



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

FROM CONCEPT TO CONSTRUCTION

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Date: April 12, 2012
To: Interested Person
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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 11-196348 LDS

GENERAL INFORMATION

Applicant: John Gessner
1136 NE Beech Street
Portland, OR 97212-2259

Representative: Lynnia K Woods
20315 NE Sandy Blvd
Fairview, OR 97024-9740

Site Address: NE 141st Avenue b/w NE Failing Street & NE Beech Court

Legal Description: BLOCK 16 LOT D, STRATHMORE
Tax Account No.: R800708490
State ID No.: 1N2E23DD 01500
Quarter Section: 2644

Neighborhood: Argay, contact Troy Palmquist at 503-256-5445.
Business District: Parkrose Business Association, contact Wayne Stoll at 503-284-1921.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: None
Zoning: Residential 7,000 (R7) w/ Aircraft Landing Zone (h) and Portland International Airport Noise Impact Zone (x) Overlays

Case Type: Land Division Subdivision (LDS)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is requesting to divide the subject property into three lots ranging in size from 4,621 to 5,781 square feet and three open space tracts ranging in size from 1,193 to 4,227 square feet.

This subdivision 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 subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 6 units of land (3 lots and 3 tracts). Therefore this land division is considered a subdivision.

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 west side of NE 141st Drive across the street from Argay Park. The site is void of any existing development and there is no record of any other uses in the past. The topography is relatively flat and a majority of the trees on site are located directly behind the existing sidewalk. The surrounding vicinity is primarily comprised of R7 zoning with single family development. Commercial, multi-dwelling and industrial zoning and development is located approximately 800 feet north of the site on NE Sandy Boulevard.

Infrastructure:

- **Streets** – The site has approximately 32 feet of frontage on NE Failing Street, 85 feet of frontage on NE Beech Court and 627 feet of frontage on NE 141st Drive. At this location, NE 141st Drive is classified as a Neighborhood Collector, Community Transit Street, City Walkway, and a Local Service Street for all other modes in the Transportation System Plan (TSP). NE Beech Court and NE Failing Street are classified as Local Service Streets for all modes in the TSP. Tri-Met provides transit service along the sites NE 141st Drive frontage via Bus #22. Parking is currently not allowed on the sites NE 141st Drive frontage.

At this location, NE 141st Drive is improved with a 44 foot paved roadway surface and pedestrian corridor that consists of a 5.5 foot curb tight sidewalk and 2.5 foot setback to private property (0-5.5-2.5) within a 60 foot wide right-of-way. The site's NE Beech Court frontage is improved with a 32 foot paved roadway surface and pedestrian corridor that consists of a 5.5 foot curb tight sidewalk and 3.5 foot setback to private property (0-5.5-3.5) within a 50 foot wide right-of-way. The site's NE Failing Street frontage is improved with a 32 foot paved roadway surface and pedestrian corridor that consists of a 3.5 foot planter, 5 foot sidewalk and 0.5 foot setback to private property (3.5-5-0.5) within a 50 foot wide right-of-way.

- **Water Service** – There is an existing 10-inch CI water main in NE 141st Drive.
- **Sanitary Service** - There is an existing 8-inch concrete sanitary gravity sewer in NE 141st Drive.

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

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The allowed height limit for buildings and vegetation on the site per the "h" overlay is 460

feet above the lowest base point at Portland International Airport. The airport low base point is at an elevation of 18.3 feet. Therefore, the topographical elevation of the site PLUS the proposed building cannot exceed 478.3 feet. The highest ground elevation on the site is approximately 70 feet. Therefore, buildings and vegetation on the site cannot exceed 408.3 feet in height. On this site, however, the base zone (R5) height limit of 30 feet is more restrictive than the 'h' overlay allows and cannot be exceeded without a future adjustment review.

