

NOTICE OF TYPE II DECISION
MINOR LAND PARTITION (MLP) 2009-00001
SANDERS PARTITION



120 DAYS = 9/15/2009

SECTION I. APPLICATION SUMMARY

FILE NAME: SANDERS PARTITION
CASE NO.: Minor Land Partition (MLP) MLP2009-00001

PROPOSAL: The applicant is requesting approval for a Minor Land Partition to partition one (1) existing .35-acre site into two (2) parcels for detached single-family residences. An existing residence on Parcel 1 will remain.

APPLICANT & OWNER:	Steven W. Sanders and Barbara Swanson-Sanders 2647 SW Talbot Road Portland, OR 97201	APPLICANT'S REP.:	Gary P. Shepherd, Attorney 3115 SE Salmon Street Portland, OR 97214
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COMPREHENSIVE PLAN

DESIGNATION: R-4.5: Low-Density Residential.

ZONE: R-4.5 Low Density Residential. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.

LOCATION: 12390 SW 106th Drive; Washington County Tax Assessor's Map 2S103AA, Tax Lot 1916.

PROPOSED PARCEL 1: 7,524 Square Feet.
PROPOSED PARCEL 2: 7,500 Square Feet.

APPLICABLE REVIEW

CRITERIA: Community Development Code Chapters 18.390, 18.420, 18.510, 18.705, 18.715, 18.730, 18.745, 18.765, 18.790, 18.795 and 18.810.

SECTION II. DECISION

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the above request subject to certain conditions. The findings and conclusions on which the decision is based are noted in Section V.

CONDITIONS OF APPROVAL

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO APPROVAL OF THE FINAL PLAT:

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the **PLANNING DIVISION, ATTN: CHERYL CAINES 503-639-4171, EXT 2437**. The cover letter shall clearly identify where in the submittal the required information is found:

1. Prior to final plat the applicant shall submit and receive approval for either a variance to the minimum lot size requirements under 18.370.010 or an adjustment to the street standards under 18.370.020.C.11.
2. Prior to the final plat, the applicant shall:
 - A. Submit for review and approval revised plans showing the type of screening proposed for the 3-foot area east of the existing deck on Parcel 1.
 - B. Install screening according to the approved plan.
3. Prior to final plat the applicant shall submit for review and approval, revised plans to scale showing the street tree spacing that meets the standards of Section 18.745.040.C.
4. Street trees for Parcel 1 shall be planted according to the approved plan prior to final plat.
5. Prior to final plat the applicant/owner shall record a deed restriction on Parcel 1 to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
6. Place a note on the final plat for the visual clearance easement at the corner of SW 106th Drive and SW Johnson Street to the benefit of the City of Tigard. Said easement is subject to the City of Tigard Visual Clearance Area standards that restrict the height of plantings and structures (Tigard Development Code Chapter 18.795).

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the **ENGINEERING DIVISION, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642**. The cover letter shall clearly identify where in the submittal the required information is found:

7. A Public Facility Improvement (PFI) permit is required for this project to cover utility laterals and any other work in the public right-of-way. Six (6) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.tigard-or.gov).
8. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
9. A five foot utility easement shall be recorded across Parcel 2 in favor of Parcel 1 to ensure that no concentrated flows of storm drainage waters from Parcel 1 will flow across Parcel 2. Storm drainage for both parcels shall be directed to an approved system.
10. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase.
11. Prior to final plat approval, the applicant shall pay the addressing fee. (STAFF CONTACT: Bethany Stewart, Engineering).

12. Prior to final plat approval, the applicant shall plant street trees along the frontage of SW 106th Drive and Johnson Street.
13. The applicant shall execute a Restrictive Covenant agreeing to complete or participate in the future improvements of SW 106th Avenue and Johnson Street adjacent to the subject property, when any of the following events occur:
 - A. when the improvements are part of a larger project to be financed or paid for by the formation of a Local Improvement District;
 - B. when the improvements are part of a larger project to be financed or paid for in whole or in part by the City or other public agency;
 - C. when the improvements are part of a larger project to be constructed by a third party and involves the sharing of design and/or construction expenses by the third party owner(s) of property in addition to the subject property; or
 - D. when construction of the improvements is deemed to be appropriate by the City Engineer in conjunction with construction of improvements by others adjacent to the subject site.
14. The applicant shall obtain approval from the City of Tigard for the proposed water connection prior to issuance of the City's Public Facility Improvement permit.
15. A plan for disposal of the storm water runoff from the proposed house on Lot 2 shall be provided as part of the Public Facility Improvement (PFI) permit drawings for review and approval.
16. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition."
17. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22) as recorded in Washington County survey records. These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:
 - ◆ GPS tie networked to the City's GPS survey.
 - ◆ By random traverse using conventional surveying methods.
18. Final Plat Application Submission Requirements:
 - A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.
 - B. Attach a check in the amount of the current final plat review fee (Contact Planning/Engineering Permit Technicians, at (503) 639-4171, ext. 2421).
 - C. The final plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
 - D. The plat shall create public sidewalk easements along the frontages of SW 106th Drive and Johnson Street of sufficient width to provide 27 feet from centerline when combined with the existing right-of-way.
 - E. NOTE: Washington County will not begin their review of the final plat until they receive notice from the Engineering Department indicating that the City has reviewed the final plat and submitted comments to the applicant's surveyor.
 - F. After the City and County have reviewed the final plat, submit two mylar copies of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF BUILDING PERMITS:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the **PLANNING DIVISION, ATTN: CHERYL CAINES 503-639-4171, EXT 2437**. The cover letter shall clearly identify where in the submittal the required information is found:

19. Prior to issuance of building permits, the applicant shall demonstrate that the height restriction and front, rear, and side yard setbacks for structures are as required for the base zone.
20. Prior to building permit issuance, a site plan shall be submitted for review and approval that shows the minimum access width requirements are met.
21. At the time of submittal for building permits for individual homes within the development, the developer shall submit materials demonstrating that one (1) off-street parking space, which meets minimum dimensional requirements and setback requirements as specified in Title 18, will be provided on-site for each new home.
22. Prior to building permit issuance the applicant shall submit revised plans to the City Arborist for review and approval showing accurately and “to scale”, the tree protection specifications and tree protection fencing dimensions outlined in the arborist report. The plans shall include a signature of approval from the project arborist.
23. Prior to building permit issuance, the applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
24. If work is required within an established tree protection zone, the project arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The project arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
25. The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist.
26. Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the locations of trees that were preserved on the lot during site development. In addition, the plans shall include accurate locations of tree canopy driplines and protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to commencing construction. The fencing shall remain in place through the duration of all of the building construction phases, until the Certificate of Occupancy has been approved. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

27. Prior to issuance of building permits the applicant/owner shall record a deed restriction on Parcel 2 to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
28. Prior to issuance of building permits the applicant shall submit a mitigation plan to the City Arborist for review and approval. Mitigation can be accomplished by either planting the number of caliper inches removed or paying a fee in-lieu at the rate of \$125 per caliper inch, or any combination thereof. If a mitigation planting proposal is submitted, it needs to have a signature of approval from the project arborist certifying that it meets the requirements of Section 18.790.060.D and that the species and placement of mitigation trees has been reasonably calculated to provide for their growth to maturity. The mitigation proposal shall show the species, location, and spacing of mitigation trees in relation to buildings, infrastructure, existing trees, street trees, and each other.

Mitigation shall be based upon one of the following tree plan alternatives:

- Alternative 1:** 5 of 6 trees over 12.0" diameter preserved = 83.3% retention, **no mitigation required**
- Alternative 2:** 4 of 6 trees over 12.0" diameter preserved = 66.6% retention, 50% mitigation required, 50% x 27" removed = **13.5" of mitigation required**
- Alternative 3:** 4 of 6 trees over 12.0" diameter preserved = 66.6% retention, 50% mitigation required, 50% x 37" removed = **18.5" of mitigation required**
- Alternative 4:** 3 of 6 trees over 12.0" diameter preserved = 50% retention, 50% mitigation required, 50% x 50" removed = **25.0" of mitigation required**

29. Prior to building permit issuance, the applicant shall submit a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required. Mitigation is calculated at \$125.00 per caliper inch. Any trees successfully planted on or off-site, in accordance with an approved Tree Mitigation Plan and Tigard Development Code Section 18.790.060.D, will be credited against the assurance two years after all of the trees are planted per the approved Tree Mitigation Plan. After the trees are planted, the project arborist shall submit a letter to the City Arborist to certify that all of the mitigation trees were properly planted per the approved Tree Mitigation Plan in order to set the starting point of the two year tree establishment period. After the two-year establishment period, the applicant shall provide a re-inventory of the mitigation trees conducted by a certified arborist in order to document mitigation tree survival, and compliance with the approved Tree Mitigation Plan. The remaining value of caliper inches not successfully mitigated shall be paid as a fee in-lieu of planting from the original cash assurance.
30. Prior to building permit issuance for Parcel 2 , a site plan shall be submitted for review and approval that shows the standards of Chapter 18.795 (Visual Clearance Areas) are met.

