parcel 1 has an existing driveway from SW 62nd Drive;
- Utilities serving the development on Parcel 1 will not change as a result of the proposed land division; and
- Parcel 1 is not landlocked.

For all of these reasons, 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: Parcel 1 is developed with a single-family home and associated accessory structures. No additional development is proposed. Placing approximately two-thirds of the site into an open space tract and allowing the existing development to remain on a large parcel will not detract from the livability or residential appearance of the area. 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: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested 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 land division site is within the Fanno Creek and Tributaries Conservation Plan, specifically site #130. Identified resources within Site 130 include streams, riparian areas, upland and riparian forests, and urban landscape. The values and functions provided by these resources are anchoring of streambanks, slope stabilization and erosion control, pollution control, habitat for fish and wildlife, maintenance of microclimates, and recreation.

The site contains both environmental conservation and environmental protection zoning. The proposal places approximately two-thirds of the site, including the entire environmental protection zone, into an open space tract. A tract is not a lot or lot of record for development. Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat or in the maintenance agreement. Tract A is for the purposes of protecting the environmental resources present and functioning as a drainage reserve.

The proposed lot configuration leaves a portion of the environmental conservation zone within Parcel 1, while including a similarly-sized portion of the site without any environmental zone with Tract A. The environmental conservation zone included within Parcel 1 is currently developed with a shed, yard, and a variety of landscaping, both native and non-native. The southeast corner of the site is completely vegetated with trees, shrubs, and groundcover. While it is adjacent to developed lots, it does not contain any development.

Parcel 1 is already developed and no new development sites (lots) are being created through this review. The proposed configuration of the one parcel and tract maximizes the amount of undisturbed area in the tract. Any future development or changes to existing development that occur within the environmental conservation zone on Parcel 1 will be subject to the standards in PCC 33.430.140-.190 or environmental review. For these reasons, 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 R10 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 is one Zoning Code standard that relates to existing development on the site:

- **Minimum Setbacks** – The existing house and accessory structures 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 barn will be 16.73 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 buildings relative to the adjacent new lot lines.
- **Environmental Standards** – Parcel 1 is already developed and no new development sites (lots) are being created through this review, therefore no environmental plancheck or review are required for the land division. Any future development or changes to existing development that occur within the environmental conservation zone on Parcel 1 will be subject to the standards in PCC 33.430.140-.190 or environmental review.

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.

CONCLUSIONS

The applicant has proposed a one-parcel and one-tract land partition, as shown on the attached preliminary plan (Exhibit C.2). 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: tree preservation outside of the environmental zone and stormwater for the existing house.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 1-parcel and 1-tract partition, as illustrated with Exhibit C.2, 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 Review and BES 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 location of any existing or required stormwater systems serving the existing home; and
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The open space tract shall be noted on the plat as Tract A: Open Space (environmental resource area and drainage reserve).
2. A public walkway easement must be shown over the relevant portions of Parcel 1.
3. 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 C 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 complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Existing Development

2. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must meet one of the following:
 - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or

- Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

Required Legal Documents

3. A Maintenance Agreement shall be executed for the public walkway easement and open space tract described in Condition B above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. Language describing allowed development and activities in the environmental zones must be included. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
4. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 1. 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 Parcel 1 shall be in conformance with the Arborist Report/Tree Preservation Plan (Exhibit A.6). Specifically, trees numbered 5454, 5455, 5458, 6011, and 6012 are required to be preserved, with the root protection zones indicated in Exhibit A.6. 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.

Staff Planner: Rachel Whiteside

Decision rendered by: *Rachel Whiteside* **on November 4, 2011**
By authority of the Director of the Bureau of Development Services

Decision mailed November 8, 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 September 8, 2011, and was determined to be complete on **September 26, 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 September 8, 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: January 24, 2012.**

Note: 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.

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 November 22, 2011** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 contact the receptionist at 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.ci.portland.or.us .