Land Use History: City records indicate the following prior land use reviews for this site:

- **M45-59:** Approval of Strathmore subdivision by Multnomah County in September of 1968. The plat was subsequently recorded on February 10, 1969. The subject property is described as Lot D and is located within Block 16, which includes 26 other lots.

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 **February 9, 2012**. Three written responses have been received from the Neighborhood Association or notified property owners in response to the proposal. The primary concern expressed in the written correspondences pertains to the use and purpose of the tract of land that is proposed for further division under this land use review. This issue was also previously raised at the time of replatting of Tract B of this subdivision under Land Use Review 99-00529 MP, and addressed as follows:

"A main concern with this land division proposal is creating a lot out of Tract B, which was created by Multnomah County under M45-59 - Strathmore Subdivision. Strathmore Subdivision was approved by the County in September of 1968 and recorded with Multnomah County on February 10, 1969. The intent of this tract may have been a landscape buffer between Strathmore Subdivision and NE 141st Avenue in conjunction with this subdivision. The original land use case file, M45-59, was destroyed by Archives, so it was not possible to find the purpose of these tracts. A copy of the recorded plat and declaration of restrictions (CC&R's) did not define the purpose of this tract. Multnomah County originally owned this tract and then sold it in the 1990's. In conclusion from the resources available it looks like there are no restrictions or specific purpose placed on this Tract B which prevents it from becoming a buildable parcel of land."

In addition, Kathryn Beaumont, City Attorney, has reviewed the current proposal and relevant information and is quoted, in part, as follows (Exhibit F.4):

"I read through the material you gave me about this proposed land division and the issues that have been raised concerning the original purpose of the tract. I don't see anything about the history of the tract that prevents BDS from processing and approving this land division. Apparently there is nothing on the plat or in the deed history that indicates the tract was dedicated for park or open space purposes. The fact that neighbors may have assumed it was open space or used it in a manner consistent with an open space purpose does not make it public land. As a factual matter, the County sold it to a private owner in 1992 and the time for challenging this transaction most likely has elapsed. And the theory that the public has acquired ownership of the property through adverse possession is simply not viable based on the sketchy facts."

Based on the preceding history and analysis, there doesn't appear to be any information that would preclude the City from reviewing a land division for this piece of property.

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.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
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.
I	33.639 - Solar Access	It is not practicable to meet the approval criteria of this chapter and the approval criteria of other chapters in the 600's (33.610.200 supercedes 33.639).
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 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing 3 single family parcels for detached houses. The minimum and maximum density for the site is as follows:

Minimum = (24,979 square feet * .80) ÷ 7,000 square feet = 2.85 (which rounds up to a minimum of 3 lots, per 33.930.020.A)

Maximum = 24,979 ÷ 7,000 square feet = 3.56 (which rounds down to a maximum of 3 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 2.

The applicant is proposing 3 lots. 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)
R7 Zone	4,200	12,000	40	55	30
Lot 1	4,621		38	114	32.2
Lot 2	5,486		77	67.9	75
Lot 3	4,961		82	57.7	76

* 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.

Narrow Lots

Lot 1 is 38 feet wide, which is narrower than the minimum width of 40 feet for the R7 zone, as shown in the table above. The Zoning Code, however, allows the minimum lot width to be reduced below the minimum dimension stated above, if all of the following are met (33.610.200.D.2):

- a. On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations;**

Findings: 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 they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (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.

Due to the configuration of the subject property, it would not be feasible to execute a land division without the creation of a narrow lot on the corner of NE Failing Street and NE 141st Drive. *Title 33* dictates that the shorter of two lot lines on a corner is considered the front, which is where the minimum lot width is measured from. The minimal amount of frontage on NE Failing Street results in proposed Lot 1 being marginally below the minimum width requirement of the R7 zone.

The applicant has provided an example of a building footprint for Lot 1 that meets all applicable setback requirements and is oriented towards the street. Therefore they have demonstrated that this lot can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code. The applicant has provided a Utility Plan that demonstrates that each lot has access for utilities and services (Exhibit C-2). The proposed lot is not landlocked nor does it narrow to an unbuildable width close to the street.

