



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: March 27, 2009
To: Interested Person
From: Mark Bello, 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 07-170582 LDP

GENERAL INFORMATION

Owner/Applicant	Surveyor
Vasiliy Minko 3922 NE 108th Pl Portland, OR 97220	Richard Lathrop Boundary Locaters 8124 SE Taylor Ct Portland OR 97215

Site Address: 10532 NE MORRIS ST

Legal Description: TL 4400 0.51 ACRES, SECTION 27 1N 2E
Tax Account No.: R942270990 **State ID No.:** 1N2E27BC 04400
Quarter Section: 2741
Neighborhood: Parkrose Heights, contact Carol Williams at 503-255-9596..
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Zoning: R7 Residential 7,000
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 is proposing to divide the existing 22,340 square-foot property into 2 parcels. Parcel 1 is proposed to be 11,300 square feet in area and will retain the existing residence. Parcel 2 is proposed to be a flag lot - 11,040 square feet in area. Parcel 2 will be available for construction of a detached house. Stormwater for proposed parcel 2 will occur on-site through infiltration. The applicant proposes to meet their tree preservation requirements through the preservation of four trees.

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:

The relevant criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

ANALYSIS

Site and Vicinity: The site is a 22,340 square foot lot with an existing residence and garage. The site is relatively flat with a slight slope toward the west on the northerly portion of the lot. Areas to the north, south, east and west of the site are zoned R7. The surrounding area has a combination of older homes on originally platted lots as well as recent land partitions in all directions in the vicinity of the site. A number of properties in the immediate neighborhood have been redeveloped with flag-lots similar to the current proposal. The site and surrounding area contain coniferous and deciduous mature vegetation.

Zoning: The R7 designation is one of the City's single-dwelling zones, which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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 **April 23, 2008**.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E 1-7 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.

Criterion	Code Chapter	Topic	Applicability Findings
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.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	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:

Maximum = 22,340 square feet ÷ 7,000 square feet = 3.19 (which rounds down to a maximum of 3 lots, per 33.930.020.B)

Minimum = (22,340 square feet * .80) ÷ 7,000 square feet = 2.55 (which rounds up to a minimum of 3 lots, per 33.930.020.A). However, if the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically

reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 2.

The applicant is proposing 2 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 dimensions of the proposed lots as compared to the required lot dimension standards are shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R7 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	4,200 sq. ft.	11,300	11,040
Maximum Lot Area	12,000 sq. ft.		
Minimum Lot Width*	40 ft.	61.3	
Minimum Lot Depth	55 ft.	184.25	
Minimum Front Lot Line	30 ft.	61.3	
Minimum Flag Lot Width**	40 ft.		73.25
Minimum Flag Lot Depth**	40 ft.		120.5

* Width is measured at the minimum front building setback line

** For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

Flag Lots

Parcel 2 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located 7.6 feet from the east property line and 42 feet from the west property line, which would preclude the creation of a lot that would meet the minimum width standard of the R7 zone of 40 feet and 5-foot setback required for the existing house. Two lots are proposed. As discussed above, minimum density has been met. The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet. Therefore, Parcel 2 is allowed.

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 report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). 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 14 trees on the site. Please see the table in the Arborist Report (Exhibit A-2).

The total non-exempt tree diameter on the site is 214 inches. The applicant proposes to preserve trees 742, 745, 746 and 748, which comprise of 75 inches of diameter, or 35 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-2). With a condition of approval that requires tree preservation, this criterion can be met.

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. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

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. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new lots can be considered suitable for new development, and 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 73 feet of frontage on NE Morris Street. NE Morris Street is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 1,000 feet from the site at the corner of NE 102nd Ave and NE Morris Street via bus #15 and 22. Parking is currently allowed on NE Morris Street, on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

NE Morris Street is improved with a paved roadway, and a gravel parking lane on both sides. There are no curbs, planter strips, or sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

This criterion is met, with the condition that the required waivers are signed prior to final plat approval.

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 NE Morris Street. Water is available to serve the proposed development from the water main in NE Morris Street. If needed, the applicant must make arrangements to relocate water main in NE Morris Street to ensure service is available to Parcel 1 and 2. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in NE Morris Street that can serve the sanitary needs of the proposed lots. A revised preliminary plan/site plan shows the location of the sewer lateral to the satisfaction of the Bureau of Environmental Services. The sewer line for the existing house has been shown in a location that appears to correspond to permit #910581, dated 2/19/91, and does not cross the new property line.

