



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

FROM CONCEPT TO CONSTRUCTION

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Date: February 26, 2016
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 15-224226 LDP

GENERAL INFORMATION

Applicant: Lisa Barker/LMB Permit Services
10511 NW 31st Ave
Vancouver, WA 98685

Owner: Janice & E Craig Edberg
19275 SE Tickle Creek Rd
Boring, OR 97009-9513

Site Address: 12626 SE TIBBETTS ST

Legal Description: TL 3500 0.26 ACRES, SECTION 11 1S 2E
Tax Account No.: R992112620
State ID No.: 1S2E11BC 03500
Quarter Section: 3343
Neighborhood: Powellhurst-Gilbert, contact Powellhurst-Gilbert
pgnaboard@gmail.com

Business District: Midway, contact David Day at 503-760-7572.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin
Zoning: Residential 2,500 (R2.5) with the "a" Alternative Design Density overlay zone.

Case Type: Land Division Partition (LDP)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: The applicant proposes to divide the 11,044 square foot site into two parcels; a 4,539 square foot parcel which will contain the existing residence, and a vacant, 5,518 square foot, vacant flag-lot for development of a single dwelling. The site contains trees

subject to the tree preservation standards of Title 33 and Title 11. Driveway access from SE Tibbetts Street to Parcel 1 is existing; access to Parcel 2 is proposed from a new driveway adjacent to the eastern property line. Water and sewer services for Parcel 1 are existing; services for Parcel 2 are proposed to connect to existing utilities located in SE Tibbetts Street.

This partition is reviewed through a Type Ix 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 two 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 11,044 square foot site is developed with a single family residence which will remain at the site. The topography of the site is level, with an average slope of less than one percent. The site is located on SE Tibbetts Street, which is not a through street and has no curbs, gutters or sidewalks. The surrounding neighborhood is developed primarily with single and multiple dwellings, with commercial uses in the vicinity to the west along SE 122nd Ave and South at SE Powell Blvd.

Infrastructure:

- **Streets** – The site has approximately 78 feet of frontage on SE Tibbetts Avenue. There is one driveway entering the site that serves the existing house. At this location, according to City GIS data, the City’s Transportation System Plan classifies SE Tibbetts Street as a Local Service street for all modes. It is improved with 32-ft of paving with no curb or sidewalk and is within a 52-ft wide right-of-way.
- **Water Service** – There is an existing 4-inch CI water main in SE Tibbetts Street. The existing house is served by a 1-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch sanitary sewer line in SE Tibbetts Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R2.5 designation is one of the City’s single-dwelling zones 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 “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. This land division is not using any provisions of the “a” overlay.

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. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **November 24, 2015**. In response to the proposal, one written response was received from a notified property owner. No response was received from the Powellhurst-Gilbert Neighborhood Association.

Staff Response: The notified property owner (Exhibit F.1) expresses concerns regarding stormwater backup from an existing public stormwater catch basin located within the public right of way in front of the project site. The property owner states that stormwater doesn’t drain properly, causing water to back up onto private property. Additionally, the property owner expresses concerns regarding on street parking on SE Tibbetts Street.

Public underground injection control (UIC) systems, “sumps”, infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UICs. The proposed partition would not result in any additional stormwater being directed to this public stormwater sump located in the street. Additionally, the flag pole portion of the driveway is proposed to include a vegetated center filter strip and stormwater from the proposed driveway will be directed to a lined swale with stormwater disposal to a private, on-site drywell. This conceptual stormwater management plan is acceptable to BES (Exhibit E.1). See Section L below for additional information regarding stormwater management. In an effort to assist the property owner to resolve the stormwater issue, contact information for the Portland Public Works Maintenance Division was provided.

The Portland Bureau of Transportation has commented (Exhibit E.2) that on-street parking will not be adversely impacted given the on-site parking opportunities being provided on the new lot. See Sections K and L below for additional information regarding parking, the public right of way and street improvements.

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	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	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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections 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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density is calculated at one unit per 2,500 square feet. Minimum density is calculated at one unit per 5,000 square feet based on 80 percent of the site area. Therefore, the 11,044 square foot site has a maximum density of 4 units and a minimum required density of 2 units. The applicant is proposing two single dwelling parcels, so the density standards are therefore met. The required and proposed lot dimensions 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)
R2.5 Zone	1,600	N/A	36	40	30	40	40
Parcel 1*	4,539		64.84	67	78.84	N/A	N/A
Parcel 2 **	6,505 (5,518 flag portion and 987 pole portion)		N/A	N/A	N/A	78.84	70

* 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.