Proposed Lot 1 does not have the appearance of being compatible with existing lots in the vicinity. However, on balance, proposed Lot 1 contains dimensions that are consistent with the purpose of lot dimension regulations as demonstrated by the preceding findings. Therefore this standard is met.

- b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet;**

Findings: The proposed width of Lot 1 is 38 feet and therefore may be developed with a detached house.

- c. If the lot abuts a public alley, then vehicle access must be from the alley. This requirement will be imposed as a condition of approval of the land division;**

Findings: The site does not have access from an alley, so this standard does not apply.

- d. 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;**

Findings: The proposed width of Lot 1 measured at the front setback is 38 feet and increases up to 57 feet at the rear property line. Therefore, a house built at the minimum garage entrance setback (18 feet) would be at least 28 feet wide considering the 5 foot side yard setback requirement on either side. A standard one-car garage typically includes a 9-foot wide garage door with 2 feet of structural support on either side. A 28 foot wide house could have a garage wall up to 14 long and still comply with the 50% garage wall limitation standard. Therefore it can be assumed that any new house on the lot could provide at least a one-car garage and still comply with the 50% garage wall limitation.

- e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and**

Findings: The applicant is not proposing an attached house for Parcel 1. Therefore, this standard does not apply.

- f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of subparagraphs 2.c and d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:**

- (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;**
- (2) Meet the requirements of Section 33.700.060, Covenants with the City; and**
- (3) Be attached to, and recorded with the deed for the new lot.**

Findings: Parking is required. Therefore, alley access and the garage limitation requirements described above must be met.

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 applicant has submitted an arborist report that inventories the trees within the land division site and evaluates their condition (Exhibit A.2). A total of 21 trees were inventoried, of which 19 trees were determined to be exempt as they were either considered a nuisance species or diseased in a manner that threatens continued viability. Thus, two non-exempt trees are located within the land division site. These non-exempt trees comprise 48 inches in total diameter for the purposes of chapter 33.630.

The applicant proposes to preserve a 36 inch European Beech tree located within Tract 1, which equates to 75 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. A standard root protection zone (33.930.140) will be required as delineated on the Preliminary Partition Plat (Exhibit C.1).

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 Tract 1 and Lot 3 be carried out in conformance with the Preliminary Partition Plat (Exhibit C.1) 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, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

Land Suitability

The site is currently vacant, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: The proposal includes three open space tracts. The tracts may be owned by the owners of the proposed lots, a Homeowners Association, a public or private non-profit organization or the City or other jurisdiction.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the tracts described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (Open Space Tract) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, 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>33.651 Water Service standard - See Exhibit E.3 for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified and noted earlier in this decision. Water is available to serve the proposed development from the water main in NE 141st Drive. Therefore, this criterion is met.</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 and noted earlier in this decision. The sanitary sewer main in NE 141st Drive is available to serve the sanitary needs of the proposed development. Therefore, this criterion is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards- See Exhibits E.1 & E.5</p> <p>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:</p> <ul style="list-style-type: none"> • Lots 1-3: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.
<p>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</p> <p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west through street provided in the vicinity of the site. The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division. 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.</p>

**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 generally do not require a formal transportation impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

"Along the subject site frontage there are mature trees just outside of the ROW. Current City standards would require a 12-ft sidewalk corridor consisting of a 0.5-ft curb, 4-ft furnishing zone (planting strip), 6-ft sidewalk, and a 1.5-ft buffer between the back of the sidewalk and the property line. There is currently 8-ft from the face of the existing curb to the property line.

The applicant filed for a Public Works Appeal (12-106613) seeking relief from the dedication and sidewalk reconstruction to current City standards. The appeal was approved. The applicant must dedicate 4-ft along the entire frontage and plant street trees behind the sidewalk on the southern section of the site along the open space tract prior to final plat approval. With the 4-ft dedication the existing trees behind the sidewalk will become City trees.

