



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

FROM CONCEPT TO CONSTRUCTION

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Date: April 2, 2012
To: Interested Person
From: Kathy Harnden, 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 11-137176 LDP

GENERAL INFORMATION

Applicant: Ed Wagner
Oregon Custom Home Builders, LLC
2810 SE Cleveland Dr.
Gresham, OR 97080

Owner: 170th and Broadway LLC
19275 SE Tickle Creek Rd
Boring, OR 97009-9513

Site Address: 2925 SE 170TH AVE

Legal Description: TL 3700 0.53 ACRES, SECTION 07 1S 3E
Tax Account No.: R993070280
State ID No.: 1S3E07BA 03700
Quarter Section: 3347
Neighborhood: Centennial, contact Louise Cody at 503-252-4302.
Business District: None
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: None
Other Designations: None
Zoning: R7h – Residential 7000, Medium Density Single-Dwelling Residential with the “h” – Aircraft Landing, overlay zone

Case Type: LDP
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to divide this 23,011-square foot lot into two regular lots and one flag lot. Proposed Parcels 1 and 2 will each contain 5400 square feet and will be located at the front of the lot. Proposed Parcel 3 will contain 11,551 square feet altogether in a “flag”

shaped lot. The flag area will contain approximately 9,010 square feet and the 18.82-foot-wide by 135-foot long “pole” will contain approximately 2,541 square feet. Parcels 2 and 3 will have direct access onto SE 170th Avenue. Parcel 3’s access will be via a “pole” driveway along the north side of the site. Parcel 1 will also access the street via Parcel 3’s access pole, requiring a reciprocal access agreement over the pole. An existing house on the site will be removed.

Originally, the applicant proposed to retain three of nine trees on the site; the other six trees were deemed exempt because they are either City-classified nuisance species or are hazardous trees. Since the original public notice, the applicant’s arborist has determined that one of the trees that was to be preserved is also a hazardous tree, leaving two non-exempt trees on the site. The applicant proposes to retain one of these trees, Tree 3, which meets Option 1 of the Tree Preservation requirements by preserving 48 percent of the non-exempt tree diameter on the site.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design, or Environmental Review) are requested or required (see 33.660.110).

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 2 units of land. Therefore this land division is considered a partition.

Relevant Approval Criteria:

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

FACTS

Site and Vicinity: The site contains approximately 23,000 square feet and is located in southeast Portland, near the Gresham/Portland City limits boundary. The surrounding neighborhood is medium density residential and is comprised of an assortment of differently shaped and sized lots, with many flag lots mixed in. Lots range anywhere from 3,000 to 23,000 square feet. Neighborhood streets are generally north/south and east/west with a few curving streets trending southeast to northwest. The site is a little more than 1,000 feet south of SE Division and about 800 feet north of East Lynchwood Park, which adjoins Lynchwood Elementary School.

Infrastructure:

- **Streets** – The site fronts on SE 170th, approximately 118 feet north of the intersection with SE 171st Drive. It has approximately 100 feet of frontage on SE 170th Avenue. There is one driveway entering the site along the north property line that serves the existing house on the site.

At this location, SE 170th Avenue is classified as a Local Service Street for all modes in the TSP. SE 170th Avenue has a 20-foot wide paved surface and gravel shoulders within a 45-foot right-of-way with parking on both sides. There are no curbs, sidewalks, planter areas or buffers adjacent to the paved area. Parking is currently allowed on both sides of the street. Tri-Met provides transit service approximately 1,100 feet north of the site at SE Division Street, via Bus 4. Approximately 3.5 feet of street dedication will be required in anticipation of a future local improvement district (LID) to improve SE 170th Avenue.

- **Water Service** – Rockwood Water People’s Utility District provides water service at this site.

- **Sanitary Service** - There is an existing 8-inch PVC public gravity sewer line in 170th Avenue that can serve the sanitary disposal needs of the site.

Zoning: The R7 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 4,200 square feet. Newly created lots must have a minimum density of 1 lot per 7,000 square feet of site area. The provisions of this zone allow this use; therefore these provisions are not specifically addressed through this land use review.

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

LU 09-105733, a 2009 property line adjustment to modify lot lines.

Agency Review: Several Bureaus responded to this proposal and relevant comments are addressed under the applicable approval criteria. Additional information is located in Exhibit "E" in the case file.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 4, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
L	33.654.110.B.2 - 160.B	Not applicable.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing three single dwelling parcels.