See Exhibits E-1 and E-5 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.

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). Development confirms that the approval criterion for stormwater management on the individual lots can be met using on-site infiltration. However, infiltration testing may be required at the time of permit review to determine system design and sizing requirements.

- **Parcel 1 (the lot with the existing house):** Installation of a soakage trench on Parcel 1 to retrofit the stormwater system for the existing house is conceptually acceptable; final approval of a plumbing permit will be required prior to final plat approval and the as-built location of the system must be shown on a supplemental plan after the required inspections are approved and the permit is finalized. All gutters and downspouts must be

repaired/replaced so they are in good working order, and shall be connected to the new stormwater management facilities.

- **Parcel 2:** The conceptual plan to use a soakage trench for new development on Parcel 2 is acceptable. Site Development has reviewed the updated Preliminary Site Plan prepared by Tallman Engineering received on March 23, 2009. The proposed typical driveway section showing a 2-foot wide centered grass filter strip is acceptable. Prior to final plat approval, conceptual building footprint and driveway locations should be shown on a supplemental plan along with the proposed soakage trench and required tree protection areas to confirm that setback requirements and tree preservation requirements can be met; any structures on adjacent property within 5 feet of the property line must be shown to confirm that minimum soakage trench setback requirements of 10 feet to structures and 5 feet to property lines can be met.

With the conditions of approval described above, the stormwater management criteria are not met. As shown by the findings above, the Services and Utilities criteria are not met.

Right of Way Approval Criteria

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. The following table summarizes the applicable criteria.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.130.A	Utilities	Applicable - See findings below.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. **Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. **Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. **Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**

- d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
- e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: The site is located between NE 102 Avenue and NE 108th Avenue, which have a distance between them of approximately 1,550 feet. There are no other north/south through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 200 - 530 feet, one can conclude that there should be a north-south through street provided in the vicinity of the site. Transportation notes that a north-south connection is not practical at this location due to configuration of the adjacent property to the south. Therefore, this criterion is met.

33.654.130 Additional Approval Criteria for Rights-of-Way

- A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.**

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the proposed 50-foot width of the right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones. Notably, only the area of the flag portion of a flag lot is considered when calculating building coverage (33.110.240.F).

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 R7 zone (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 40 feet from the new property line between Parcel 1 and Parcel 2. 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.
- Accessory Structure – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structure that straddles the north-south line between proposed Parcels 1 and 2 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Parking – Parking is required for each parcel. Parking development standards are contained in Chapter 33.266 of the Zoning Code.

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.

- The applicant must meet the requirements of the Fire Bureau in regards to flag lot access and addressing requirements. These requirements are based on the technical standards of Title 31 and the Fire Code.

CONCLUSIONS

The applicant has proposed a 2-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: decommissioning an old septic system, stormwater management for proposed flag pole and location of the sanitary sewer lateral for existing residence on Parcel 1.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-lot partition that will result in a new flag lot behind a lot with an existing house, 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. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- New vehicle areas to be provided;
- The as-built location of the new subsurface stormwater management retrofit facilities for the existing house on Parcel 1 shall be shown on a supplemental plan after required inspections are approved and permits are finalized, unless otherwise approved by Site Development.
- The conceptual building and development footprint, proposed stormwater management facilities, utilities, and required tree protection areas on Parcel 2 shall be shown on a supplemental plan prior to final plat approval.
- 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 sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.

Existing Development

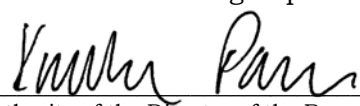
2. The applicant must obtain a finalized demolition permit for removing the garage on Parcels 1 and 2.
3. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. The new parking space must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify parking requirements may be submitted at the Development Services Center. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.
4. Prior to final plat approval, the applicant must obtain final approval of a permit for decommissioning the on-site sewage disposal system for the existing house.
5. Prior to final plat approval, final approval of a plumbing permit to install rain drains and a soakage trench or an equivalent acceptable stormwater system retrofit for the existing house on Parcel 1 shall be required.

