



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** March 31, 2011  
**To:** Interested Person  
**From:** Sean Williams, Land Use Services  
503-823-7612 / [Sean.Williams@portlandoregon.gov](mailto:Sean.Williams@portlandoregon.gov)

## **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 10-193856 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Mark Perkins  
11471 SE Clover Lane  
Happy Valley, OR 97086

**Site Address:** 3407 SE Woodward Street

**Legal Description:** BLOCK 55&46 TL 13600, WAVERLY  
**Tax Account No.:** R885802960  
**State ID No.:** 1S1E12AB 13600  
**Quarter Section:** 3334  
**Neighborhood:** Richmond, contact Douglas Klotz at 503-233-9161.  
**Business District:** Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.

**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.  
**Plan District:** None  
**Zoning:** Residential 5,000 (R5)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

#### **Proposal:**

The applicant is proposing to partition the subject property into two parcels in accordance with the Alternative Development Option of attached houses on corners (33.110.240.E). The existing dwelling on the site will be removed. Both parcels are of a proposed equal size of approximately 2,525 square feet.

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). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land. Therefore this land division is considered a partition.

**Relevant Approval Criteria:**

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

## FACTS

**Site and Vicinity:** The site is located on the northeast corner of the intersection of SE Woodward Street and SE 34<sup>th</sup> Avenue. An existing dwelling is located on the southern half of the site that will be removed as a part of this review. A retaining wall is located along the northern 30 feet of the sites SE 34<sup>th</sup> Avenue frontage directly behind the sidewalk. Seven trees are located within the land division site. Development in the vicinity of the site is primarily composed of single family homes. Zoning south of the site is primarily Residential 5,000 (R5) and zoning to the north is primarily residential 2,500 (R2.5).

**Infrastructure:**

- **Streets** – The site has approximately 56 feet of frontage on SE Woodward Street and 90 feet of frontage on SE 34<sup>th</sup> Avenue. There is one driveway entering the site from SE Woodward Street that serves the existing house on the site. At this location, both SE Woodward Street and SE 34<sup>th</sup> Avenue are classified as local service streets for all modes in the TSP. Tri-Met provides transit service approximately 980 feet from the site at SE Division Street via Bus #4. Parking is currently allowed on both sides of SE Woodward Street and SE 34<sup>th</sup> Avenue.

At this location, SE Woodward Street is improved with a 28 foot paved roadway surface and pedestrian corridor that consists of an 8 foot planter/curb area, 6 foot sidewalk and 2 foot setback to private property (8-6-2) within a 60 foot wide right-of-way. SE 34<sup>th</sup> Avenue is improved with a 24 foot paved roadway surface and pedestrian corridor that consists of a 2 foot planter/curb area, 6 foot sidewalk with no setback to private property (2-6-0) within a 40 foot wide right-of-way.

- **Water Service** – There is an existing 8-inch CI water main in SE Woodward Street and an existing 6-inch CI water main in SE 34<sup>th</sup> Avenue. The existing house is served by a 5/8-inch metered service from the main in SE Woodward Street.
- **Sanitary Service** - There is an existing 8-inch clay public combined gravity sewer located in SE Woodward Street and an 8-inch clay public combined gravity sewer located in SE 34<sup>th</sup> Avenue that ends north of the land division site.

**Zoning:** The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The 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 Review:** Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **January 18, 2011**. Five written responses (Exhibits F.1-F.5) have been received from notified property owners in response to the proposal. The primary concerns expressed in the written

correspondences include transportation impacts, tree preservation, compatibility and development standards.

**Staff Response:** In regards to transportation impacts, the Portland Bureau of Transportation (PBOT) has determined that the minimal increase to the existing transportation system facilities and capacity from this proposed minor partition will not create a significant impact (see Exhibit E.2 and findings associated with criterion K below). PBOT has required right-of-way dedication and street improvements in order to come closer to compliance with recommended standards and enhance the existing pedestrian corridors.

The applicant has proposed to retain a 22.5-inch Sweet gum and 8.5-inch Western red cedar for compliance with tree preservation standards. Demolition of the existing house and construction of the new units on Parcels 1 and 2 is required to be in compliance with the applicants tree preservation plan (Exhibit C.2) and arborist report (Exhibit A.2). The arborist report contains specific development related recommendations to ensure continued health and viability of the trees required to be preserved (see findings associated with criterion B below).

A number of questions were raised regarding development standards including driveways, height, building coverage and facades. Development standards not relevant to the land division review will have to be met at the time of building permit for the new lots. Specific development standards are required when taking advantage of the attached houses on corners provision (33.110.240.E.4) which address main entrances, height, exterior finish materials, roof pitch, eaves, trim and windows. These standards are intended to give the structure the overall appearance of a house when viewed from either street to address compatibility with the surrounding houses.

