



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

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Date: January 14, 2009
To: Interested Person
From: Justin Fallon Dollard, 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 08-141848 LDP

GENERAL INFORMATION

Applicant: Lisa Barker,
Listed Contact LMB Permit Services 360.921.6899
307 NW 16th Avenue
Battleground, WA 98604

Applicant: Susan K Kelly,
2311 NE Thompson St
Portland, OR 97212

Site Address: 6221 SE 46TH AVE

Legal Description: LOT 2 BLOCK 133, WOODSTOCK
Tax Account No.: R928912230
State ID No.: 1S2E18CC 08700
Quarter Section: 3635

Neighborhood: SEU, Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Angie Even at 503-771-9912.

District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.
Plan District: None

Zoning: **R5**, Residential 5,000
Case Type: LDP, Land Division Partion
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

This partition is reviewed through a Type I land use review because: (1) fewer than four lots are proposed; (2) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area; (3) no other concurrent Type I, II, or IIX land use reviews, except Environmental Review, are requested or required; and (4) an Environmental Review is not required (see 33.660.662). 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).

Proposal:

The applicant proposes to divide the existing 10,000 square feet lot into three parcels using the corner lot provision of Chapter 33.110 Single Dwelling Zones. Corner lots required attached housing with front doors facing different streets.

Parcel 1 will measure approximately 4,177 square feet in size, Parcel 2 will measure approximately 2,711 square feet, and Parcel 3 will measure 2,711 square feet. The applicant anticipates dedicating 400 square feet of frontage along SE 46th Ave to the public right-of-way.

Relevant Approval Criteria:

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

- 33.660.120 Approval Criteria for Land Divisions in Open Space and Residential Zones

ANALYSIS

Site and Vicinity: The site is a 10,000 square foot corner lot located at the northwest corner of the intersection of SE 46th Avenue and SE Tolman Street. Development on the site is currently limited to a single family house and a detached garage. Trees on the site include a Giant Sequoia, Port Orford Cedar, and Common Pear. The site has approximately 100 feet of frontage on SE Tolman Street and 100 feet of frontage on SE 46th Avenue. SE Tolman is an unimproved street. SE Tolman Street is classified as a local service street for all modes in the Transportation System Plan. SE 46th Avenue is a fully improved street and is classified in the Transportation System Plan as the following: Neighborhood Collector Street; Transit Access Street; City Bikeway; City Walkway; Minor Truck Street; Minor Emergency Response and a Local Service Street.

The surrounding vicinity is predominately single-dwelling houses and most lots are between 5,000 and 10,000 square feet in area. There is a school located two blocks south of the site.

Zoning: The **R5** zone is a single-dwelling zone allowing maximum density of 1 unit per 5,000 square feet of site area. Housing types are limited in the single-dwelling zones to maintain the overall image and character of the City's single-dwelling neighborhoods. However, the regulations allow options to increase housing variety and opportunities, and to promote affordable and energy efficient 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 **August 11, 2008**. 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:

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 11, 2008**. A total of 12 written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. *See Exhibits F1 – F13.* **The primary issue among the responses to this proposal is the preservation of a Giant Sequoia tree (*Sequoiadendron giganteum*).**

Staff Response:

The applicant and BDS review staff have worked with PDOT and Urban Forestry to coordinate on the protection and preservation of the Giant Sequoia tree for any frontage improvements and future development. Conditions of Approval C-5 and D-1 below ensure that the applicant submits a Tree Preservation Plan at the time of Final Plat; that the Giant

Sequoia must be preserved; and that the Tree Preservation Plan must be followed as part of the permitting of any public right-of-way improvements along SE 46th Avenue or development of Parcel 3. *See findings below for additional information.*

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

Minimum = (10,000 square feet * .80) ÷ 5,000 square feet = 1.6 (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = 10,000 square feet ÷ 5,000 square feet = 2 lots.

The applicant is proposing 3 parcels, which exceeds the maximum density normally allowed for the site. However, Parcels 2 and 3 are proposed for attached houses under the provision in 33.110.240.E, which allows one extra unit in conjunction with attached houses on corner lots. Therefore, an additional lot is allowed provided Parcels 2 and 3 are developed with attached houses. *With a condition of approval limiting the development on Parcels 2 and 3 to attached houses, the density standards are met.*

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	3,000 sq ft.	4,177 sq ft.	2,711 sq ft.	2,711 sq ft.
Maximum Lot Area	8,500 sq. ft.			
Minimum Lot Width*	36 ft.	43.51 ft.	48 ft.	48 ft.
Minimum Lot Depth	50 ft.	96 ft.	56 ft.	56 ft.
Minimum Front Lot Line	30 ft.	43 ft	48 ft.	48 ft.

