



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

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**Date:** February 10, 2017  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
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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 16-266954 LDP**

#### **GENERAL INFORMATION**

**Owner/Applicant:** Emily Churchill/Tiger Lily Holdings LLC  
Po Box 5561  
Portland, OR 97228

**Site Address:** 6221 SE 49TH AVE

**Legal Description:** BLOCK 116 LOT 2, WOODSTOCK  
**Tax Account No.:** R928910910  
**State ID No.:** 1S2E18CD 09100  
**Quarter Section:** 3635  
**Neighborhood:** Woodstock, contact Terry Griffiths at 503-771-0011.  
**Business District:** Woodstock Community Business Association, contact Ann Sanderson at [anndango@gmail.com](mailto:anndango@gmail.com).  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.  
**Zoning:** Residential 5,000 (R5)  
**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 10,000 square foot site into three parcels; Parcel 1 will contain the existing house and be 5,200 square feet in size; Parcels 2 and 3 will be developed with attached houses and each parcel is proposed to be 2,400 square feet in size. Access for Parcel 1 is proposed from SE 49<sup>th</sup> Ave. Access to Parcels 2 and 3 is proposed from SE Tolman Street. Water services are proposed to serve Parcel 2 from SE 49<sup>th</sup> Avenue, Parcel 3 from SE Tolman Street. Water service for Parcel 1 is existing and provided from SE 49<sup>th</sup> Avenue. The site contains trees subject to the tree preservation criteria of Title 33. On site stormwater management is proposed for all parcels. The applicant proposes to use the provisions 33.110.240.E, which provides for one extra dwelling unit when attached houses are proposed on corner lots and when certain standards are met.

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 three units of land. Therefore, this land division is considered a partition.

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).

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 developed with a single family residence and detached garage. The surrounding neighborhood is developed with single family residences located on 200-foot by 200-foot blocks with a well-developed street grid. Commercial and multi dwelling development is located along SE Woodstock Blvd and SE 52<sup>nd</sup> Avenue, which are located a few blocks north and east of the site, respectively.

### Infrastructure:

- **Streets** – The corner lot site has approximately 100 feet of frontage on both SE Tolman Street and SE 49<sup>th</sup> Avenue. There is one driveway entering the site from SE Tolman Street that serves the existing garage on the site. At this location, SE 49<sup>th</sup> Avenue is classified as a City Bikeway and a Local Service Street for all modes and is improved with a 16-ft wide sidewalk corridor with a 9-5-2 configuration. SE Tolman is classified as a Local Service Street for all modes.
- **Water Service** – There is an existing 6-inch water main in SE 49<sup>th</sup> Avenue. The existing house is served by a 3/4-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line located in SE Tolman Street. The existing house is served from this sewer main.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** Residential 5,000. The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

**Land Use History:** Research of city records show an expired land use review for this site. LU 07-133856 LDP, an application for a three-parcel partition, expired per 33.730.130.B.1.b because a permit was not issued for approved development or the approved activity had not commenced by 06/30/2014. The Final Plat application FP 07-133856 was withdrawn by the applicant on 10/31/2008 and the Final Plat was not approved.

**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 **December 5, 2016**. No written response has been received from the Neighborhood Association. One written response was received from a notified property owner in response to the proposal.

**Issues:** A letter received on October 19, 2016 (Exhibit F.1) a notified property owner opposes the additional unit of density, prefers that SE Tolman Street should be paved and improved with a sidewalk, and expresses concerns regarding off street parking for Parcels 1, 2 and 3.

**Staff Response:** Per section 33.110.240.E of the Zoning Code, attached houses on corner lots are allowed by right when specific criteria and standards are met, as further discussed the body of this report in Section A *Lots*. Additional details are discussed below on page 9 in *Development Standards, Future Development*.

