



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

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Date: November 1, 2019
To: Interested Person
From: Shawn Burgett, 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 18-170467 LDP

GENERAL INFORMATION

Applicant/Owner: Pak Leong | P&M Renovation LLC
Po Box 2304 | Clackamas, OR 97015-2304

Representative: Kym Nguyen | Concept Design & Associates LLC
522 NW 23rd Ave, Suite F | Portland, OR 97210
503-515-7418

Site Address: **4036 SE 92ND AVE**

Legal Description: LOT 10, GLADSTONE SUB
Tax Account No.: R319700120
State ID No.: 1S2E09DC 07800
Quarter Section: 3440

Neighborhood: Lents, contact lentsneighborhood@gmail.com
Business District: Lents Business Association, contact lentsgrown@gmail.com.
District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694.

Plan District: None
Zoning: R2a (Multi-Family Residential 2,000 sq. ft. with "a" Alternative Design Density Overlay).

Case Type: LDP (Land Division Partition)
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 the 5,670 sq. ft. site. Parcel 1 will measure approximately 3,088 sq. ft. in area. The applicant has proposed to retain the

existing house on Parcel 1. Parcel 2 will measure approximately 2,774 sq. ft. in area. The applicant has proposed a new detached dwelling unit on Parcel 2.

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 2 units of land (2 parcels). 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 existing one-story home on the site was constructed in 1948 based on City records. The area surrounding the site is made up of predominantly single-family homes of various types and sizes. The subject site is flat and has mature trees located on it as referenced in the applicant’s arborist report (exhibit A.8).

Infrastructure:

- **Streets** –The site is a corner lot and has approximately 84 feet of frontage on SE 92nd Avenue and approximately 70 feet of frontage on SE Gladstone St. There is one driveway entering the site from SE 92nd Ave that serves the existing house on the site. At this location, SE 92nd Ave as a Neighborhood Collector and City walkway. SE Gladstone Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 1,000 feet from the site (via Light Rail) from the transit station located adjacent to Interstate 205 (northeast of the site).

SE 92nd Avenue has a 40-foot curb to curb paved surface with parking on one side. Along the 84-foot wide site frontage the pedestrian corridor includes a planter area, curb, 6-foot sidewalk and bike lane. SE Gladstone Street has a 28-foot paved roadway with parking on both sides. There are not curbs, sidewalks or planter areas along this portion of SE Gladstone St.

- **Water Service** – There is an existing 4-inch CI water main in SE Gladstone Street. The existing house is served by a 5/8-inch metered service from the water main in SE 92nd Ave per GIS mapping.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in SE 92nd Avenue and SE Gladstone Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R2 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

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

neighborhood. This land division proposal is not using any of the provisions of the “a” overlay.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **April 26, 2019**. 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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. 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	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands 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	No public dead-end streets or pedestrian

	public dead-end streets and pedestrian connections	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.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing two single family parcels.

Single-dwelling or duplex development is proposed for some or all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review. This site is in the R2 zone and detached houses are proposed.

Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 5,862 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required along SE Gladstone St. that totals 140 square feet. Therefore, the resulting lot size for calculating density is 5,722 square feet. The site has a minimum required density of 2 units and a maximum density of 2 units.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Parcel 1	3,088**	37.56	83.40**	37.56
Parcel 2	2,774**	32.44	84.15**	32.44

* Width is measured from the midpoints of opposite lot lines.

** Lot dimensions does not take into account 2' dedication required along SE Gladstone St. which will be required to be reflected on final plat survey

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.

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

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.8) that identifies each tree, its condition and suitability for preservation or its exempt status.

Based on the applicant's survey and the arborist report it was unclear if several trees referenced in the applicant's arborist report were located completely on the site or partially within the Public right of way. In response to this question, the applicant's surveyor provided a survey detail (exhibit A.9) that confirmed trees number 85 and 86 were located completely in the Public right of way and are exempt from these standards. In addition, the survey detail showed that trees number 89 and 90 were partially located in the Public right of way and also exempt from these standards.

The survey detail confirmed that two trees (number 87 and 88) were both located outside of the existing right of way (completely on the subject site) and are therefore not exempt from these standards. Based on this information, the two trees which provide a total of 17 inches of tree diameter are subject to the preservation requirements of this chapter.