* Width is measured at the minimum front building setback line

Parcels 2 and 3 are smaller than would normally be allowed in the R5 zone. As described above, these lots are being created through a provision that allows attached houses on corner lots. To use this provision, the original corner lot, before division must meet the minimum lot size standard of the R5 zone. Taken together (before the division), Parcels 2 and 3 combined are 5,422 square feet in area, which exceeds the minimum requirement of 3,000 square feet in the R5 zone. Therefore, the corner lot may be divided to create Parcels 2 and 3 as proposed.

The findings above describe how the applicable lot standards are met. *With the conditions of approval described above, 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's report that inventories the trees within the land division site and evaluates their condition. Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Giant Sequoia, <i>Sequoiadendron giganteum</i>	58	YES	NO	YES	58 feet
2	Common Pear, <i>Pyrus communis</i>	10	NO	YES	NO	10 feet
3	Port Orford Cedar, <i>Chamaecyparis lawsoniana</i>	21	YES	NO	YES	21 feet

The total non-exempt tree diameter on the site is 79 inches. The applicant proposes to preserve trees 1 and 3, which comprise of 79 inches of diameter, or 100 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.

This criterion is met, subject to a Tree Preservation Plan, based on the arborist's report (Exhibit A-2) and prepared in conformance with Section 33.630.200.B., which must be submitted at the time of Final Plat application.

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 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. Trees required to be preserved will be protected based on a Tree Preservation Plan to be submitted at the time of Final Plat application and all development must comply with this Tree Preservation Plan as a condition of approval. *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 100 feet of frontage on SE Tolman Street and 100 feet of frontage on SE 46th Avenue. SE Tolman Street is classified as a local service street for all modes in the Transportation System Plan. SE 46th Avenue is classified in the Transportation System Plan as the following Neighborhood Collector Street; Transit Access Street; City Bikeway; City Walkway; Minor Truck Street; Minor Emergency Response and a Local Service Street.

Tri-Met provides transit service directly adjacent the site on SE 46th Avenue via Route 75. Route 75 offers 20-minute peak hour service to and from the site. Therefore, no off-street parking is required to serve existing or future development. Parking is currently allowed on both sides of SE Tolman Street and SE 46th Avenue. There is one driveway entering the site that provides access to off-street parking for the existing house.

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. *See Exhibit E-2 for PDOT analysis and additional details.* In this case Portland Transportation has determined that frontage improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development:

SE 46th Ave consists of a right-of-way configuration which provides a 44-foot wide paved roadway surface within a 60-foot wide right-of-way at this location. The

recommended City Standards for roadway width supporting parking in both directions as classified above is met. The existing pedestrian corridor on SE 46th Ave is listed as 8-feet wide, supporting a 7-foot wide curb tight sidewalk with a 1-foot buffer located at the back of sidewalk. The Portland Pedestrian Design Guide recommends a corridor width of 12-feet wide, supporting a 6-foot wide sidewalk separated from the curb by a 4-foot wide planter strip and a 1.5-foot wide buffer located at back of sidewalk. The recommended pedestrian corridor standard is not met along this frontage. Additionally, it is noted that there is a large Sequoia tree that is located roughly mid-way along the SE 46th Ave frontage of the subject properties location. With the required 4-foot dedication along this frontage, and based on information provided by other City Bureaus, the tree will ultimately be located (in part or completely) within the newly established public right-of-way.

Transportation Development Review fully supports and encourages the preservation of this tree (*See Exhibit E-2*).

As a condition of final plat approval, a 4-foot dedication along the SE 46th Ave frontage will be required in order to provide the recommended standards outlined above.

Improvements required along SE 46th Ave include the reconstruction of the existing pedestrian corridor configuration to meet the Portland design Guide recommendations as outlined above. In support of the above mentioned Sequoia tree preservation, the sidewalk reconstruction should be designed to taper around and conform to the tree location for a distance that is to be determined by the City Forester. The existing 7-foot wide curb tight sidewalk may be retained at the tree's frontage location for the distance determined as necessary for its preservation by the City Forester. The reconstructed sidewalk corridor to the north and south of the subject tree is to be designed in a manner that effectively ties-in with the retained curb tight sidewalk.

SE Tolman Street consists of unimproved roadway within a 60-foot right-of-way with no curb or sidewalk in place at this location's frontage. The recommended paved roadway width for R5 zoning with parking in both directions and as classified above is 26-feet wide. The Portland Pedestrian Design Guide standard for locations as classified above recommends an 11-foot wide pedestrian corridor. Additionally, the recommended configuration provides a 6-foot wide sidewalk separated from the curb by an 8-foot wide planter/swale (in lieu of the typical 4-foot wide planter design for the purpose of meeting BES stormwater management requirements) with a 0.5 foot wide buffer zone located at the back of sidewalk. These recommended improvements are not met along the SE Tolman Street frontage at this location.

Dedication on SE Tolman Street will not be required to meet the above recommended improvements.

