



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

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Date: November 6, 2017
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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 17-113873 LDP

GENERAL INFORMATION

Applicant/Owner: Paul Manton
8721 SE 141st Ave
Milwaukie, OR 97222
Phone: (503) 706-1196 | Email: pmanton@msn.com

Owner: Roger Knox
4803 SE Rural St
Portland, OR 97206

Applicant/Owner: Ron Mituniewicz
10824 SE Oak St #314
Milwaukie, OR 97222

Representative: Chris Fischborn | Ztec Engineers
3880 SE 8th Ave, Suite 280
Portland, OR 97202
Phone: (503) 235-8795 | Email: chris@ztecengineers.com

Site Address: 4707 SE HENRY ST

Legal Description: BLOCK 126 LOT 3, WOODSTOCK
Tax Account No.: R928911710
State ID No.: 1S2E18CD 11300
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.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Zoning: R5 – Single Family Dwelling Zone - Residential 5,000 Square Feet.
Case Type: LDP - Land Division Partition Review
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 2-lot land division on this site. Proposed Parcels 1 & 2 will measure approximately 5,000 square feet. Parcel 1 will be oriented to the corner of SE 47th Avenue and SE Henry Street. Parcel 2 will be oriented towards SE 47th Ave. The existing home and detached garage will be demolished (Permit Number 16-264947 RS). The applicant has indicated that the lots will be redeveloped for single- family residential use. The applicant is proposing to protect a 14” Diameter Deodar Cedar (Tree #2), a 10” Deodar Cedar (Tree #6), and a 14” Deodar Cedar (Tree #11) in order to meet the applicable Tree Preservation requirements. The applicant’s preliminary plan is showing how services (sanitary, stormwater and water) will be provided for the future lots.

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 lots. Therefore, this land division is considered a partition.

Relevant Approval Criteria:

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

FACTS

Site and Vicinity: The site is 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 separated by the existing street grid. The residential area to the south of the site does not follow this block pattern. Approximately 800 feet north of the site is CS-Commercial Store zoning which follows SE Woodstock Boulevard and is developed with commercial businesses.

Infrastructure:

- **Streets :** The site has approximately 100 feet of frontage on SE Henry Street and 100 feet of frontage on SE 47th Avenue. There is one driveway entering the site that serves the existing house on the site. Southeast 47th Avenue and SE Henry Street are classified as Local Service Street(s) for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 150 feet from the site at SE 46th Avenue via Bus route # 75 or approximately 850 at SE Woodstock Boulevard via Bus route #19.

Southeast 47th Avenue has a 28-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 100-foot wide site frontage of SE 47th Avenue the pedestrian corridor includes a 7 foot wide planter area, curb, 6-foot sidewalk and a 3-foot wide buffer at the back of the sidewalk (7-6-3 configuration).

Southeast Henry Street along this frontage is a 60-ft unimproved dirt/gravel right-of-way.

- **Water Service** – There is an existing 8-inch CI water main in SE 47th Avenue and SE Henry Street. The existing house is served by a 5/8-inch metered service from the main in SE 47th Avenue.
- **Fire Hydrants:** There is a fire hydrant located on northeast corner of SE Henry & SE 46th Ave and then at the corner of SE Henry and SE 48th Avenue.
- **Sanitary Service:** There is a public 8-inch clay combined sewer in SE Henry Street (BES as-built #0515) with two existing laterals. There is a public 8-inch concrete combined sewer in SE 47th Avenue that does not currently extend in front of the subject site.
- **Stormwater Disposal:** There is no public storm-only sewer currently available to this property.

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

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

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 8, 2017**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

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	This land division proposal shows lot dimensions which reflect the pattern of lots within this neighborhood. Maintaining a wide corner lot which is equal in width to the interior lot allows additional developable area outside the root protection zone of the trees being preserved.

