



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

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 Portland, Oregon 97201
 503-823-7300
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 TTY 503-823-6868
www.portlandonline.com/bds

Date: September 16, 2010
To: Interested Person
From: Mark Bello, Land Use Services
 503-823-7810 / mark.bello@ci.portland.or.us

NOTICE OF A TYPE II 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 and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-151281 AD

GENERAL INFORMATION

Applicant/Owner	Steve L Gibson 16016 SE Keller Rd Damascus, OR 97089-7828	Steven Gibson 15191 SE 91st Avenue Clackamas, OR 97015	Steve Gibson 8407 NE Thompson St Portland OR 97220
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Site Address: 8407 NE THOMPSON ST

Legal Description: BLOCK 22 LOT 32, RAILWAY ADD; BLOCK 22 LOT 33-35, RAILWAY ADD

Tax Account No.: R684804680, R684804690

State ID No.: 1N2E28CB 15500, 1N2E28CB 15600

Quarter Section: 2839

Neighborhood: Madison South, contact Carter Cummings at 971-222-8590.

Business District: Parkrose Business Association, contact Wayne Stoll at 503-284-1921.

District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.

Zoning: R5, Residential 5,000

Case Type: AD, Adjustment

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:
 The applicant proposes to reduce the side yard setback from the zoning code required minimum 5 ft. to 4.42 ft. This adjustment is requested to facilitate a property line adjustment (10-151269 PR). The property line adjustment, subject to a separate review, together with approval of this adjustment, would allow construction of a home on a new lot to the west of the existing house at 8407 NE Thompson.

Adjustment approval is required to reduce the 5-ft. minimum development standard for a side setback (33.110.220).

ANALYSIS

Zoning: The site is zoned R5, High Density Single-Dwelling Residential. This zone is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area.

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 **August 5, 2010**. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 5, 2010. The Neighborhood Association has not responded. One notified property owners has listed several concerns that do not pertain to adjustment approval criteria (Exhibit F-1).

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Purpose: The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and
- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and *(not applicable)*
- D.** City-designated scenic resources and historic resources are preserved; *(not applicable)*
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable; *(not applicable)*

FINDINGS AND CONCLUSION

The site is a 9,100 sq. ft. site, 91-ft. by 100-ft. This site is an interior lot on a long block that stretches between NE 82nd Avenue and NE 86th Avenue. NE 84th Avenue dead ends 100 ft. south of NE Sacramento. The site and block has little elevation change, and no known hazards, as mapped by the City. Frequent transit service is provided by Tri-Met, on NE 82nd Avenue, approximately 650 ft. to the west.

The applicants' proposal meets all of the relevant approval criteria as follows:

Currently, this site is comprised of Lots 33, 34, and 35, Railway Addition. The house is sited on lots 34 and 33 and is 40.42 feet east of the west property line of the site. A proposed property line adjustment would reduce lot 35 to 36 feet for future development and retain the house on the remainder of lot 35, lot 34 and lot 33. The west setback for the house would be reduced from 5 ft. to 4.42 ft.

The site is in the R5 zone and the minimum side setback is 5 ft. Thus, any new house built directly west of the existing house would be a minimum of 9.42 ft. from the existing house and the reduction in setback for the existing house is only 7 inches. This is sufficient space to allow access to fire fight equipment and personnel. The Fire Bureau has no objection to this adjustment request.

Residential properties along NE Thompson Street have been built generally on pairs of 25-ft. wide lots but the 50-ft. wide frontage is not invariable as past property line adjustments have changed frontage length. Houses have been built at varying setbacks. So, reducing the side setback from 5 ft. to 4.42 ft. doesn't not disturb the general pattern of houses in the immediate vicinity as there is no strict pattern that would be affected by a 7-inch reduction in distance from the existing house to the property line.

This proposal does not affect privacy or livability of neighboring residents as the existing house and the new house would be only 7 inches closer at the most. This side setback reduction will not affect other houses to the west, north, or east. The existing house will retain yards that exceed the minimum for the other three sides – front, rear, and east side setback.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

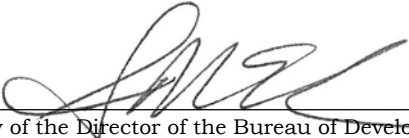
Please note that the property line adjustment application is still pending (10-151269 PR).

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.220, Setbacks, to reduce the west setback from 5' to 4.42' per the approved site plan, Exhibit C-1, signed and dated September 13, 2010, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-151281 AD.

Staff Planner: Mark Bello

Decision rendered by:  **on September 13, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 16, 2010

About this Decision. This land use decision is **not a permit** for development. 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 29, 2010, and was determined to be complete on August 4, 2010.