## 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.**

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 criteria that are not applicable. Applicable criteria are addressed below the table.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.

L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.605 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing 2 parcels for attached housing. The density for this site is as follows:

Minimum = (5,050 square feet \* .80) ÷ 5,000 square feet = 0.8 (which rounds up to a minimum of 1 parcel, per 33.930.020.A)

Maximum = 5,050 square feet ÷ 5,000 square feet = 1.01 (which rounds down to a maximum of 1 parcel, per 33.930.020.B)

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 0.

The applicant is proposing 2 parcels, which exceeds the maximum density normally allowed for the site. However, Parcels 1 and 2 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 1 and 2 are developed with attached houses. With a condition of approval limiting the development on Parcels 1 and 2 to attached houses, the density standards are met.

The applicant is proposing 2 parcels. The density standards are therefore met.

The lot dimensions required and proposed are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
<b>Original lot before division in R5 zone</b>	4,500	N/A	N/A	N/A	N/A
Original lot before division	5,050 sq. ft.		56.05 ft.	90 ft.	56.05 ft.
<b>New attached housing lots meet R2.5 Zone dimensions</b>	1,600	NA	36	40	30
Parcel 1	2,525 sq. ft.		45 ft.	56.05 ft.	45 ft.
Parcel 2	2,525 sq. ft.		45 ft.	56.05 ft.	45 ft.

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

#### Attached Houses on Corner Lots

Parcels 1 and 2 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 code provision the original lot before the division must be at least 4,500 square feet. As shown in the table above, taken together (before the division), the required lot dimension requirements are met. Proposed Parcels 1 and 2 each exceed the minimum lot dimension standards. Therefore, the corner lot may be divided to create Parcels 1 and 2 as proposed.

The findings above show that the applicable density and lot dimension standards are met. Therefore this criterion is 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 arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). Trees have been exempted because they are unhealthy/pose an immediate danger to life and safety (#102/103/108) or located partially in the right-of-way (#100/101). Four non-exempt trees are located within the land division site (#104-107). The inventory identifies the following trees on the site:

<b>Tree #</b>	<b>Species</b>	<b>Diameter (inches)</b>	<b>Exempt (per 33.630.030)</b>	<b>To be retained?</b>	<b>RPZ (Root Protection Zone)</b>
<b>100</b>	Southern magnolia	6	F.		
<b>101</b>	Linden sp.	6.5	F.		
<b>102</b>	Plum sp.	9.5	B./D.		
<b>103</b>	Plum sp.	16	B./D.		
<b>104</b>	Western red cedar	21			
<b>105</b>	Western red cedar	8.5		Yes	8 feet
<b>106</b>	Western red cedar	18.5			
<b>107</b>	Sweet gum	21.5		Yes	22 feet
<b>108</b>	Apple sp.	7	D.		

The total non-exempt tree diameter on the site is 69.5 inches. The applicant proposes to preserve trees 105 and 107, which comprise of 30 inches of diameter, or 43 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).

As documented in the arborist report and tree preservation plan, the arborist has indicated that an intrusion of up to 35 percent within the root protection zone of the trees required to be preserved is permissible without compromising viability. The arborist has recommended that specific root pruning methods be administered for the Sweet gum tree at the edge of any necessary excavation and retaining wall or sidewalk demolition with activity monitored on site by a Project Consulting Arborist.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Parcels 1 and 2 is carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.2) and an acknowledgement of tree preservation requirements is recorded with the final plat.

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

**Findings:**

***Clearing and Grading***

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, the arborist has outlined specific root pruning methods that must be followed at the time of excavation. Therefore, this criterion is met.

***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

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

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

**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. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p><b>33.651 Water Service standard</b> - See Exhibit E.3 for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. There is an existing 8-inch CI water main in SE Woodward Street and an existing 6-inch CI water main in SE 34<sup>th</sup> Avenue. The existing house is served by a 5/8-inch metered service from the main in SE Woodward Street. This service may potentially be used to provide water to Parcel 2. Water is available to serve the proposed development from the water main in SE 34<sup>th</sup> Avenue.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> - See Exhibit E.1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch clay public combined gravity sewer located in SE Woodward Street and an existing 8-inch clay public combined gravity sewer located in SE 34<sup>th</sup> Avenue that ends north of the land division site. The existing residence is served by a lateral in SE Woodward Street that may be used for future development on Parcel 2.</p> <p>There is no public sanitary sewer available in SE 34<sup>th</sup> Avenue along the frontage of Parcel 1. Therefore, the public sewer main must be extended so that individual service is available to Parcel 1. A permit is currently being reviewed (11-104744 UB) for a short sewer extension in SE 34<sup>th</sup> Avenue. Prior to final plat approval, the construction of the sewer extension must be</p>

completed and inspected to the satisfaction of BES.