		Therefore to maintain a compatible lot dimension with the neighborhood, and provide room for reasonable size house to be developed on the lot while preserving trees limits the new parcel configuration (33.610.200 & 33.630 supercedes 33.639).
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.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 33.610 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 one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

Minimum density is $10000 \times .80 / 5,000 = 1.6$ which rounds up to 2 units
Maximum Density is $10000 / 5000 = 2$ units

If minimum density is equal to maximum density, then the minimum is automatically reduced by one (1). Therefore, for this site minimum density is one unit and maximum is two units.

The applicant is proposing two detached single-family lots (parcels) and therefore density standards are met.

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

	Min. Lot	Max. Lot	Min. Lot Width*	Min. Depth	Min. Front Lot
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	Area (square feet)	Area (square feet)	(feet)	(feet)	Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	5,000 s.f.		50 ft.	100 ft.	50 ft.
Parcel 2	5,000 s.f.		50 ft.	100 ft.	50 ft.

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

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, that 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.

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 A.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an updated arborist report (Exhibit A.9) that identifies each tree, its condition and suitability for preservation or its exempt status. The arborist report notes a 24-inch Pacific Dogwood is exempt due to its health being in decline. Based on these factors only 11 of the 12 trees on this site are subject to the tree preservation requirements of this chapter.

The applicant is applying Option #4: Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on site.

The trees proposed for preservation are in good condition and non-nuisance species. All the trees are less than 20 inches in diameter and the combined diameter of these 11 trees is 94 inches. The applicant proposes to preserve 3 of the 11 trees, Tree #2, #6 and #11 all Deodar Cedars. The combined diameter of these three trees is equivalent to 38 inches (more than 35%) of the total tree diameter, so the proposal complies with Option 4.

However, the arborist report submitted specifies a prescriptive path for tree preservation for all of these trees, as shown on the supplemental plan (Exhibit A.6). The current arborist report does not discuss an Alternative Root Protection zone, or the impact of removal of the existing development on the long term health of specifically trees #11 and #2 and the impact of future development for tree #11. The future development footprint is conceptual at this

time and could be changed so Trees #2 and #6 could be protected by prescriptive path at the time of development. Prior to final plat approval a revised arborist report must discuss how trees #11 and #2 can be protected to maintain the long-term health of the trees while demolition of the existing development occurs on the site. The revised arborist report must meet the performance path of Title 11 requirements. To ensure that tree protection is provided to maintain the long-term health of trees proposed to be retained, a revised arborist report and final tree preservation plan reflected on a supplemental plan must be submitted and approved prior final plat.

Additionally, to ensure that future owners of these 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 these parcels must be carried out in conformance with the Final Tree Preservation Plan and the Arborist Report submitted for review and approval at the time of final plat.

With the implementation of the noted conditions, the approval criteria will be met.

The individual parcels at the time of development 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.

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

Findings:

Clearing and Grading

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. At this time the arborist has provided a prescriptive path for tree protection for the three trees being retained on the site. The removal of the existing house and detached garage and future development appear to encroach into the root protection zone of these trees #11 and #2 being retained. Therefore prior to final plat approval a new arborist report and Final Tree Preservation Plan will be required to be provided to discuss maintaining the health of these trees during demolition of existing development and construction of future development as discussed previously under Criterion B above. With this as a condition, this criterion can be met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system/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.

In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With these conditions, the new lots can be considered suitable for development, and this criterion is met.

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

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):

The applicant has submitted a written narrative addressing this approval criterion. The applicant has proposed a two-lot partition in order to develop the site with two new single family homes. The existing home and garage on the site will be removed.

Accordingly, the proposed project will result in a net increase of one new single-family home. Based on the trip generation estimates obtained from the Institute of Transportation Engineers(ITE) Trip Generation Manual 9th Edition, the project is estimated to generate one additional trip during both the morning and the evening peak hours (10 additional trips in total each day). The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

As proposed, each lot will be developed with sufficient on-site parking area to accommodate at least one off-street parking space. The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces, thereby reducing the demand for on-street parking spaces in this area. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling unit. There are existing transit facilities in the vicinity with the closest bus stop located at SE 46th Avenue & SE Henry Street, approximately 265-ft from the site.