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DIVISION, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

31. Prior to building permit issuance the driveway for Parcel 2 shall be moved to Johnson Street to achieve adequate sight distance or application for a variance to this Code requirement shall be requested and approved.
32. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a paper copy of the recorded final plat.
33. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
34. Prior to a final building inspection, the applicant shall complete the required public improvements, obtain conditional acceptance from the City, and provide a one-year maintenance assurance for said improvements.
35. The applicant shall either place the existing overhead utility lines along SW Johnson Street underground as a part of this project, or contact Mike McCarthy (Right-of-Way Administrator) to determine if they will be allowed to pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$35.00 per lineal foot. If the fee option is allowed, the amount will be \$3,488 and it shall be paid prior to issuance of building permits.

36. During issuance of the building permit for Parcel 2, the applicant shall pay the standard water quality and water quantity fees per lot (fee amounts will be the latest approved by CWS).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO FINAL BUILDING INSPECTION:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the **PLANNING DIVISION, ATTN: CHERYL CAINES 503-639-4171, EXT 2437**. The cover letter shall clearly identify where in the submittal the required information is found:

37. Street trees for Parcel 2 shall be planted according to the approved plan prior to final building inspection.

THIS APPROVAL IS VALID IF EXERCISED WITHIN EIGHTEEN (18) MONTHS OF THE EFFECTIVE DATE OF THIS DECISION NOTED UNDER THE PROCESS AND APPEAL SECTION OF THIS DECISION.

SECTION III. BACKGROUND INFORMATION

Site and Vicinity Information

The .35 acre site is located on the south corner of SW 106th Drive and SW Johnson Street within the Cottonwood Place subdivision. The site is zoned R-4.5 (Low Density Residential), as are all surrounding properties. An existing single-family home sits on the southern portion of the site, and it will remain on proposed Parcel 1. Homes in the area are single-family of varying ages.

Property History:

A search of City records shows the site was annexed into the City of Tigard in 1996 (ZCA96-00005). This approval also granted a Zone Change and Comprehensive Plan Amendment to change the zoning from Washington County R5 to City of Tigard R-4.5. No other approvals were found affecting this parcel.

Proposal Description

The owner is proposing a two lot partition. An existing home will remain on Parcel 1. The net square footage of the two parcels will be: Parcel 1 – 7,524 square feet and Parcel 2 – 7,500 square feet.

SECTION IV. PUBLIC COMMENTS

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, staff has posted a notice on the site. Comments were received from two neighbors. These comments were passed along to the applicant's representative, Gary Shepherd. Mr. Shepherd's responses are shown below each comment.

Comments were received from Dick Pearson concerning compatibility of the new residence with the homes in the neighborhood. He states that many neighbors are long-term residents and assume that the new residence will fit in well with the existing neighborhood. He is requesting the courtesy of the owner to share the general residential construction plans with neighbors, who can then respond with any concerns or suggestion. He has found in the past that this is a very positive step in the process for both owner and neighbors.

APPLICANT'S RESPONSE: The applicant appreciates Mr. Pearson's comments and his effort to coordinate a response with area residents. The applicant is not currently requesting permission to build a home, but rather seeking to create a lot for planning and future development purposes. If the applicant were to build a home, he would welcome a neighborhood meeting to discuss building plans.

STAFF RESPONSE: Currently there are no requirements for notification, public comment, or design when constructing a single-family home. Based on the applicant's response, he is open to public comment on the building plans.

Comments were also received from Gary Helmer. He is against issuing a conditional permit to build a single-family home or duplex on the site. He states the area was built in the 1960s with the idea of having space for your home, not to be five feet from your neighbor. By approving this application the look of the neighborhood will be changed and property values will be lowered. The homes in the neighborhood blend in and have beautiful yards. It is a "Green" development; do not destroy it.

He goes on to say that the property owner had to be creative to come up with the proposed site for this lot. In order to do this he notes the owner had to use space behind the existing home to gain the necessary lot square footage.

APPLICANT'S RESPONSE: The applicant is respectful of Mr. Helmer's comments. However, the subject partition is consistent with City zoning and regional infill objectives. The applicant demonstrated it is feasible to meet all applicable zoning and development standards. The comment received from Richard Pearson demonstrates that other area residents are in support of the application.

STAFF RESPONSE: The applicant has shown that density standards are met. Setback standards will be reviewed during building permit application for the new home on Parcel 2. As noted above, there are currently no neighborhood compatibility or design requirements for single-family homes, but Staff encourages the applicant to work with neighbors to find an agreeable design.

SECTION V. APPLICABLE REVIEW CRITERIA AND FINDINGS

Land Partitions (18.420):

The proposed partition complies with all statutory and ordinance requirements and regulations;

The proposed partition complies or can be made to comply with all statutory and ordinance requirements and regulations as demonstrated by the analysis contained within this administrative decision and through the imposition of conditions of development approval. All necessary conditions must be satisfied as part of the development and building process. Therefore, this criterion is met.

