



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: May 6, 2008
To: Interested Person
From: Joan Frederiksen, Land Use Services
503-823-6867

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 07-123795 LDP

GENERAL INFORMATION

Applicant:	Keith and Laurie Langley, owners 9216 SE Tenino Ct Portland, OR 97266	Douglas Macleod John L Scott Real Estate 4111 SE Woodstock Blvd Portland, OR 97202
Representative:	Royal Raymond, contact Ztec Engineering Inc 3737 SE 8th Avenue Portland OR 97202	
Site Address:	9216 SE TENINO CT	Tax Account No.: R190402630
Legal Description:	EXC S 100' LOT 35, CRYSTAL VIEW AC	
State ID No.:	1S2E21DC 05500	Quarter Section: 3840
Neighborhood:	Lents, contact Alan Brzycki at 503-774-3256.	
Business District:	None	
District Coalition:	East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550	
Plan District:	Johnson Creek Basin - South	
Zoning:	R5a – Single Dwelling Residential 5,000 with an Alternate Design Density overlay	
Case Type:	LDP - Land Division (Partition)	
Procedure:	Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).	

Proposal: The applicant proposes to divide this 15,310 square foot site into 3 parcels. Parcel 1 will be approximately 7,730 square feet and will retain the existing house and detached garage. Parcels 2 and 3, fronting on SE 92nd Avenue, will each have 3,491 square feet. A tree preservation plan has been submitted as required.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use

reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110). For purposes of State Law, this land division is considered a 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).

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: This 15,310 square foot site is situated on the southeast corner of SE Tenino Court and SE 92nd Avenue, across the street from the I-205 freeway. The site slopes gently downward from southeast to northwest, with the developed portions of the site having some level areas held up by short retaining walls. Development on the site presently consists of a detached single family home in the north of the site, a detached garage and asphalt driveway and a rear patio area. The site has been documented to also contain 16 trees, some in the area of the existing development to remain and others in the area of the proposed new lots.

Both rights of way adjacent to the site are improved with roadway and curbs. SE 92nd Avenue also has an existing 8-foot wide curb tight sidewalk.

Development in this area, east of the freeway and south of the site consists predominantly of detached single family homes. About 500 feet northeast of the site there is a large area of multi dwelling development.

Zoning: The site is zone R5a, Single Dwelling Residential 5,000 with an Alternate Design Density overlay. The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households.

The "a" Alternative Design Density overlay zone allows greater density for development that meets additional design compatibility requirements. The applicant's proposal is not dependent on the provisions of the "a" overlay.

The site is also within the Johnson Creek Basin Plan District – South Subdistrict. The Johnson Creek Basin Plan District – South Subdistrict regulations mitigate the negative impacts that may result from the development of areas where flooding and landslides are common. The impermeable clay soils of the steep-sided Boring Lava hills to the south of the creek contribute to rapid stormwater runoff in the winter, and contribute to flooding. These regulations work together to protect watershed health while allowing the safe and efficient development of unconstrained lands. The applicable standards of this plan district are addressed further in this report.

The area directly around the site (with exception of the freeway) is all zoned R5a. A block east of the site there begins an area of R7 (Single Dwelling Residential 7,000) with some areas having Environmental Conservation 'c' and Protection 'p' overlay zoning. There is also a large area zoned R2c – Multi Dwelling Residential 2,000 – beginning approximately a block northeast of the site.

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on June 18, 2007.

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

2. Neighborhood Review: 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.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

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

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints. In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area.

The site is within the Johnson Creek Basin Plan District – South Subdistrict, which has additional standards, related to maximum density on sites with certain topographical characteristics. In summary, site with areas of grades of greater than 20 percent have some limitations to maximum density. The surveyor has documented the grade for this site and noted that it does not have any areas with grades greater than 20 percent, outside the existing retaining walls. Thus the site does not fall within the parameters by which density for the site would be reduced. The density related standards of the plan district have been verified and are met.