The proposed partition will not have any effect on transit service or any other mode of travel. The Transportation system is cable of safely supporting the proposed development in addition to 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:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that domestic water service is available to the site, as noted on page 3 of this report.

The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

Sanitary Connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to City sanitary or combined sewer.

Parcel 1: The existing house is currently connected to the combined sewer in SE Henry Street via a lateral located within the frontage of Parcel 1. The existing house will be demolished and the applicant must cap the existing sanitary service as part of the demolition permit. Parcel 1 will have access to this combined sanitary service within SE Henry at the time of development.

Parcel 2: There is no public sanitary sewer available within the SE 47th Avenue frontage which abuts this site to serve Parcels 1 and 2. The nearest available sewer is located in SE 47th Avenue, approximately 120 feet north of the site. The applicant is required to extend the sewer in SE 47th Avenue to provide sanitary service to Parcel 2. The applicant has initiated a Simplified Sewer Permit under WE 17-23922 (BES job# EP948) rather than continuing with the full public works permit (ppw) to extend the public sewer to this site. BES has determined that sufficient information has been provided to demonstrate an approvable route of sanitary service for this project.

The applicant is required to construct a combined sewer to provide service to the proposed development. Prior to final plat approval BES requires the applicant to complete one of the following to the satisfaction of BES:

1. Through a Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
2. Construct the public sewer and pay associated fees under a BES Simplified Permit.

With this condition, the sanitary sewer service standards of 33.652 have been 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:

Public Street Improvements: BES understand the applicant has elected to pay the Local Transportation Infrastructure Charge (LTIC). Public right-of-way (ROW) improvements will not be constructed. Refer to PBOT comments for information on right-of-way dedication that may be required to accommodate future improvements, including stormwater management facilities.

Parcels 1 and 2: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES reviewed the stormwater report, Exhibit A.8. 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 finds the applicant's proposed stormwater management plan acceptable for the purposes of the preliminary land division.

As described above, these standards and criteria 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 pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. This site is located at the intersection of two public street. PBOT identified no further opportunities to improve connectivity in relation to the proposed partition.

For the reasons described above, this criterion is met.

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

The City's Transportation System Plan (TSP) classifies SE 47th Ave & SE Henry Street as Local Service Streets for all modes. 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.

For a Local Service Street, abutting an R5 zoned site, the City's Pedestrian Design Guide recommends an 11-ft. wide sidewalk corridor consisting of a 0.5-ft. curb, 4-ft. furnishing zone with street trees, 6-ft. sidewalk, and 0.5-ft. frontage zone. According to City GIS information, SE 47th Avenue is a 60-ft. wide right-of-way (ROW) improved with a 7-6-3 sidewalk corridor. Portland Transportation (PBOT) has indicated that SE 47th Avenue's frontage meets/exceeds this standards and the applicant will only be required to make repairs as needed and obtain a Minor Improvement Permit related to the proposed driveways to serve the homes.

SE Henry street is a 60-ft. wide unimproved dirt/gravel ROW. For unimproved Local Service Streets abutting an R5 zoned sites, the City's public ROW standards document requires a 56-ft. ROW to accommodate a 26-ft. roadway width (which would allow parking along both sides) & two 15-ft. wide sidewalk corridors (0.5-ft. curb, 8-ft. stormwater management facility, 6-ft. sidewalk corridor, 0.5-ft. frontage zone). PBOT recommends the ROW design include a 28-ft. wide roadway in this case, since the 28-ft. roadway width is consistent with the roadway widths for several blocks east-west of the subject site as suggested by the curb returns on other blocks. There is sufficient ROW along the street to accommodate the above referenced street section (including the wider roadway width (28 ft. wide vs 26-ft. wide), such that property dedication will not be required (unless the standard 8-ft. wide stormwater management facility will not be appropriate for the site specific needs). Frontage improvements would be required along this frontage to meet this ROW standard.