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 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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. These other concurrent approvals 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 these concurrent land use reviews. 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.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment to increase maximum lot size for Parcel 1. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

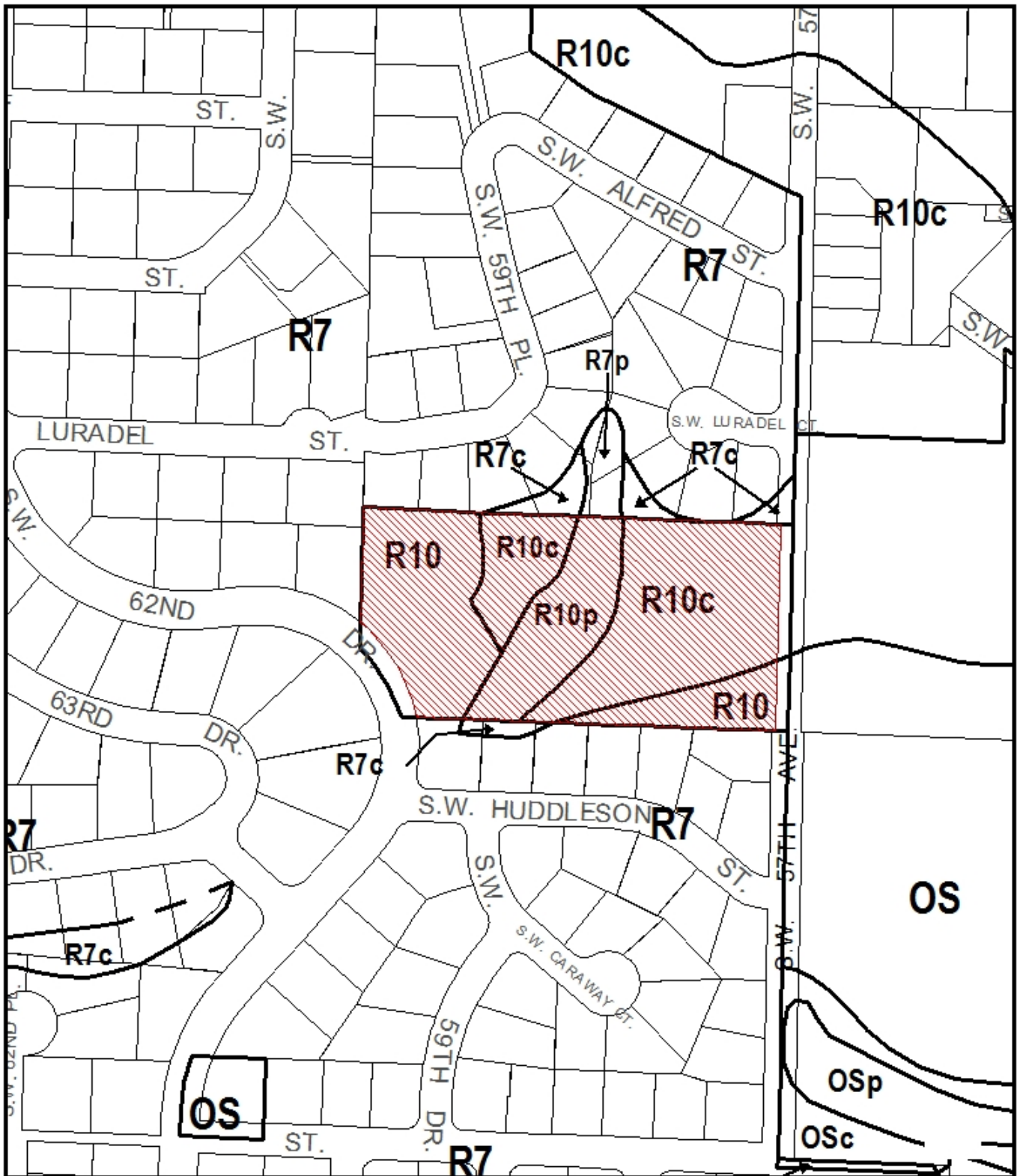
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 1. Applicant's Narrative
 2. Natural Resources Report
 3. Landslide Hazard Study
 4. Arborist Report/Tree Preservation Plan
 5. Revised narrative addressing tree preservation, dated 11/1/11