**33.653.020 & .030 Stormwater Management criteria and standards-** See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

- **Parcels 1 & 2:** the applicant has proposed to manage stormwater from these lots via individual drywells that will treat the water and slowly infiltrate it into the ground. The Bureau of Environmental Services has reviewed a stormwater report and does not object to the use of drywells to infiltrate stormwater. However, some issues were identified with the conceptual drywells that were delineated on submitted site plans including the lack of compliance with setback requirements and the presence of a drywell for Parcel 1 within the root protection zone of the 22" Sweet gum tree that is required to be preserved. Because of the above issues related to adequate area available for individual drywells, BES has indicated that it may be advisable to construct a shared drywell with an associated easement and maintenance agreement provided that a plumbing code appeal allows such a configuration. A plumbing code appeal may also be necessary for a reduction in required easement width (10 feet). If the applicant pursues a shared facility as discussed above, an approved plumbing code appeal would be required prior to final plat approval and an easement would be required 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.

**33.654.110.B.1 -Through streets and pedestrian connections**

**33.654.130.B - Extension of existing public dead-end streets & pedestrian connections**

**33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The site has approximately 56 feet of frontage on SE Woodward Street and 90 feet of frontage on SE 34<sup>th</sup> Avenue. This is a corner lot location which meets the above criteria for adequate connectivity. Therefore, additional connectivity is not required at this location. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030**

**33.654.120.B & C Width and elements of the street right-of-way**

**33.654.130.D Partial Rights of way**

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 transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area based on a number of evaluation factors:

Street capacity and level-of-service:

Based on the available information, the estimated increase in daily trips is less than 10 total trips per day (based on the eventual addition of one new SFR) with the majority of trips occurring during non-peak hours as provided by the Institute of Transportation Engineers – Trip Generation Manual (8<sup>th</sup> Edition). Additionally, consideration is given to the likely division of the anticipated increase of <10 total trips per day being factored by four possible route directions to and from this location. Other considerations in determining potential impacts include overall area being substantially improved with sidewalks in all directions, as well as the availability of alternative modes of transportation (Tri-Met) located ~1000-feet from the subject property. In consideration of the limited increase in traffic which is anticipated to result from this proposal, as well as the availability of alternative routes and

alternative modes of access to and from the subject site; it is reasonably anticipated by PDOT staff (including registered traffic engineers), that the minimal increase to the existing transportation system facilities and capacity from this proposed minor partition will not create a significant impact. A Transportation Study is not required at this time.

Vehicle access and loading/on-street parking impacts:

Portland Transportation has noted that the existing driveway from SW Woodward Street does not meet the recommended standard for continuous curb requirement (setback distance) from intersections. Therefore, as a condition of development, the existing driveway approach will need to be closed and reconstructed to match the adjacent pedestrian corridor. A new driveway and approach will need to be constructed in a location that meets the city standard (17.28.110).

Parking is currently allowed on both side of SE Woodward Street and SE 34<sup>th</sup> Avenue. Neighbors have expressed concerns regarding what they perceive as a strained parking situation within the area. As noted under availability of transit service, the site is not located within 500 feet of frequent transportation. Therefore, on-site parking will be required for the new development. The addition of a new curb cut on SE 34<sup>th</sup> Avenue will result in the reduction of one on-street parking space. However, PBOT has indicated that no significant impacts are anticipated as a result of the minimal increase to the existing transportation system facilities and capacity from the addition of one dwelling unit.

Safety for all modes:

At this location, SE Woodward Street is improved with a 28 foot paved roadway surface and pedestrian corridor that consists of an 8 foot planter/curb area, 6 foot sidewalk and 2 foot setback to private property (8-6-2) within a 60 foot wide right-of-way. SE 34<sup>th</sup> Avenue is improved with a 24 foot paved roadway surface and pedestrian corridor that consists of a 2 foot planter/curb area, 6 foot sidewalk with no setback to private property (2-6-0) within a 40 foot wide right-of-way.