However, on April 13, 2016, the Portland City Council adopted the Local Transportation Infrastructure Charge (LTIC) via approval of Ordinance 187681. The subject site's frontage on SE Henry meets the specified criterion to qualify for the LTIC. The LTIC is based on the total linear frontage, after any required dedications of the property at a rate of \$600.00 per linear foot. Per correspondence from the applicant (Exhibit A.10) received by BDS on May 2, 2017, the applicant has elected to pay the LTIC and will not be required to construct standard improvements in SE Henry street. The applicant will be required to pay the LTIC prior to Final Plat approval.

Because none of the other frontages have been improved on SE Henry Street, Portland Transportation has determined that an isolated improvement at this location qualifies for LTIC. If the SE Henry street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to pay the LTIC charge and sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

With the conditions described above, the existing street frontages are sufficient to support the additional lot.

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

33.654.120.H – Standard for Street Trees

The City Forester reviews this land division proposal for its impact on existing street trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Trees Code.

Findings: No conceptual street plan was submitted as part of this land division proposal. There is 100 feet of street frontage along SE 47th Avenue and 100 ft. along SE Henry Street. There are existing street trees along each of these street frontages. The proposed plan is showing a couple of these street trees being removed. Removal of a street tree(s) is reviewed at the time of development through the building permit process or through a separate urban forestry permit if no development is being proposed.

One street tree must be planted or retained for each full increment of 25 linear feet. Street trees must be planted at a minimum 1.5 caliper inches. Trees will be required to be planted, retained through building permit or public works permit. Due to the existing condition of the right-of-way, street trees may not be required unless PBOT requires frontage improvements.

Urban Forestry has no objections to this proposal.

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.

Existing development that will not remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. A building permit is required to demolish the existing house and garage from the site. The existing development (house and garage) is required to be removed prior to final plat approval. The building permits to remove them must receive final inspection prior to final plat approval. Therefore, this land division proposal can meet the requirements of 33.700.015

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
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	Title 17 – Sewer Improvements

www.portlandonline.com/bes	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; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The land division site is near a variety of Fire Hydrant locations within this neighborhood. The specific water fire flow information still needs to be verified by Fire Bureau to determine if the nearest Fire Hydrant is adequate in capacity and pressure to be able to serve the proposed development. To ensure the Fire Bureau requirement of the 2016 Portland Fire Code is being met from the nearest fire hydrant (fire flow), as a condition of final plat approval 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 (See Exhibit E.4).

CONCLUSIONS

The applicant has proposed a two-parcel minor partition, as shown on the attached preliminary plan (Exhibit C.1). The existing development on the site will be removed to create these new parcels. 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 include: SE Henry street is currently unimproved and does not meet City standards for rights-of-way. Extending the public sanitary line within SE 47th Avenue and receiving fire flow suppression information from the nearest fire hydrant. Providing additional information from the arborist on how trees can retain long term health when development occurs on the site

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two (2) parcel partition, that will result in two standard lots 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 Land Use Review Section of BDS review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;

- Final Tree Preservation Plan with root protection zones per Condition C.7 and D.1
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Acknowledgement of Special Land Use Conditions for (name of feature- i.e. Tree Preservation) 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 pay the Local Transportation Infrastructure Charge (LTIC) and complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) for SE Henry Street 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 Bureau of Environmental Services (BES) for constructing a combined sewer in SE 47th Avenue. Prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES:
 - Through a Public Works Permit, submit approved engineered designs, provided a financial guarantee, pay all outstanding fees, and provide a signed permit document.
 - Construct the public sewer and pay associated fees under a BES Simplified Permit.
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.