Standard half-street improvements along SE Tolman Street will be required. Face of curb is to be located 14-feet from the right-of-way centerline. 20-feet of paved roadway surface width extending to the edge of the new curb will be required. Pedestrian corridor improvements will be required as outlined above (with the additional right-of-way located at the back of sidewalk in the buffer zone). In addition to the above improvements, the corner pedestrian corridor improvements must accommodate ADA ramp requirements. Landscape, street lights and street signs will be required as needed.

As a condition of final plat approval, improvements must be constructed under a separate street job permit to City standards per the requirements of the City Engineer. A bond and contract ensuring that these improvements will be completed must be provided prior to final plat approval.

With these improvements described above, two additional dwellings can be safely served by the existing streets without having significant impact on the level of service provided.

This criterion is met, with the condition that frontage improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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. An existing 8 inch water main is available in SE 46th Avenue. Parcel 1 has an existing water service from that main. Water is available to serve the proposed development in Parcel 3 from the water main in SE 46th Avenue. *See Exhibit E-3 for more details.*

The applicant will need to purchase a separate metered water service for parcel 3. Service will be sized during building permit application with fees added directly to the building permit.

Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement

Water is currently not available to Parcel 2 as there is no water main in SE Tolman Street. At the applicant's expense the Water Bureau would extend a water main in SE Tolman Street to a point at least five feet past the east property line of Parcel 2. *As a condition of approval, fees to extend the main must be paid in SE Tolman Street must be paid prior to the release of the Final Plat.*

- The sanitary sewer standards of 33.652 have been verified. There is an existing 8 inch VSP public combination sewer in SE 46th Ave that currently serves the needs of the existing house on proposed Parcel 1 by means of an existing branch located approximately 140 feet south of the downstream manhole located in SE Carlton St. This sewer dead ends approximately 142 feet south of SE Carlton St in SE 46th Ave. There is an existing 12 inch VSP public combination sewer located in SE Tolman St. There is an available branch located approximately 168 feet from the downstream manhole in SE Tolman St that could serve the needs of proposed Parcel 2. A new service branch to the main line in SE Tolman St. will be required to be constructed to serve future development on proposed Parcel 3 at the applicant's or owner's expense. Each lot must be shown to have a means of access and individual connection to the public sanitary sewer, as approved by BES. *To ensure that size and setback requirements are met, a Supplemental Plan with specific information regarding building locations, building footprints and location of sanitary sewer connections and stormwater management facilities shall be provided prior to preliminary plat approval. 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. This is a corner lot location which meets the above criteria for adequate distances between connections. Additional Connectivity is not required at this location. The site therefore meets the through street and pedestrian connectivity requirements. *As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or 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 (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the SE 46th Avenue and SE Tolman Street frontages of the site to City standards (discussed earlier in this report). A new sidewalk is required for SE 46th Avenue, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual. SE Tolman will require a 8 feet wide stormwater swale between the curb and the sidewalk. *As a condition of final plat approval the above stormwater management facilities must be constructed under separate permit. A bond and contract ensuring that these improvements will be completed must be provided prior to final plat approval.*
- Parcels 2 & 3:** Stormwater from these lots 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. Site Development has indicated conceptual approval of the drywells. Drywells may not be located any closer than 10 feet to any structures and 5 feet to any property lines, as measured from the middle of the facility. *To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval.*

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground and 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. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of Site Development and obtain finalized plumbing permits for the modifications 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:

- Attached Houses on Corner Lots-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E. The address and main entrance of each house must be oriented to a separate street frontage. Development on Parcel 2 must be oriented toward the SE Tolman Street and development on Parcel 3 must be oriented toward SE 46th Avenue.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there two 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 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.

- **Required Off-Street Parking** - A garage provides parking for the existing house on Parcel 1. As a result of this land partition, the parking space for the existing house will be located on a different parcel, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service directly adjacent the site on SE 46th Avenue via bus route 75. Bus route 75 provides peak-hour service meeting this requirement. As a result, no replacement parking is required 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.

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.

Urban Forestry

City code Title 20.40 requires a street tree review for new construction projects, improvements to existing structures that exceed \$25,000 in value and to all land divisions. The requirement listed below are based on the standards of Title 20:

1. SE 46th: The existing street configuration consists of an improved roadway with a curb-tight-sidewalk. The Bureau of Transportation is going to require street improvements to include a sidewalk separated by a 4 ft planting strip. Street trees will be required to be planted with the sidewalk permit. Street trees will be required adjacent to Parcel # 1 before final plat approval. Street trees for Parcel # 2 and Parcel # 3 will be reviewed during building permit application.

2. SE Tolman:The existing street configuration consists of an unimproved roadway with no curbs or sidewalks. The Bureau of Transportation is going to require street improvements to include a curb and sidewalk separated by a storm water swale. Street trees will be required to be planted with the street improvement.