6. Prior to final plat approval and the as-built location(s) of new subsurface stormwater system retrofit facilities for the existing house on Parcel 1 shall be shown on a supplemental plan after required inspections are approved and the required permit is finalized, unless otherwise approved by Site Development.

Other requirements

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-2). Specifically, trees numbered 742, 745, 746 and 748 are required to be preserved, with the root protection zones indicated on Exhibit C-2. 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. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot.

Decision rendered by:  **on (March 25, 2009.)**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) March 27, 2009

Staff Planner: Mark Bello

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 October 18, 2007, and was determined to be complete on April 14, 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 October 18, 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 waived the 120-day review period (Exhibit G-4).

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.

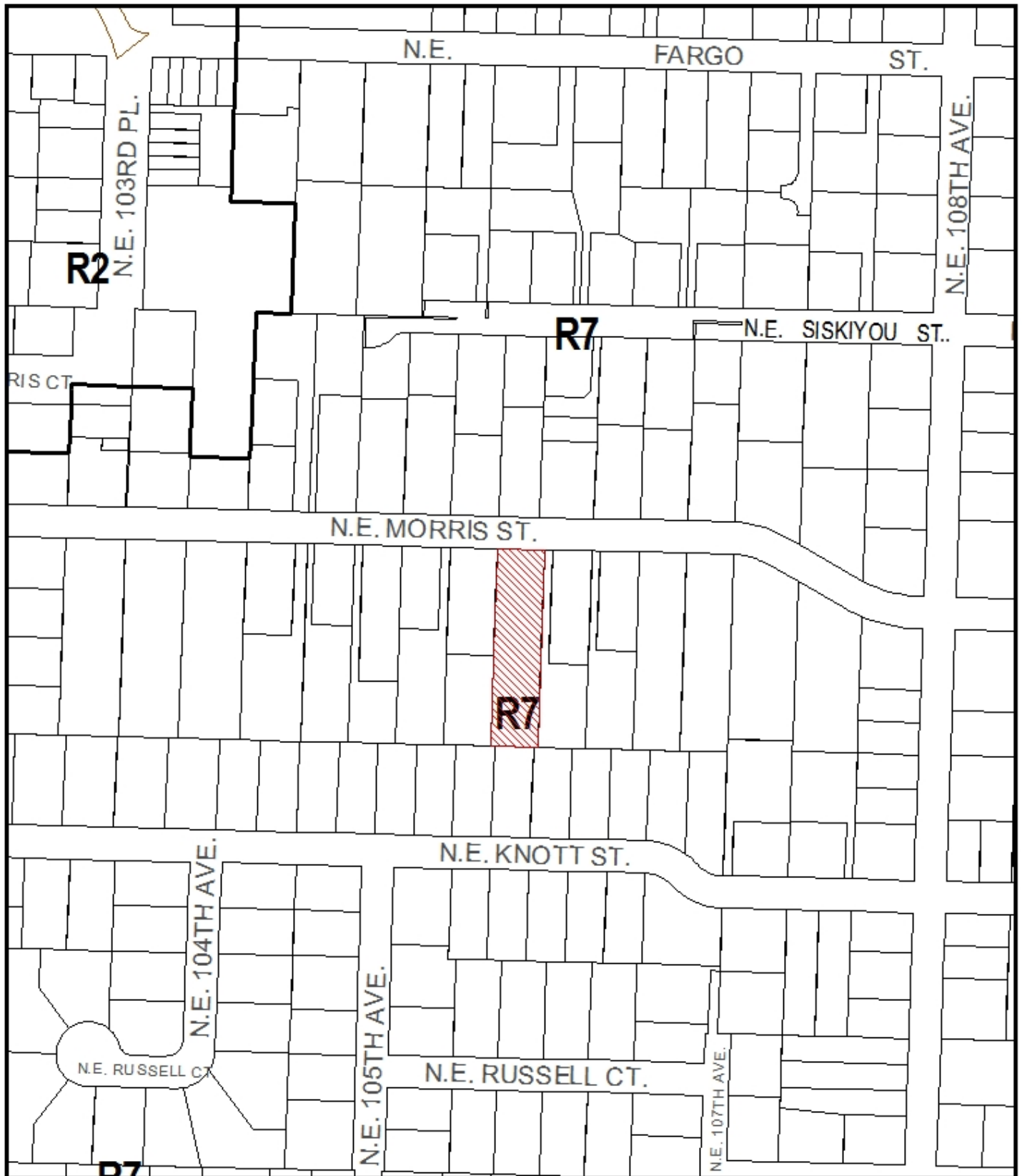
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Statement
 - 1. Project Narrative
 - 2. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Tree Plan (attached)
 - 3. Stormwater Facility Sizing Calculations, submitted March 23, 2009
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services, May 16, 2008
 - 1.2 Bureau of Environmental Services, October 24, 2008
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5.1 Site Development Review Section of BDS, May 14, 2008
 - 5.2 Site Development Review Section of BDS, March 24, 2009
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter
 - 4. Vasily Minko, response to Incomplete letter, requesting review timeline extension.