Minimum = (22,845 square feet – 0.0) ÷ 7,000 square feet = 2.6 (which rounds up to a minimum of 3 parcels, per 33.930.020.A)

Maximum = (22,845 square feet) ÷ 7,000 square feet = 3.26 (which rounds down to a maximum of 3 parcels, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 2. The applicant is proposing 3 parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R7 Zone	4,200	12,000	40	55	30
Parcel 1	5,400		40	134.99	40
Parcel 2	5,400		40	134.99	40
Parcel 3	9015.29		99.97	90.18	N.A.

* 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.

Flag Lots

Parcel 3 is a flag lot. The following regulations apply to flag lots in the RF through R5 zones:

When allowed:

In the RF through R5 Zones:

1. One of the following is met:
 - a. An existing dwelling unit or attached garage on the site is located so that it precludes a land division that meets the minimum lot width standards. The dwelling unit and attached garage must have been on the site for at least five years, or
 - b. The site has dimensions that preclude a land division that meets the minimum lot width standard of Paragraph 33.610.200.D.1;
2. Up to three lots are proposed, only one of which is a flag lot; and
3. Minimum density requirements for the site will be met.

In this case, the site dimensions preclude a land division that meets the minimum lot width, only one of the proposed lots will be a flag lot, and the minimum density standards are met. Therefore, a flag lot would be allowed on this site, provided all the following requirements are met.

Flag Lot Access Pole

The flag lot's pole must connect to a street, be a minimum of 12 feet wide for its entire length, and have the same ownership as the flag portion of the lot. The proposed flag lot connects to SE 170th Avenue, has an 18.82-foot wide pole, and the pole and flag comprise one parcel. Therefore, the access pole requirements are met.

Dimensions

A minimum lot width and depth of 40 feet each is required for the flag portion of the lot. The proposed width and depth dimensions of Parcel 3 are 99.97 feet and 90.18 feet, respectively. Therefore the width and depth requirements are met.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the pole will provide access Parcels 1 and 3. Each lot will have its own parking area. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. A reciprocal access easement will be placed over the entirety of the pole to allow shared access. Therefore, Parcel 3 is allowed.

The findings above show that the applicable density and lot dimension and pole 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 original arborist report listed trees within the land division site, evaluated their conditions and specified root protection zones (Exhibit A.1). Most of the trees on the site were exempted due to being either a City-designated nuisance species or a physical hazard. These designations were applied to six of the nine trees on the site.

An amended arborist report submitted later during the review process stated that one of the three trees to be preserved would no longer be a viable tree when an adjacent hazard tree is removed. Based on her findings, Tree 5 would become a hazard tree due to structural deficiencies caused by previous topping and because Tree 6, immediately adjacent, will be removed. These two trees protected each other and the Arborist states that removing Tree 6 will greatly decrease Tree 5's ability to withstand wind and weather, thereby making it far more hazardous.

Therefore, the total non-exempt tree diameter on the site is 65 inches, and includes Tree 1, a 33.5-inch diameter English Walnut, and Tree 3, a 31.5-inch diameter Douglas fir. The applicant proposes to preserve tree 3 which comprises 48 percent of the total non-exempt tree diameter. Therefore, this proposal complies with Option 1 of the tree preservation standards, which require at least 35 percent of the total tree diameter on the site to be preserved.

The applicant provided a Tree Preservation Plan which did not include root protection zones for trees to be retained (A.2). The amended Arborist Report included a recommended minimum root protection zone (RPZ) of 12 feet for the 31.5-diameter inch Douglas fir tree to be preserved on the site. In addition, this tree is located about three feet from the property line. The recommended 12 feet is less than half of the standard root protection zone requirement of 1 foot for each inch of tree diameter, or 31.5 feet for this tree.

The Arborist also stated that locating the proposed Accessory Dwelling Unit (ADU) farther from the tree would place less stress and impacts on the tree's roots. Staff agrees that a larger RPZ is required to preserve and protect this tree.

Therefore, the 12-foot RPZ for this large fir tree must be modified. The 31.5 foot RPZ that would typically be required for this size tree would impact proposed ADU development on proposed Parcel 2. But a modified RPZ of 22 feet (halfway between 12 feet and 31.5 feet) would significantly decrease the "stress and impacts" on the tree's roots. Therefore, the root protection zone for Tree 3 shall be 22 feet and must be shown on a Supplemental Plan submitted with the Final Plat.