Existing Development

4. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City’s Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources. The site plan for the demolition permit must show all trees to be preserved and root protection zones as shown on the City approved Final Tree Preservation plan as required by Condition C.7. All demolition work must be in conformance with the recommendations in the applicant’s arborist report submitted to meet Condition C.7 noted below.
5. The applicant must obtain a finalized demolition permit for removing the garage/accessory structure on Parcel 2. Prior to removal of these structures, tree protection must be installed in accordance with the approved Final 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. The applicant must provide a revised arborist report and tree preservation plan. The revised arborist report must address how the existing trees, specifically Tree #11 and #2, can be preserved during the removal of the existing development (house and garage etc.) and how Tree #11 can be protected during the construction of the future development to the satisfaction of LUS BDS. A final tree preservation plan will be revised to reflect this revised arborist report on the supplemental survey once LUS BDS accepts this revised arborist report.


Required Legal Documents

8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1 and Parcel 2. A copy of the approved Final Tree Preservation Plan and Arborist Report must be included as an Exhibit to the Acknowledgement. This final tree preservation plan and arborist report exhibits will be what the City accepts to meet Condition C.7 noted above. 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 2 shall be in conformance with the Final Tree Preservation Plan and the applicant's arborist report. Specifically, trees numbered 2, 6 and 11 are required to be preserved, with the root protection zones indicated on Final Tree Preservation plan approved by the City at the time of final plat. 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 if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. The applicant must meet the 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 Parcel 1 and Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Lois Jennings

Decision rendered by:  **on November 2, 2017**

By authority of the Director of the Bureau of Development Services

Decision mailed November 6, 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 January 31, 2017, and was determined to be complete on May 1, 2017.

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 January 31, 2017.

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 requested that the 120-day review period be extended for the maximum allowance, which ends on **, 2018.

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.

