



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: May 21, 2008
To: Interested Person
From: Shawn Burgett, Land Use Services
503-823-3581 / BurgettS@ci.portland.or.us

NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-102643 LC

GENERAL INFORMATION

Applicant: Peter Stewart
18755 Cathy Adams Dr
Oregon City, OR 97045

Site Address: 1139 SE 85TH AVE

Legal Description: BLOCK 2 N 15' OF LOT 5, MANSFIELD
Tax Account No.: R532200130
State ID No.: 1S2E04BC 05500
Quarter Section: 3139

Neighborhood: Montavilla, contact Erica Thygesen at 503-267-4433.
Business District: Montavilla-East Tabor, contact Alema McCrea at 503-318-5741.
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.

Zoning: R2a (Multi-Dwelling Residential-2,000 sq. ft. with "a" Alternative Design Density Overlay)

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

Proposal:

The applicant proposes to consolidate historic lots 3 & 4, Block 2, Mansfield Addition into one parcel. The lot consolidation is in preparation for a future property line adjustment (07-176435 PR) with the abutting north 15-ft. of Lot 5 under the same ownership. The property line adjustment will result in a developable "flag" like lot behind the existing house. The property line adjustment is not part of this review.

Relevant Approval Criteria:

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

- Zoning Code Section 33.675.300, Lot Consolidation Standards

ANALYSIS

Site and Vicinity: The site is developed with a single family home situated on the eastern half of the property. The site is relatively flat. The surrounding neighborhood is made up of primarily single family homes of various sizes.

Zoning: The R2 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

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

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **March 31, 2008**. The following Bureaus have responded with no issues or concerns about the proposal:

- Bureau of Environmental Services
- Water Bureau
- Site Development Section of BDS
- Bureau of Transportation Engineering

The Site Development Section of BDS responded with the following comment:

- Site Development has no objections to the proposed Lot consolidation. However, it should be noted that City records do not show that the septic system (cesspool) on the site was decommissioned at the time the house was connected to the public sewer system. Additionally, the sewer line for the existing house crosses the proposed new property line. Final approval of a plumbing permit to cap the existing sewer lateral and establish new service for the existing house and approval of a cesspool decommissioning permit will be required prior to approval of the Property Line adjustment (07176435 PR) associated with this site. The property line adjustment will result in a developable "flag" like lot behind the existing house. The property line adjustment is not part of this review.

Please see Exhibit E-5 for additional details.

The Bureau of Parks-Forestry Division responded with the following comment:

- The existing street configuration consists of an unimproved street with no curbs or sidewalks. There is a large chestnut tree located in the City right-of-way that must be retained and protected. If the property owner wishes to have any work done may have a negative impact on the tree and it's root system they will have to call the Urban Forestry Division of Portland Parks and Recreation for an inspection before any work is done.

Please see Exhibit E-6 for additional details.

The Fire Bureau responded with the following comments:

- No concerns with the lot consolidation. The applicant will be required to meet fire department access for any new lot created and it appears that SE 85th Ave is a very narrow street that does not meet current requirements. Applicant should contact the Fire Bureau with questions regarding access.

Please see Exhibit E-4 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **March 31, 2008**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

LOT CONSOLIDATIONS

33.675.010 Purpose

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

33.675.050 When These Regulations Apply

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

33.675.100 Review Procedure

A. Generally. Lot consolidations are reviewed through Type I procedure.

B. Sites in PUDs or PDs. If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.

Findings: The site is not involved in any past or proposed Planned Unit Development or Planned Developments therefore the requested lot consolidation review has been reviewed under the Type I procedure.

Approval Standards for a Lot Consolidation

33.675.300 Standards

A lot consolidation must meet the following standards:

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

Findings: The proposed site is in the R2 zone. Approval standards 1.a through 1.e are related to the required lot dimensions and creation of a consolidated parcel that will either meet the lot dimension standards of the zone or meet the listed exceptions. The proposed consolidated lot meets the lot dimension standards of the R2 zone as shown in the following table (this information is found in Table 612-2 of the Zoning Code):

	R2 Zone Requirement	Lot 1 (after consolidation)
Minimum Lot Area	1,600 square feet	4,993 square feet
Maximum Lot Area	None	
Minimum Lot Width*	None	49.67 feet
Minimum Front Lot Line	10 ft.	49.67 feet
Minimum Lot Depth	None	100 feet

* Width is measured at the minimum front building setback line

As noted herein, the proposed consolidated lot meets the standards of 1.a through 1.e.