3. Existing Tree: There is a large Sequoia (tree located adjacent to Parcel # 3. With the street dedication required by The Bureau of Transportation the tree will be in the City right-of-way. Urban Forestry also notes that: *The tree is an asset to the community and should be protected and preserved. It is recommended that adjustments be made to the proposed right-of-way configuration on SE 46th to minimize construction trauma to the root system of the tree.*

BDS Life Safety Review

1. General Requirements: A separate Building Permit is required when the addition or alteration of a property line leaves a non-exempt structure, building or portions thereof located as described below in item # 2. The work must then be designed to meet all applicable building codes, ordinances or accepted engineering practices. More information regarding building code requirements can be obtained by visiting the Bureau of Development Services Development Services Center -1900 SW 4th Ave, 1st floor, between the hours of 7:30 AM and 3:00 PM Monday through Friday and also 5:00 PM to 7:30 PM Thursday evening (no appointment necessary.) Building Code information is also available online at: <http://www.portlandonline.com/bds/>, or by calling (503) 823-1456

2. 1 & 2 Family Code: Exterior wall and opening protection - Exterior walls less than three feet to a property line shall be one-hour fire-rated construction with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. ORSC R302.1

PDOT

The Title 17 driveway requirements will be enforced during the review of building permits. Curb cuts and driveway construction must meet the requirements in Section 17.28. It is also noted that this location is within 500-feet of a Tri-met stop. Though on-site parking may not be required; if it is incorporated into Parcel 3 the curb cut will need to be located a minimum distance of 25-feet from the corner property line. Additionally, due to the high classification of SE 46th Ave, on-site parking (if provided) is to be accessed from the SE Tolman Street frontage unless otherwise approved by the City Engineer.

CONCLUSIONS

The applicant has proposed a partition of an existing corner lot of record into 3 parcels 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 concerned preservation of a Giant Sequoia (*Sequoiadendron giganteum*) tree adjacent SE 46th Avenue on the proposed Parcel 3.

The applicant and BDS review staff have worked with PDOT and Urban Forestry to coordinate on the protection and preservation of the tree for any frontage improvements and future development. Conditions of Approval C-5 and D-1 below ensure that the applicant submits a Tree Preservation Plan at the time of Final Plat; that the Giant Sequoia must be preserved; and that the Tree Preservation Plan must be followed as part of the permitting of any public right-of-way improvements along SE 46th Avenue or development of Parcel 3.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition that will result in a standard single dwelling lot and two corner lots with attached housing, as illustrated with Exhibit 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 for BDS Land Use, BES, and BDS Site Development review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Root protection zones mapped by a certified arborist
- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- The proposed general location of all utilities and the water main extension in SE Tolman Street.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 46th Avenue. The required right-of-way dedication must be shown on the final plat.

C. 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 frontages of SE 46th Avenue and SE Tolman Street. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant must receive approval of proposed driveway locations by Bureau of Transportation Engineering and Development Review as depicted on the Supplemental Plan.

Utilities

3. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE Tolman Street.

Existing Development

4. 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.
5. The applicant must plant street tree(s) in the planter strip on SE 46th Avenue and SE Tolman Street adjacent to parcels 1, 2 and 3. Street trees will be chosen from the City's approved street tree list. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.

Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

Other requirements

6. A Tree Preservation Plan with a mapped Root Protection Zones, based on the applicant's arborist report (Exhibit A-2) and prepared in conformance with Section 33.630.200.B., which must be submitted at the time of Final Plat application.

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

1. Development on Parcels 1, 2, & 3 shall be in conformance with a Tree Preservation Plan that must be submitted at the time of Final Plat application and the applicant's arborist report (Exhibit A-2). Specifically, trees numbered 1 and 3 are required to be preserved, with the root protection zones clearly identified on the Tree Preservation Plan and the Supplemental Plan. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist.
2. A root inspection and consultation by the City of Portland Urban Forestry must occur before excavation and construction improvements for SE 46th. Please call the City Forester at 503-823-4018 for additional information.
3. Parcels 2 and 3 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.
4. No site clearing and grading or development is allowed until a root inspection is conducted by a certified arborist and fencing is installed.

Decision rendered by:  **on January 9, 2009**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 14, 2009

Staff Planner: Justin Fallon Dollard

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 June 30, 2008, and was determined to be complete on August 7, 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 June 30, 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 extended 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.