Ordinance 187981 *Create a Local Transportation Infrastructure Charge to fund improvements to unimproved streets* was approved unanimously by the Portland City Council on April 13, 2016. The "LTIC" ordinance allows an applicant to pay in lieu of constructing street improvements when certain standards are met. In this case, the applicant has requested to pay in lieu of constructing improvements along SE Tolman Street. Therefore, no street improvements will be constructed to SE Tolman Street. A replacement off street parking space will be constructed for the existing house on Parcel 1 and a minimum of one off street parking space will be provided for each of the dwelling units on Parcels 2 and 3. These items are discussed below in sections K *Transportation Impacts* and L *Services and Utilities*.

## 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.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.1 Through streets and pedestrian connections	The site is a corner lot, therefore this criterion is not applicable.
	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	No shared courts are proposed or required.

	Courts	
	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 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 10,000 square feet. The maximum density in the R5 zone is calculated one unit per 5,000 square feet. Minimum density is calculated one unit per 5,000 square feet based on 80 percent of the site area. The maximum and minimum density at the site calculate to be two units. Because the minimum required density is equal to or larger than the maximum allowed density, the minimum density is automatically reduced to one less than the maximum. Therefore, the minimum density is reduced to one unit.

The applicant is proposing three parcels, which exceeds the maximum density normally allowed for the site. However, Parcels two and three are proposed to be developed with attached houses under the provision in 33.110.240.E, which allows one extra unit of density when attached houses on corner lots are developed. Therefore, an additional lot is allowed provided Parcels two and three are developed with attached houses meeting the development standards of 33.110.240.E.4. With a condition of approval limiting the development on Parcels two and three to attached houses, the density standards are met.

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

<b>LOT FOR DETACHED HOUSE</b>	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30
Parcel 1	5,200		52	100	52
<b>LOTS FOR ATTACHED HOUSES</b>					
<b>Original lot before division in R5 zone</b>	4,500	NA	NA	NA	NA
Original lot before division	4,800				
<b>New attached housing lots meet R2.5 Zone dimensions</b>	1,600	NA	36	40	30
Parcel 2	2,400		48	50	48
Parcel 3	2,400		50	48	50

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less. The 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. The highest priority for tree preservation are healthy, native, non-nuisance species, trees measuring 20 or more inches in diameter and tree groves. Additional considerations include trees that are slower growing native species, and trees buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites. Unhealthy, nuisance species, trees located within 10 feet of a building to remain on the site, trees located within an existing right-of-way, or trees within an environmental zone are exempt from these criteria.

The applicant's tree survey (Exhibit C.1) illustrates the location of trees located on the site. The applicant has not identified any off site trees located within 15-feet of proposed development areas. The applicant's arborist report (Exhibit A.2) identifies each tree species and size, evaluates tree health and condition, states suitability for preservation, specifies a root protection zone and tree protection measures for each tree to be preserved and identifies exempt trees. Based on this information, the site contains eight non-exempt trees providing a total of 128 inches of tree diameter.

The tree proposed for preservation (37-inch Western Red Cedar, Tree #7) is in good condition, is a native/non-nuisance species, and measures 20 or more inches in diameter. The arborist proposes the Performance Path (11.60.030.C.2) for the tree preservation root protection zone (Exhibits A.2 and C.3), which is an alternative measure to modify the prescriptive root protection zone. In order for the performance path standards to be met, and because the arborist report requires the arborist to be on site prior to demolition of the garage and prior to construction of the sanitary sewer lateral, the applicant will be required to submit a copy of the arborist contract prior to issuance of the demolition permit and prior to issuance of the permit to install the sanitary sewer lateral. All other standards of 11.60.030.C.2 a through f have been met, as illustrated in the arborist report.