6. Revised Arborist Report/Tree Preservation Plan, dated 10/31/11
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Existing Conditions Plan
 2. Preliminary Partition Plan (attached)
 3. Tree Survey (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
- F. Correspondence:
 1. Ashcreek Neighborhood Association, received October 13, 2011, letter in support of creating the tract to be transferred to Parks
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Neighborhood Contact

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



File No.	<u>LU 11-174695 LDP,AD</u>
1/4 Section	<u>4023</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E30CD 2200</u>
Exhibit	<u>B</u> (Sep 12, 2011)

KU 11-174695 GDR AD

<p>REGISTERED PROFESSIONAL LAND SURVEYOR</p> <p>BRUCE A. HALL</p> <p>1000 NE 22ND AVENUE SUITE 200</p> <p>PORTLAND, OREGON 97232</p>	<p>CLARKIA SELLS</p> <p>SELLS PROPERTY</p> <p>PARTITION OF 10494 S.W. 62ND DRIVE</p>	<p>CES NW</p> <p>1216 S.W. 86TH AVENUE, SUITE 100</p> <p>TIGARD, OREGON 97038</p> <p>503.966.6555 WWW.CES NW.COM</p>	<p>PRELIMINARY</p> <p>SITE PLAN</p>	<p>3</p>	<p>2</p>
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PARTITION PLAN

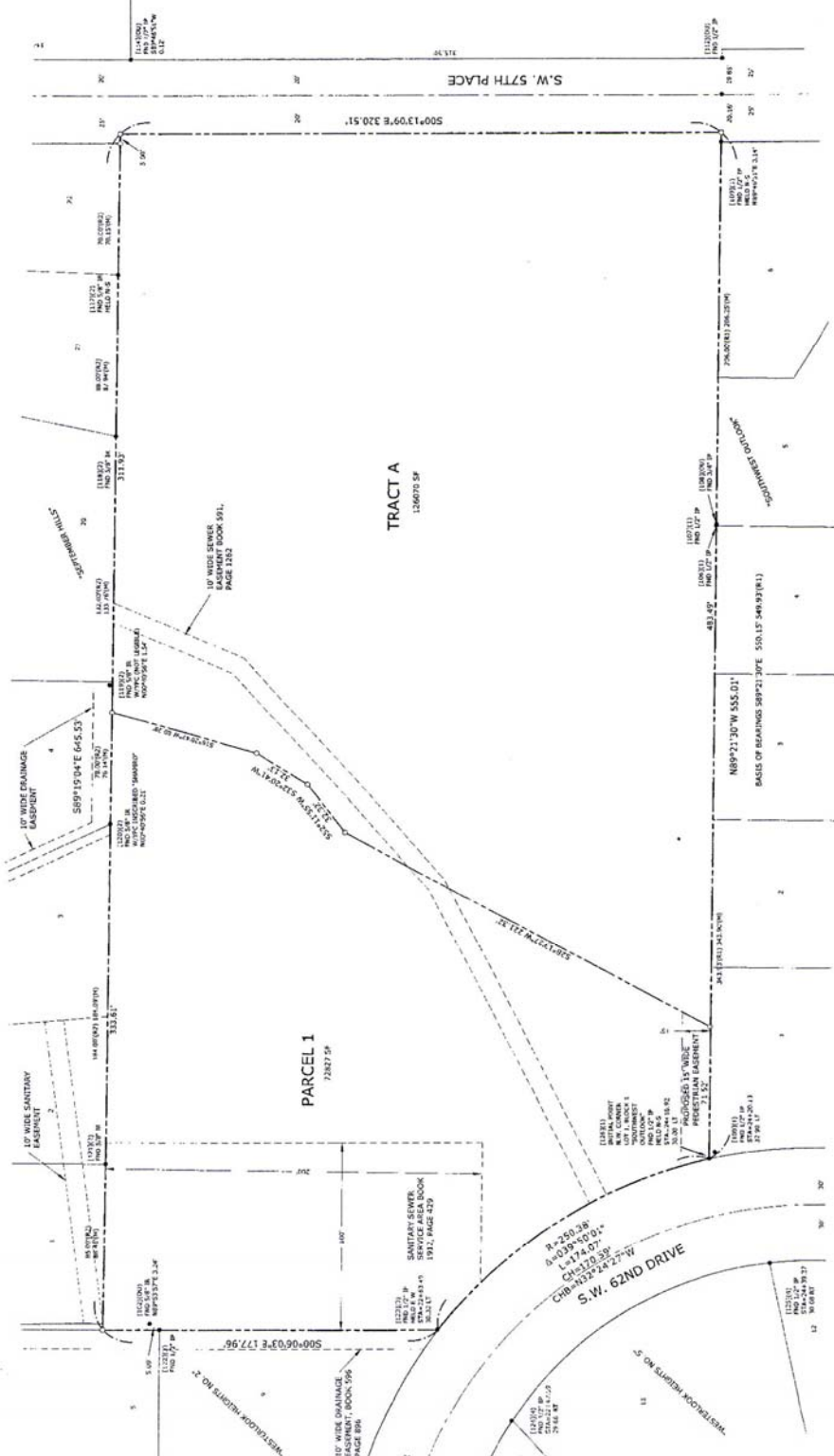
A PLAT OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NUMBER 2009-118589 LOCATED IN THE S.W. ONE QUARTER OF SECTION 30, TOWNSHIP 1 SOUTH, RANGE 1 EAST, W.M. MULTNOMAH COUNTY, OREGON