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

Findings: The maximum density of the consolidated lot is $(4,993 / 2,000) = 2$ units. The site is developed with one single-family dwelling. Therefore the maximum density will not be exceed by consolidating the historic lots that currently make up this site.

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

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

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

Findings: The proposed consolidated Lot 1 will not be a through lot, therefore this standard does not apply.

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

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

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

Findings: There are no previous land use cases for this site, therefore this standard does not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development

standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant proposes to consolidate historic lots 3 & 4, Block 2, Mansfield Addition into one parcel. No City bureaus raised objections to the proposal.

As discussed above, the requested lot consolidation has been reviewed and shown to be able to meet all the required standards for lot consolidations as laid out in Section 33.675.400.

ADMINISTRATIVE DECISION

Approval of a Lot Consolidation to create one parcel from historic lots 3 & 4, Block 2, Mansfield Addition into one parcel, as illustrated by exhibit C.1 signed and dated May 14, 2008.

Decision rendered by:  on May 14, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed May 21, 2008

Staff Planner: Shawn Burgett

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 January 15, 2008, and was determined to be complete on March 26, 2008.

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 January 15, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

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

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

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

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

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

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at www.portlandonline.com.

Recording the final decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **05-22-08**. The applicant, builder, or a representative may record the final decision as follows:

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

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-7967.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

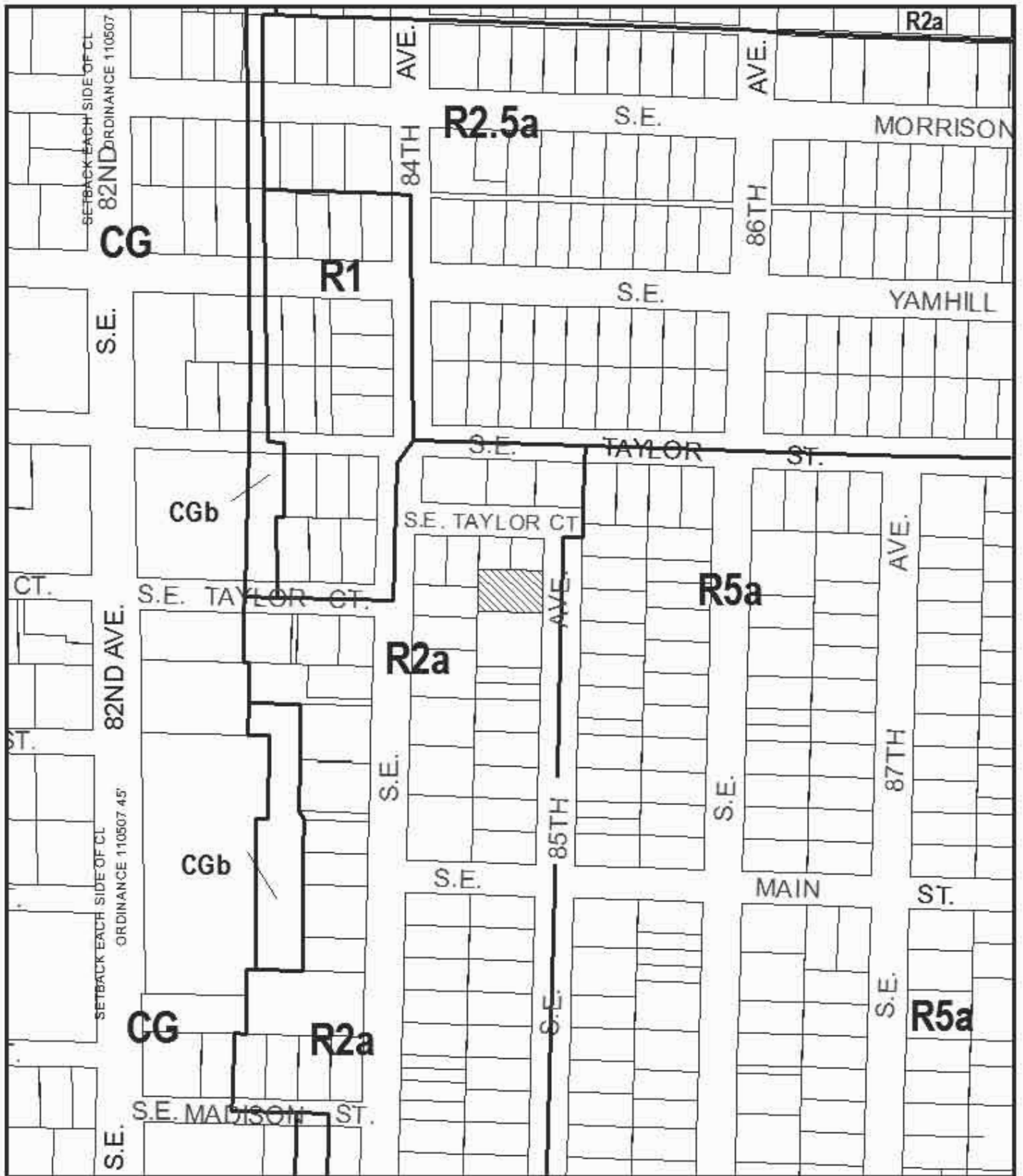
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's info
 - 1. Legal Description
 - 2. E-mail correspondence with applicant
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved Plat (attached)
 - 2. Supplemental Plat
 - 3. Copy of existing recorded plat (prior to Lot consolidation)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence:
 - 1. None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter
 - 4. Staff Correspondence with Applicant