The applicant proposes to retain all of the trees measuring 20 or more inches DBH (one, 37-inch Western Red Cedar, Tree #7) and 28 inches of the total tree diameter, so the proposal complies with Option 1 of the tree preservation standards, requiring Preservation of all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

The Proposed Improvements and Tree Preservation Plan (Exhibit C.3) illustrates a 10-foot sanitary sewer easement located at the west property line, within the Root Protection Zone (RPZ) of Tree #7. The arborist states that the species, *Thuja plicata*, has a good to moderate tolerance to construction impacts. However, the arborist states the following specific requirements for construction of the sanitary sewer lateral. The arborist must be onsite during demolition of the existing garage, to ensure roots are preserved and/or trimmed as required. Further, the arborist requires the sewer lateral to be constructed by boring instead of trenching. The applicant's narrative states that the building footprint is proposed to be located 15-feet from the western property line of Parcel 3 to provide an adequate RPZ for Tree #7, which will be required at the time of development in order to implement the applicant's proposed performance path for tree preservation.

At the time of development, the individual parcels/lots 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 tree to be retained on Parcel 3 as

part of this review may be applied toward meeting those Title 11 requirements on Parcel 3. Parcel 1 meets requirements with existing trees located on the site. The trees are not approved for removal by this review. Any tree removal on Parcel 1 must be done in accordance with the regulations of Title 11.

Preservation of Tree T7 as proposed allows for the type of development anticipated in the R5 zone. The arborist report indicates special measures to be taken to allow for demolition and construction of improvements on the site. With the implementation of the noted conditions, the approval criteria will be met.

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

**Findings:**

***Clearing and Grading***

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

The applicant's narrative states that the site is flat and is not located within the Potential Landslide Hazard area, and that no significant clearing and grading is required to make the new lots developable. The Existing Conditions Plan shows surveyed elevations (Exhibit C.1). According to the elevations shown on this plan, the average slope calculates at 1.5%, confirming that the site topography is level and supporting the applicant's statement that no significant grading is required to make the new lots developable.

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. Tree T-7 will be protected at the time of garage demolition, utility boring and construction. No changes are proposed to the on-site contours and no soil stockpiles are proposed.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria.

***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 septic system and/or 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.

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

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply. The following easements are proposed and required for this land division:

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 3, for a sanitary sewer lateral connection that will serve Parcel 1.

BES requires the applicant to cap the existing sanitary sewer lateral serving the existing house and to establish a new connection. As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement 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 the maintenance agreement, substantially similar to the following example:

*“A Declaration of Maintenance agreement for a sanitary sewer easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

With the conditions of approval discussed above, this criterion is met.

**I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

The proposed development on Parcels 2 and 3 is for something other than single-dwelling detached homes. Parcels 2 and 3 are proposed for attached houses – therefore this criterion does not apply to Parcels 2 and 3. The existing house to be located on Parcel 1 is a wider lot located on an interior lot on the west side of the street in compliance with 33.639.100.B. This criterion is therefore met.

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

**Findings:** 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. Mitigation may be necessary to reduce impacts.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

**Street Capacity and Levels of Service:** The proposal will result in a net increase of 2 single-family residences. These residences can be expected to generate 20 daily vehicle trips with 2 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

**Connectivity:** The site is corner lot. Connectivity standards are not applicable.

**Vehicle Access/Loading:** The new lots will have driveways to provide access to parking and loading.

**On-Street Parking Impacts:** The new lots will have at least one on-site parking space with potentially an additional space in front of the garage. Impacts to the on-street parking supply should be minimal.

**Availability of Transit:** Tri Met Bus Line #19 is available to serve the site at SE 49th and SE Woodstock.

**Neighborhood Impacts:** The site is being developed with net increase of 2 new single-family residences in compliance with the existing R5 zoning.

**Safety for All Modes:** Existing sidewalks along the SE 49th Avenue will provide adequate pedestrian facilities. The frontage of SE Tolman Street will be assessed the Local Transportation Infrastructure Charge (LTIC) as a condition of final plat approval. This

charge will be used to provide sidewalks and street improvements to be determined by PBOT in the future.

