



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

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Date: July 22, 2011
To: Interested Person
From: Kathy Harnden, 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 11-125266 LDP

GENERAL INFORMATION

Applicant: Victor Locke
6734 SW 35th Ave
Portland, OR 97219-1727

Site Address: 2605 SE 164th AVE

Legal Description: TL 9800 0.43 ACRES, SECTION 07 1S 3E
Tax Account No.: R993070660
State ID No.: 1S3E07BB 09800
Quarter Section: 3347

Neighborhood: Centennial, contact Louise Cody at 503-252-4302.
Business District: None
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: None
Other Designations: None

Zoning: R7a – Residential 7000, with the Alternative Design Density (a) Overlay
Case Type: 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 a 2-lot land division resulting in one standard lot and one flag lot. Proposed Parcel 1 will measure 7,734 square feet and retain the existing house on the site. Proposed Parcel 2 (the flag lot) will measure approximately 11,267 square feet. To meet the Zoning Code's tree preservation requirements, the applicant has proposed to preserve tree #102, a 32" diameter Linden on the lot that will contain the existing house.

Two other trees will be removed: a 21-inch Cherry to the left of the existing house, and 9-inch apple tree from proposed Parcel 2.

This partition is reviewed through a Type I land use review because: (1) the site is in a commercial 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:

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

FACTS

Site and Vicinity: The subject site is located within a developed residential area in southeast Portland. It is fairly flat and is located less than 200 feet from SE Division. It contains a house, several trees and shrubs in a large side and back yard.

It is located in a mixed use neighborhood, composed primarily of residential development, but with commercial development to the north along SE Division and bordering the site to the west. The residential neighborhood is a less densely populated neighborhood with houses that are set back from the street on larger lots.

Infrastructure:

Streets – The site is situated in an established residential area that has a developed street grid. The site has approximately 82 feet of street frontage on SE 164th. At this location, SE 164th is classified as a Local Service Street for all modes in the City’s Transportation System Plan.

SE 164th is improved with 22 feet of paving, but no sidewalks or curbs, within a 50-foot wide right of way.

Tri-Met provides frequent transit service approximately 290 feet north from the site at SE Division via Bus Line 4.

Water Service – There is an existing 6-inch water main in SE 164th Avenue, with one existing metered service to the existing house on the site. A second service to proposed Parcel 2 will be required at the time of building permit application.

Sanitary Service – There is an existing 8-inch public sanitary sewer located in SE 164th Avenue and an existing lateral that serves the existing house. A second lateral will be required.

Stormwater Service – There is no public storm-only or combined sewer service at this location.

Zoning: The R7 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 4,200 square feet. Newly created lots must have a minimum density of 1 lot per 7,000 square feet of site area. The provisions of this zone allow this use.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

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

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **April 26, 2011**. 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 **April 26, 2011**. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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	33.613	Lots	Applicable – See findings below
B	33.630	Trees	Applicable – See findings below
C	33.631	Special Flood Hazard Area	Not applicable - The site is not within the special flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat is not proposed.
F	33.634	Required Recreation Area	Not applicable - The proposed density is less than 40 lots.
G	33.635 .100	Clearing and Grading	Not applicable - This approval criterion is not relevant because the site is primarily flat, is not located in a Potential Landslide Hazard Area, and the applicant has not proposed any grading on the site to occur prior to obtaining building permits for development on the individual lots.
G	33.635 .200	Land Suitability	Applicable – City records indicate that permits were not issued to decommission an on-site septic system prior to connecting with the City sewer.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.

Criterion	Code Chapter	Topic	Applicability Findings
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

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 dimension requirements applicable in the RF through R5 zones. The applicant is proposing 2 single family parcels.

Density Standards: The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints. In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = 2 units based on the following:

18,928 square feet (site area) * (.80) ÷ 1 unit/7,000 square feet = 2.16 units (which rounds down to a minimum of 2 lots, per 33.930.020.A)

Maximum = 1 unit; based on the following:

18,928 square feet (site area) ÷ 1 unit/7,000 square feet = 2.7 (which rounds down to a maximum of 2 lots, 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 1. 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)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R7 Zone	4,200	12,000	40	55	30	40	40
Parcel 1	7,734		74.69	104	74.69		
Parcel 2	11,267	11,267				90.41	104.7

- 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.

The purpose of Lot dimension regulations are as follows:

The lot dimension regulations 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 so large that it appears they could be further divided, which would exceed the maximum allowed density of the site; (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 applicant has demonstrated that the proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore, the applicant has demonstrated that the proposed lot(s) can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- The proposed lots are not landlocked; they do not narrow to an unbuildable width close to the street; and they are of a size that does not allow for future new lot creation.