The three new detached single family homes can be expected to generate approximately 30 daily vehicle trips with 3 trips occurring in the AM and PM Peak Hours. This small amount of peak hour trips is not expected to negatively impact area intersections. Due to surrounding development, providing an additional east/west public street for connectivity is not feasible. On site parking is proposed to serve the new residences. Impacts to on-street parking will be negligible. Tri-Met route 22 is available on NE 141st between NE Freemont and NE Sandy. The pedestrian environment will be improved with the required sidewalk widening on the open space tract created with this land division.

Transportation facilities are adequate to serve the proposed three lots in addition to the existing uses in the area."

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. Based on the preceding analysis, Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the development can be safely served by this existing street without having any significant impact on the level of service provided subject to right-of-way dedication along the sites NE 141st Drive frontage.

With the condition 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:

- Narrow Lots: development on Lot 1 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.2 times the width of the structure, per 33.110.215.B.2.
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a.
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.

Existing development that will remain after the land division. The site is currently vacant, 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 R7 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.

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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 hydrant spacing, ensuring adequate hydrant flow from the nearest fire hydrant and aerial Fire

Department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

- The applicant must meet the requirements of Urban Forestry for street tree planting behind the existing NE 141st Drive sidewalk south of the 36-inch European Beech tree prior to final plat approval. This requirement is based on the standards of Title 20 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 3-lot subdivision with three open space tracts, 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: the creation of a narrow lot and transportation impacts.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision that will result in one narrow lot (Lot 1) two standard lots (Lots 2 & 3) and three Open Space Tracts, 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 NE 141st Drive. The required right-of-way dedication must be shown on the final plat.
2. The Open Space tracts shall be noted on the plat, substantially similar to the following example: "Tract A: Open Space. A note must also be provided on the plat indicating ownership and maintenance of the tracts by the owners of the lots within the subdivision.
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 Conditions B.3 and B.4 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:

1. 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.
2. The applicant shall meet the requirements of the Fire Bureau regarding fire hydrant spacing. If existing hydrants do not meet applicable Fire Code spacing requirements, the applicant shall be required to install 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.
3. Maintenance Agreement(s) shall be executed for the Open Space tracts described in Condition A.2 above. The agreements shall include provisions assigning maintenance responsibilities for the tracts and any shared facilities within these areas, consistent


with the purpose of the tracts, and all applicable City Code standards. The agreements must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

4. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Tract 1 and Lot 3. 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.
5. The applicant must plant 8 street tree(s) behind the existing NE 141st Drive sidewalk south of the 36-inch European Beech tree. Street trees will be chosen from the City's approved street tree list. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

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

1. Development on Tract 1 and Lot 3 shall be in conformance with the Preliminary Partition Plat (Exhibit C.1) and the applicant's Arborist Report (Exhibit A.2). Specifically, a 36-inch European Beech tree is required to be preserved, with a standard root protection zone (33.930.140). 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. 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.

Staff Planner: Sean Williams

Decision rendered by:  **on April 9, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 12, 2012

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 23, 2011, and was determined to be complete on **February 7, 2012**.

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 23, 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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 6, 2012.**