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><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has responded that Water is not available to Parcel 3. At the applicant’s expense, the Water Bureau will extend a water main in SE Tolman Street to a minimum of 5ft inside of Parcel 3. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval. With this condition, the water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – 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. As a result of the proposed land division, the existing sewer connection that serves the existing house on Parcel 1 must be relocated to provide developable area for Parcel 3. The applicant must cap the existing sewer connection and establish a new service for the house, connecting to the sewer main located within SE Tolman Street. All required plumbing permits must receive final inspection approval prior to Final Plat approval. With this condition, the sanitary sewer service standards of 33.652 have been verified. The applicant proposes a private sanitary sewer easement over Parcel 3 to serve Parcel 1. BES has indicated this route of service is acceptable. The easement must be shown on the final plat and a maintenance agreement is required prior to approval of the Final Plat. With this condition, the sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. Stormwater from Parcels 2 and 3 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. BES has indicated conceptual approval of the drywells. According to the submitted site plan, stormwater from the existing house to remain on Parcel 1 discharges to splash blocks that meet setbacks to the existing house and the proposed new property line. As described above, these standards and criteria are met.</p>
<p><b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment</p> <p>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. Portland Transportation has responded that SE 49th Ave is classified as a City Bikeway and a Local Service Street for all modes. It is improved with a 16-ft wide sidewalk corridor with a 9-5-2 configuration. This sidewalk can remain in its current configuration under TRN 1.22. As a condition of building permit approval for the new corner lot, the corner ramp must be reconstructed to meet current ADA standards.</p>



Transportation has determined that curb and sidewalk improvements must be made in order to meet City standards ensure that safe pedestrian travel is possible within the proposed development. With those improvements, two additional dwellings can be safely served by this existing street, without having any significant impact on the level of service provided.

SE Tolman is classified as a Local Service Street for all modes. It is a 60-ft wide ROW improved with an approximately 12-ft wide gravel roadway. In a letter from Kristy Lakin (Applicant/Owner), dated Nov 9, 2016, the applicant has chosen to pay the LTIC (Local Transportation Infrastructure Charge) of \$600.00 per lineal feet of frontage rather than construct standard half-street improvements. Those improvements would have included a minimum 20-ft roadway, curb 13-ft from the ROW centerline, 8-ft public stormwater facility, 6-ft sidewalk and a 0.5-ft frontage zone. No dedications are needed. The applicant will be required to provide signed Waivers of Remonstrance in addition to paying the LTIC as conditions of final plat approval.

This criterion is met, with the condition that curb and sidewalk corner ramp improvements are made at the time of development, and the LTIC fee is paid prior to approval of the Final Plat.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

## **DEVELOPMENT STANDARDS**

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

### **Future Development**

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Attached Houses on Corner Lots—(Parcels 2 and 3) special requirements apply to development on new lots created using the provisions of Section 33.110.240.E.
  1. The address and main entrance of each house must be oriented to a separate street frontage.
  2. Development on Parcel 2 must be oriented toward SE 49<sup>th</sup> Ave and development on Parcel 3 must be oriented toward SE Tolman Street.
  3. The height of the two units must be within 4 feet of each other
  4. The exterior finish material must be the same, or visually match in type, size and placement.
  5. The predominant roof pitch must be the same.
  6. Roof eaves must project the same distance from the building wall.
  7. Trim must be the same in type, size and location.
  8. Windows must match in proportion and orientation.
- Accessory Dwelling Units - Accessory Dwelling Units (ADUs) are not allowed to be added to attached houses in the R20 through R5 zones that were built using the regulations of 33.110.240.E, Duplexes and Attached Houses on Corners.