Transportation (PBOT) is requiring a 2-foot dedication along SE Gladstone St. (see findings later in report) that results in both trees (87 and 88) being located in the public right of way following final plat approval (when the 2' dedication is accepted by the City) and are therefore not eligible to be protected. In addition, the street frontage improvements required along SE Gladstone St. by PBOT within the dedicated area most likely will not allow preservation of these trees (even as street trees).

In this case, mitigation for the removal of the two trees will be required since they are not feasible or eligible to protect to meet this criterion. The applicant did not provide a specific mitigation plan showing how the tree planting standards in addition to mitigation could be met on the site. The Title 11 tree density standards will require that trees be planted on the lots at the time of building permit and on the lot with the existing house prior to final plat approval.

Given the required tree planting, there is not sufficient room on the lots for additional tree planting to mitigate for tree removal without jeopardizing the overall health of the trees as they mature. Therefore, offsite mitigation in the form of payment into the City Tree Preservation and Planting Fund is more appropriate for this proposal.

The tree preservation standards require up to 35 percent of the total non-exempt tree diameter on the site be preserved. This amounts to 6 inches on this site. With the condition that a payment equivalent to 6 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval, tree removal will be adequately mitigated.

This mitigation will be consistent with the purpose of the tree preservation regulations, since it will provide for the installation of other trees that will contribute to the general beauty and natural heritage of the City, if not directly on the site, and

- Help to absorb air pollutants and contamination;
- Provide buffering from noise and wind;
- Provide visual screening from the adjacent properties;

- Reduce energy demand and urban heat island impacts;
- Filter stormwater runoff and the reduce the possibility for erosion;
- Help with slope stabilization;
- The native trees will provide habitat to support wildlife;
- The edible species will provide food for people and wildlife.

In order to ensure the mitigation is provided, the applicant must make a payment to Tree Planting and Preservation Fund for 6 inches of tree diameter

With the implementation of the noted condition, 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: 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.

Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading: In this case the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

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

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):

Safety

This segment of SE Gladstone St. currently provides access for vehicular traffic, bicycle traffic, and pedestrians all within the roadway surface. There are no sidewalks along either side of SE Gladstone St. in this block face. There is a paved roadway surface for vehicular traffic, striped bicycle lanes, and separated sidewalks for pedestrian travel along the site's SE 92nd Ave. frontage. Based on data available from PBOT's database of Portland Traffic Deaths and Injuries since 2007, there have been zero injury accidents on this segment of SE Gladstone St.; SE 92nd Ave is mapped as a high crash corridor, though no accidents are mapped in this segment. The current configuration of SE Gladstone St. requires pedestrians to share a travel lane with vehicular and bicycle traffic which discourages pedestrian travel.

Streets where sidewalks are separated from the roadway provide an additional level of protection and comfort for pedestrian travel. The addition of one single family lot to the neighborhood is anticipated to increase trips via all modes. Adding additional pedestrian trips to an area where pedestrian facilities are incomplete will have an incremental negative impact.

Street capacity

SE 92nd Ave has a 40-foot paved roadway surface which accommodates two-way vehicle travel with striped bicycle lanes. SE 92nd Ave also has 6-foot wide paved sidewalks separated from the roadway surface. Street capacity on SE 92nd Ave. is adequate for all modes.

SE Gladstone St. has a 28-foot paved roadway surface which accommodates two-way vehicle travel. Due to the local service classification and low vehicle speeds, the roadway width is also adequate to serve as a shared bicycle facility. SE Gladstone St. has adequate capacity to absorb the increase in vehicle and bicycle trips from one single family lot. SE Gladstone St. has no sidewalks. There is limited and potentially unsafe pedestrian capacity on this segment of SE Gladstone St. as pedestrians must walk in the travel lane. The increase in pedestrian trips to the site will have an incremental negative impact, causing some additional conflict between pedestrians and other modes.

Level of service

This is a term used to describe vehicular traffic; it currently has little to no meaning for other modes. At this location, SE Gladstone St. is a local service street for which traffic count data is not available. It is believed this segment of SE Gladstone St. sees a small amount of vehicular traffic due to its single block length and lack of connectivity to any use other than single family residential lots. PBOT has not identified any level of service concerns with this segment of SE Gladstone in the TSP or other planning documents. It is believed this segment functions well for vehicular travel and has capacity to absorb the anticipated vehicle trips from one additional residence.