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 29, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: December 2, 2010.**

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.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 30, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **October 1, 2010**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

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

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

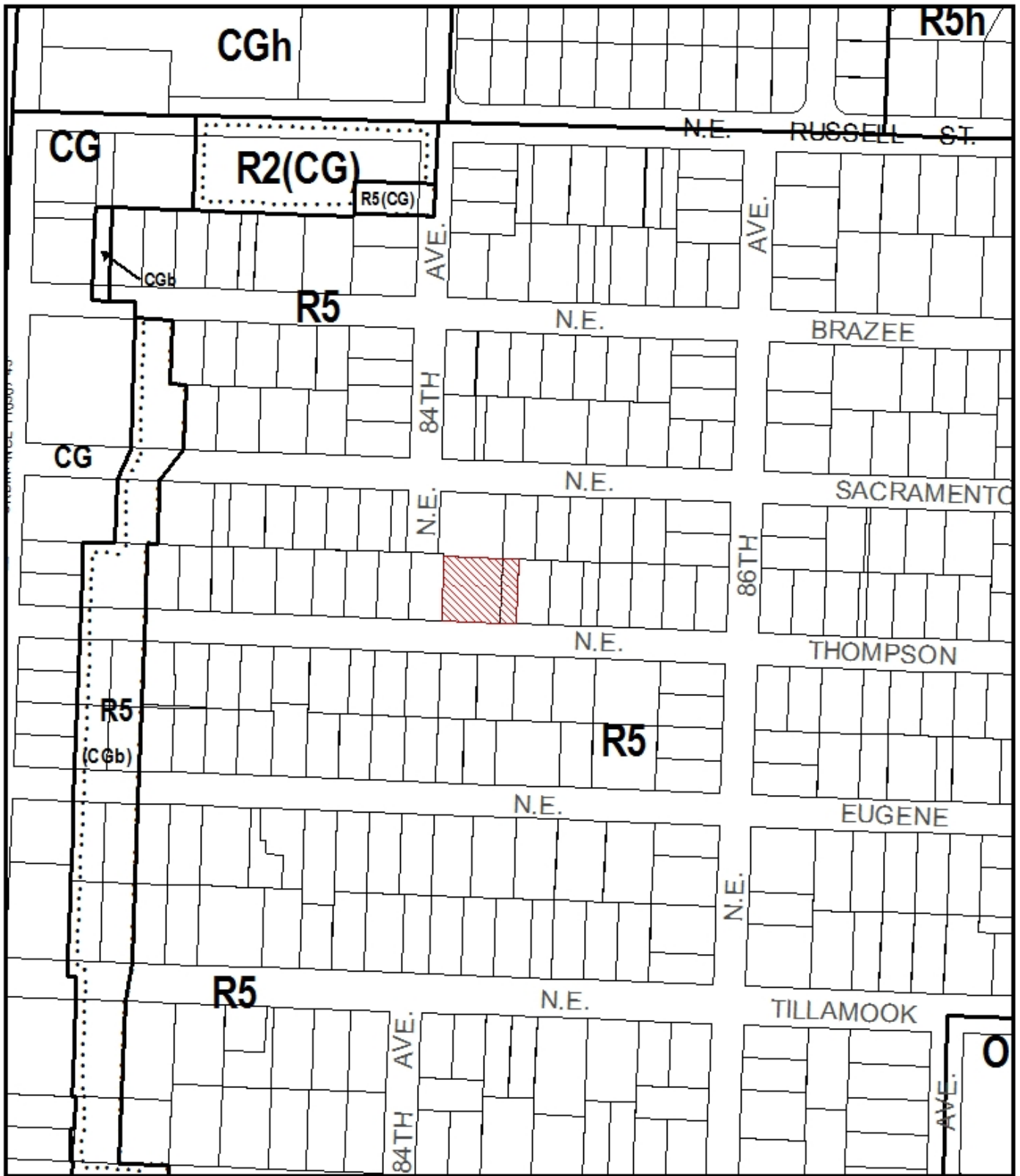
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety, Bureau of Development Services
- F. Correspondence:
 - 1. Donna Donaldson, August 8, 2010, 8406 NE Thompson
- G. Other:
 - 1. Original LU Application
 - 2. July 23, 2010, Incomplete Letter to Applicant

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



File No. LU 10-151281 AD
 1/4 Section 2839
 Scale 1 inch = 200 feet
 State_Id 1N2E28CB 15600
 Exhibit B (Jul 02,2010)