**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 R5 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 are several Zoning Code standards 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 5 feet from the new property line. Section 33.110.220.C allows eaves to extend one foot into the required 5-foot setback. The applicant’s Existing Conditions Plan (Exhibit C.1) shows the eaves located on the south elevation are proposed to be located 3-feet from the proposed lot line. Therefore, the required setbacks are not being met, because the eave is extending two feet into the required setback. To ensure this standard is met prior to approval of the final plat, the applicant must obtain a building permit to alter the eaves to meet the required setback, or the applicant may adjust the proposed property line so that the eaves are located no closer than 4-feet from the property line as allowed by Section 33.663.310. To ensure this standard has been met, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- **Accessory Structures** – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, the existing garage must be removed prior to final plat. The applicant must provide documentation prior to final plat approval that the required demolition permits have received final inspection approval.
- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space, driveway and curb cut for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185	Title 17 – Public Right-of-Way Improvements

<a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	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. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a three parcel partition for development of attached houses on Parcels 2 and 3 and single dwelling development on Parcel 1, as shown on the attached preliminary plan (Exhibit C.2). 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: tree preservation, demolition of the existing garage, setbacks for the eaves of the existing house to the proposed southern property line of Parcel 1, replacement off street parking for the existing house on Parcel 1, corner ramp improvements to the sidewalk at the time of development of Parcel 2, and Local Infrastructure Improvement Charge (LTIC) payment for SE Tolman Street prior to approval of the Final Plat. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a three-parcel partition that will result in two parcels for development of attached houses on Parcels 2 and 3 and single dwelling development on Parcel 1, as illustrated with Exhibit C.2, 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 section 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;
- The eaves of the house on Parcel 1 and the distance to the new lot lines;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The location of the new sanitary sewer connection for Parcel 1;
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 3.
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.9 and C.10 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

1. The applicant shall provide signed Waivers of Remonstrance and pay the LTIC charge for the street frontage along SE Tolman Street.

**Utilities**

2. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE Tolman Street.
3. 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.
4. The applicant shall obtain finalized plumbing and connection permits to cap the existing sanitary sewer service and establish a new sanitary sewer service for Parcel 1. The work must be completed prior to final plat approval. Prior to work occurring, tree protection must be installed in accordance with the approved Tree Preservation Plan per Condition D.1.

**Existing Development**

5. The applicant must obtain a finalized demolition permit for removing the existing garage. Prior to demolition, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1.
6. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system/cesspool on the site.
7. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: ***This permit fulfills requirements of Condition C.6 of LU 16-266954.*** The new parking space must also be shown on the supplemental plan.
8. The applicant shall obtain and receive an approved final inspection of a building permit to remove portions of the eaves of the house located on Parcel 1 to meet the setback requirements to new lot lines, or the applicant shall move the proposed southern lot line of Parcel 1 so the existing eaves meet setback requirements as allowed by Section 33.663.200, provided minimum lot dimension requirements are met.


**Required Legal Documents**

9. A Maintenance Agreement shall be executed for the Private Sewer Easement described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
10. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 3. 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.

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

1. Development on Parcels 1 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.3) and the applicant's arborist report (Exhibit A.2). Specifically, tree number T7, a 37-inch Western Red Cedar is required to be preserved, with the root protection zones indicated on Exhibit C.3. 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. Note: **Performance Path.**
2. Parcels 2 and 3 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.
3. The applicant shall meet the requirements of the City Engineer for corner ramp improvements at the north west intersection of SE Tolman Street and SE 49<sup>th</sup> Ave. The applicant shall construct improvements at the time of development of Parcel 2.
4. 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.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **February 8, 2017**

By authority of the Director of the Bureau of Development Services

**Decision mailed February 10, 2017**

**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 October 31, 2016, and was determined to be complete on November 30, 2016.

*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 October 31, 2016.