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. The City Standard for roadway width supporting parking in both directions for R5 zoning with local service streets is 26-feet of paved surface. The Pedestrian Design Guide recommended standard for the above classifications consist of a 0.5-foot wide curb, 4-foot wide planter between curb and 6-foot wide sidewalk with a 0.5-foot wide buffer located at the back of sidewalk (0.5-4-6-0.5 configuration) for a total pedestrian corridor width of 11-feet wide. The existing improvements within the SE Woodward Street right-of-way exceed the recommended standards. Due to the presence of mature landscaping, retaining walls and garages located at the back of the existing sidewalk for SE 34<sup>th</sup> Avenue, Portland Transportation has determined that a full width pedestrian corridor dedication would not be meaningful at this location. Rather, a 1-foot right-of-way dedication will be required for SE 34<sup>th</sup> Avenue along the frontage of Parcel 2 to achieve a 9-foot wide pedestrian corridor. PBOT will require the applicant to reconstruct the sites SE 34<sup>th</sup> Avenue pedestrian corridor at the time of development. Additionally, the decorative block wall/fence that is located within both the SE Woodward Street and SE 34<sup>th</sup> Avenue right-of-way must be removed prior to final plat approval.

Availability of transit service:

Tri-Met provides transit service approximately 980 feet from the site at SE Division Street via Bus #4. This bus line provides frequent service. However, due to a distance of greater than 500 feet from the land division site, the new development does not meet the parking exception for sites well served by transit.

Other evaluation factors:

PBOT has indicated that no significant negative impacts are expected to occur in relation to the remaining evaluation factors. These factors will be enhanced due to the street frontage improvements described above.



PBOT concludes that the transportation system can support the proposed development for all of the stated evaluation factors. With the conditions of approval described above, this criterion is met.

### **33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)**

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways 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**

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.

### **Future Development**

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.
  1. The address and main entrance of each house must be oriented to a separate street frontage.
  2. Development on Parcel 1 must be oriented toward SE 34<sup>th</sup> Avenue and development on Parcel 2 must be oriented toward SE Woodward Street.
  3. The height of the two units must be within 4 feet of each other.
  4. The exterior finish material must be the same, or visually match in type, size and placement.
  5. The predominant roof pitch must be the same.
  6. Roof eaves must project the same distance from the building wall.
  7. Trim must be the same in type, size and location.
  8. Windows must match in proportion and orientation.

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, 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.

<b>Bureau</b>	<b>Code Authority and Topic</b>	<b>Contact Information</b>
Water Bureau	Title 21 - Water availability	503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>

Bureau	Code Authority and Topic	Contact Information
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>
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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>

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 addressing of structures, ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code. See Exhibit E.4.
- The applicant must meet the requirements of Urban Forestry regarding existing street trees adjacent to the site. Street tree planting will be reviewed at the time of building permit. These requirements are based on the standards of Title 20. See Exhibit E.6.

## CONCLUSIONS

The applicant has proposed a 2 parcel partition to accommodate attached houses, 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: transportation impacts and services and utilities.

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-parcel partition that will result in two lots for attached housing in conformance with 33.110.240.E, as illustrated with Exhibit C-1, subject to the following conditions:

### A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 34<sup>th</sup> Avenue. The required right-of-way dedication must be shown on the final plat.
2. If the applicant chooses to provide a shared stormwater management facility for the proposed development, a private storm sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B-4 and B-5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

**Utilities**

1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE 34<sup>th</sup> Avenue. Construction of the sewer extension, currently being reviewed under short sewer extension permit 11-104744 UB, must be completed and inspected to the satisfaction of BES prior to final plat approval.
2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

**Existing Development**

3. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. The site plan for the demolition permit must show all trees to be preserved and root protection zones as shown on Exhibit C.2. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.2).

**Required Legal Documents**

4. If the applicant chooses to provide a shared stormwater management facility for the proposed development, a Maintenance Agreement shall be executed for a Stormwater Management Easement described in Condition A-2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan and arborist report must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

**Streets**


6. The applicant shall remove the decorative fence/wall that is located within both the SE Woodward Street and SE 34<sup>th</sup> Avenue right-of-way prior to final plat approval. Documentation must be provided in the form of photographs to demonstrate this condition is satisfied.

**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 105 (8.5" Western red cedar) and 107 (21.5" Sweet gum) are required to be preserved, with the root protection zones indicated on Exhibit C-2. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.

2. If required, the applicant shall meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling units on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
3. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
4. The existing driveway approach along the sites SE Woodward Street frontage must be closed and reconstructed to match the adjacent pedestrian corridor. A new driveway and approach shall be constructed in a location that meets continuous curb requirements (setback distance) from intersections (17.28.110).
5. The applicant must meet the requirements of PBOT for reconstruction of the SE 34<sup>th</sup> Avenue pedestrian corridor along the frontage of Parcels 1 and 2.
6. If existing sidewalks and/or curbs are found to be in poor condition, repairs will be required per the City Engineer's representative recommendations.