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

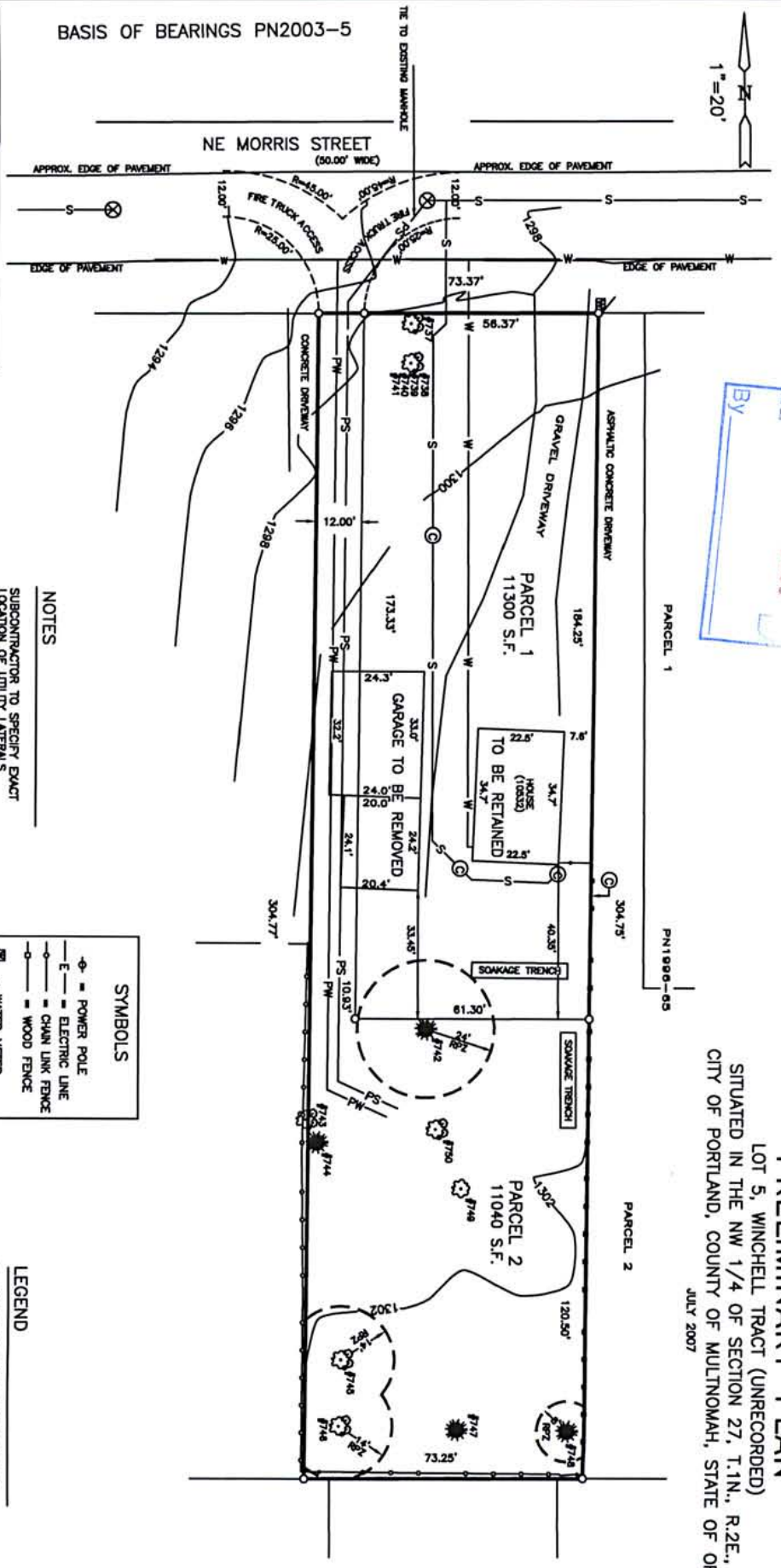


File No. LU 07-170582 LDP
 1/4 Section 2741
 Scale 1 inch = 200 feet
 State_Id 1N2E27BC 4400
 Exhibit B (Nov 06,2007)

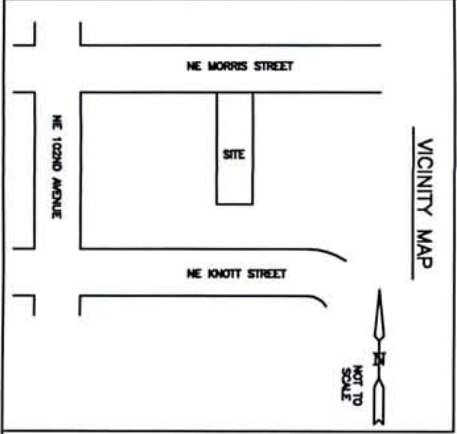
REGISTERED
 MAR 20 2009
 BY

PRELIMINARY PLAN
 LOT 5, WINCHELL TRACT (UNRECORDED)
 SITUATED IN THE NW 1/4 OF SECTION 27, T.1N., R.2E., W.M.
 CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON
 JULY 2007

CASE NO. **07-170582**
 EXHIBIT **C-1**



BASIS OF BEARINGS PN2003-5



NOTES

- SUBCONTRACTOR TO SPECIFY EXACT LOCATION OF UTILITY LATERALS.
- CONTOUR ELEVATIONS INDICATE CHANGE IN GRADE AND DO NOT REPRESENT ACTUAL GROUND ELEVATIONS
- ZONED R7
- SOAKAGE TRENCH/DRY WELL DIMENSION AND LOCATION WILL BE TO BESS STANDARDS WHEN BUILDING PLANS ARE FINALIZED.
- BUILDING SETBACK DISTANCES ARE MEASURED FROM PROPERTY LINE TO CLOSEST POINT ON FOUNDATION.
- TOTAL AREA = 22340 S.F.