*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 30, 2017.**

**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](http://www.portlandonline.com).

**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
  - 1. Applicant’s Narrative / Original Submittal
  - 2. Applicant’s Arborist Report
  - 3. Simplified Approach Stormwater Report
  - 4. Applicant’s Response to Incomplete Letter
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Plan, Tree Survey
  - 2. Preliminary Plan (attached)
  - 3. Proposed Improvements and Tree Preservation 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 Section of BDS
- F. Correspondence:

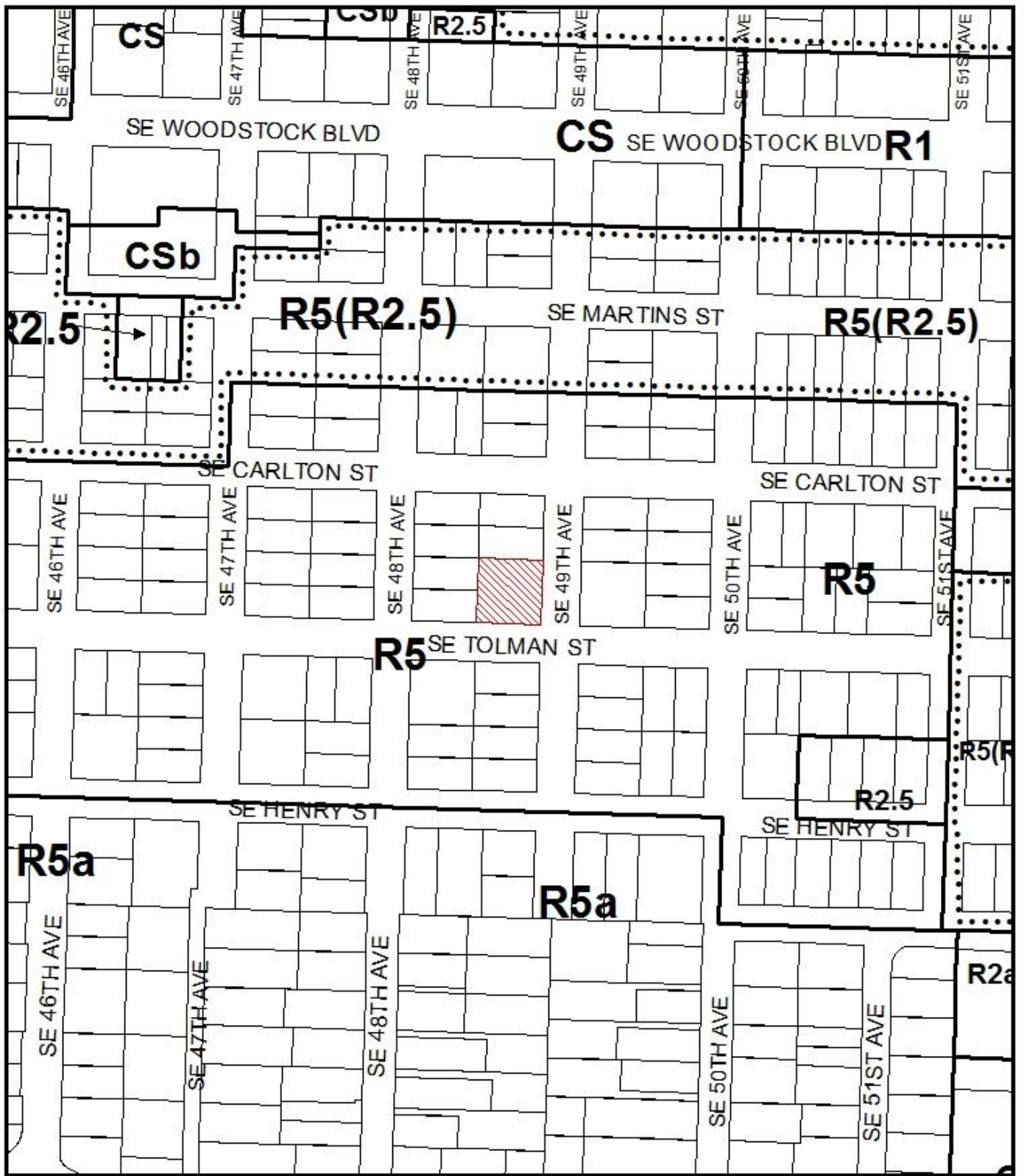
1. Kingston Tong, October 19, 2016

G. Other:

1. Original LU Application
2. Incomplete Letter
3. Expedited Land Division Form

**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 16-266954 LDP</u>
1/4 Section	<u>3635</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E18CD 9100</u>
Exhibit	<u>B (Nov 03, 2016)</u>