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



NORTH

File No.	<u>LU 08-102643 LC</u>
1/4 Section	<u>3139</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S2E04BC 5500</u>
Exhibit	<u>B (Jan 16, 2008)</u>

PARTITION PLAT NO.

A REPLAT OF LOTS 3 & 4, BLOCK 2, SUPPLEMENTARY PLAT OF MANSFIELD SITUATED IN THE NW 1/4 OF SECTION 4, T.1S., R.2E., W.1M. CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

SCALE: 1" = 30'



W.B. WELLS
PROFESSIONAL LAND SURVEYOR, INC.
4230 NE FREMONT STREET
PORTLAND, OREGON 97213
PHONE: 503.248.5825 FAX: 503.248.2830
E-MAIL: info@wbwells.com

JOB NO. 07-240

- LEGEND**
- FOUND MONUMENT AS NOTED.
 - SET 5/8"x3/32" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W.B. WELLS & ASSOC., INC." ON 3/21/08.
 - RL FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "LATHROP LS 2871".
 - WRW FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W.B. WELLS & ASSOC., INC."
 - OU ORIGIN UNKNOWN.
 - SI SN 50814.
 - SZ SN 81643.
 - P1 PLAT OF "SUPPLEMENTARY PLAT OF MANSFIELD", BOOK 151, PAGE 88.
 - SI SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS.
 - SQ. FT. SQUARE FEET.

CITY OF PORTLAND APPROVALS

CASE FILE NUMBER LU 08-102643

APPROVED THIS 11th DAY OF May 2008
CITY OF PORTLAND BUREAU OF DEVELOPMENT SERVICES

BY: *Dum Ruyter (RLG)*
PLANNING DIRECTOR'S DELEGATE

APPROVED THIS 9th DAY OF JUNE 2008

BY: *Christina M. DeLacy*
CITY OF PORTLAND - CITY ENGINEER'S DELEGATE

MULTNOMAH COUNTY APPROVALS

APPROVED THIS DAY OF 2008
COUNTY SURVEYOR
MULTNOMAH COUNTY, OREGON

BY: _____

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY O.R.S. 92.095 HAVE BEEN PAID AS OF 2008
DIRECTOR, DIVISION OF ASSESSMENT & TAXATION
MULTNOMAH COUNTY, OREGON

BY: _____ DEPUTY

STATE OF OREGON }
COUNTY OF MULTNOMAH }

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECEIVED FOR RECORD AND RECORDED _____ 2008
AT _____ M. AS PARTITION
PLAT NO. _____
COUNTY RECORDING OFFICE

BY: _____ DEPUTY

DOCUMENT NO. _____

DECLARATION

I, PETER STEWART, BEING THESE PRESENTS THAT PETER STEWART IS THE OWNER OF THE PROPERTY REPRESENTED ON THE ANNEXED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, AND HAS CAUSED THIS PARTITION TO BE PREPARED AND THE PROPERTY PARTITIONED ACCORDINGLY WITH THE PROVISIONS OF CHAPTER 92, OF THE OREGON REVISED STATUTES.