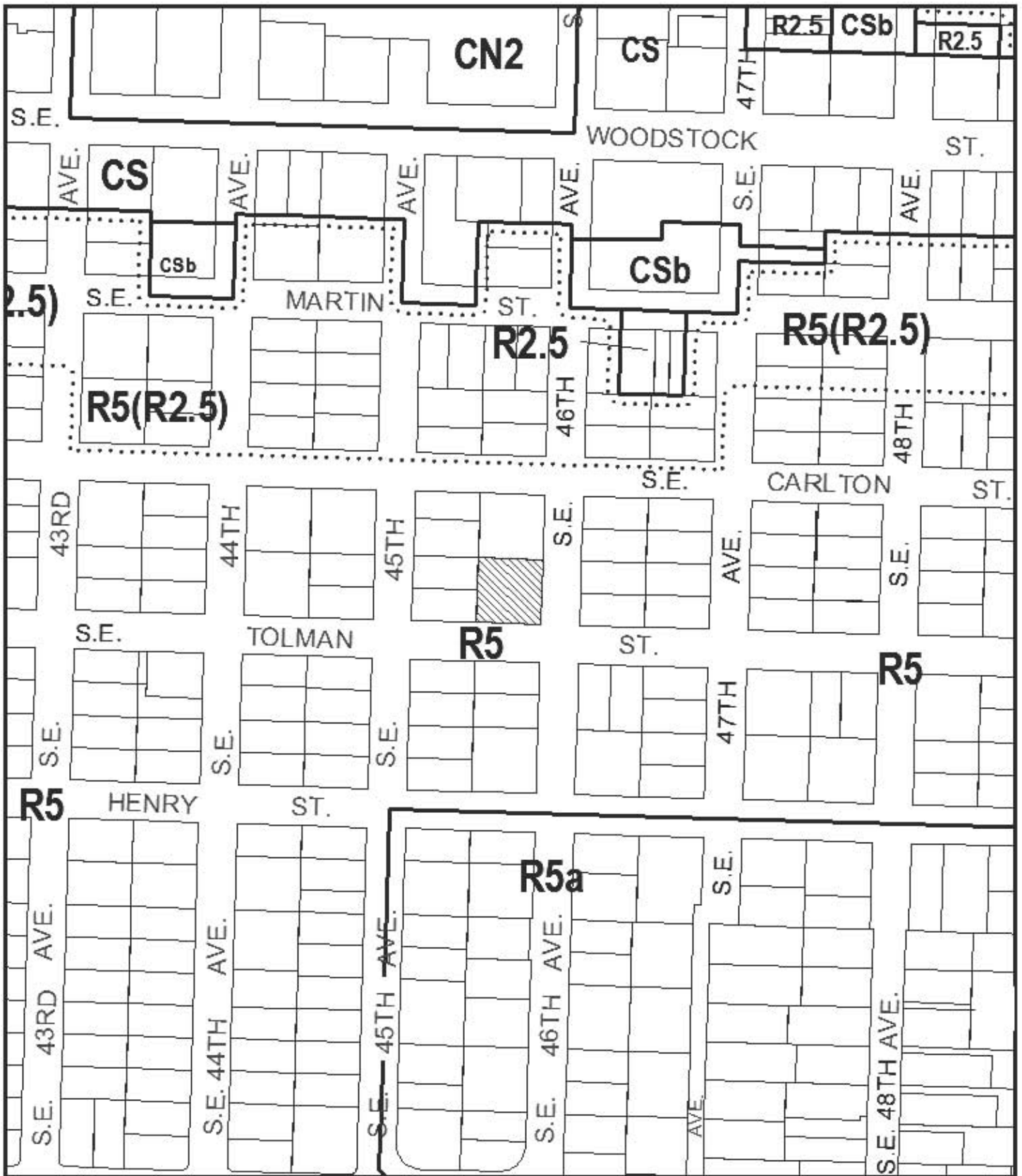
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information 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 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 Information
 - 1. Applicant's Statement
 - 2. Arborist's Report
 - 3. Title Report
 - 4. Applicant's Request to Extend 120-Day Review Period
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat Plan (attached)
 - 2. Preliminary Development Plan (attached)
 - 3. Existing Conditions Plan
- 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 Review Section of BDS
- F. Correspondence:
 - 1. Beth Jacob-Flies, 9/5/08, concern about preservation of Giant Sequoia tree.
 - 2. Dr. Matt Flies, 9/5/08, concern about preservation of Giant Sequoia tree.
 - 3. Kathryn King, Chair, Woodstock Neighborhood Association, 9/9/08, concern about preservation of Giant Sequoia tree.
 - 4. Hunter Benson, 9/9/08, concern about preservation of Giant Sequoia tree.
 - 5. Mark Verna, 9/9/08, concern about preservation of Giant Sequoia tree.
 - 6. Litta Buttolph, 9/9/08, concern about preservation of Giant Sequoia tree.
 - 7. Chris Dorn, 9/9/08, concern about preservation of Giant Sequoia tree.
 - 8. Renée Ketel, 9/9/08, concern about preservation of Giant Sequoia tree.
 - 9. Robyn Alper, 9/10/08, concern about preservation of Giant Sequoia tree.
 - 10. Seth Weber, 9/10/08, concern about preservation of Giant Sequoia tree.
 - 11. Ben Osterberg, 9/10/08, concern about preservation of Giant Sequoia tree.
 - 12. Laura Johnson, 9/11/08, concern about preservation of Giant Sequoia tree.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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