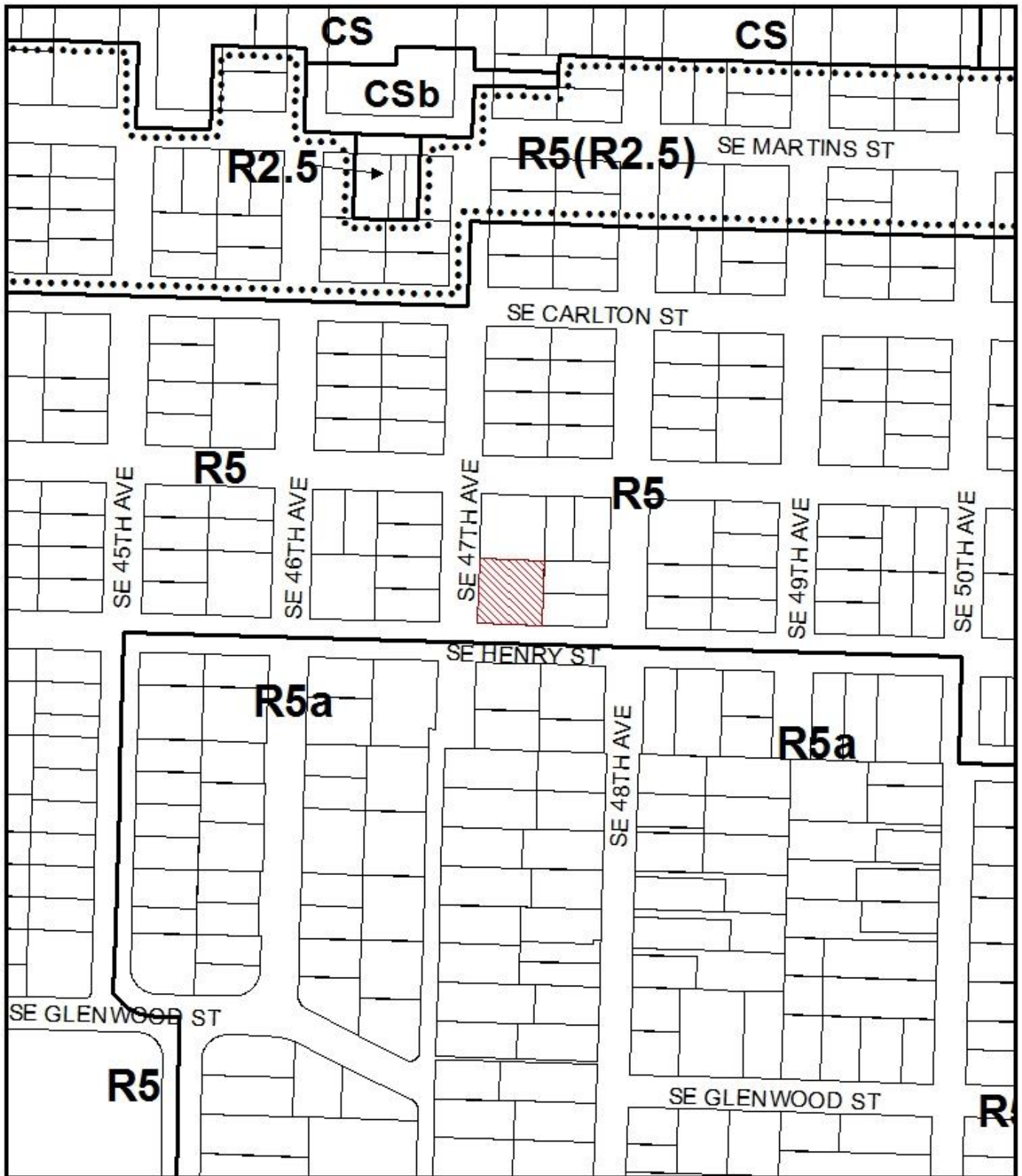
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. January 31, 2017 Narrative Addressing Approval Criteria
 - 2. January 31, 2017 Supplemental Plan showing existing conditions
 - 3. January 31, 2017 Preliminary Land Division Plan
 - 4. Original arborist report submitted with application on January 31, 2017
 - 5. Warranty Deed
 - 6. April 24, 2017 submittal of narrative addressing Transportation Impacts
 - 7. April 24, 2017 submittal of Supplemental Plan showing sanitary sewer extension and conceptual building footprints
 - 8. April 27, 2017 submittal of Simplified Approach Form for Stormwater
 - 9. April 27, 2017 Revised Arborist Report
 - 10. Applicant's e-mail choosing LTIC
 - 11. 120-day extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Supplemental Plan & Trees
- 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: None
- G. Other:
 - 1. Original Application
 - 2. Expedited Land Division Acknowledgement form
 - 3. Incomplete letter
 - 4. Correspondence with applicant from January -June 2017

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



 Site

File No. LU 17-113873 LDP
 1/4 Section 3635
 Scale 1 inch = 200 feet
 State_Id 1S2E18CD 11300
 Exhibit B (Feb 06, 2017)