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.**

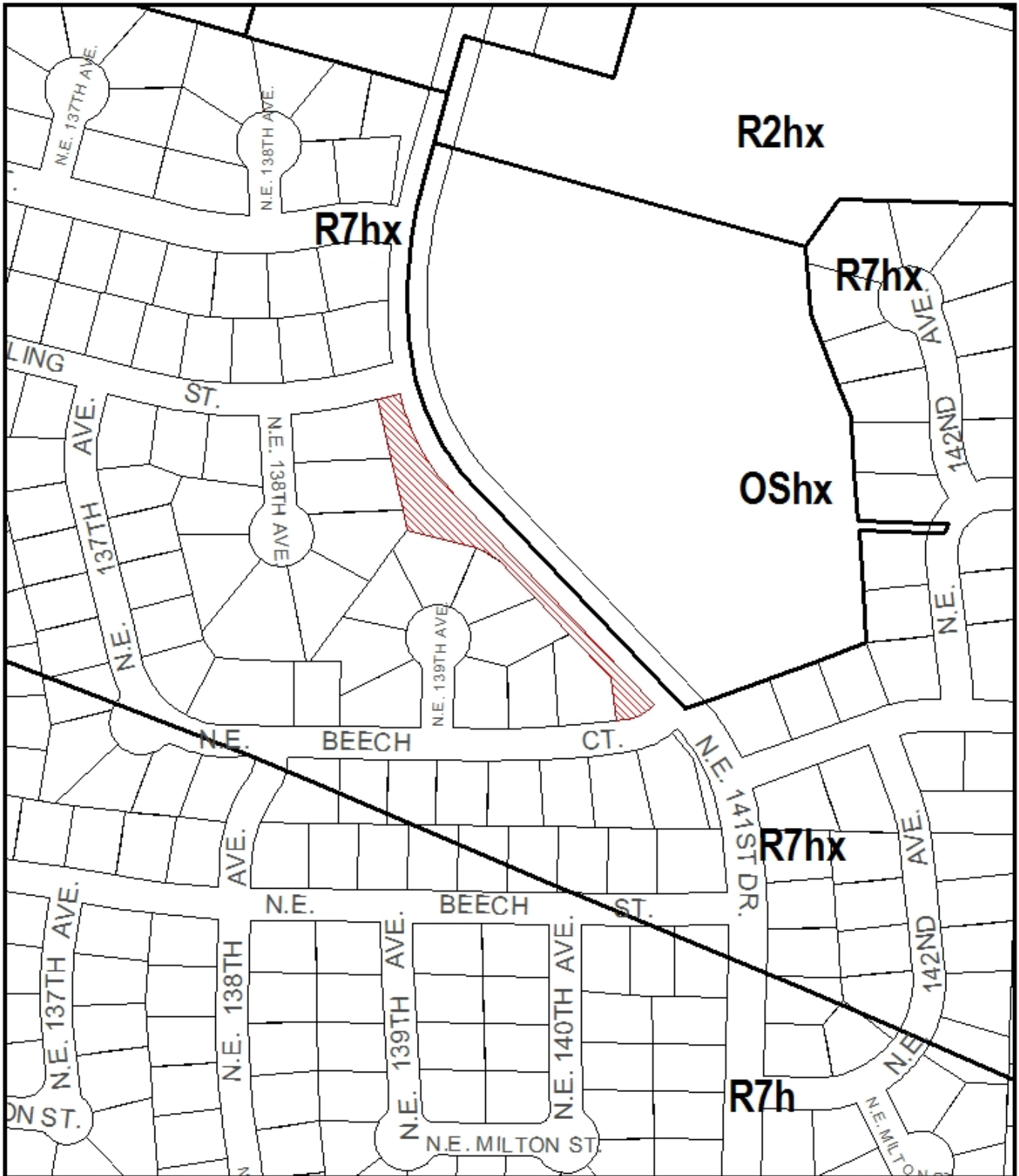
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Application Narrative
 - 2. Arborist Report w/ Addendum
 - 3. Infiltration Testing
 - 4. Neighborhood Notification

5. Memo – John Gessner (2/6/12)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Preliminary Partition Plat (attached)
 2. Utility Plan
 3. Preliminary Clearing & Grading Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Plans Examiner
- F. Correspondence:
 1. Argay Neighborhood Association (3/10/12)
 2. Roger F. Dierking (3/10/12)
 3. Bonny McKnight (3/12/12)
 4. Email – Kathryn Beaumont, City Attorney (3/30/12)
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Incomplete Letter
 4. RFC Responses

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.	<u>LU 11-196348 LDS</u>
1/4 Section	<u>2644</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E23DD 1500</u>
Exhibit	<u>B</u> (Feb 07,2012)