** **For flag lots:** (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed

In this case the applicant is proposing two parcels, only one of which is a flag lot. The existing dwelling unit and attached garage have been on the property for at least 5-years and are located so that the location of the buildings preclude a land division meeting the

minimum lot width standards The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.611.400 because it has a 14-foot wide “pole”, which is at least 12 feet wide, which 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.

In this case, it is not possible to share access between the existing house and the proposed flag lot. Due to the location of the existing attached garage and driveway, a shared access is not feasible. A minimum 12-foot wide pole is required, and there is only 10 feet between the existing house and the west property line. Therefore, the pole portion of the flag lot must be located to the east of the existing house. No other alternatives beyond the proposed location were suitable for the additional vehicle access.

The site has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed. 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 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees. To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets. If the site is in an overlay zone that has additional environmental resource protection requirements, the tree plan must demonstrate that the benefits from trees are maximized for the site as a whole.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone. In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.4) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved. The report identifies four trees at the site that are six inches or greater in diameter. All of these four trees are Douglas fir trees, one of which is exempt because it is dying. Therefore, three trees (#101, #103 and #104), which provide a total of 99 inches of tree diameter, are subject to the preservation requirements of this chapter.

The two trees proposed for preservation (trees #103 and #104) are in good condition, are native, non-nuisance species, and all of the trees are 20 or more inches in diameter. Specifically, the applicant proposes to retain 50 percent of the trees that are 20 or more inches and 48 percent (60 inches) of the total tree diameter, so the proposal complies with:

Option 3: *Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.*

At the time of final plat, three-feet of street dedication to the public will be made. As a result, tree #101 will no longer be located on the site, and it will then be considered a street tree. Therefore this tree cannot be counted as an on-site preserved tree. However, the tree protection requirements specified by the applicant's arborist, as described below, will continue to apply to the site.

The arborist report proposes the performance path for tree protection, under provisions of paragraph 11.60.030.C.2. The Performance Path provides alternative measures to modify the prescriptive root protection zone, subject to meeting certain standards a through f described below:

- a. The alternative root protection zone is prepared by an arborist who has visited the site and examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone;
- b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit described above;
- c. The protection zone shall be marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist;
- d. If the alternative methods require the arborist be on site during construction activity, the applicant shall submit a copy of the contract for those services prior to permit issuance and a final report from the arborist documenting the inspections and verifying the viability of the trees prior to the City's final inspection;
- e. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used shall be submitted;
- f. The arborist shall sign the tree preservation and protection plan and include contact information.

The arborist report meets all of these standards; therefore the Performance Path for tree protection can be approved. The Portland Parks and Recreation Urban Forestry division has peer-reviewed the Performance Path tree protection proposal and has commented (Exhibit E.6) that the "report provides satisfactory methodology and justification for the retention and protection during construction of the 38-inch Douglas fir tree (tree #101) and all other on site trees referenced in the document".

In addition, the applicant's arborist report has also identified one tree, a 30-inch Sycamore maple, located on the adjacent site to the east that is located within 15 feet of potential disturbance areas on Parcel 2. In order to protect this off-site tree from construction impacts, the arborist recommends a 15-foot root protection zone, which is reflected on the tree preservation plan.

Finally, the applicant's arborist has addressed potential impacts to protected trees related to the Landscaped Buffer Area development standard of 33.110.240.F.2, which requires a 5-foot deep landscaped buffer area around the perimeter of the flag lot to buffer the flag

portion from surrounding lots. The landscaping consists of the L3 High Screen (33.248.020.C.2) standard; which requires planting 6-foot tall evergreen shrubs with any combination of large, medium or small trees spaced as required by code. Portions of the required Landscaped Buffer Area will be located within the RPZ of trees #103, #104 and the off-site 30" maple tree. The applicant's arborist recommends specific recommendations for planting the landscaping, including setting holes 5-feet from the base of trees, setting limitations for disturbance of roots greater than 1.5 inches in diameter and has stated that the trees to be preserved can sustain minor ground disturbance caused by planting the required Landscaped Buffer Area.