- LOCATION OF EXISTING SANITARY SEWER DETERMINED BY THE DIMENSIONS SHOWN ON PLUMBING PERMIT 810581 AND THE SURETIED CLEANOUTS.

SYMBOLS

- ⊕ = POWER POLE
- E- = ELECTRIC LINE
- C- = CHAIN LINK FENCE
- W- = WOOD FENCE
- ⊗ = WATER METER
- ⊗ = MANHOLE
- ⊗ = CLEAN OUT
- ⊗ = TREE CLUMP
- ⊗ = IDENTIFYING NO.
- ⊗ = CONIFER TREE
- ⊗ = IDENTIFYING NO.
- ⊗ = DECIDUOUS TREE
- ⊗ = IDENTIFYING NO.
- W- = EXISTING WATER LINE
- S- = EXISTING SEWER LINE
- PS- = PROPOSED SEWER LINE
- PW- = PROPOSED WATER LINE
- ⊗ = ROOT PROTECTION ZONE

LEGEND

- - INDICATES 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LATHROP LS 2671" TO BE SET S.F. = SQUARE FEET
- DATA IS "MEASURED" UNLESS OTHERWISE SHOWN

REGISTERED PROFESSIONAL LAND SURVEYOR
 JULY 19 1994
 RICHARD E. LATHROP
 2671

CLIENT:
 MADIA MINNO
 SITE ADDRESS:
 10522 NE MORRIS ST.
 PORTLAND, OREGON

Boundary Locaters, Inc.
 8124 S.E. TAYLOR CT.
 PORTLAND, OR 97215
 (503) 281-0272
 JOB NO. 07-082
 DRAFTER 12/4/08