Vehicular traffic count data is available for SE 92nd Ave. just north of the intersection with SE Gladstone St. As of Feb. 2017, 5,778 trips were generated on an average weekday, with 339 of these trips during the AM peak hour and 559 of these trips during the PM peak hour. The anticipated increase of 10 trips per day will have a de minimus impact on the vehicular traffic level of service.

Availability of pedestrian and bicycle networks

For North/South travel through the area, the site is well served by both sidewalks and bicycle facilities both along SE 92nd Ave. and in the multi-use path paralleling I-205 one block east of the site. Throughout this area, east/west pedestrian connections are difficult with many streets lacking sidewalks. This block of SE Gladstone St. follows the area pattern and lacks sidewalks. East/west street connections typically have wide enough travel surfaces to allow bicycles to share the low speed, low volume, local-service roadways.

On street parking impacts

On street parking is available on both sides of SE Gladstone St. There appears to be little demand for on-street parking on this segment. Most of the homes along the streets in the immediate area include driveways and garages that accommodate multiple vehicles. The existing house contains a garage which is proposed for retention. The applicant's narrative states the proposed new home will have on-site parking.

Access restrictions

Vehicle access to the proposed Tract 1 will continue to be provided via SE 92nd Ave. Vehicle access to the proposed Tract 2 will be from SE Gladstone St. Vehicular access to the site is well connected via established streets, and an off-road multi-modal trail. Due to the

availability of nearby streets and multi-modal options, PBOT has no vehicular access restriction concerns. Pedestrian access to the proposed new lot is constrained due to the lack of pedestrian facilities on the street.

Neighborhood impacts

The proposed development is anticipated to add a small number of trips from all modes into the neighborhood system. Both lots are proposed to have on-site vehicle parking. It is anticipated there will be few impacts to the neighborhood from the additional lot.

Impacts on pedestrian, bicycle, and transit circulation

There is no transit service on either road on which the site has frontage. The nearest transit service is approximately 950 feet south of the site on SE Holgate Blvd. The only transit service in the area is on arterial roads such as SE Holgate Blvd, SE Powell Blvd, and SE 82nd Ave. The addition of a single home to the neighborhood is not anticipated to have a substantial impact on transit ridership or circulation on arterial roads in the vicinity.

Additional bicycle trips may be generated by the additional residential lot. The existing striped bike lane on SE 92nd Ave, multi-use path along the alignment of I-205, and paved 28-foot roadway surface on SE Gladstone should be adequate to absorb the additional bicycle traffic generated by one new lot.

Pedestrian circulation through the surrounding area is constrained when moving east/west. There are no sidewalks on the subject block of SE Gladstone St. Of the six streets connecting SE 92nd Ave. to the multi-use path adjacent to I-205 between SE Powell Blvd. and SE Holgate Blvd., only one has sidewalks. (SE Boise St.) Adding additional pedestrian trips to an area where pedestrian facilities are incomplete will have an incremental negative impact.

Based on the above analysis, the existing transportation system is adequate to serve the anticipated vehicular and bicycle trips to the site. The additional trips via these two modes are not anticipated to have a detrimental impact to the extent that mitigation would be needed.

The existing house will retain its on-site parking and the applicant's narrative states the proposed lot will be provided with on-site parking. It is anticipated these spaces will be adequate to serve the day to day needs of the residents. There appears to be an adequate supply of on street parking to accommodate visitors or other parking demand generated by the addition of one single family lot to the site.

Based on the above analysis, the existing pedestrian system is not adequate. The impact of the development is small enough that asking the property owner to provide off-site improvements to the pedestrian system would be out of proportion to the development request. Providing on-site improvements to allow pedestrians to safely traverse the site's frontage will alleviate a portion of the need for pedestrian system improvements along SE Gladstone St. This approval criterion can be met with a condition of approval that the applicant provide frontage improvements to meet the City's sidewalk standards along the site's frontage on SE Gladstone St. With a condition ensuring the construction of a standard sidewalk corridor along the SE Gladstone St. frontage, the impacts of the development on the transportation system will be balanced.

This criterion is met with the requirement for standard street frontage improvements along SE Gladstone Street which will be required to serve the proposed development (see criterion L, 33.654).