JUNE 21, 2011

- LEGEND**
- FOUND UNSATURATED SANDS OTHERWISE NOTED
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Standard	Measurement
Setbacks	10' Minimum
Side	10' Minimum
Front	25' Minimum
Height	18' Maximum
Height	20'
Minimum Lot Area	6,000 SF
Maximum Lot Area	17,000 SF
Minimum Lot Width	50'
Maximum Lot Length	200'
Maximum Density	1 Unit per 15,000 SF

- REFERENCES**
- (1) - SOUTHWEST OUTLOOK
 - (2) - WESTBROOK HEIGHTS NO. 2
 - (3) - COUNTY ZONING ORDINANCE NO. 2
 - (4) - SHERIFF NO. 34, 33P
 - (5) - SHERIFF NO. 55, 22P
 - (6) - SHERIFF NO. 55, 22P
 - (7) - SHERIFF NO. 41, 24P
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 - (100) - SHERIFF NO. 41, 24P



Ex. C.2

REGISTERED PROFESSIONAL LAND SURVEYOR
 STATE OF OREGON
 ANTHONY A. MILLER
 LICENSE NO. 12173

SELLS PROPERTY
 PARTITION OF 10494 SW 62ND DRIVE
 CLARKIA SELLS
 1190 SW 68TH PARKWAY, STE 150
 TIGARD, OREGON 97235
 503.988.6635 WWW.CESNW.COM