**Staff Planner: Sean Williams**

**Decision rendered by:**  **on March 29, 2011**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 31, 2011**

**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 November 17, 2010, and was determined to be complete on **January 13, 2011**.

*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 November 17, 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: May 13, 2011.**

**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 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](http://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.**

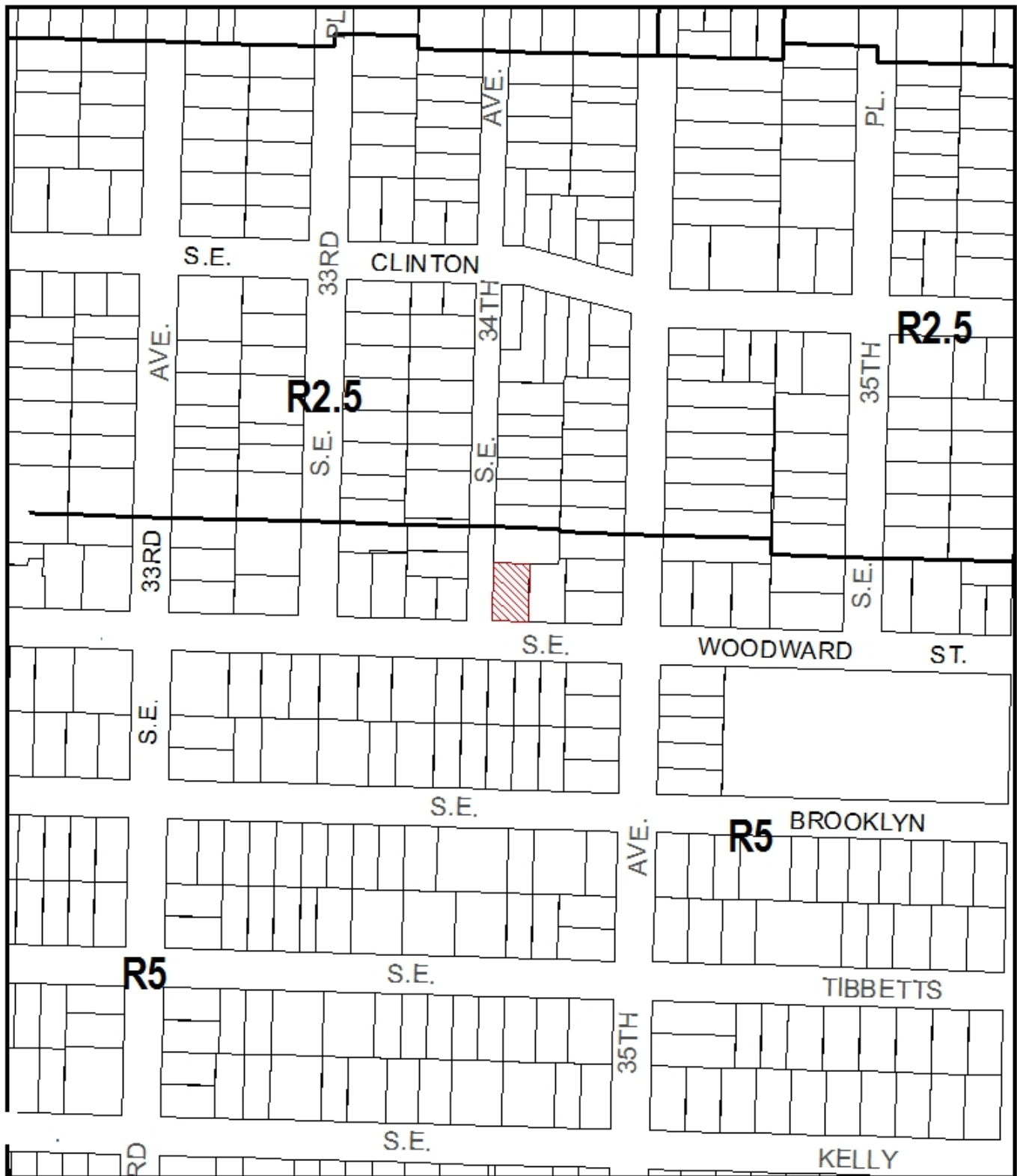
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
  - 1. Land Division Approval Criteria
  - 2. Arborist Report
  - 3. Infiltration testing
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Partition Plat (attached)
  - 2. Tree Preservation Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner
- F. Correspondence:
  - 1. Kevin Bates; 3385 SE Woodward Street