**NARRATIVE**

THE PURPOSE OF THIS SURVEY IS TO PARTITION LOT 2, BLOCK 116, WOODSTOCK, MULTNOMAH COUNTY, OREGON INTO 3 PARCELS AS SHOWN ON THIS MAP.

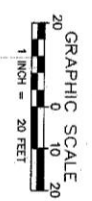
THE BASIS OF BEARINGS IS SOUTH 90°00'00" EAST BETWEEN FOUND MONUMENTS "A" AND "B" AS IMPLIED BY THE PLAT OF WOODSTOCK, MULTNOMAH COUNTY PLAT RECORDS.

RE-ESTABLISHED THE NORTH LINE OF SAID LOT 2 BY HOLDING FOUND MONUMENTS "A" AND "B" PER SURVEY NUMBER 46261, MULTNOMAH COUNTY SURVEY RECORDS.

RE-ESTABLISHED THE SOUTH LINE OF SAID LOT 2, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF S.E. TOLMAN STREET BY HOLDING THE RECORD PLAT DISTANCE OF 100.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 2. SAID LINE FITS WELL WITH FOUND MONUMENT "C".

RE-ESTABLISHED THE EAST LINE OF SAID LOT 2, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF S.E. 49TH STREET BY HOLDING FOUND MONUMENT "D" AND A SOUTHERLY EXTENSION THEREOF. PER SAID SURVEY NUMBER 46261 AND PARTITION PLAT NUMBER 2008-120, MULTNOMAH COUNTY SURVEY RECORDS AND SAID PLAT OF WOODSTOCK.

RE-ESTABLISHED THE WEST LINE OF SAID LOT 2 BY HOLDING THE RECORD PLAT DISTANCE OF 100.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 2.