PETER STEWART

ACKNOWLEDGMENT

STATE OF OREGON }
COUNTY OF MULTNOMAH }

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON May 1, 2008

BY PETER STEWART

Lisa Perreault
NOTARY PUBLIC - OREGON

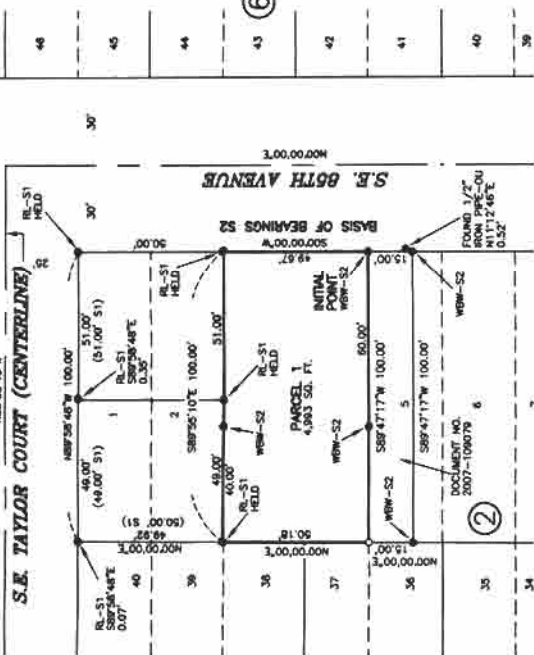
COMMISSION NO. 419552

MY COMMISSION EXPIRES July 23, 2011

NOTE

THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE FILE NO. LU 08-102643.

S U P P L E M E N T A R Y P L A T



S U P P L E M E N T A R Y P L A T

SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO CREATE A ONE LOT PARTITION TO ACCOMPLISH A LOT CONSOLIDATION. THE BOUNDARY OF THIS PLAT WAS HELD AS SHOWN ON SN 81643. THE MONUMENTAL MONUMENT WAS SET FROM ORIGINAL SURVEY RECORDS. THE BASIS OF BEARINGS IS THE WEST LINE OF S.E. 65TH AVENUE, AS SHOWN ON THE SURVEY NOTED ABOVE. ALL TIES AND TRAVELSE WERE MADE WITH A GEOMETER 600 TOTAL STATION.

SURVEYOR'S CERTIFICATE

I, THOMAS P. BONHAUER, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LANDS REPRESENTED ON THE ANNEXED PARTITION PLAT, BEING LOTS 3 AND 4, BLOCK 2, SUPPLEMENTARY PLAT OF MANSFIELD, MULTNOMAH COUNTY PLAT RECORDS, SITUATED IN THE NORTHWEST ONE-QUARTER OF SECTION 4, TOWNSHIP 1 SOUTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON. SAID LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE INITIAL POINT WHICH IS A 5/8" INCH DIAMETER IRON ROD WITH A YELLOW PLASTIC CAP MARKED "W.B. WELLS & ASSOC., INC." FOUND AT THE SOUTHEAST CORNER OF SAID LOT 4, AND A POINT ON THE WEST RIGHT OF WAY LINE OF A 60.00 FOOT WIDE ROAD KNOWN AS S.E. 65TH AVENUE, THENCE S89°47'17" W, ALONG THE SOUTH SIDE OF SAID ROAD A DISTANCE OF 100.00 FEET TO THE SOUTHERLY CORNER THEREOF; THENCE N00°00'00" E, ALONG THE WEST LINE OF SAID ROAD A DISTANCE OF 40.13 FEET TO THE WEST CORNER OF SAID LOT 3; THENCE S89°55'10" E, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 100.00 FEET TO THE NORTHEAST CORNER THEREOF; AND A POINT ON SAID WEST RIGHT OF WAY LINE, THENCE S00°00'00" W, ALONG THE EAST LINE OF SAID LOTS 3 AND 4 AND SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 49.07 FEET TO THE INITIAL POINT, CONTAINING 4,993 SQUARE FEET.

I, THOMAS P. BONHAUER, STATE THAT THIS PLAT WAS PREPARED USING HEWLETT-PACKARD PRODUCT 51845A ON OCE NO. 808342 POLYESTER FILM.

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL PARTITION PLAT.



CASE NO. Lu 08-102643 LC
EXHIBIT C 1