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>According to City plumbing records (10/12/97), the existing house is connected to the sanitary sewer in SE Gladstone Street via a lateral located approximately 86 feet from the manhole in SE 92nd Avenue. This indicates that the existing lateral may cross the proposed new lot line. Therefore prior to final plat approval the applicant must either:</p> <ol style="list-style-type: none"> 1) Demonstrate that the service lateral for the existing house is located on the lot that it serves by locating the lateral relative to the proposed property line; or 2) Cap the existing lateral to provide future service to Parcel 2 and establish a new service lateral for the existing house on Parcel 1 within the frontage of the new proposed parcel. For capping and establishing new service, the work must be completed and the applicant must obtain finalized plumbing and connection permits prior to final plat approval. <p>With the condition noted above, this criterion is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> • Public Street Improvements: BES understands that this site does not qualify for LTIC and PBOT requires the construction of public frontage improvements. These public improvements trigger public stormwater management improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual for the SE Gladstone frontage. However, BES Public Works Permitting has reviewed the site and determined that stormwater from SE Gladstone Street frontage can discharge to existing sumps located in SE Gladstone. No new stormwater management facilities are necessary. Therefore, BES does not require 30% concept approval of the PWP prior to preliminary land division approval. Through the PBOT PWP additional drainage improvements (such as new inlets) may be necessary to ensure that runoff is conveyed to the existing sump systems. • Parcel 2: BES staff reviewed the project’s Simplified Approach stormwater report. The applicant did not provide infiltration testing results. However, there is a City sump located within the frontage of the lot, indicating that drywells are a feasible method of stormwater disposal in this location. Per the submitted stormwater report, the applicant proposes to install a drywell at the front of Parcel 2, which can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM. Note that additional information may be requested at permit review. • Parcel 1 (the lot with the existing house): The applicant did not indicate the current stormwater disposal location for the house to remain on Parcel 1. However,

BES understands that the house is currently being renovated. Prior to final plat approval, the applicant must show, to the satisfaction of BES, that the location of the stormwater disposal system serving the existing structure to confirm that it will be located entirely within Parcel 1 and meet all required setbacks. If retrofits are necessary, related permits must be finalized prior to final plat approval, to the satisfaction of BES.

With the condition noted above, this criterion is 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.

The block on which the subject property is located meets the noted spacing requirements. The site is within the Portland Master Street Plan for the Southeast District. Therefore, the proposal is consistent with the master street plan.

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

SE 92nd Ave is fully improved with a paved roadway, sidewalk, curbs and planter area.

SE Gladstone St. is improved with a paved roadway, and a gravel shoulder on both sides. There are no curbs, planter strips, or sidewalks. In reviewing this land division, PBOT 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. In this case PBOT has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible to and from the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

PBOT has no objections to the proposed land division partition subject to the following conditions of approval:

1. Property dedication along SE Gladstone St. necessary to accommodate standard improvements shall occur as a condition of Plat approval. It is anticipated 2-feet of dedication will be required, which will need to be confirmed by survey.
2. Public Works Concept Phase (30% plans) approval for the frontage improvements along SE Gladstone St. shall be obtained as a condition of Plat approval.
3. Public Works financial guarantees for the frontage improvements along SE Gladstone St. shall be obtained as a condition of Plat approval.

This criterion is met, with the condition that curb and sidewalk improvements are made and the required right-of-way dedication is shown on 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. Unless specifically required in the approval criteria listed above,

this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Future Development

- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2 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 that relate 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. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 3,088 square feet; therefore 1,235 square feet of tree density is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

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

OTHER TECHNICAL REQUIREMENTS

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

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

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau in regard to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; addressing of structures; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in associated with frontage improvements required along SE Gladstone St. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: frontage improvements along SE Gladstone St., mitigation for onsite tree removal, locating the existing sewer lateral serving existing house and verifying stormwater from existing house is managed within its new lot boundary.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in two single dwelling 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 and BES, review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The reduced side setbacks allowed under 33.120.270.D;
- The proposed location of stormwater facilities for the existing house on Parcel 1
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

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

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation, Urban Forestry and the Bureau of Environmental Services for required street frontage improvements.

Utilities

2. 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

3. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must meet one of the following:
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
4. The applicant must meet the requirements of BES for the sewer lateral serving the existing house to remain on Parcel 1. Prior to final plat approval the applicant must demonstrate to the satisfaction of BES that the sewer lateral serving the existing structure is located within the Parcel 1 frontage or cap the existing lateral for the future use of development on Parcel 2 and establish a new service connection from the existing structure to a public sewer. If modifications to the lateral are necessary, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
5. The applicant must meet the tree density standard of 11.50.050 on Parcel 1 with the existing house by either planting trees on the lot or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Other requirements

6. The applicant must pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 6 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau. Payment must be completed prior to any tree removal, or prior to Final Plat approval, whichever would occur first.