The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet

- The lots will be developed with detached houses and the lots are greater than 25 feet wide.

Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development

The applicant has demonstrated, with Exhibit C.2 that each lot can be built with a house that is greater than 22 feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.E can be met.

Parcel 2 is a flag lot. A flag lot is allowed in the R7 zone when an existing dwelling unit on the site is located such that it precludes a land division that meets the minimum lot width standards. In this case, the existing dwelling unit, which is centered along the front of the site, has been on the property for well over 5-years and is located so that it precludes a land division that meets minimum lot width. The minimum density standards are met. Therefore, a flag lot is allowed to be created.

Dimensions

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 lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

The existing house has a gravel driveway to the north end of the house and a concrete parking pad, but no garage. The house is also accessed at its north end, making a shared access from the south end of the site impractical. No other alternatives beyond the proposed location were suitable for the additional vehicle access. Therefore, Parcel 2 is allowed.

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 of trees to be preserved (Exhibit A.3). Tree number 101 was exempted because it has significant decay and poses a hazard to people and structures. Tree number 103 is located where the proposed driveway will be constructed. Tree number 102, a 32-inch Linden is proposed to be retained.

The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
101	Cherry (<i>Prunus sp.</i>)	21.0	Yes	No	Hazard
102	Linden (<i>Tilia sp.</i>)	32.0	No	Yes	20 feet
103	Apple (<i>Malus sp.</i>)	9.0	No	No	

The total non-exempt tree diameter on the site is 31 inches. The applicant proposes to preserve tree 102 which comprises 32 inches of diameter, or 51 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). The applicant's arborist recommends a root protection zone with a 20-foot radius. This will extend the root protection zone approximately 3 feet into the pole section of the flag lot.

To ensure that the integrity of the root protection zone is preserved during construction of the access to Parcel 2, a 6-foot high chain link fence must be installed along the 20-foot wide root protection zone.

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.

With conditions that future development on Parcels 1 and 2 be carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.3), and that an acknowledgement of tree preservation requirements is recorded with the final plat, this condition can be met.

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. However, the one tree to be retained on the site, the 32-inch Linden, is located within 20 feet of the proposed driveway access to Parcel 2. To ensure protection of this tree during construction of the driveway, a 6-foot tall chain-link fence

must be installed along the 20-foot radius root protection zone. With this condition of approval, this criterion can be met.

Land Suitability

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 appears to be an old septic system on the site as 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 lot can be considered suitable for new development, and this criterion will be 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>33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in SE 164th Avenue. Parcel 1 has an existing water service from that main. A new metered service will be required to be installed at the owner's or applicant's expense at the time of development to serve Parcel 2.</p>
<p>33.652 Sanitary Sewer Disposal Service standards - 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 PVC public sanitary sewer located in SE 164th Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. A new lateral will be required to be constructed at the owner's or applicant's expense at the time of development to serve Parcel 2.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards- See Exhibits E.1</p> <p>There is no public storm-only sewer and no offsite discharge point available to this property. The applicant showed on a hand-drawn site plan, that was not to scale, that a drywell is proposed for proposed Parcel 2, the flag lot in the driveway area, but did not show stormwater disposal for Parcel 1, the parcel with the existing house. The Bureau of Environmental Services noted that both the lot sizes and setback distances for both proposed parcels are large enough that discharges onto Parcel 2 from Parcel 1 are unlikely, and there appears to be adequate space for new facilities to meet setback standards and accommodate water from a reasonably-sized house on Parcel 2.</p> <p>Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development.</p> <p>Stormwater disposal for each parcel must be clearly shown on a Supplemental Plan prior to Final Plat approval.</p>
<p>33.641 - Transportation Impacts - 33.641.020 and 33.641.030 33.654.120.C Width of the street right-of-way 33.654.130.D Partial Rights of way</p> <p>Findings:</p>

The proposed land division will create one new parcel in order to accommodate a new detached single-family residential home. The existing house on the site will be retained on Parcel 1. Parcel 2 is proposed to accommodate the existing house on the site. The approximate additional 10 daily trips (including 1 additional AM peak hour trip and 1 additional PM peak hour trip) that potentially may result from the development proposal on the site, are an insignificant number of trips that do not warrant any improvements to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The intersections at SE 164th Ave/SE Division and SE 162nd Ave/SE Division appear to be currently operating at acceptable levels (related to the City's performance measures) and will continue to operate at acceptable levels with the vehicle trips generated by the proposed project (lot split) factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the streets within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

Based on the available evidence, PBOT estimates that the increase in daily trips will be approximately 10 trips per day, with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.).