Therefore, the maximum and minimum density for this site is as follows:

Minimum = (15,310 square feet x .80) ÷ 5,000 square feet = 2.44 (which rounds down to a minimum of 2 lots, per 33.930.020.A)

Maximum = 15,310 square feet ÷ 5,000 square feet = 3.06 (which rounds down to a maximum of 3 lots, per 33.930.020.B)

The applicant is proposing 3 lots. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The proposed lot dimensions as noted below include reductions made to the site based on required Portland Transportation right of way dedication requirements (as discussed later in this report).

The proposed lots meet the lot dimension standards as shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	3,000 sq. ft.	7,730 sq. ft.	3,491 sq. ft.	3,491 sq. ft.
Maximum Lot Area	8,500 sq. ft.			
Minimum Lot Width*	36 ft.	74 ft.	36 ft.	36 ft.
Minimum Lot Depth	50 ft.	96.98 ft.	96.98 ft.	96.98 ft.
Minimum Front Lot Line	30 ft.	75 ft	36 ft.	36 ft.

* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.4). As set out in 33.630.100, some trees have been exempted because they are of a nuisance species. The arborist has not specified which trees were exempt due to species, but based on the species information provided by the arborist, staff has been able to identify which trees are in the nuisance category and should be deemed exempt.

Per the arborist, there are a total of 16 trees on the site with a total of 259 inches of diameter. The total non-exempt tree diameter on the site is 194 inches. The applicant proposes to preserve trees 1, 2, 3, 13, and 14, which comprise of 72 inches of diameter, or 37 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C.1).

As mentioned above, the site is located in the Johnson Creek Basin Plan District – South Subdistrict. This subdistrict has additional tree removal standards that require all trees greater than 6 inches in diameter to be preserved except in limited circumstances. These circumstances include: if the tree is located within 10 feet of an existing or proposed building or 5 feet of a paved surface; or if the tree is considered a hazard, as determined by the City Forester or an arborist. The developer should plan the work for the development of the homes on Parcels 2 and 3 in such a way that the tree preservation standards of the South Subdistrict can be met. If these standards cannot be met, the applicant may request an Adjustment Review to allow some trees that do not meet the standards to be removed.

This criterion is met, subject to the condition that development on Parcels 1 through 3 be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4).

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

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

33.635.100 – Clearing and Grading

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

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limits the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily gently sloping, downward to the northwest, and is not located within the Potential Landslide Hazard Area. No significant clearing or grading will be required on the site to make the new lots developable.

All trees required to be preserved per Chapter 33.630 are in the areas where no clearing and grading is anticipated. Because the site is also within the Johnson Creek Basin Plan District South Subdistrict, trees not designated for preservation under Chapter 33.630 may also need to be retained. Those trees, the standards of the South Subdistrict (33.537.140) and all proposed clearing and grading for the individual lots will be reviewed at the time of building permit application. See above under “Trees” and later in this report under “Development Standards” for further discussion of these requirements.

This criteria is met.

33.635.200 – Land Suitability

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

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 90 feet of frontage on SE Tenino Court and approximately 147 feet of frontage on SE 92nd Avenue. SE Tenino Court is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. SE 92nd Avenue is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, Local Walkway Local Truck Street,

Minor Truck Street, and Community Corridor in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 1,700 feet from the site on SE Flavel Street and Mt. Scott Boulevard via bus 19. Parking is currently allowed on the east side of SE 92nd Avenue and both sides of SE Tenino Court. There is one driveway entering the site that provides access to off-street parking for the existing house from SE Tenino.

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.

SE 92nd Avenue

SE 92nd Avenue is currently improved with a 44-foot paved roadway and curbs in a 60-foot right-of-way. There is an 8-foot wide curb-tight sidewalk in an 8-foot pedestrian corridor. An 11-foot pedestrian corridor is recommended on a local service street. However, a retaining wall that runs along most of the SE 92nd Avenue frontage would need to be removed and reconstructed for the installation of a standard pedestrian corridor. Portland Transportation has determined that reconstruction of the retaining wall would be an unnecessary burden on the applicant. Therefore, no sidewalk improvements or dedication are required along the SE 92nd Avenue frontage. If the existing curb and sidewalk are damaged during development of Parcels 2 and 3, they must be replaced.

In addition, the design of the driveway must provide adequate visibility between vehicles and pedestrians along SE 92nd Avenue. This will require a sight line that originates 10 feet back from the property line that, when measured from the center of the driveway, stretches 15 along the sidewalk in each direction along SE 92nd Avenue.