MULTNOMAH COUNTY

SURVEY RECORDS
DATE FILED
REGISTER NUMBER

RECORD OF SURVEY - PROPERTY LINE ADJUSTMENT

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 28
TOWNSHIP 1 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN
CITY OF PORTLAND, MULTNOMAH COUNTY, STATE OF OREGON
SCALE: 1" = 20' DATE: MARCH 17, 2010

Approved
City of Portland - Bureau of Development Services
Planner: Wello Date: 9/13/10
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO DETERMINE THE BOUNDARIES OF LOTS 32 THRU 35, PLAT OF RAILWAY ADDITION, AND THEN ADJUST THE EAST LINE OF LOT 35 TO MEET A 5.00' SETBACK FROM THE EXISTING HOUSE. THE BASIS OF BEARING WAS HELD FROM "A" TO "B". THE IRON PIPES FOUND PER SN 31883 WERE HELD FOR THE WEST LINE OF LOT 32. PLAT DISTANCES AND ANGLES WERE HELD EAST AND WEST TO ESTABLISH THE BOUNDARIES OF THESE SUBJECT LOTS.

LEGEND:

- INDICATES FOUND MONUMENT AS NOTED HEREON
- SET 5/8" BY 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "GILBERT PLS 60121" ON _____, 2008
- FND INDICATES FOUND
- W/PPC INDICATES WITH YELLOW PLASTIC CAP
- IP INDICATES IRON PIPE
- IR INDICATES IRON ROD
- NO. INDICATES NUMBER
- SN INDICATES SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- (P1) INDICATES RECORD VALUE PER "RAILWAY ADDITION TO MONTAVILLA"

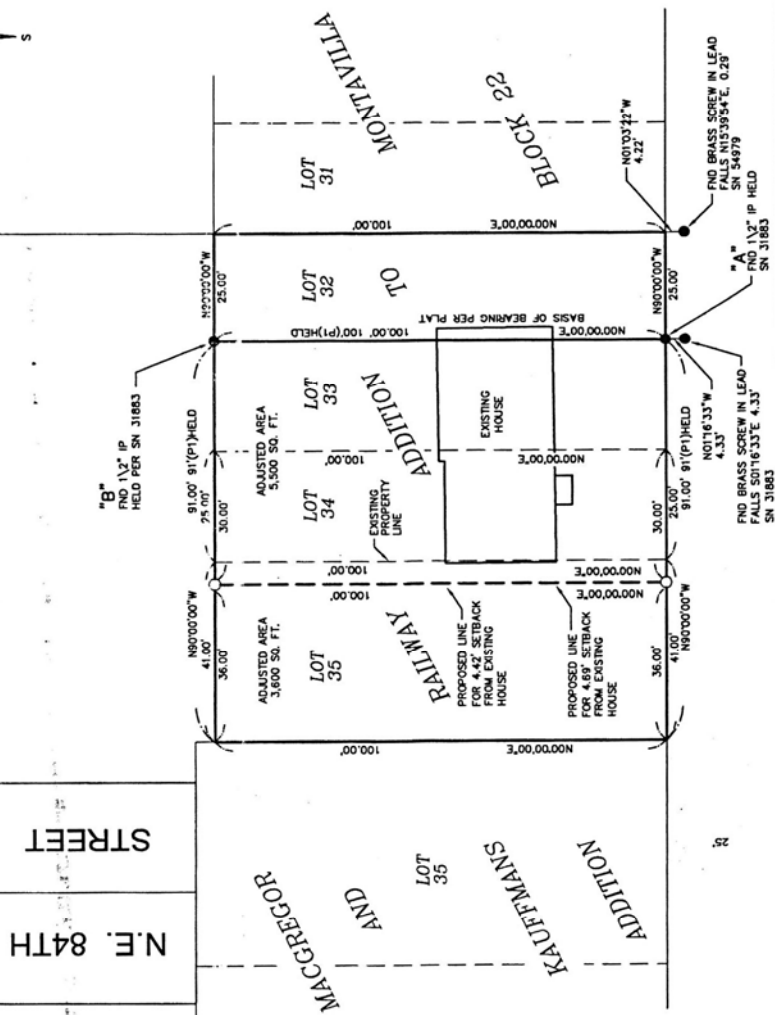
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 11, 2000
DAN GILBERT
60121
EXPIRES 06/30/11

I CERTIFY THAT THIS SURVEY WAS PREPARED USING HP 3040A INK ON HWAN MAP POLYESTER FILM



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SANDY, OREGON 97055
BUS: (503) 668-3737 • FAX: (503) 668-3788
Firwood Design Group, LLC
SURVEYING • ENGINEERING • PLANNING

CLIENT: STEVE GIBSON



N.E. THOMPSON STREET

CASE NO. 10-151281
EXHIBIT C1