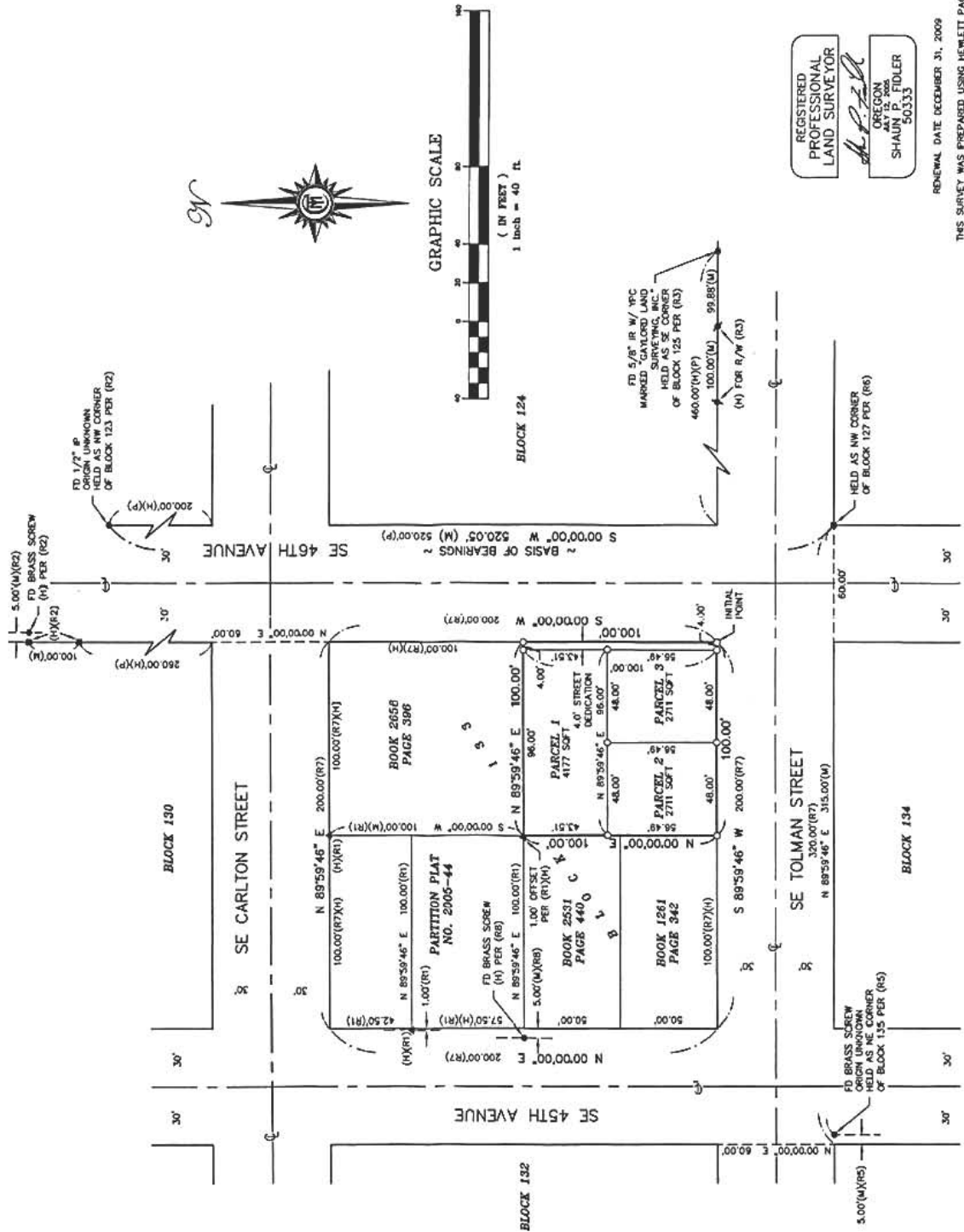


File No. LU 08-141848 LDP
 1/4 Section 3635
 Scale 1 inch = 200 feet
 State_Id 1S2E18CC 8700
 Exhibit B (Jul 03,2008)

PARTITION PLAT NO.

A REPLAT OF LOT 2, BLOCK 133, "WOODSTOCK" LOCATED IN THE SW 1/4 OF SECTION 18, TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M., CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON.

DATE: MAY 15, 2008
 SURVEYED FOR: SHEILA ROLLY DESIGN
 ADDRESS:



GRAPHIC SCALE
 (IN FEET)
 1 inch = 40 ft.