An amended "Tree Preservation Plan" must be submitted that identifies Tree 3 as the tree to be preserved, states the tree's diameter, and includes a site plan showing the required 22-foot radius root protection zone on Parcels 3 and 2. The Tree Preservation Plan must meet the requirements of Chapter 33.248.065, including a written statement and a site plan. The Tree Preservation Plan must be submitted with the Final Plat and must be recorded with an Acknowledgement of Tree Preservation discussed below.

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

Development on Parcel 3 must be carried out in conformance with the Revised Tree Preservation Plan and as required by the conditions of approval of this land use review.

This criterion is met, subject to the conditions that:

- 1) Development on Parcels 3 and 2 must be carried out in conformance with the recommended root protection zones specified above;
- 2) A Supplemental Plan shall be submitted with the Final Plat application which shows the measured root protection zone; and
- 2) An Acknowledgement of Special Land Use Conditions/Tree Preservation is completed and submitted with the final plat application and recorded with the final plat.

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

Findings:

Clearing and Grading

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

In this case, the site is 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.

Land Suitability

The applicant has proposed to remove the existing house and garage and redevelop the site. The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility.

To ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and the connection to the public sanitary sewer for the existing house must be capped.

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

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

Findings: No tracts are proposed or required for this land division, so criterion A of this Chapter does not apply.

The following easement is proposed and/or required for this land division:

- An Access Easement is proposed to allow shared use of a driveway that will be located in the pole area of proposed Parcel 3;

As stated in Section 33.636.100.B of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and any facilities within those areas. This criterion can be met with the condition that a maintenance agreement be prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement 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:

<p>33.651 Water Service standard - See Exhibit E.3.b for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in SE 170th Avenue. Parcel 1 has an existing water service from that main.</p>
<p>33.652 Sanitary Sewer Disposal Service standards - See Exhibit E.1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC sanitary gravity sewer ins SE 170th Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards- See Exhibit E.1</p> <p>BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> • Parcels 1 – 3: Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval for drywells and for the applicant’s proposal for driveway runoff in the pole to drain to vegetated filter strips on each side of the pavement.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030

SE 170th Avenue is improved with a paved roadway and gravel parking lanes on both sides. There are no curbs, planter strips, or sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The Bureau of Transportation originally required the applicant to make half-street improvements along the frontage of this site. The applicant appealed this determination. Because none of the other frontages have been improved on this street within the past year, the City's Public Works Appeal Panel approved the applicant's request to sign and submit street and storm sewer waivers of remonstrance for participation in future street and storm sewer improvements prior to final plat approval.

To accommodate potential future street improvements, a dedication of property for public right-of-way purposes will be required. The centerline of the roadway, as shown on the applicant's survey, will be used as a reference point for determining the placement of a future curb. The new curb will be located 13-ft from the centerline of the roadway. To accommodate the standard 10-ft wide sidewalk corridor (which does not include additional area for stormwater management), the applicant will need to dedicate approximately 3.5-ft of property. This dedication will need to be confirmed by the applicant's engineer during the Final Plat process.

Vehicle access and loading

Findings: Vehicle access and loading will be via on-street parking in the site vicinity as well as individual driveways along SE 170th Ave serving each of the three lots. SE 170th Avenue has sufficient width to accommodate vehicles entering and exiting the proposed driveways. **(NOTE:** To avoid further conflicts with pedestrians and to minimize the number of access points along the site frontage, PBOT will require that the applicant provide direct access onto SE 170th Ave for Proposed Parcels 2 and 3. Access to Proposed Parcel 1 must be taken from the pole portion of Proposed Parcel 3 via a "reciprocal" access easement (along the pole portion of Proposed Parcel 3 for the benefit of Proposed Parcel 1). Therefore, PBOT has no concerns relative to vehicle access and loading. (Planner's Note: the access easement will not be a "reciprocal" agreement since access will be located only in the pole of the flag lot (Parcel 3) and no portion of the access will be located in Parcel 1 (the benefitted lot.)

This criterion is met, with the conditions that street and storm sewer waivers of remonstrance are signed prior to final plat approval and the required right-of-way dedication is shown on the 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.

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.