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along SE Gladstone St.
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 2. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Shawn Burgett

Decision rendered by: _____ *S. Burgett* _____ **on October 30, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed November 1, 2019

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 May 14, 2018, and was determined to be complete on November 6, 2018.

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 May 14, 2018.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit A.11. Unless further extended by the applicant, **the 365 days will expire on: November 6, 2019.**

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.

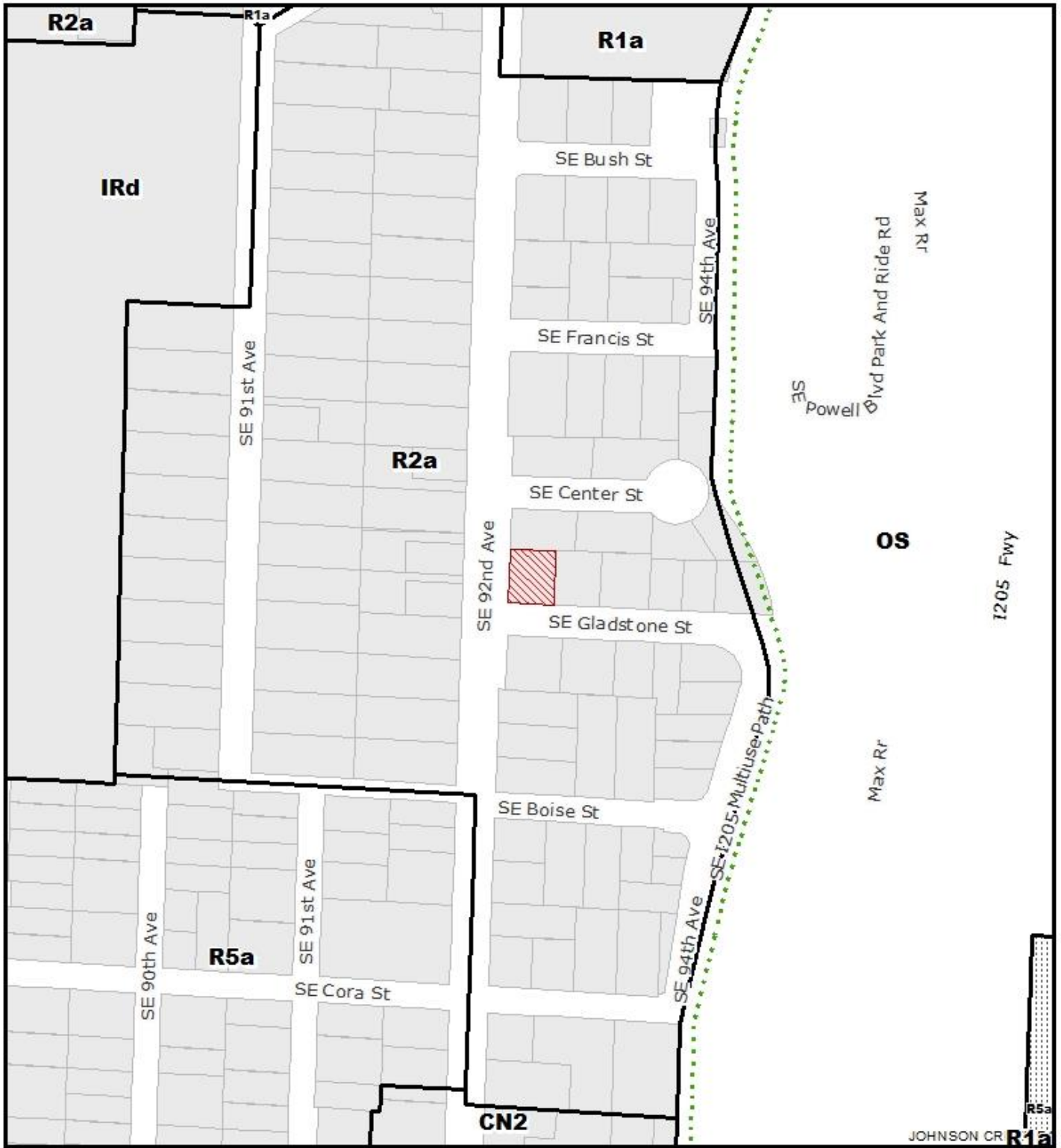
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicants narrative
 - 2. Expediated Land Division Acknowledgment
 - 3. Arborist report dated 5/7/18 by Chandler Tree LLC
 - 4. Arborist report dated 12/5/18 by Chandler Tree LLC
 - 5. Conceptual development plan
 - 6. SIM approach form
 - 7. Survey submitted 5/14/18
 - 8. Arborist report dated 4/4/19 from Mary Giersch Consulting Arborist
 - 9. Survey detail for trees numbered 85-90
 - 10. Applicants 120-day extension to 120-day clock
 - 11. Applicants 245-day extension to 120-day clock
 - 12. Applicants memo dated 3/13/19
 - 13. Applicants memo dated 5/2/19
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence: (None Received)
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter dated 6/12/18
 - 3. Building permit info for existing house (17-177697 RS)
 - 4. E-mail from Planning staff to applicant regarding tree survey