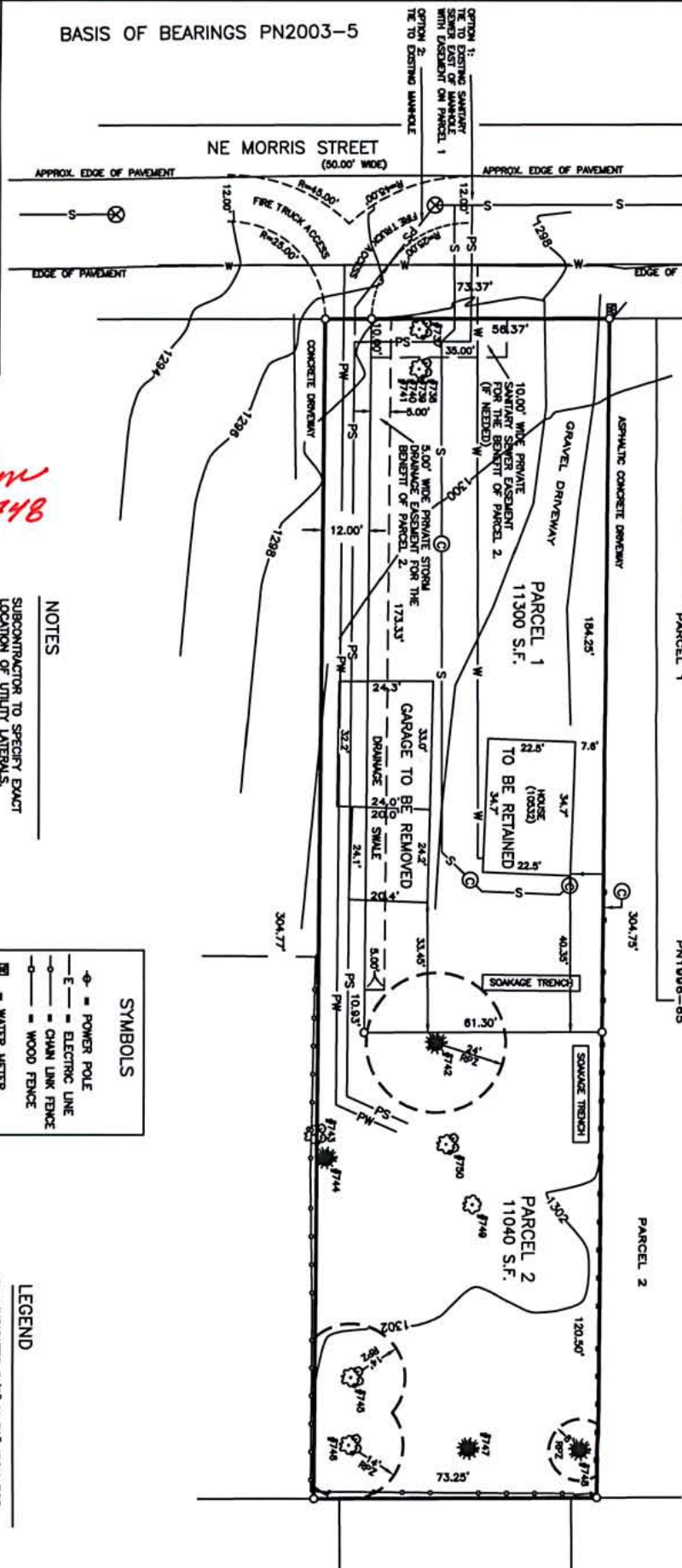
EXPIRES: 12/31/08

1" = 20'

OCT 09 2008

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 CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON
 JULY 2007

BASIS OF BEARINGS PN2003-5



Tree Preservation #742, 745, 746, 748

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REGISTERED PROFESSIONAL LAND SURVEYOR
Richard E. Lathrop

OREGON
 JULY 19, 1984
 RICHARD E. LATHROP
 2871

EXPIRES: 12/31/08

CLIENT:
 NADIA MIKKO
 SITE ADDRESS:
 10532 NE MORRIS ST.
 PORTLAND, OREGON

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 PORTLAND, OR 97215
 (503) 261-0272

DRAFTED 5/28/07 GJK
 JOB NO. 07-002

10/06/08