SE 164th Avenue is moderately improved with a 22-foot wide paved roadway and gravel areas within the right of way on both sides of the paved area. 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, the applicant applied for and received approval for a Design Exception from the Portland Transportation Bureau which 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.

With the condition that the required waivers are signed prior to final plat approval, 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

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

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 R7a zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation

of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

Findings: The division of the property will not cause the existing structures to move out of conformance to any development standard that is applicable in the R7 zone.

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 is 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.

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; 2008 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	Waivers of Remonstrance	503-823-5185 http://www.trans.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 regard to addressing requirements for flag lots; posting of "No Parking" signs in the flag pole driveway; fire hydrant spacing or installing a new hydrant if required; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the flag pole and any other conditions that may be required per the Fire Bureau's 5/24/11 Land Use Review Response for this application. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

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:

- Compliance with the Tree Preservation requirements of the Arborist report and the requirement to install 6-foot high chain link fencing on the perimeter of the root protection zone prior to construction of the access in the flag pole prior to construction activity;
- Recording an Acknowledgement of Tree Preservation Requirements prior to final plat approval;
- Decommissioning an existing septic system on the site prior to final plat approval;
- Installing a new metered water service and a new sanitary sewer lateral to serve proposed Parcel 2;
- Identification of stormwater disposal on both proposed Parcels 1 and 2 prior to final plat approval;
- Documentation of the location of stormwater disposal for the existing house, to the satisfaction of Site Development
- Signed street and storm sewer waivers of remonstrance; and
- Compliance with the Fire Bureau requirements for addressing; use of the flag pole driveway for emergency access; fire hydrant flow and installation; construction of the paved area of the flag pole to Fire Bureau standards; providing an Emergency Vehicle Access Easement over the flag pole; and any other conditions required by the Fire Bureau as stated in the Bureau's 5/24/11 Land Use Response; or provide evidence of a successful Fire Bureau Appeal of any or all of these Fire Bureau conditions;
- Supplemental Plan.

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 one standard lot and one flag lot, each with one single family dwelling, as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan, drawn to scale, shall be submitted with the final plat survey for (Land Use Review, BES, Site Development, and Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the lots;
- The location of the decommissioned sewage disposal system;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside, if required;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. 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 C.1 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."

C. The following must occur prior to Final Plat approval:

Required Legal Documents

1. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

Streets

2. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Utilities

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning the existing sanitary sewer system on the site.
4. The applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in Chapter 5 of the Oregon Fire Code. Alternatively, the applicant will be required to install residential sprinklers in the new house on Parcel 2, if applying the exception. If using residential sprinklers, an Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

6. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to both the Site Development Section of the Bureau of Development Services and the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must meet one of the following:
 - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

Required Legal Documents


7. 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 shall be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

8. If the new house proposed for Parcel 2 will use sprinklers for fire suppression, then the applicant/owner shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal No. _____. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

D. 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.1). Specifically, tree 102 is required to be preserved, with the root protection zones indicated on Exhibit C.2. Tree protection fencing is required along the perimeter of the root protection zone of each tree to be preserved. The fence must be a 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 zone 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/her supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot. The location of the sign must be shown on the building permit.
3. The applicant must meet the requirements of the Fire Bureau in regard to posting of "No Parking" signs in the flag pole driveway; installing a new hydrant if required or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the flag pole; and any other conditions that may be required per the Fire Bureau's 5/24/11 Land Use Review Response for this application.
4. If required, the applicant will be required to meet any Fire Code requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcel 2.

Staff Planner: Kathy Harnden

Decision rendered by:  **on July 19, 1011.**

By authority of the Director of the Bureau of Development Services

Decision mailed July 22, 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 March 31, 2011, and was determined to be complete on **April 20, 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 March 31, 2011.

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, as stated with Exhibit A.5. Unless further extended by the applicant, **the 120 days will expire on: October 21, 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.