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



Recreational Trails

File No.	LU 18-170467 LDP
1/4 Section	3440
Scale	1 inch = 200 feet
State ID	1S2E09DC 7800
Exhibit	B May 16, 2018

JOHNSON CR **R1a**

**EXISTING CONDITION MAP
PROPOSED DEVELOPMENT PLAN**

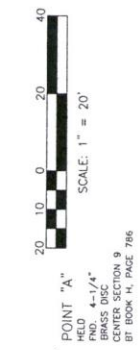
REPLAT OF LOT 10, "GLADSTONE"
LOCATED IN THE SE 1/4, SECTION 9, TOWNSHIP 1
SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON.

NOVEMBER 14, 2018 SCALE: 1" = 20'

- LEGEND:**
- TO BE SET 5/8"x30" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED, "MANWELL LS 57148"
 - FOUND MONUMENT AS NOTED
 - FND. FOUND
 - I.R. IRON ROD
 - I.P. IRON PIPE
 - R/W RIGHT OF WAY
 - SN SURVEY NUMBER
 - MULTNOMAH COUNTY SURVEY RECORDS
 - PLAT OF "GLADSTONE"
 - W/PC WITH YELLOW PLASTIC CAP
 - () RECORD DATA
 - DECIDUOUS TREE SIZE
 - DEC 16" DECIDUOUS TREE SIZE
 - ST 3" STREET TREE SIZE
 - CED 7" CEDAR TREE SIZE

TENTATIVE UTILITY KEY NOTES:

- ① EXISTING SEWER LATERAL CONNECTION TO BE DISCONNECTED FROM EXISTING HOUSE AND CAPPED FOR USE BY PARCEL 2.
- ② EXISTING WATER SERVICE TO REMAIN FOR EXISTING HOUSE ON PARCEL 1
- ③ NEW SEWER LATERAL FOR PARCEL 1
- ④ NEW WATER SERVICE FOR PARCEL 2
- ⑤ 4" DIA. METER x 5' DEEP DRY WELL PROPOSED AT NEW HOUSE ON PARCEL 2



POINT "A"
FND. 4-1/4"
BRASS DISC
HELD FOR POINT
BT BOOK H, PAGE 786

POINT "B"
FND. 4-1/4"
BRASS DISC
HELD FOR POINT
BT BOOK H, PAGE 973

POINT "C"
FND. 1" I.P.
HELD NORTH
N 89°04'03"W 0.10'
PER (P)