SE Tenino Court

SE Tenino Court is currently improved with 35-foot paved roadway and curbs in a 50-foot right-of-way. In this location the pedestrian corridor is 7.5 feet wide and lacks sidewalks, which also does not meet the City sidewalk standards. Portland Transportation has determined that sidewalk improvements would require the construction of new retaining walls along the SE Tenino Court frontage. To avoid the need to construct large retaining walls, the sidewalks will not be required to be constructed to the City standard within an 11-foot right-of-way. Rather, the applicant will be required to construct a 6-foot curb-tight sidewalk with a 1-foot frontage zone in the existing 8-foot pedestrian corridor. These improvements may require the construction of a small retaining wall. Sidewalk improvements must be completed prior to final plat approval.

As noted above, sidewalk improvements will be required for Parcel 1 in order to receive final plat approval. A permit for this work can be obtained from the Portland Office of Transportation in the Development Services Center. If the curb is in poor condition or if it is demolished during construction, the applicant will be required to construct the improvements under a Street Improvement Permit issued by the Portland Office of Transportation. This permit requires engineered plans that must be designed to meet the requirements of the City Engineer.

Portland Transportation also requires that all vehicles entering and exiting Parcels 2 and 3 from SE 92nd Avenue must do so in a forward motion. Driveways on Parcels 2 and 3 must be designed to allow forward ingress and egress. Alternately, a driveway in an easement over Parcel 1 that provides access to SE Tenino Court for Parcels 2 and 3 can be constructed. Vehicle access to SE Tenino Court is not restricted to forward motion.

With the above noted improvements and conditions, Portland Transportation has determined that two additional dwellings can safely be served by the existing streets without having any significant impact on the level of safety or service provided.

With the conditions noted above this criterion is met.

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

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

- The water standards of 33.651 have been verified. There are existing water mains in both SE Tenino Court and SE 92nd Avenue. Water service to the existing house retained on Parcel 1 will continue to be provided from the water main in SE Tenino Court. The 12-inch main in SE 92nd Avenue can serve proposed Parcels 2 and 3. See Exhibit E.3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch CSP public sanitary sewer located in SE 92nd Avenue that serves the existing house to be retained on Parcel 1 and can serve the sanitary needs of proposed Parcels 2 and 3. See Exhibit E.1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. As result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

33.653.020 Stormwater Management Approval Criteria

A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and

B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

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

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

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

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

The applicant has proposed the following stormwater management methods, and the Bureaus have responded as follows (Exhibits E.1 and E.5):

- **Parcels 2 and 3:** The applicant initially indicated that drywells were proposed for stormwater management on these lots. However, since the Site Development Section of BDS notes that they recommend against any stormwater infiltration on site, stormwater from these lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will then drain from the planters to the existing storm sewer in SE 92nd Avenue. Each lot has sufficient size for individual planter boxes, and the Bureau of Environmental Services has indicated that the treated water can be directed to the storm sewer in SE 92nd Avenue.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain into underground pipes. Site Development 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 Site Development. 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. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of Site Development and obtain finalized plumbing permits for the modifications prior to final plat approval.

In addition, the detached garage has no stormwater system. A stormwater system that complies with the Stormwater Management Manual requirements must be installed and approved prior to final plat approval.

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

DEVELOPMENT STANDARDS

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

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

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

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

- **33.537 Johnson Creek Basin Plan District – South subdistrict:**
The Johnson Creek Basin Plan District – South subdistrict has additional regulations that must be considered at the time of development for Parcels 2 and 3. Parcel 1 has been evaluated and will be reviewed for compliance with those standards concurrent with this land division review. The following standards will apply to Parcels 2 and 3:
 - **33.537.140.C Tree Removal** – Trees greater than six inches in diameter may be removed only in limited situations including the following:
 1. When they are within 10 feet of an existing or proposed building or 5 feet of a paved surface;

2. When they are diseased or pose an immediate danger, as determined by the City Forester or an arborist;
- **33.537.140.D Impervious Surface** - No more than 50 percent of any site may be developed in impervious surface. Building eaves are included in the calculation of impervious surface, as are all driveways, patios, walkways, sheds, and deck areas.