2. Steven Erts; 2804 SE 34<sup>th</sup> Avenue
  3. Scott Lewis & Sarah Slipper; 2756 SE 34<sup>th</sup> Avenue
  4. Josh Warner & Jennifer Gingrich; 3384 SE Woodward Street
  5. Deane Eure; 2825 SE 34<sup>th</sup> Avenue
- G. Other:
1. Site History Research
  2. Original LU Application
  3. Incomplete Letter

**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



Site



File No. LU 10-193856 LDP  
 1/4 Section 3334  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E12AB 13600  
 Exhibit B (Nov 18,2010)

# PARTITION PLAT NO. TL 13600 BLOCK 55&46 'WAVERLY'

REGISTERED PROFESSIONAL LAND SURVEYOR  
 I HEREBY CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL

OREGON JULY 11, 1896 EXPIRES 6-30-11

SITUATED IN THE N.E. 1/4 SECTION 12, T. 1 S., R. 1 E., W. 14, CITY OF PORTLAND, MULTNOMAH COUNTY, STATE OF OREGON  
 SURVEYED BY: CHASE, JONES & ASSOCIATES, INC.  
 716 S.E. 11TH AVENUE  
 PORTLAND, OREGON  
 PHONE: 503-228-9844  
 1/4 NO. 3334

## LEGEND

- = FOUND MONUMENT AS SHOWN.
- = FOUND BRASS SCREW AS INDICATED.
- = SET 5/8" x 10" IRON ROD WITH YELLOW PLASTIC CAP
- = STAMPED "CHASE, JONES & ASSOCIATES"
- = SET 1" DIAMETER COPPER DISC STAMPED "CHASE JONES"
- FD = FOUND
- IP = IRON PIPE
- YPC = IRON ROD WITH YELLOW PLASTIC CAP
- 30 FT = SQUARE FEET
- SN = SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- CALC = CALCULATED VALUE
- MB = MARSHALL BROTHERS

## NARRATIVE

- 1) THE PURPOSE OF THE SURVEY IS TO PARTITION THAT TRACT DESCRIBED IN DOCUMENT NO. 2010-127422 INTO TWO PARCELS.
- 2) I HELD POINTS ①, ②, ③ AS A BASIS OF BEARINGS PER SN 43968 AND MEASURED TO MARSHALL BROTHERS BRASS SCREW AT ④. I HELD THESE 3 POINTS FOR THE RIGHT OF WAY DIRECTION OF S.E. 34TH.
- 3) I BROTHERS DISTANCE OF 48.60 FEET TO ⑤ AND FROM ⑥ TO ⑦ AND MARSHALL.
- 4) FROM ① I HELD THIS LINE FOR THE RIGHT OF WAY FOR S.E. 35TH STREET.
- 5) HOLDING LINE ⑧ TO ⑨, THE ANGLE AT ⑧ MEASURED 89°58'55" COMPARED TO 89°58' PER SN 43968. THE STREET WIDTH MEASURED 59.87 FEET HOLDING SAID BRASSES.
- 6) FROM ⑧ I HELD 56.00 FEET TO ⑩ WITH LINE OF S.E. WOODWARD STREET WHICH IS POINT ⑩ HELD 68.63 FEET PER SN 43968 TO ⑪.
- 7) FROM ⑩ I HELD 56.00 FEET PER SN 2074 TO ⑫. AND FROM ⑫, I HELD PARALLEL TO S.E. 35TH AND 90.00 FEET PER SN 2074 TO ⑬.
- 8) FROM THE BRASS FOUND AT ⑬ AND HOLDING 5.00 FEET PER SN 24313 TO ⑭. I THEN HELD THE LINE ⑭ TO ⑮ FOR THE EAST LINE OF S.E. 34TH.
- 9) I HELD LINE ⑮ TO ⑯ AT ⑰. FROM ⑰ I HELD 90.00 FEET PER SN 2074 TO ⑱.
- 10) I HELD LINE ⑱ TO ⑲ FOR THE NORTH LINE OF THE PARCEL.
- 11) I THEN SET POINTS AT THE NEW PARCEL CORNERS PER THE OWNER.