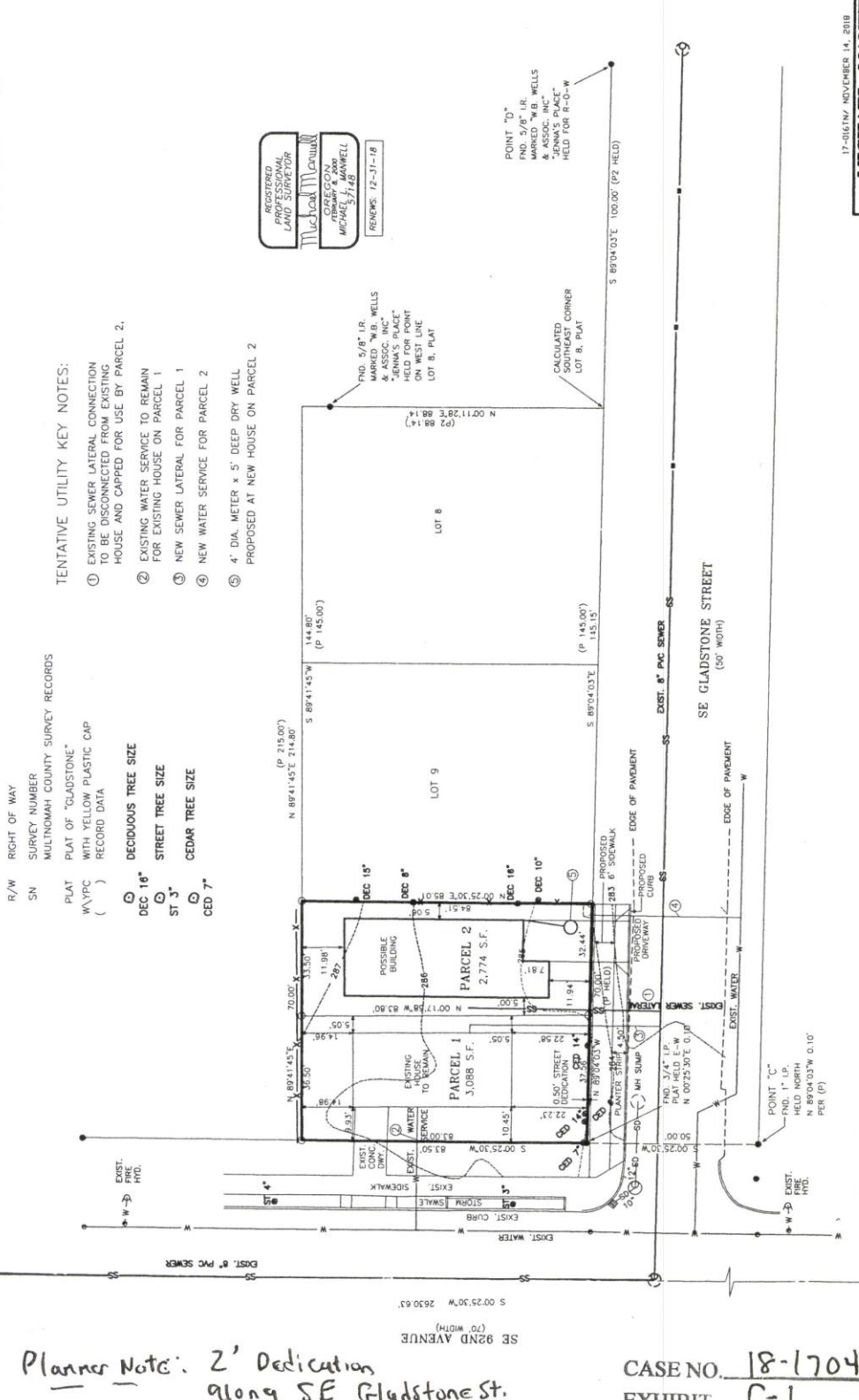
POINT "D"
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& ASSOC. INC."
HELD FOR POINT
ON PLAT
LOT 8, PLAT

POINT "E"
FND. 5/8" I.R.
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POINT "F"
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& ASSOC. INC."
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POINT "H"
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MARKED "W.B. WELLS
& ASSOC. INC."
HELD FOR POINT
ON PLAT
LOT 8, PLAT



REGISTERED
PROFESSIONAL
LAND SURVEYOR
Michael Manwell
OREGON
MICHAEL MANWELL
57148
RENEWS: 12-31-18

17-06174 NOVEMBER 14, 2018
MICHAEL MANWELL
Land Surveying, LLC
2847 SE 18TH CIRCLE
GRESHAM, OREGON 97030
(503) 661-5270
email: mmanwp5@aol.com

SE 92ND AVENUE
(70' WIDTH)
S 00°25'30"W 2630.63'

SE GLADSTONE STREET
(50' WIDTH)
S 89°04'03"E 100.00' (P2 HELD)

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EXIST. WATER

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EXIST. WATER

EXIST. 8" PVC SEWER
EXIST. WATER

SE 92ND AVENUE
(70' WIDTH)
S 00°25'30"W 2630.63'

SE GLADSTONE STREET
(50' WIDTH)
S 89°04'03"E 100.00' (P2 HELD)

EXIST. 8" PVC SEWER
EXIST. WATER

EXIST. 8" PVC SEWER
EXIST. WATER

EXIST. 8" PVC SEWER
EXIST. WATER