REFERENCES

- R1 PARTITION PLAT 2005-44
- R2 PARTITION PLAT 2003-47
- R3 PARTITION PLAT 2000-57
- R4 PARTITION PLAT 1999-115
- R5 PARTITION PLAT 2009-112
- R6 SN 51993
- R7 "SECOND AMENDED PLAT OF WOODSTOCK"
- R8 SN 3551
- R9 SN 3721

LEGEND

- FOUND MONUMENT AS NOTED
- FOUND 5/8" IR W/ RPC STAMPED "CENTERLINE CONCEPTS INC."
- ▲ FOUND 5/8" IR W/ YPC STAMPED "MARK & ASSOC'S"
- FOUND 5/8" IR W/ YPC STAMPED "WEB, HELLS & ASSOC., INC."
- SET 5/8" x 30" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "CUT PLS 50033"
- SN = MULTNOMAH COUNTY SURVEY #
- IP = IRON PIPE
- IR = IRON ROD
- FD = FOUND
- (H) = HELD
- (R) = REFERENCE NUMBER OR SURVEY NUMBER
- YPC = YELLOW PLASTIC CAP
- W/ = WITH
- SOFT = SQUARE FEET

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
Shaun P. Fidler
 OREGON
 MAY 12, 2008
 SHAUN P. FIDLER
 503333

RENEWAL DATE: DECEMBER 31, 2009
 THIS SURVEY WAS PREPARED USING METELET PAK3.600
 PRODUCT NO. 46444 ON MILANO MINUAR PCNAME

LU08-141848 LDP
 CONSTRUCTION
 MAPPING TEAM

5125 SW MACADAM AVE
 SUITE 140 PORTLAND, OR 97239
 PHONE 503-274-9635 FAX 503-238-2447
 Z:\228-005\dmj\228005PART.dwg

LU-08-141848 LDP

GN



SCALE 1" = 20'

- ① SANITARY MANHOLE
RIM EL. - 246.03'
I.E. IN (E) - 234.7' (12")
I.E. IN (N) - 235.0' (12")
I.E. OUT (W) - 234.6' (12")
- ② SANITARY MANHOLE
RIM EL. - 249.74'
I.E. IN (S) - 240.1' (12")
I.E. IN (E) - 236.3' (12")
I.E. OUT (W) - 236.2' (12")
- ③ SANITARY MANHOLE
RIM EL. - 248.83'
I.E. IN (S) - 237.7' (12")
I.E. IN (E) - 237.5' (12")
I.E. IN (N) - 237.5' (12")
I.E. OUT (W) - 237.4' (12")
- ① STORM MANHOLE
RIM EL. - 249.04'
I.E. IN (S) - 241.8' (12")
(SUMP)
- ② STORM MANHOLE
RIM EL. - 248.16'
I.E. IN (E) - 243.2' (12")
I.E. IN (W) - 243.3' (12")
I.E. OUT (N) - (COVERED PIPE)

- PROPOSED DRAINWELL
- PROPOSED WATER
- PROPOSED SEWER
- EXISTING DECIDUOUS TREE
- EXISTING CONIFEROUS TREE
- EXISTING TELEPHONE MANHOLE
- EXISTING POWER POLE
- EXISTING POWER LINES
- EXISTING WATER SPOUT
- EXISTING WATER METER
- EXISTING WATER VALVE
- EXISTING UNDERGROUND WATER
- EXISTING UNDERGROUND GAS LINE
- EXISTING CATCH BASIN
- EXISTING SANITARY MANHOLE
- EXISTING SANITARY SEWER LINE
- EXISTING STORM SEWER LINE
- EXISTING FENCE
- EXISTING CABLE TV LINE
- FOUND MONUMENTS
- LOCAL BENCHMARK ESTABLISHED
- EXISTING GRAVEL
- EXISTING CONCRETE
- EXISTING ASPHALT

CONCEPTUAL BUILDING PLAN
PRELIM DEVELOPMENT PLAN

6221 SE 46TH AVE

SW 1/4 SEC 18, T1S, R2E, W.M.