11-196348 PD LDP

PRELIMINARY PARTITION PLAT

BEING ALL OF TRACT "D", "STRATHMORE"
LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 23,
TOWNSHIP 1 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

DATE OF SURVEY: JUNE 28, 2011
REVISED: NOVEMBER 15, 2011



*36' Empress Beech tree w/
Standard RPZ
(33.58x.140)*

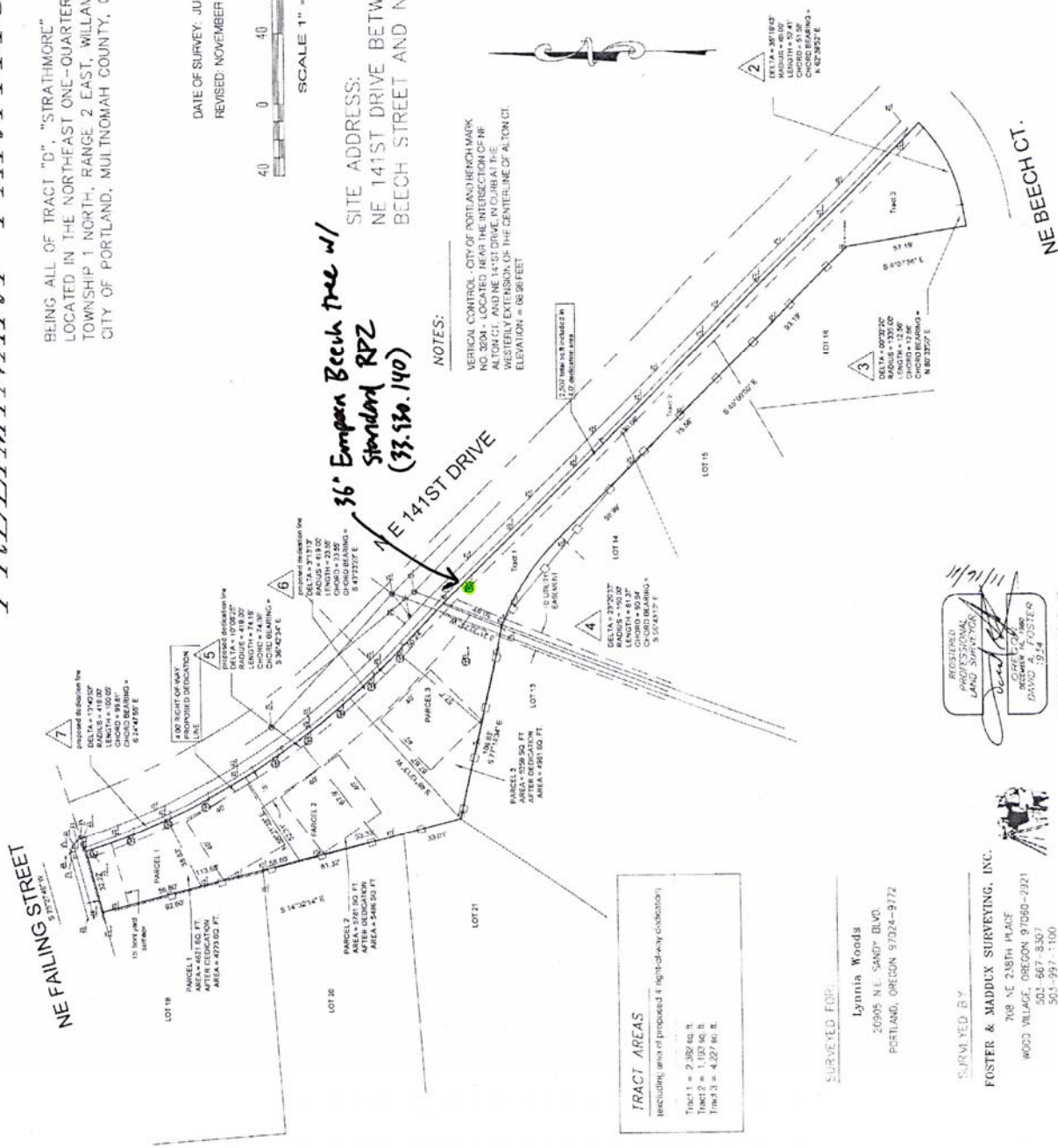
SITE ADDRESS:
NE 141ST DRIVE BETWEEN NE
BEECH STREET AND NE FAILING STREET

NOTES:

VERTICAL CONTROL - CITY OF PORTLAND BENCHMARK
NO. 9204 - LOCATED NEAR THE INTERSECTION OF NE
ALTON CT. AND NE 141ST DRIVE IN CURB AT THE
WESTERLY EXTENSION OF THE CENTERLINE OF ALTON CT.
ELEVATION = 06.88 FEET

CURVE TABLE

1	DELTA = 27°07'37"	DELTA = 35°19'47"
RADIUS = 475.00'	RADIUS = 150.00'	RADIUS = 85.00'
LENGTH = 13.56'	LENGTH = 12.56'	LENGTH = 8.13'
CHORD BEARING = N 17°20' 71"	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E
2	DELTA = 27°07'37"	DELTA = 35°19'47"
RADIUS = 475.00'	RADIUS = 150.00'	RADIUS = 85.00'
LENGTH = 13.56'	LENGTH = 12.56'	LENGTH = 8.13'
CHORD BEARING = N 17°20' 71"	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E
3	DELTA = 42°32'00"	DELTA = 42°32'00"
RADIUS = 100.00'	RADIUS = 100.00'	RADIUS = 100.00'
LENGTH = 12.56'	LENGTH = 12.56'	LENGTH = 12.56'
CHORD BEARING = N 87°33'57" E	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E