Staff Comment: *As discussed earlier in the report, the proposed lots will have tree preservation requirements per the standard of 33.630 (Tree Preservation). Trees 1, 2, 3, 13 and 14 are designated for preservation to meet the standards of 33.630, and root protection areas have been identified as shown on Exhibit C.1 and noted in the Arborist Report (Exhibit A.4).*

Because the site is also within the South subdistrict to the Johnson Creek Basin Plan District, the tree removal standards of the South subdistrict (33.537.140.C - noted above) will also apply. This means that at the time of development or redevelopment, tree removal on Lots 1 through 3 will also be evaluated per the South subdistrict standards. Additional trees not designated for preservation through this land division may need to be preserved if they do not meet the Tree Removal standards of the South subdistrict as noted above.

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 standards applicable in the R5 zone or Plan District (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 22.5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Impervious Surface - Development on Parcel 1 must remain in compliance with the impervious surface limitations of the Johnson Creek Basin Plan District – South subdistrict. The existing development and impervious area on Parcel 1 appears to be approximately 2,900 square feet, or about 37.5% impervious surface. Therefore, the required impervious surface limitations appear to be 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 all development on Parcel 1, including eaves, and a note that identifies the overall impervious surface coverage for Parcel 1.

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

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance

with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

The Urban Forester has responded to this proposal with no concerns and has noted that street trees will be required with the requested street improvements along both frontages.

CONCLUSIONS

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

- Required sidewalk improvements within the right of way;
- Stormwater disposal;
- Tree preservation; and
- Johnson Creek Basin Plan District – South Subdistrict requirements

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

ADMINISTRATIVE DECISION

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

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. 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, including eaves;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The total impervious surface coverage on Parcel 1; and
- Any other information specifically noted in the conditions listed below.

B. The following must occur prior to Final Plat approval:**Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE Tenino Court. The applicant must obtain an approved Right of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk. The improvements must be constructed prior to final plat approval.

Existing Development

2. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Site Development Section of the Bureau of Development 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.
3. The applicant must meet the requirements of Site Development for installing a stormwater system on the existing detached garage to remain on Parcel 1. Gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. The applicant must obtain a finalized plumbing permit for this work prior to final plat approval. **█**

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

1. Development on Parcels 1 through 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4). Specifically, trees numbered 1, 2, 3, 13 and 14 are required to be preserved, with the root protection zones indicated on Exhibit C.1. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. If located on SE 92nd Avenue, access for Parcels 2 and 3 must be designed to allow for forward motion entry and exit and adequate visibility, to the satisfaction of the Office of Transportation.

Decision rendered by:  on May 2, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) May 6, 2008

Staff Planner: Joan Frederiksen

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 April 19, 2007, and was determined to be complete on May 23, 2007.

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 April 19, 2007.

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 requested that the 120-day review period be extended the review period through September 17, 2008, as stated with Exhibit A-4, and extended the review period indefinitely, as stated with Exhibit A-5.

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 of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-0625 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at www.portlandonline.com.