## SURVEYOR'S CERTIFICATE

I, ERIC G. JONES DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED THE PARTITION PLAT OF LOT 8 BLOCK 55 WAVERLY SITUATED IN THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT BEING A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP FROM THE S.E. CORNER OF THE MARSHALL D.L.C. SAID POINT ALSO BEING IN THE NORTH RIGHT OF WAY LINE OF S.E. WOODWARD STREET AND THE EAST RIGHT OF WAY LINE OF S.E. 34TH STREET; S. 09°07'05" E. ALONG SAID EAST RIGHT OF WAY LINE 90.00 FEET; THENCE S. 89°57'00" W. 56.03' TO POINT ①; THENCE S. 89°57'00" W. ALONG SAID NORTH LINE 56.03 FEET TO THE POINT OF BEGINNING.

THIS TRACT CONTAINS 5,650 SQUARE FEET MORE OR LESS.

## NOTE

- 1) THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED IN THE CITY OF PORTLAND CASE NO. L.U. ....77.....
- 2) ALL FALLINGS ARE CARDINAL.

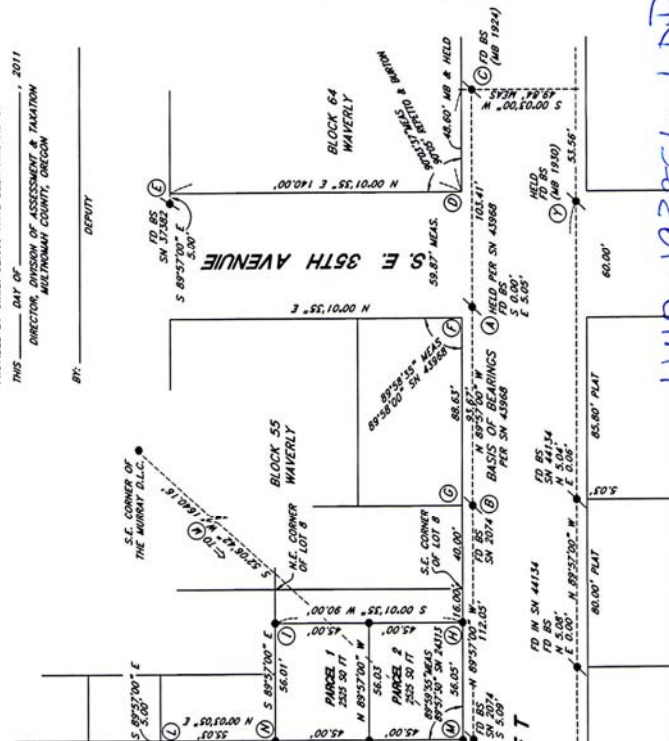
## DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS, THAT J. MARK FERRINS HAS AND MORE PARTICULARLY ACCORDING TO THE DECLARATION, SIGNATURE CERTIFICATE AND DO HEREBY DECLARE THE ANNEXED MAP TO BE A CORRECT MAP OF THE PARTITION PLAT OF SAID PROPERTY, AND HAS CAUSED THE PARTITION TO BE PREPARED AND THE PROPERTY AS DEPICTED ON THE ANNEXED MAP WITH RESTRICTIONS AS SHOWN ON NOTED.

BY: J. MARK FERRINS  
 I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECEIVED FOR RECORD AND RECORDED THIS DAY OF \_\_\_\_\_, 2010 AT \_\_\_\_\_ COUNTY RECORDING OFFICE  
 PLAT NO. \_\_\_\_\_  
 DOCUMENT NO. \_\_\_\_\_

## ACKNOWLEDGEMENTS

THIS CERTIFIES THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010 BEFORE ME, PERSONALLY APPEARED J. MARK FERRINS WHO DID SAY AND DEED BY HIM.  
 NOTARY SIGNATURE \_\_\_\_\_  
 NOTARY PUBLIC-OREGON \_\_\_\_\_  
 COMMISSION NUMBER \_\_\_\_\_  
 MY COMMISSION EXPIRES \_\_\_\_\_