Preliminary Plan

PARTITION PLAT

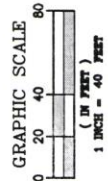
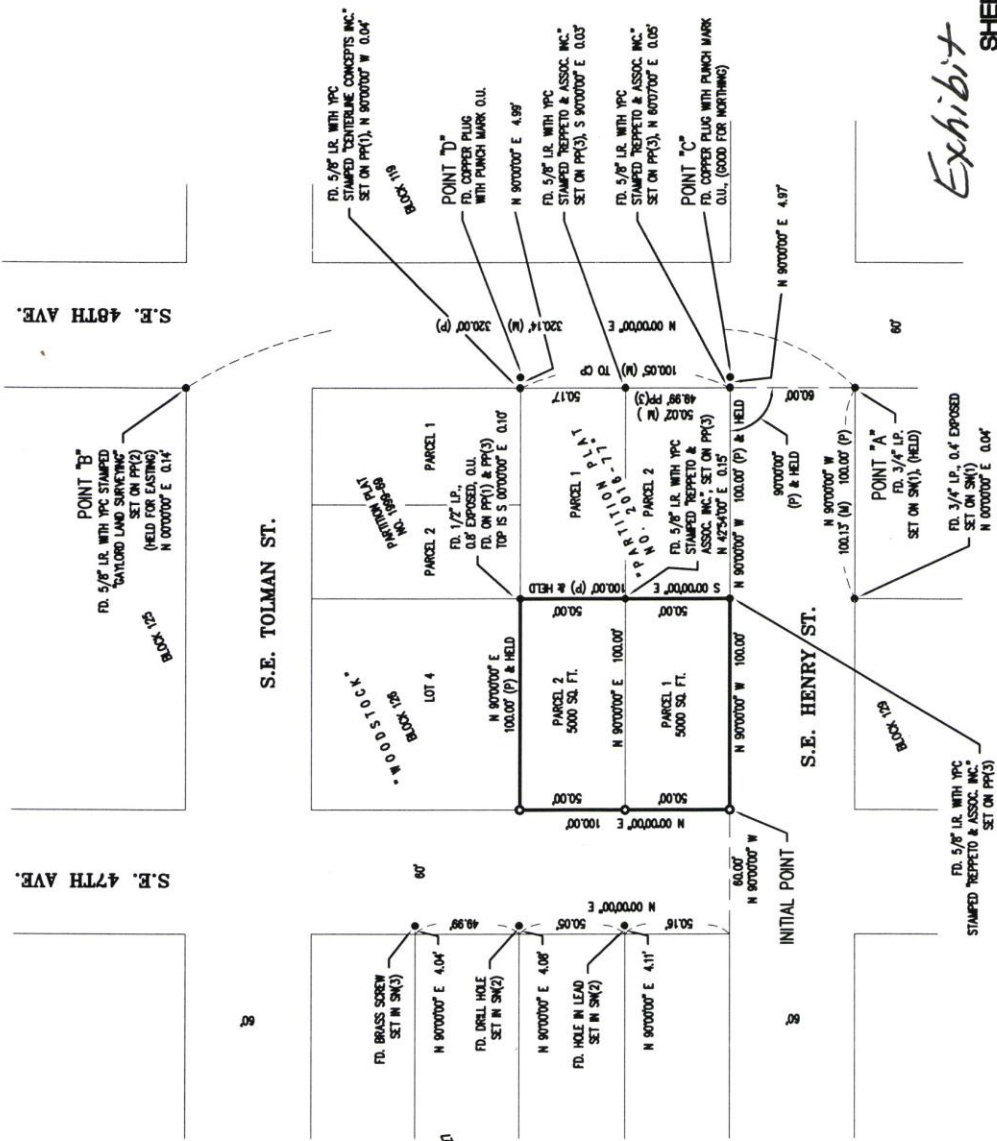
A REPLAT OF LOT 3, BLOCK 126 OF "WOODSTOCK"
LOCATED IN THE S.E. 1/4 OF SECTION 18, T.1S., R.2E., W.M.,
IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

ZTEC ENGINEERS INC.

3737 S.E. 8TH AVENUE, PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889
ZTEC JOB NO. 16-4006-2 DATE SURVEYED: 11-31-16

LEGEND:

- DENOTES MONUMENTS FOUND AS NOTED
- DENOTES 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944" SET ON
- LR DENOTES IRON ROD
- LP DENOTES IRON PIPE
- FL DENOTES FOUND
- (M) DENOTES MEASURED
- (U) DENOTES ORIGIN UNKNOWN
- PP(1) PARTITION PLAT NO. 1999-69
- PP(2) PARTITION PLAT NO. 2000-57
- PP(3) PARTITION PLAT NO. 2016-77
- SK(1) SN 27145
- SK(2) SN 4626
- SK(3) SN 40242
- YPC DENOTES YELLOW PLASTIC CAP
- CP DENOTES COPPER PLUG
- (P) PLAT OF "WOODSTOCK"



REGISTERED PROFESSIONAL LAND SURVEYOR
Chris Fischborn
OREGON
CHRIS FISCHBORN
1944
RENEWAL DATE: 1/1/2018

Exhibit C.1