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.**

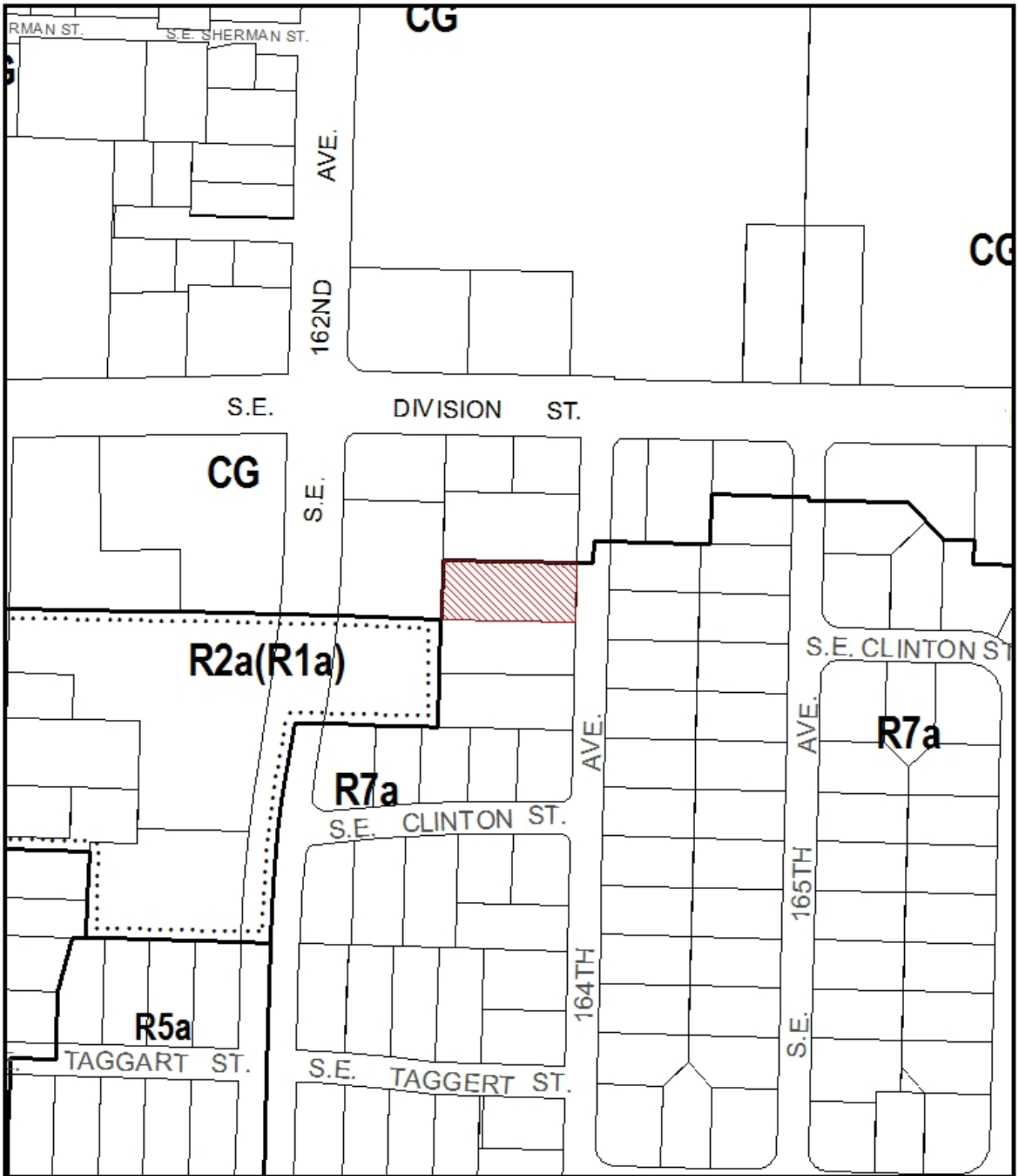
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant’s Statement
- 2. Infiltration Test
- 3. Arborist Report
- 4. May 25, 2011, 120-Day Review Extension
- 5. June 23, 2011, 120-Day Review Extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Initial Preliminary Site and Utility Plan

3. Existing Conditions and Parcel Layout Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
- F. Correspondence: (none)
- G. Other:
 1. Original LU Application
 2. 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