CITY OF PORTLAND

MULTNOMAH COUNTY, OREGON

JUNE 2, 2008

DRAWN: DMR CHECKED: SPF

SCALE 1"=20' ACCOUNT # 353

Z:\228-006\DWG\228006BASE

CONSTRUCTION

MAPPING TEAM

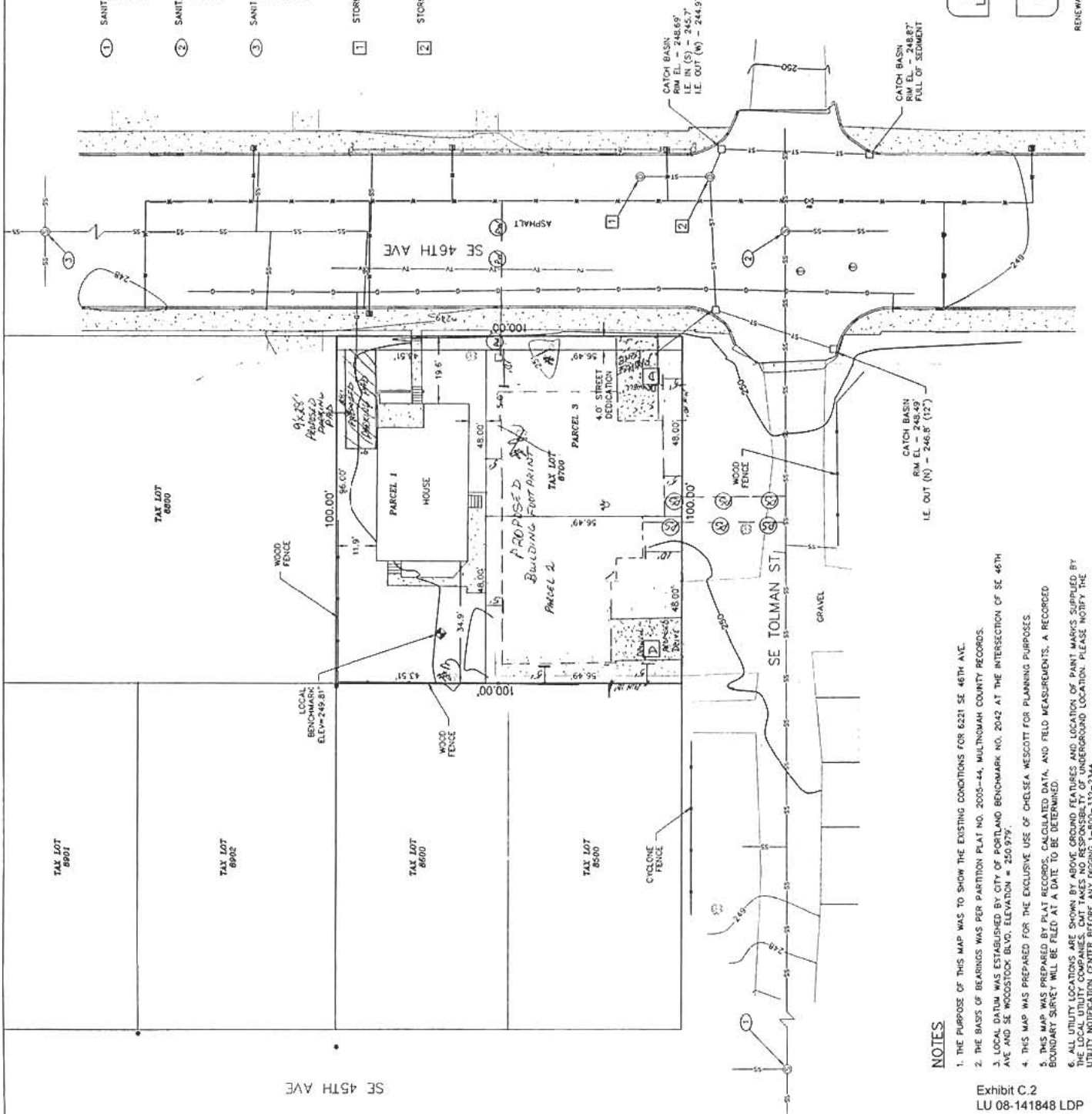


5125 SW MACADAM AVE
SUITE 140 PORTLAND, OR 97239
PHONE 503-274-9535 FAX 503-238-2447

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 15, 2003
SHAUN A. FIDLER
300333

RENEWAL DATE: DECEMBER 31, 2009



NOTES

1. THE PURPOSE OF THIS MAP WAS TO SHOW THE EXISTING CONDITIONS FOR 6221 SE 46TH AVE.
2. THE BASIS OF BEARINGS WAS PER PARTITION PLAT NO. 2005-44, MULTNOMAH COUNTY RECORDS.
3. LOCAL DATUM WAS ESTABLISHED BY CITY OF PORTLAND BENCHMARK NO. 2042 AT THE INTERSECTION OF SE 46TH AVE AND SE WOODSTOCK BLVD. ELEVATION = 250.979'.
4. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF CHELSEA WESCOTT FOR PLANNING PURPOSES.
5. THIS MAP WAS PREPARED BY PLAT RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS. A RECORDED BOUNDARY SURVEY WILL BE FILED AT A DATE TO BE DETERMINED.
6. ALL UTILITY LOCATIONS ARE SHOWN BY ABOVE GROUND FEATURES AND LOCATION OF PAINT MARKS SUPPLIED BY THE LOCAL UTILITY COMPANIES. CMT TAKES NO RESPONSIBILITY OF UNDERGROUND LOCATION. PLEASE NOTIFY THE UTILITY NOTIFICATION CENTER BEFORE ANY DIGGING 1-800-332-2344.