Future Development

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone (33.110.240.F). All buildings constructed in the flag lot shall be setback a minimum of 10 feet from all lot lines.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R7 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements for flag lots; posting of "No Parking" signs in the flag pole driveway; installing a new hydrant/ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; providing a turning radius that meets Fire Bureau standards; recording an Acknowledgement of Special Land Use Conditions that requires providing internal fire suppression sprinklers on houses on Parcel 3 if the above requirements for hydrant flow and turning radius cannot be met. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

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 has proposed a 3 parcel 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 are:

- Right of way dedication
- Fire apparatus access roads and fire hydrant flow
- Access and maintenance agreement for Parcel 1
- Demolition of existing house and decommissioning of existing on-site sewer system
- Root zone protection for the 1 tree to be preserved on the site.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot partition, that will result in 2 standard lots and 1 flag lot, as illustrated with Exhibit C.1, subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- Tree 3 and the required 22-foot root protection zone;
- Vegetated filter strips adjacent to the driveway surface in the pole of the flag lot;
- Proposed locations of drywells on Parcels 1-3.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 170th Avenue. The required right-of-way dedication must be shown on the final plat.
2. An 18.82-foot wide Private Access Easement over the “flag pole” portion of Lot 3 for the benefit of Lot 1 shall be shown and labeled on the final plat, extending from SE 170th Avenue along the north property line to the rear property line of Parcel 1, as shown on Exhibit C.1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used.
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 Conditions C.7, C.8, and C.9 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 prior to final plat approval.

Utilities

2. The applicant shall meet the requirements of the Bureau of Environmental Services to cap the existing 8-inch sanitary sewer lateral on the site at the time the house is demolished, but can be used to serve future development.
3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the existing cesspool/sanitary sewer on the site.
4. The applicant shall meet the requirements of the Fire Bureau for providing an adequate fire access way, turning radius, and hydrant flow for Lot 3, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Lot 3. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on, and recorded with, the final plat if the sprinkler exception is used.

Existing Development

5. The applicant must obtain a finalized demolition permit for the existing residence on the site prior to Final Plat approval.

Note that Title 24 requires a 35-day demolition delay period for most residential structures.

6. All plumbing permits must receive final inspection approval prior to Final Plat approval for:
 - decommissioning an existing cesspool/septic system, and
 - capping the existing sanitary sewer connection.

Required Legal Documents

7. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition A.2 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. 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.
8. If, at the time of Final Plat, the Fire Bureau requires internal fire suppression sprinklers for the proposed house on Parcel 3, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 3 to contain such internal fire suppression sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
9. The applicant shall execute an Acknowledgement of Special Land Use Conditions (ASLUC) for Tree Preservation that includes tree preservation requirements that apply to Parcel 3. A Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The Acknowledgment shall be referenced on the final plat and shall be recorded with the Final Plat with Multnomah County.

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

1. Development on Lot 3 shall be in conformance with the Amended Tree Preservation Plan (Exhibit C.1 – Existing Conditions/Proposed Partition Plat, as amended by Condition A, above). Specifically, Tree 3 (aka: Tree No. 4058), a 31.5-inch diameter Douglas fir tree, shall be preserved, with a 22-foot root protection zone that will be shown on the Supplemental Plan. Tree protection fencing is required along the root protection zone of

this tree. 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 zone may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.

2. The applicant must post the flag pole driveway for Parcel 3 with "No Parking" sign(s) to the satisfaction must meet the addressing requirements of the Fire Bureau. The location of the sign(s) must be shown on the development permit.
3. The applicant shall install a new hydrant or ensure adequate hydrant flow from the nearest fire hydrant or obtain an approved Fire Bureau appeal to this requirement, and provide a turning radius for the flag pole that meets Fire Bureau standards; or record an Acknowledgement of Special Land Use Conditions that requires providing internal fire suppression sprinklers in the house on Parcel 3 if the above requirements for hydrant flow and turning radius cannot be met.
4. All buildings constructed in the flag lot shall be setback a minimum of 10 feet from all lot lines.

Staff Planner: Kathy Harnden

Decision rendered by: _____



on March 29, 2012

By authority of the Director of the Bureau of Development Services

Decision mailed April 2, 2012

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 May 5, 2011, and was determined to be complete on **October 28, 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 October 28, 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 signed a 120-Day Waiver. The **120 days will expire on: October 27, 2012**.