4	DELTA = 42°32'00"	DELTA = 42°32'00"
RADIUS = 100.00'	RADIUS = 100.00'	RADIUS = 100.00'
LENGTH = 12.56'	LENGTH = 12.56'	LENGTH = 12.56'
CHORD BEARING = N 87°33'57" E	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E
5	DELTA = 42°32'00"	DELTA = 42°32'00"
RADIUS = 100.00'	RADIUS = 100.00'	RADIUS = 100.00'
LENGTH = 12.56'	LENGTH = 12.56'	LENGTH = 12.56'
CHORD BEARING = N 87°33'57" E	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E
6	DELTA = 42°32'00"	DELTA = 42°32'00"
RADIUS = 100.00'	RADIUS = 100.00'	RADIUS = 100.00'
LENGTH = 12.56'	LENGTH = 12.56'	LENGTH = 12.56'
CHORD BEARING = N 87°33'57" E	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E
7	DELTA = 42°32'00"	DELTA = 42°32'00"
RADIUS = 100.00'	RADIUS = 100.00'	RADIUS = 100.00'
LENGTH = 12.56'	LENGTH = 12.56'	LENGTH = 12.56'
CHORD BEARING = N 87°33'57" E	CHORD BEARING = S 56°47'17" E	CHORD BEARING = S 56°47'17" E



TRACT AREAS
(excluding area of proposed 4' right-of-way dedication)

Tract 1 = 2,382 sq. ft.
Tract 2 = 1,130 sq. ft.
Tract 3 = 4,227 sq. ft.

SURVEYED FOR:
Lynnita Woods
20095 NE SANDY BLVD.
PORTLAND, OREGON 97224-9772

PREPARED BY:
FOSTER & MADDUX SURVEYING, INC.
700 NE 218TH PLACE
WOOD VILLAGE, OREGON 97060-2321
503-667-5307
503-997-1100

PROFESSIONAL
LAND SURVEYOR
David A. Foster
DAVID A. FOSTER
1914

REVISED 11/15/11 12-31-12