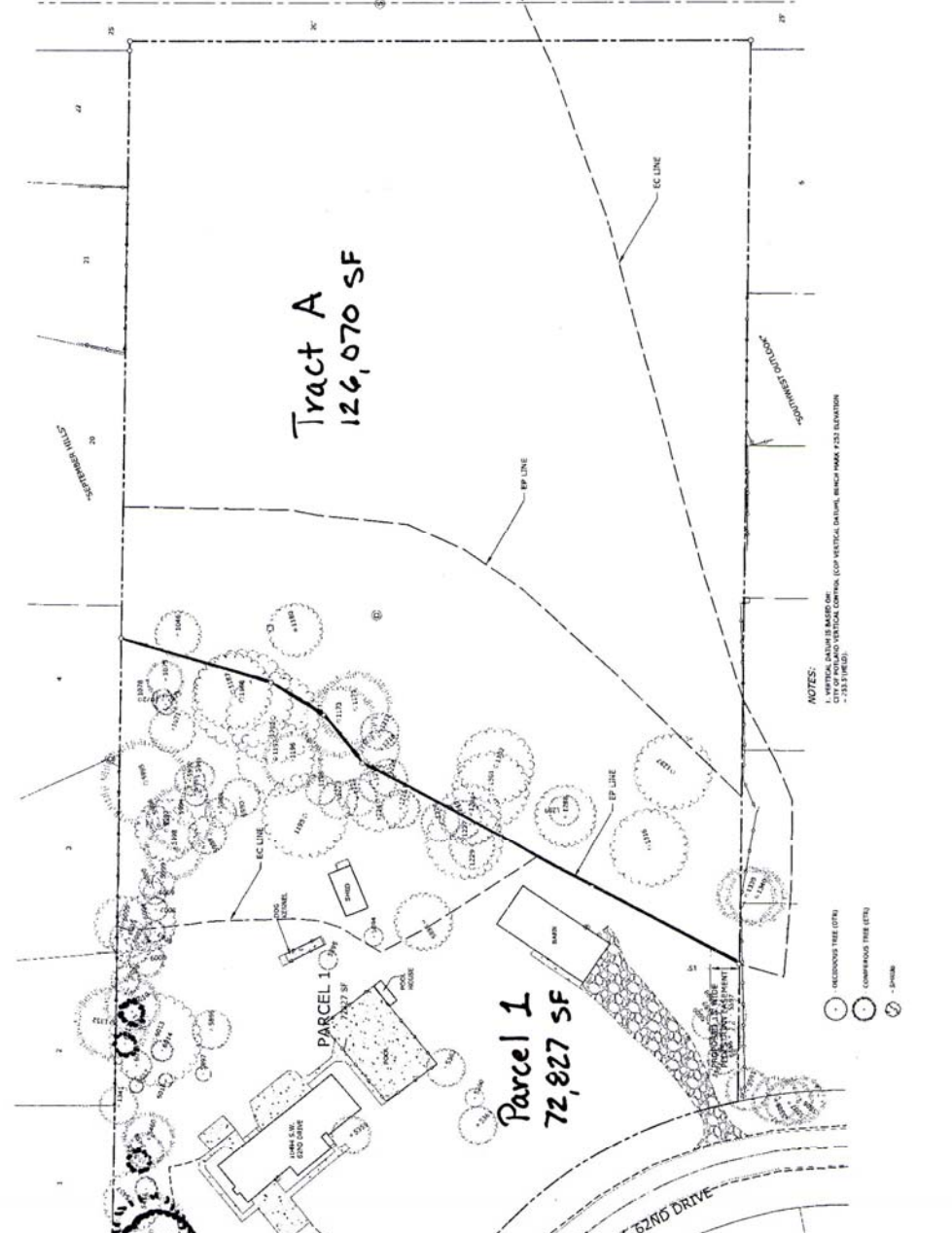
CE|S|N|W

TREE SURVEY

3
3

LU 11-174695 LDR AD

TOPOGRAPHIC SURVEY
 LOCATED IN THE S.W. 1/4 SECTION 30
 TOWNSHIP 1 SOUTH, RANGE 1 EAST, W.M.,
 MULTNOMAH COUNTY, OREGON
 JULY 21, 2011



- LEGEND**
- 15 - FIRE DEPARTMENT CONNECTION
 - 16 - POWER TRANSFORMER
 - 17 - POWER DISTRIBUTION
 - 18 - TELEPHONE INDUSTRIAL
 - 19 - TELEPHONE RESIDENTIAL
 - 20 - TELEPHONE COMMERCIAL
 - 21 - TELEPHONE INDUSTRIAL
 - 22 - TELEPHONE COMMERCIAL
 - 23 - TELEPHONE RESIDENTIAL
 - 24 - FIRE DEPARTMENT CONNECTION
 - 25 - WATER METER
 - 26 - WATER VALVE
 - 27 - GAS METER
 - 28 - GAS VALVE
 - 29 - GAS METER
 - 30 - GAS VALVE
 - 31 - TV PEDESTAL
 - 32 - TV PEDESTAL
 - 33 - ELECTRIC JUNCTION BOX
 - 34 - TEST PIT
 - 35 - SPRINKLER HEAD
 - 36 - ISLAND POST
 - 37 - CATCH BASIN
 - 38 - DOWN SPOUT
 - 39 - UNKNOWN POINT OF TERMINATION
 - 40 - TELEPHONE HANGAR
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NOTES:
 1. VERTICAL DIMENSIONS ARE IN FEET
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Ex. C.3