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

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

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be

documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

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

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

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

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

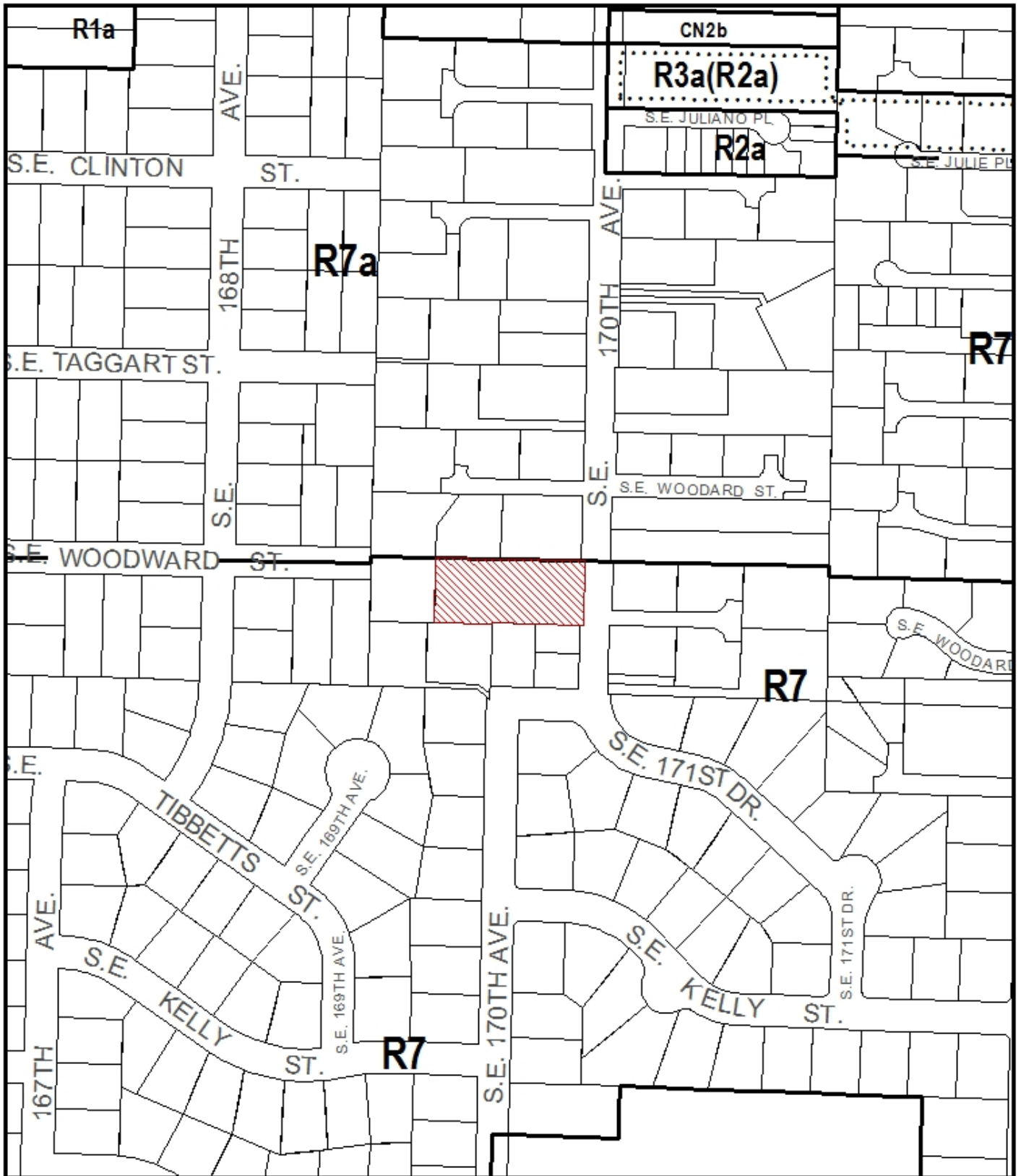
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Arborist Report
 - 2. Amended Arborist Report
 - 3. Simplified Approach
 - 4. 120-Day Waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions/Proposed Partition Plat (attached)
 - 2. Proposed Development Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1.a Bureau of Environmental Services
 - 1.b Bureau of Environmental Services, Revised
 - 2. Bureau of Transportation Engineering and Development Review
 - 3.a. Water Bureau
 - 3.b. Rockwood Water People’s Utility District
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:

1. Original LU Application
2. Site History Research – No Data
3. Incomplete Letter
4. RFC Responses

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



NORTH

File No. LU 11-137176 LDP
 1/4 Section 3347
 Scale 1 inch = 200 feet
 State_Id 1S3E07BA 3700
 Exhibit B (May 12, 2011)