At the time of development, preserved trees are counted towards meeting the on-site tree density requirements (tree planting requirements) of Title 11, and the Landscaped Buffer Area trees count towards meeting the on-site tree density requirements. It is the determination of staff that the trees to be preserved (#104 and #103) will be credited towards meeting both of these requirements, and therefore any other trees planted to meet the Landscaped Buffer Area requirement should be spaced from these trees as required by 33.248.020.C.2 and per the recommendations of the applicant's arborist report. A condition of approval requiring this will reduce impacts to the trees to be protected.

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.4).

The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R2.5 zone and will not conflict with any existing utility easements, proposed services or site grading. Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

With conditions of approval, the findings above show that the Tree Preservation standards are met. Therefore, this criterion is 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, with less than 1 percent slope, 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 applicant's arborist report addresses protection measures for the trees to be preserved, although proposed development may need to be moved on the lot to accommodate the required root protection zones. 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. Although the site is currently connected to the public sanitary sewer, there is an old cesspool on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

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

Findings: The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. PBOT has provided the following findings (see Exhibit E.2):

The regulations of this Chapter allow the traffic impacts caused by dividing and developing land to be identified, evaluated, and mitigated if necessary. The following approval criterion applies to all land divisions in all zones: *The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.*

The applicant is proposing this partition in order to develop the subject site with one new single-family residence. An existing single-family dwelling on the property will remain. Therefore, the project will result in a net addition of one new single-family home which will have one on-site parking space. The minimal expected added vehicle trips – One AM peak hour trip/One PM peak hour trip for a total of 10 total new daily trips, ITE Trip Generation Manual, 9th Edition, - will not adversely impact the operations of area intersections. On-street parking will not be adversely impacted given the on-site parking opportunities being provided on the new lot. The proposed land division will not have any effect to transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The 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 Bureau has indicated that service is available to the site, as noted on page 2 of this report. The Water Bureau has noted that water service must be spaced a minimum of 1.5 feet from adjacent property lines and 5-feet skin to skin from sanitary sewer laterals. This standard must be verified prior to approval of the Final Plat. With a condition of approval, the water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. However, as a result of the proposed land division, BES has noted that a possibility exists that the existing sanitary sewer connection lateral serving the existing house on Parcel 1 would possibly cross over into Parcel 2. BES requires sanitary connections to be separately conveyed through a route of service that does not cross property lines.</p> <p>Therefore, a condition of approval will require the applicant to obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1. If a new sewer connection is required to be established for the house, all</p>

plumbing permits must receive final inspection approval prior to Final Plat approval.

With a condition of approval requiring demonstration to the satisfaction of BES that the sewer lateral serving the existing structure is located within the frontage of Parcel 1, the sanitary sewer service standards of 33.652 can be verified.

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

Parcel 1 (the lot with the existing house): The existing house has downspouts that drain onto the ground. Stormwater from the existing house to remain on parcel 1 is discharged to splash blocks. The submitted site plan shows that the downspouts discharge meeting required setbacks to the existing house and the proposed new property lines.

Parcel 2 (the vacant flag-lot): Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for stormwater facilities that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywell. The flag pole portion of the driveway is proposed to include a driveway center filter strip and the remainder of the driveway will be directed to a lined swale with disposal to the drywell. This conceptual stormwater management plan is acceptable to BES. The stormwater management criteria and standards of 33.653.020 & .030 are met.

33.654.110.B.1 Through streets and pedestrian connections

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 is approximately 1,200 feet long and therefore does not meet the noted spacing requirements. Therefore, there should be an east-west or north-south through street provided in the vicinity of the site.

As discussed under the findings for 33.654.110.B, the adjacent site to the south of the project site is already developed and subdivided. There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed street to the eastern boundary of the site. This criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment

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 proposed partition at the site triggers standard frontage improvements and a 3-ft property dedication. At this location, according to City GIS data, the City's Transportation System Plan classifies SE Tibbetts Street as a Local Service street for all modes. It is improved with 32-ft of paving with no curb or sidewalk within a 52-ft wide right-of-way. For Local Service classified streets abutting R2.5-zoned sites, the City's public r.o.w. standards document requires a 56-ft r.o.w. width to accommodate a 26-ft roadway width and two 15-ft wide sidewalk corridors (0.5-ft curb, 8-ft stormwater management facility, 6-ft sidewalk & 0.5-ft frontage zone). A 3-ft property dedication would be necessary to accommodate the frontage improvements.