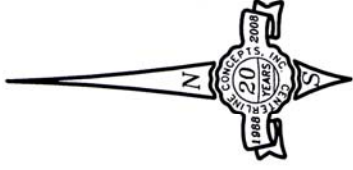
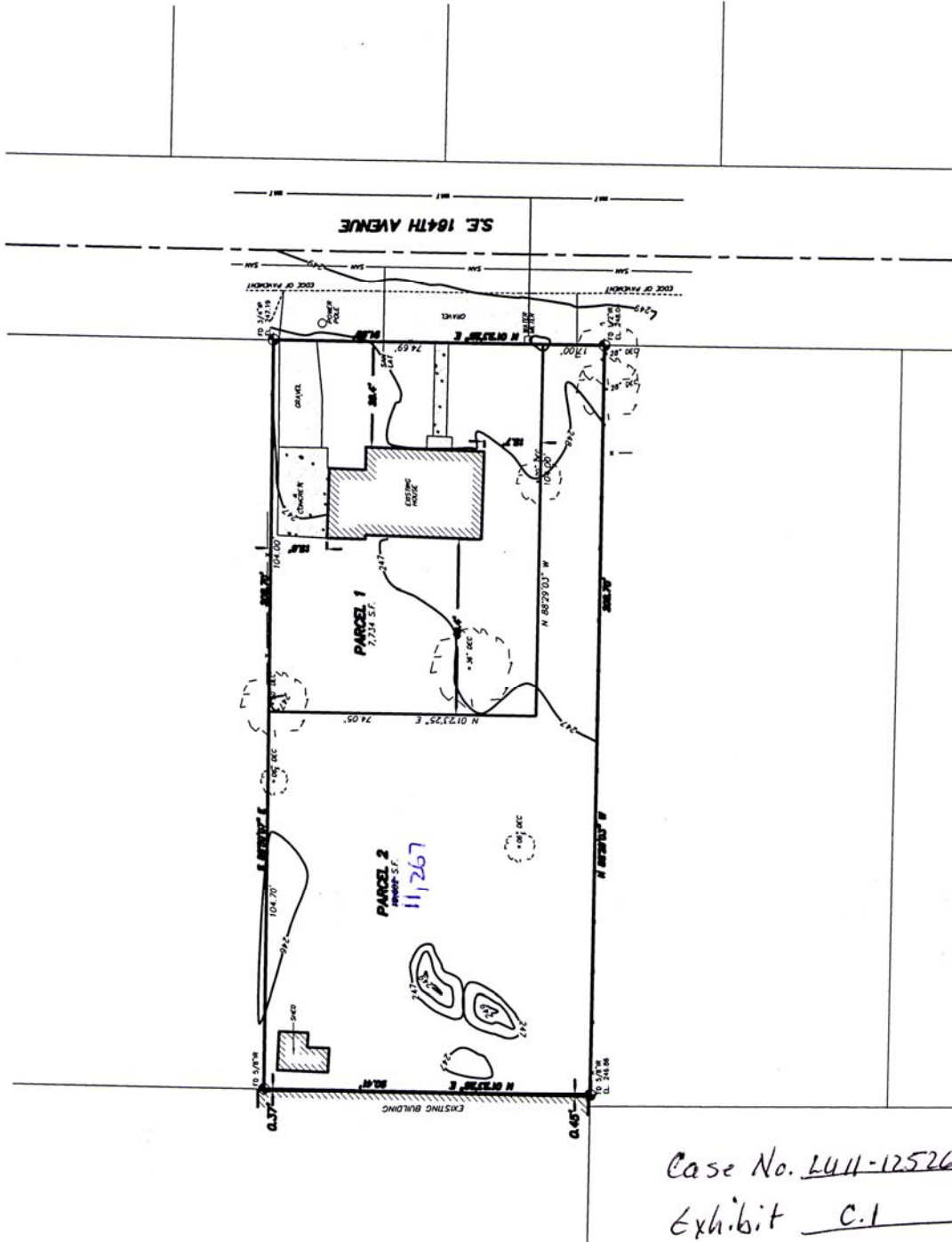
 Site



File No. LU 11-125266 LDP
 1/4 Section 3347
 Scale 1 inch = 200 feet
 State_Id 1S3E07BB 9800
 Exhibit B (Apr 07,2011)

EXISTING CONDITIONS MAP

TAX LOT 9800
 N.W. 1/4 SECTION 7, T.1S., R.3E., W.M.,
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 MARCH 7, 2011 SCALE 1"=20'



--VERTICAL CONTROL FROM FOUND CITY OF PORTLAND
 BENCHMARK NO. 963, BEING A B.C.C. AT THE
 INTERSECTION OF SE 164TH STREET,
 ELEVATION= 254.228, C.O.P. DATUM.