EXISTING CONDITIONS PROPOSED PARTITION PLAT

TAX LOT 3700, (1S 3E 7BA), LOCATED IN THE NORTHWEST
ONE-QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 3 EAST, OF THE
WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY,
STATE OF OREGON

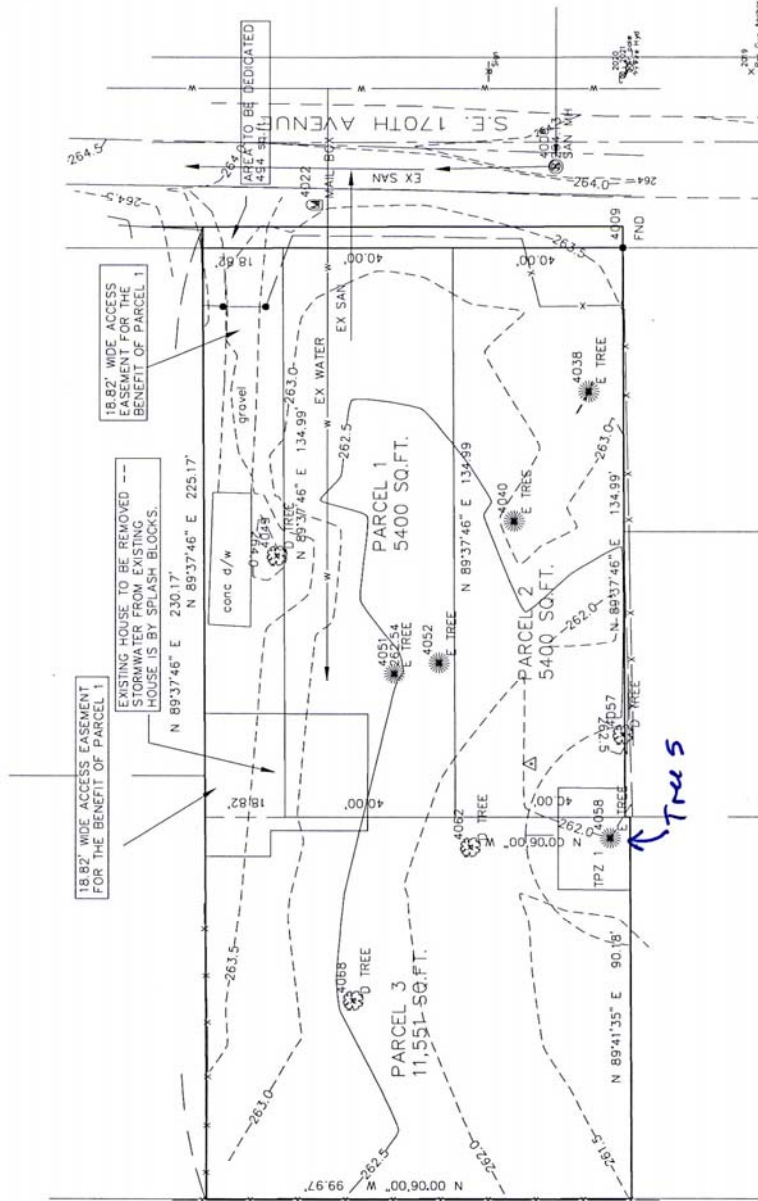
DATE OF SURVEY: OCTOBER, 2010
Revised: February 6, 2011

TREE TABLE

4038	24" EVERGREEN
4040	38" EVERGREEN
4049	40" DECEDUOUS
4051	24" EVERGREEN
4057	36" EVERGREEN
4057	24" DECEDUOUS
4058	36" EVERGREEN
4062	30" DECEDUOUS
4068	36" DECEDUOUS

SITE ADDRESS
2925 SE 170TH AVENUE

LOT AREA
22,845 SQUARE FEET



SURVEYED FOR:

170th and Broadway, LLC
19275 SE Tickle Creek Road
BORING, OREGON

&

MR. ED WAGNER
OREGON CUSTOM HOME BUILDERS LLC
P. O. BOX 742
FAIRVIEW, OREGON 97024

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
DAVID A. FOSTER
1934

RENEWED THRU 12/31/2012

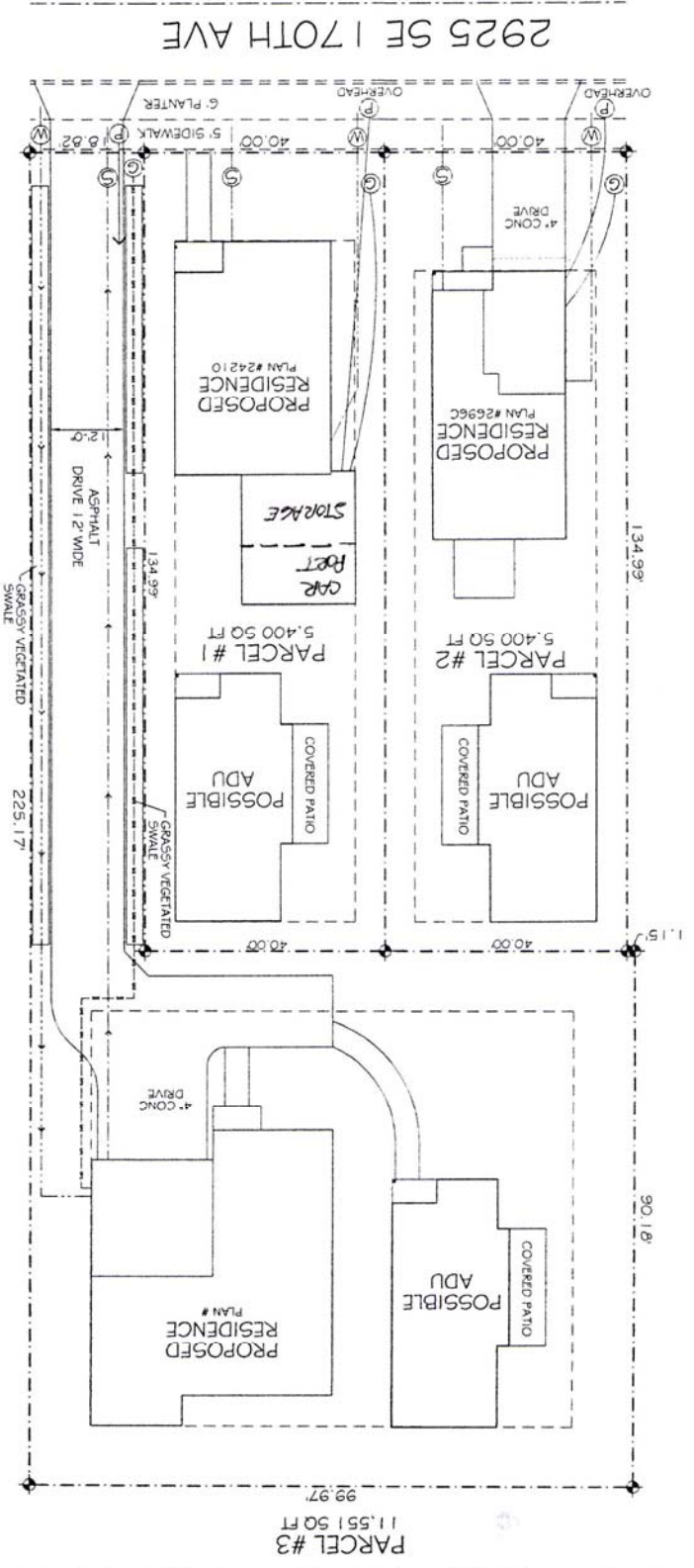
SURVEYED BY:
FOSTER & MADDOX SURVEYING, INC.
709 N.E. 282TH PLACE
WOOD VILLAGE, OREGON 97060
503-667-8307, 503-997-1100

LU 11-137176 LDP
Ex: C.1

TROXEL'S HOME DESIGN
 SCALE: 1" = 30.00'
 DATE: 02/17/12
 DESIGNED BY: NICK POVEY
 ADDRESS: 2925 SE 170TH AVE
 LOT: []
 NUMBER: []

THE DESIGNER HAS REVIEWED ALL THE INFORMATION AND APPROVED THE PLAN FOR THE SITE AND ADJACENT LOTS AND NEIGHBORHOODS. THE DESIGNER HAS REVIEWED THE PLAN FOR THE SITE AND ADJACENT LOTS AND NEIGHBORHOODS.

LEGEND	
⊖	3" SEWER
⊕	1" WATER
⊙	GAS
⊗	POWER
⋯	RAIN DRAIN



RECEIVED

FEB 17 2012

2.C.C.2
 DT 791181-11 n7