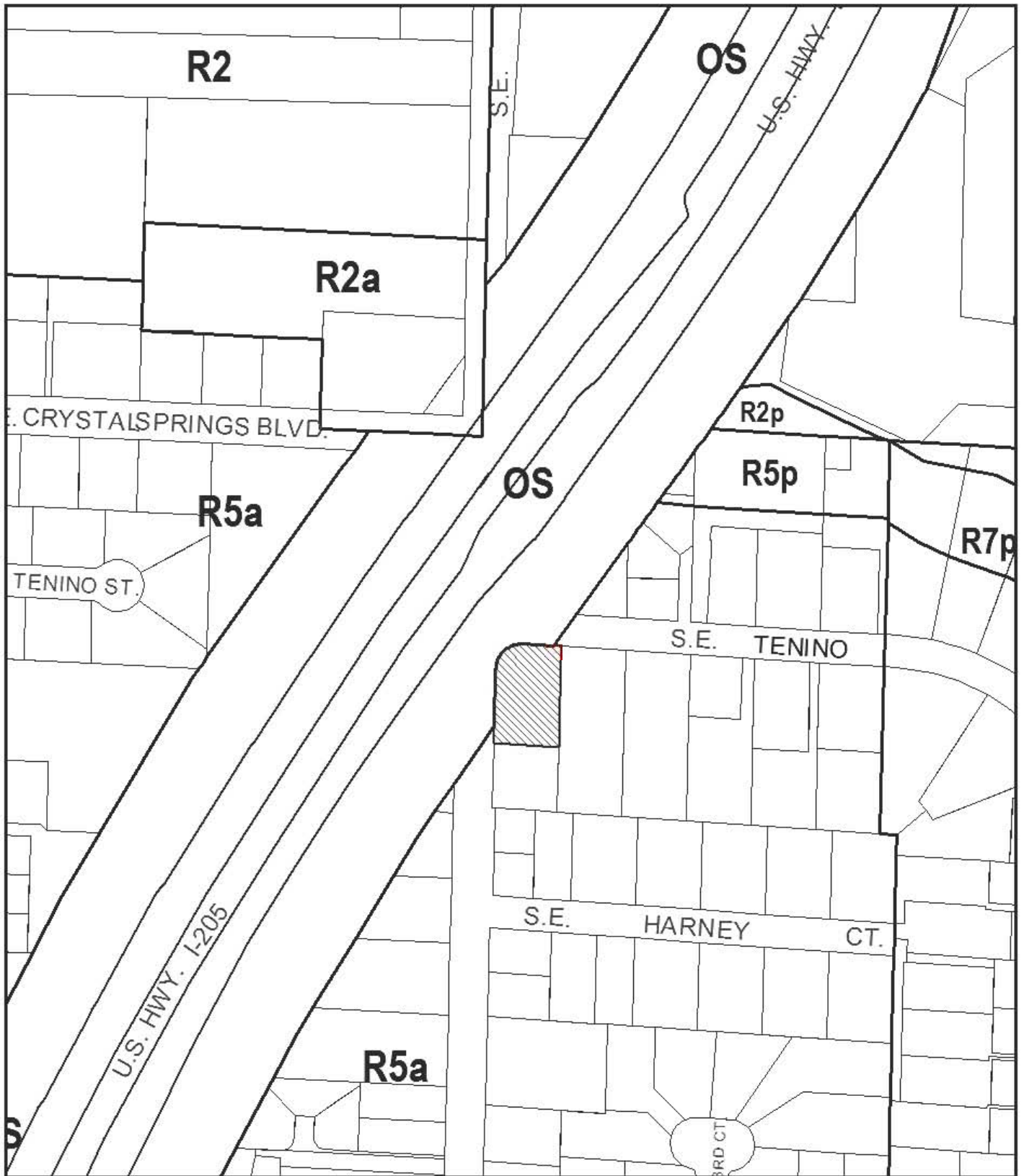
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittal
 - 1. Original narrative
 - 2. Additional information, May 23, 2007
 - 3. Additional information, June 1, 2007
 - 4. Arborist report
 - 5. Email to extend 120 day review period through September 5, 2008, dated 08/16/07
 - 6. Email to extend 120 day review period through September 17, 2008, dated 08/27/07
 - 7. Email to extend 120 day review period until further notice, dated 09/13/07
 - 8. Email from applicant, dated 04/07/08
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary and Tree Preservation Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Oregon Department of Transportation, Region 1
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Letter of incomplete information sent to applicant, May 10, 2007