However, the applicant submitted for a Public Works Alternative Review, 15-267413-PW (see Exhibit G.3), and was granted relief from the above referenced standard frontage improvements. The Alternative Review Committee approved the applicant's alternative review request with the condition that the applicant dedicates the required 3-ft of property for right of way purposes, and that they sign and record waivers of remonstrance as a condition of Final Plat approval.

This criterion is met, with the conditions that the required right-of-way dedication is shown on the Final Plat and the required waivers are signed prior to final plat approval.

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:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 2.

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 R2.5 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.)

In this case, there is one Zoning Code standard relating to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 12 feet from the new property line where a 5-foot minimum setback is required. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Title 11 Tree Density - At the time of development, the individual parcels must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements for Parcel 2. However, tree planting will be required for Parcel 1, since no trees will remain on this parcel. A Condition of approval will require tree planting prior to approval of the final plat.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the

project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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 requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access and dead end access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a two parcel 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: flag lot development standards, the location of an existing sanitary sewer lateral and tree preservation. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition, that will result in one standard lot and one flag lot as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for review and approval by the Land Use Services division of BDS. 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;
- Fire department access lane for the driveway of Parcel 2;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Tibbetts Street. The required right-of-way dedication must be shown on the final plat.

2. 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.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. 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

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant spacing and 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.
4. 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. Alternately, and for access roads exceeding 30 units, the applicant will be required to install residential sprinklers in the new house on Parcel 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
5. The applicant must demonstrate to the satisfaction of BES that the sewer lateral serving the existing structure on Parcel 1 is located within the Parcel 1 frontage, or cap the existing lateral for the future use of development on Parcel 2 and establish a new service connection from the existing structure to a public sewer. If modifications to the lateral are necessary, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
6. An approved Fire Code Appeal is required for dead end fire apparatus access roads in excess of 300-feet in length without an approved area for turning around fire apparatus.

Required Legal Documents

7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.
8. A Zoning Permit must be finalized to document that Parcel 1 is in conformance with the tree density requirements of Title 11. Planting is required to fulfill these regulations.

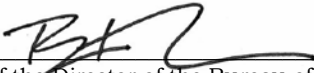
D. The following conditions are applicable to site preparation and the development of individual lots:

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4). Specifically, trees numbered 103 and 104 are required to be preserved, with the root protection zones

indicated on Exhibit C.1. Additionally, tree protection measures are required for an off-site tree, a Sycamore maple tree, as specified in the arborist report and shown on Exhibit C.1. 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/her supervision. Tree planting for the required Landscaped Buffer Yard on Parcel 2 shall be designed to incorporate trees #104 and #103 as large trees, using the tree spacing method of 33.248.020.C.2.

2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
4. The applicant will be required to install residential sprinklers in the new houses on Parcel 2 to the satisfaction of the Fire Bureau.

Staff Planner: Brandon Rogers

Decision rendered by:  **on February 24, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed February 26, 2016

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 August 24, 2015, and was determined to be complete on **November 19, 2015**.

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 August 24, 2015.

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: March 18, 2016.**

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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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