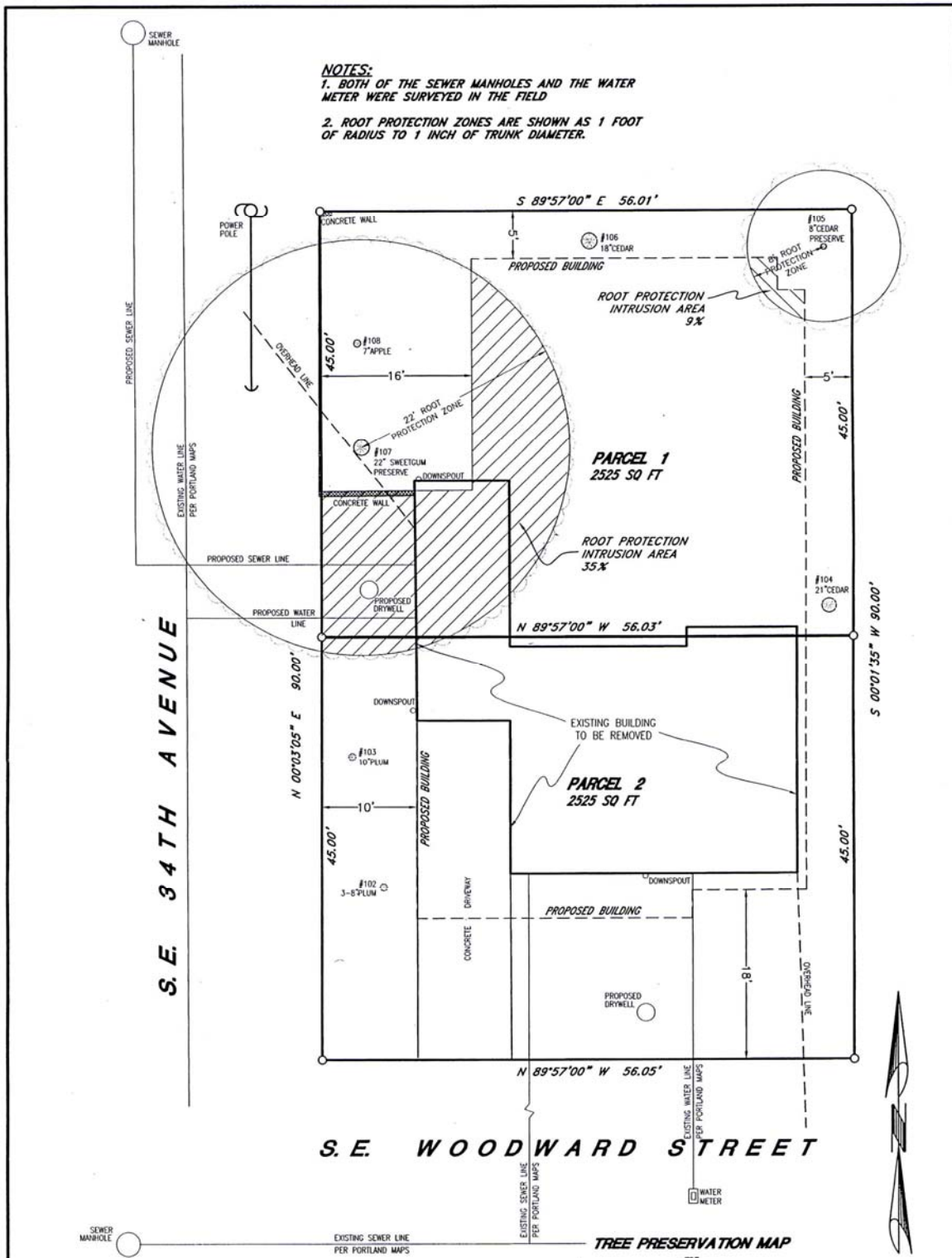


10-193878  
 1-1

1447-193856 LDF  
 CHECK CLAREN



**NOTES:**  
 1. BOTH OF THE SEWER MANHOLES AND THE WATER METER WERE SURVEYED IN THE FIELD  
 2. ROOT PROTECTION ZONES ARE SHOWN AS 1 FOOT OF RADIUS TO 1 INCH OF TRUNK DIAMETER.



**S.E. WOODWARD STREET**

**S.E. 34TH AVENUE**

**TREE PRESERVATION MAP**

FOR PARTITION PLAT OF TL 13600 BLOCK 55 & 46 "WAVERLY"

SITUATED IN THE N.E. 1/4 SECTION 12, T. 1 S., R. 1 E., W.M., CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR

*Eric D. Jones*  
 OREGON  
 JULY 16, 1982  
 ERIC D. JONES  
 1996

EXPIRES: 6-30-11

R.S. GREENLEAF (1885-1915)  
 MARSHALL BROTHERS (1915-1957)  
 BOOTH & WRIGHT (1957-1977)  
 SETON, JOHNSON & ODELL (1977-1983)  
 CHASE, JONES & ASSOCIATES, INC. (1983- )

 CHASE, JONES & ASSOCIATES INC. 716 S. E. 11TH AVE. PORTLAND, OREGON 97214 PHONE (503) 228-9844		
PROJECT NO. 12900	1/4 SECTION 3334	DATE DEC. 17, 2010
DRAWN BY BTM	CHECKED BY EDJ	SCALE 1" = 10'

CASE NO. 10-193857B  
 6-2  
 EXHIBIT

DEC. 23, 2010