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



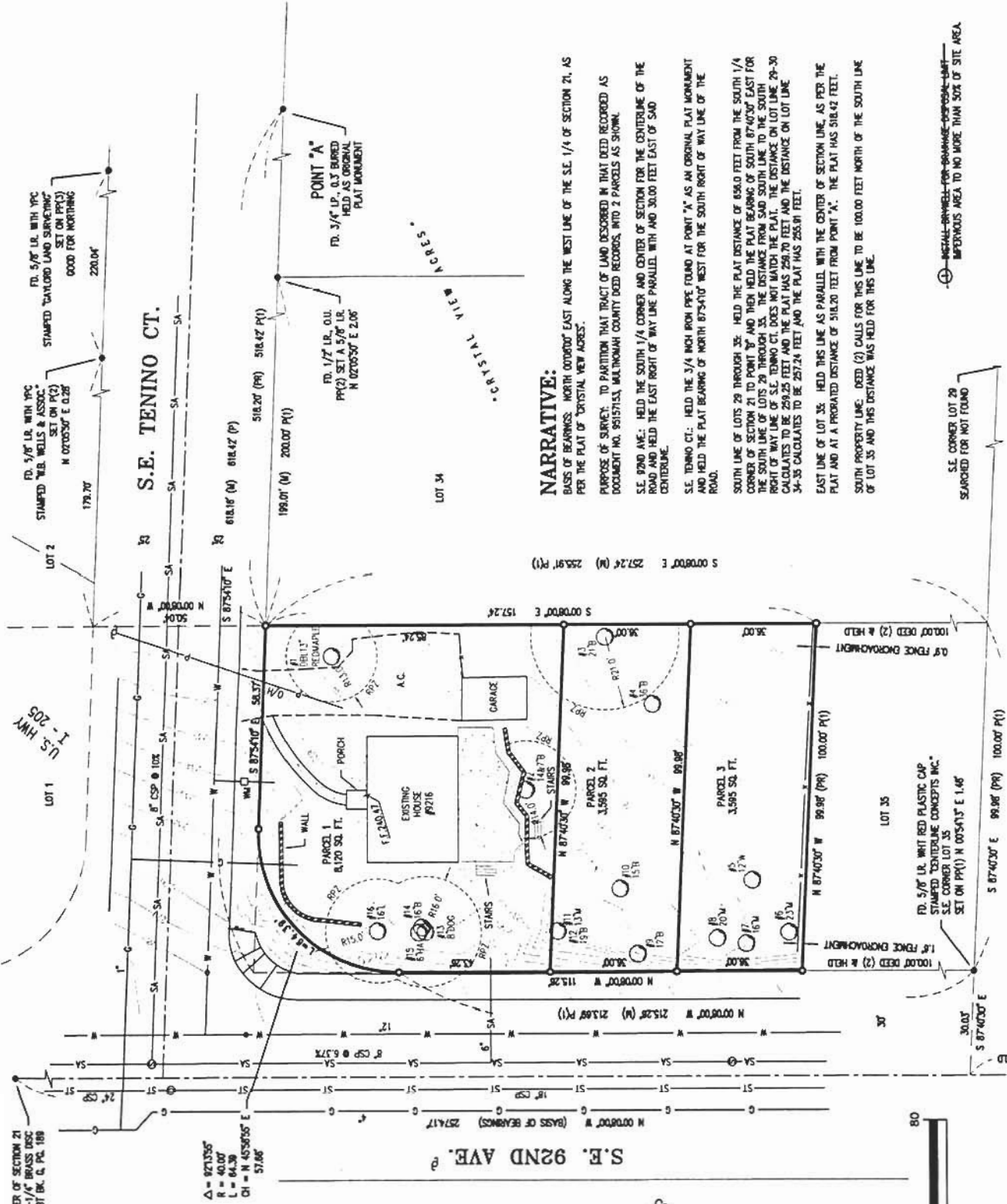
ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 07-123795 LDP
 1/4 Section 3840
 Scale 1 inch = 200 feet
 State_Id 1S2E21DC 5500
 Exhibit B (Apr 24, 2007)



LEGEND:

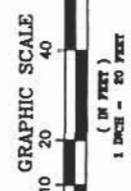
- MONUMENTS FOUND AS NOTED
- UL IRON ROD
- LP IRON PIPE
- FD FOUND
- (M) MEASURED
- SA EXISTING SEWER
- ST EXISTING STORM
- W EXISTING WATER
- EXISTING FENCE
- EXISTING SPOT ELEVATION
- EXISTING CONCRETE SIDEWALK
- EXISTING CONTOUR
- EXISTING FIRE HYDRANT
- EXISTING CATCH BASIN
- EXISTING STORM MANHOLE
- EXISTING SANITARY MANHOLE
- EXISTING POWER POLE
- EXISTING WATER VALVE
- EXISTING WATER METER
- EXISTING STREET SIGN
- EXISTING TREE

TREE LEGEND:

- B DENOTES BIRCH
- HEM DENOTES HEMLOCK
- H DENOTES HICKORY
- L DENOTES LOCUST
- M DENOTES MAPLE
- UNK DENOTES UNKNOWN

NOTE:

ELEVATIONS ARE TO CITY OF PORTLAND DATUM. BASED ON C.O.P. BM 106 BRASS DISC IN WEST CURB LINE OF S.E. 92ND AVE. AT S.E. HANNEY ST. ELEV. = 254.64



1/4 CORNER
FD. 4-1/4" BRASS DISC
IN MONUMENT BOX AS
PER BT BK. L, PG. 132

NARRATIVE:

BASIS OF BEARINGS: NORTH 07°00'00" EAST ALONG THE WEST LINE OF THE S.E. 1/4 OF SECTION 21, AS PER THE PLAT OF "CRYSTAL VIEW ACRES".

PURPOSE OF SURVEY: TO PARTITION THAT TRACT OF LAND DESCRIBED IN THAT DEED RECORDED AS DOCUMENT NO. 95157153, MULTNOMAH COUNTY DEED RECORDS, INTO 2 PARCELS AS SHOWN.

S.E. 92ND AVE.: HELD THE SOUTH 1/4 CORNER AND CENTER OF SECTION FOR THE CENTRELINE OF THE ROAD AND HELD THE EAST RIGHT OF WAY LINE PARALLEL, WITH AND 30.00 FEET EAST OF SAID CENTRELINE.

S.E. TENINO CT.: HELD THE 3/4 INCH IRON PIPE FOUND AT POINT "A" AS AN ORIGINAL PLAT MONUMENT AND HELD THE PLAT BEARING OF NORTH 87°54'10" WEST FOR THE SOUTH RIGHT OF WAY LINE OF THE ROAD.

SOUTH LINE OF LOTS 29 THROUGH 32: HELD THE PLAT DISTANCE OF 656.00 FEET FROM THE SOUTH 1/4 CORNER OF SECTION 21 TO POINT "B" AND THEN HELD THE PLAT BEARING OF SOUTH 87°40'30" EAST FOR THE SOUTH LINE OF LOTS 29 THROUGH 32. THE DISTANCE FROM SAID SOUTH LINE TO THE SOUTH RIGHT OF WAY LINE OF S.E. TENINO CT. DOES NOT MATCH THE PLAT. THE DISTANCE ON LOT LINE 29-30 CALCULATES TO BE 259.25 FEET AND THE PLAT HAS 258.70 FEET AND THE DISTANCE ON LOT LINE 31-32 CALCULATES TO BE 257.24 FEET AND THE PLAT HAS 255.91 FEET.

EAST LINE OF LOT 35: HELD THIS LINE AS PARALLEL WITH THE CENTER OF SECTION LINE, AS PER THE PLAT AND AT A PROVED DISTANCE OF 510.00 FEET FROM POINT "A". THE PLAT HAS 510.42 FEET.

SOUTH PROPERTY LINE: DEED (2) CALLS FOR THIS LINE TO BE 100.00 FEET NORTH OF THE SOUTH LINE OF LOT 35 AND THIS DISTANCE WAS HELD FOR THIS LINE.

⊖ METAL-BARNWELL-FOR-DRAINAGE-PURPOSES-ONLY
IMPROVED AREA TO NO MORE THAN SIZE OF SITE AREA.

S.E. CORNER LOT 29
SEARCHED FOR NOT FOUND

ZTEC ENGINEERS INC.
3737 S.E. 8TH AVE., PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 17, 1981
CHRIS FISCHBORN
1944

JOB#:	N3448-2
DATE:	11-28-08
SCALE:	1"=20'
DRAWN:	JHH
CHECKED:	CCF
TITLE:	N34482PRE
PLLOT:	5-21-07

DOCUMENT NO. 2003-205660

LOCATED IN THE S.E. 1/4 OF SECTION 21,
T.15S., R.2E., W.M., IN THE CITY OF PORTLAND,
MULTNOMAH COUNTY, OREGON

DOUGLAS MACLEOD

PRELIMINARY PLAT

CASE NO. 07-123795
EXHIBIT C-1