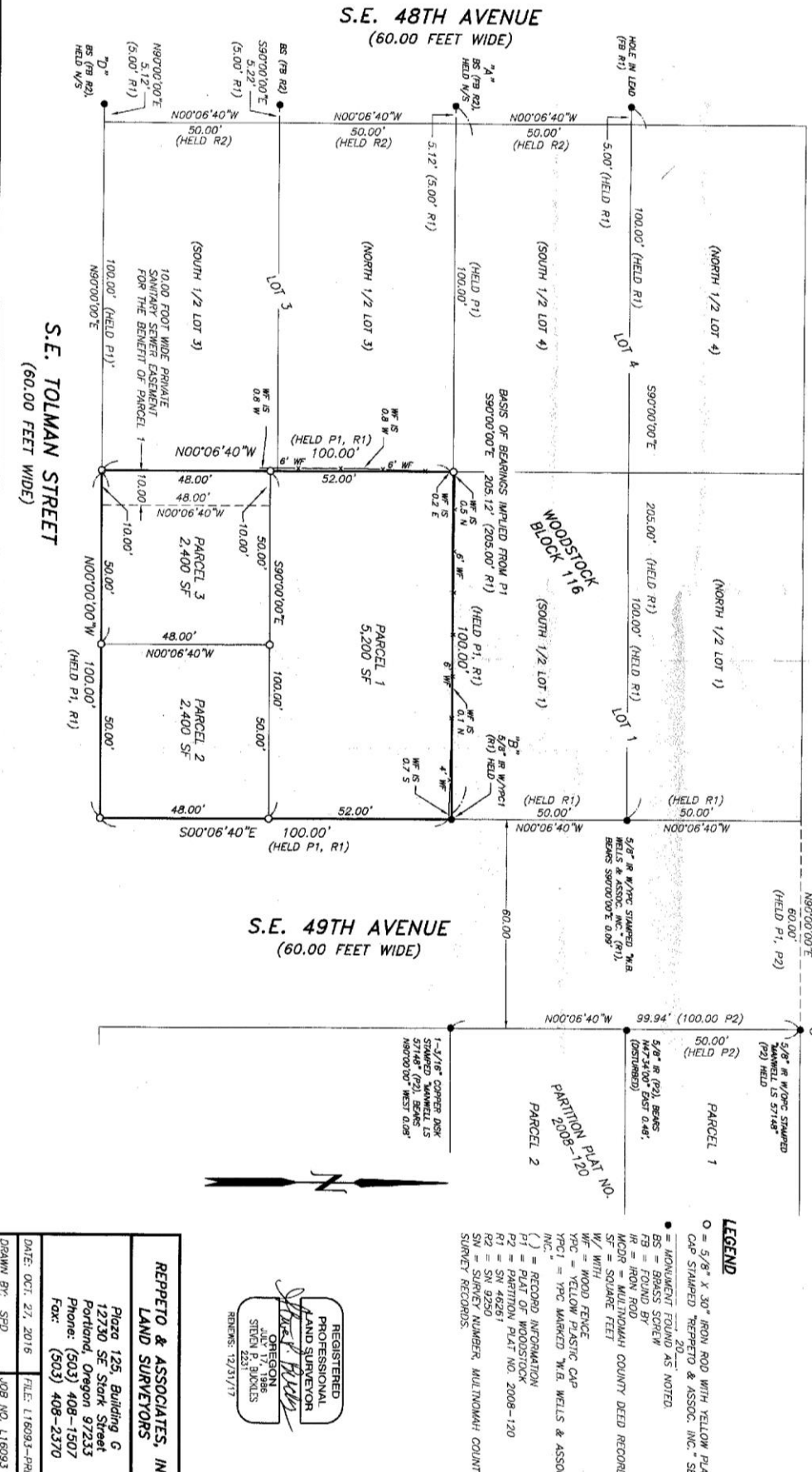


A REPLAT OF LOT 2, BLOCK 116, WOODSTOCK, SITUATED IN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

DATE: OCTOBER 27, 2016 SCALE 1"=20'

FOR: TIGER LILY HOLDINGS LLC

**PRELIMINARY PARTITION PLAT**



**LEGEND**

- = 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "REPPETO & ASSOC. INC." SET 20'
- = MONUMENT FOUND AS NOTED
- = FOUND BY
- BS = BRASS SCREW
- FR = IRON ROD
- INC = MULTNOMAH COUNTY DEED RECORDS
- W/ WITH
- WF = WOOD FENCE
- YPC = YELLOW PLASTIC CAP
- YPC1 = YPC MARKED "W.B. WELLS & ASSOC. INC."
- ( ) = RECORD INFORMATION
- P1 = PLAT OF WOODSTOCK
- P2 = PARTITION PLAT NO. 2008-120
- SN = SN 46261
- SI = SN 46250
- SI = SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS.

REGISTERED PROFESSIONAL LAND SURVEYOR  
**ALAN P. BARKLES**  
 OREGON LICENSE NO. 2231  
 RENEWS: 12/31/17

**REPPETO & ASSOCIATES, INC.**  
 LAND SURVEYORS

Plaza 125, Building G  
 12730 SE Stark Street  
 Portland, Oregon 97233  
 Phone: (503) 408-1507  
 Fax: (503) 408-2370

DATE: OCT. 27, 2016 FILE: L16093--PRE-DWG  
 DRAWN BY: SPD JOB NO. L16093

CASE NO. **L16-2-6695-ALDP**  
 EXHIBIT **C-2** (P) 10