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.**

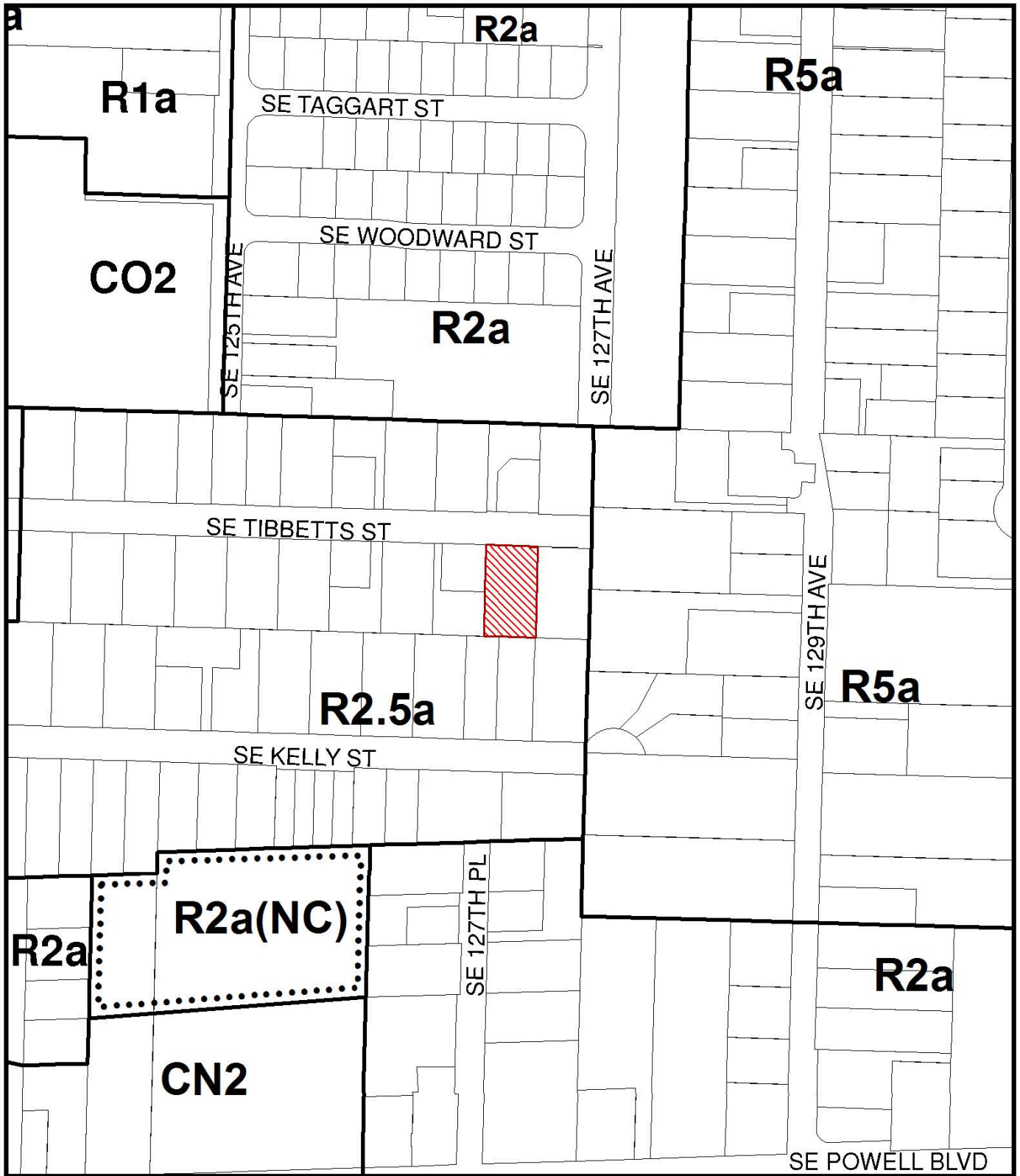
EXHIBITS

NOT ATTACHED UNLESS INDICATED


- A. Applicant’s Statement
 - 1. Original Submittal/ Applicant’s Narrative
 - 2. Simplified Stormwater Report
 - 3. Applicant’s Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan/Preliminary Land Division Plan/Proposed Improvements 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 section of BDS
 - 6. Urban Forestry

7. Life Safety Section of BDS
- F. Correspondence: none
 1. Brandi Leedom, November 30, 2015
- G. Other:
 1. Original Land Use Application
 2. Incomplete Letter
 3. Public Works Alternative Review
 4. Applicant's Response to 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



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 15-224226 LDP
 1/4 Section 3343
 Scale 1 inch = 200 feet
 State_Id 1S2E11BC 3500
 Exhibit B (Aug 27, 2015)

EXISTING CONDITIONS PRELIMINARY PARTITION PLAT

TAX LOT 2500, 1S 2E 11BC

LOCATED IN THE NORTHWEST ONE-QUARTER,
OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 2 EAST, OF THE
WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY,
STATE OF OREGON

DATE OF SURVEY: JUNE, 2015

revised / updated: October 21, 2015



SCALE 1" = 20'

PROPOSED PARCEL AREAS	
PARCEL 1 =	4,539 SQUARE FEET
PARCEL 2 =	6,505 SQUARE FEET
TOTAL AREA =	11,044 SQUARE FEET

VERTICAL DATUM

CITY OF PORTLAND BENCH MARK NO. 2169 -
SOUTHWEST CORNER SE TIBBETTS STREET AND SE 122 ND AVENUE
ELEVATION = 269.46 (CITY OF PORTLAND DATUM)

SURVEYED FOR:

JANICE EDBERG
19275 SE TICKLE CREEK ROAD
BORING, OREGON 97009

ED WAGNER
OREGON CUSTOM HOME BUILDERS LLC
P. O. BOX 742
FAIRVIEW, OREGON 97024

SURVEYED BY

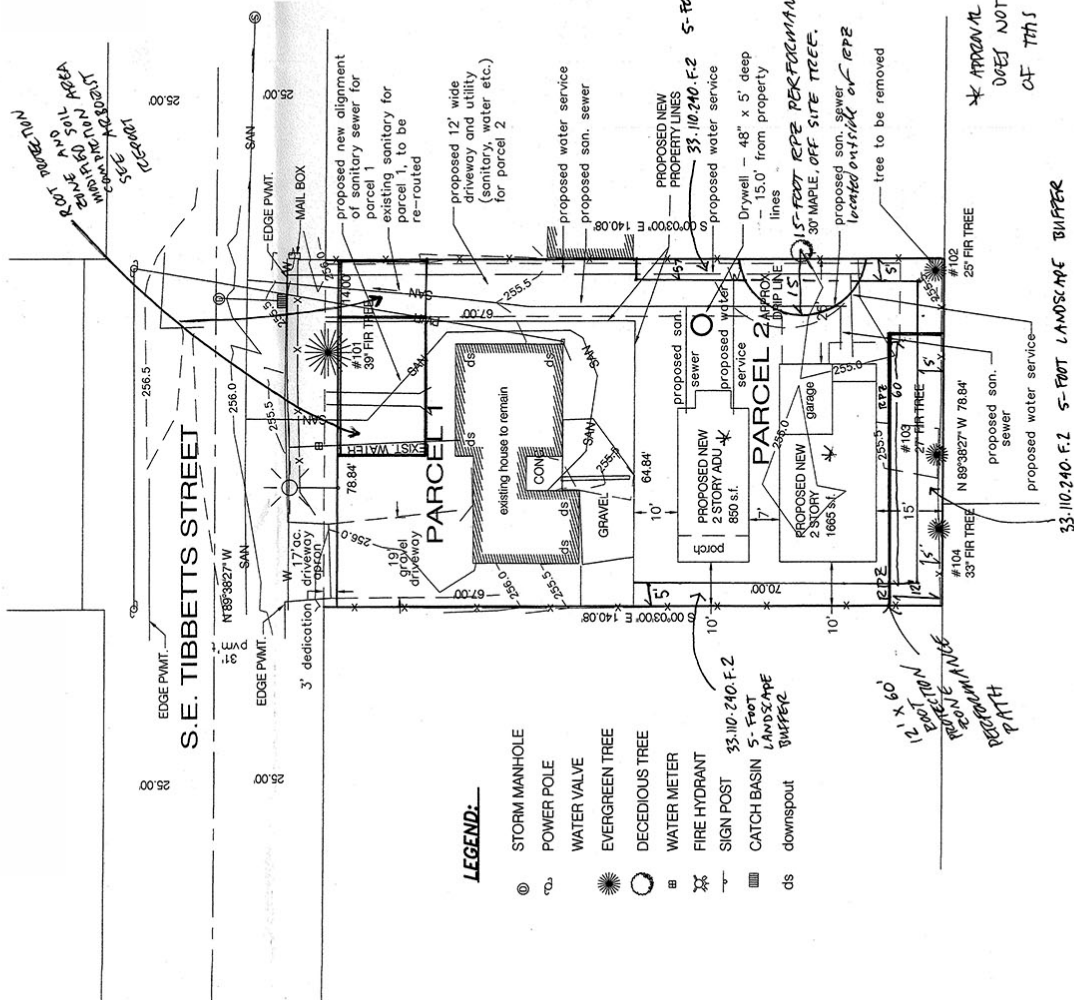
FOSTER SURVEYING, INC.
3517 SE 198TH AVENUE
CAMAS, WASHINGTON 98607
503-997-1100



REVIEWED THRU: 12-31-15

RECEIVED
11/19/15

SITE ADDRESS
12826 SE TIBBETTS STREET
PORTLAND, OREGON



LEGEND:

- STORM MANHOLE
- POWER POLE
- WATER VALVE
- EVERGREEN TREE
- DECIDUOUS TREE
- WATER METER
- FIRE HYDRANT
- SIGN POST
- CATCH BASIN
- 5-FOOT LANDSCAPE BUFFER
- downsput
- ds

* APPROVAL OF THIS PARTITION DOES NOT INDICATE APPROVAL OF THIS PROPOSED DEVELOPMENT