- LEGEND:
- WM = WATER METER
 - DM = DOWNSPOUT
 - DS = DOWNSPOUT
 - CS = CATCHBASIN
 - CO = CLEANOUT

SIGNED DN:
REGISTERED PROFESSIONAL LAND SURVEYOR
 WADE G. JOHNSON III
 JULY 16, 2001
 2278

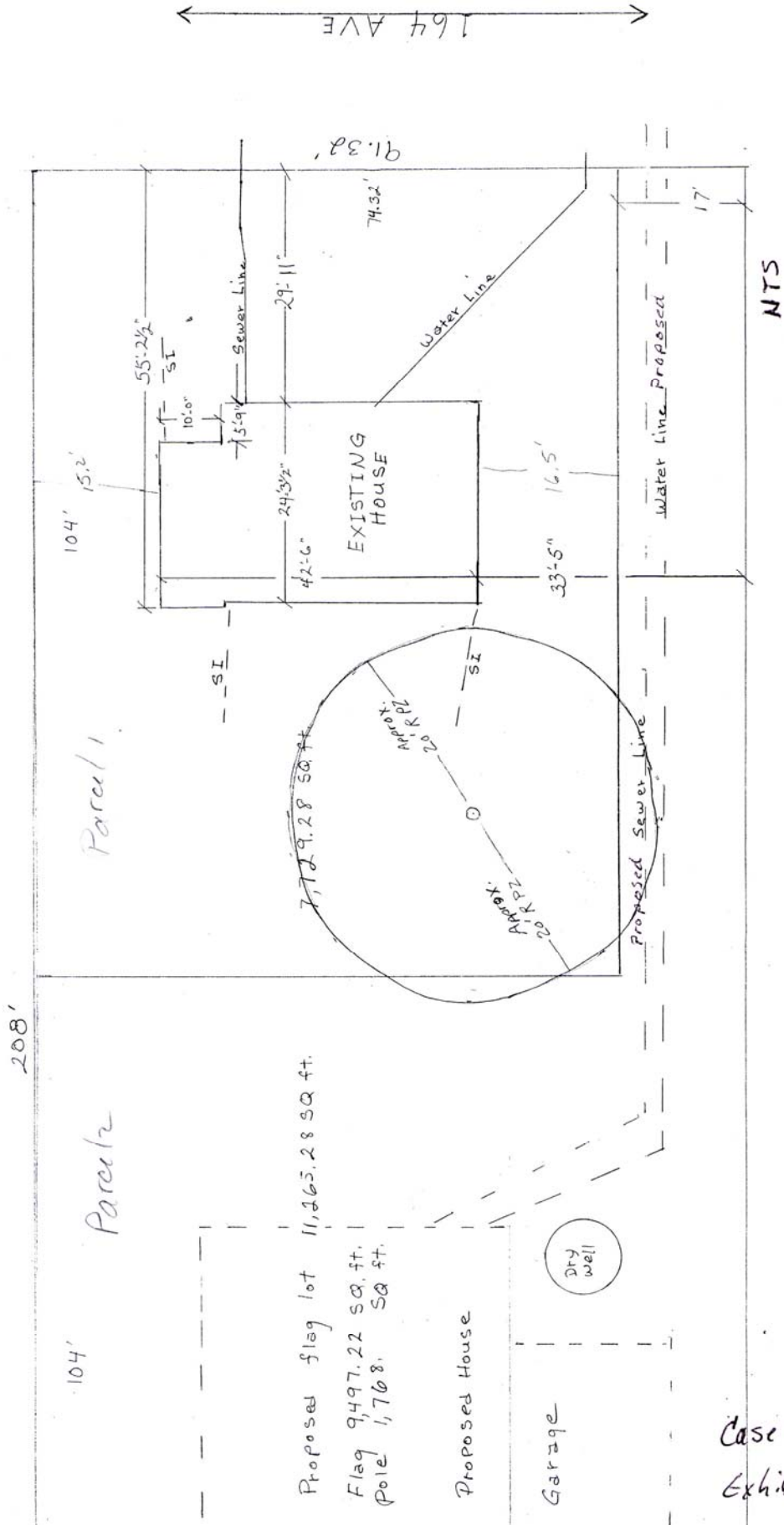
VALID THROUGH DECEMBER 31, 2011

Centerline Concepts Inc.
 729 MOALLA AVENUE, SUITE 1 & 2
 OREGON CITY, OREGON 97045
 503 650-0188 FAX 503 650-0189
 DRAWN BY: MPW CHECKED BY: WDH ACCOUNT #150-6086
 M:\PROJECTS\LOCKE-6086\CEM

Case No. LUH-125266-4DP
 Exhibit C.1

TREE PRESERVATION & PROPOSED UTILITY PLAN (NTS)

N



Case No LU 11-125 2666DP
Exhibit C.2