There are adequate public facilities available to serve the proposal;

Public facilities are discussed in detail later in this decision under Chapter 18.810 (Street & Utility Improvement Standards). Based on the analysis provided herein, Staff finds that adequate public facilities are available to serve the proposal. Therefore, this criterion is met.

All proposed improvements meet City and applicable agency standards; and

The public facilities and proposed improvements are discussed and conditioned later in this decision under Chapter 18.810 (Street & Utility Improvement Standards). Improvements will be reviewed as part of the permit process and during construction, at which time the appropriate review authority will ensure that City and applicable agency standards are met. Based on the analysis in this decision, Staff finds that this criterion is met.

All proposed lots conform to the specific requirements below:

The minimum width of the building envelope area shall meet the lot requirement of the applicable zoning district.

The average minimum lot width required for the R-4.5 zoning district is 50 feet. The majority of Parcel 1 is 80 feet wide or more, but the rear 17 feet is 45.27 feet wide. The average lot width is approximately 70 feet. Parcel 2 is 64.92 feet wide at its narrowest point. Therefore, this standard has been met.

The lot area shall be as required by the applicable zoning district. In the case of a flag lot, the accessway may not be included in the lot area.

The minimum lot area requirement in the R-4.5 zoning district is 7,500 square feet for detached single-family units. The proposed partition creates two (2) lots. Each lot has street frontage, therefore no flag lots are being created. The areas of the two proposed parcels are 7,524 and 7,500 square feet respectively. This criterion has been met.

Each lot created through the partition process shall front a public right-of-way by at least 15 feet or have a legally recorded minimum 15-foot wide access easement.

Parcel 1 has 85.33 feet of frontage along SW 106th Drive. Parcel 2 has 64.92 feet of frontage on SW 106th Drive and 99.66 feet along SW Johnson Street. This criterion is met.

Setbacks shall be as required by the applicable zoning district.

Setbacks for the R-4.5 zoning district are as follows: front, 20 feet; side, 5 feet; street side, 15 feet; and rear, 15 feet. The setbacks for the future home on lot 2 will be reviewed at the time of building permit submittal. Setbacks for the existing home on Parcel 1 meet the requirements; setbacks are discussed further under the Residential Zoning Districts section of this decision. A condition of approval under the Residential Zoning Districts section will ensure the applicant shows the correct setbacks on the building site plans. This criterion can be met conditionally. The condition is found under the Residential Zoning District section of this decision.

When the partitioned lot is a flag lot, the developer may determine the location of the front yard, provided that no side yard is less than 10 feet. Structures shall generally be located so as to maximize separation from existing structures.

There are no flag lots proposed with this application. This standard does not apply.

A screen shall be provided along the property line of a lot of record where the paved drive in an accessway is located within ten feet of an abutting lot in accordance with Sections 18.745.040. Screening may also be required to maintain privacy for abutting lots and to provide usable outdoor recreation areas for proposed development.

There are no flag lots proposed with this application. This standard does not apply.

The fire district may require the installation of a fire hydrant where the length of an accessway would have a detrimental effect on fire-fighting capabilities.

There are no flag lots proposed with this application. This standard does not apply.

Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved partition map.

Each parcel will be accessed via a driveway to the public street. This standard does not apply.

Any access way shall comply with the standards set forth in Chapter 18.705, Access, Egress and Circulation.

This standard is addressed under Chapter 18.705 (Access, Egress and Circulation) later in this decision.

Where landfill and/or development is allowed within or adjacent to the one-hundred year floodplain, the city shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.

The partitioned lots are approximately 117 feet to the southwest of the nearest 100-year floodplain. The elevation of the floodplain is 156 feet, while the lowest point on the site is 162 feet. Therefore, this standard does not apply.

An application for a variance to the standards prescribed in this chapter shall be made in accordance with Chapter 18.370, Variances and Adjustments. The applications for the partition and variance(s)/adjustment(s) will be processed concurrently.

The applicant has not requested any variances or adjustment, but either an adjustment or variance is required to approve this application. The site is 15,024 square feet. There is an existing 50-foot right-of-way (ROW) on both SW 106th Drive and SW Johnson Street. The applicant states that the existing ROW is adequate to meet standards for local streets with lower traffic volumes.

Both streets currently have 32 feet of pavement. Street standards for lower volume streets have narrower pavement widths. To install a planter strip and public sidewalk at this location would require additional right-of-way beyond the 25 feet from centerline.

The applicant has stated that if the dedication is required, then a variance will be requested to allow the lots to be below the minimum lot size of 7,500 square feet. Another option is to request an adjustment to the street standards and record a public sidewalk easement on the property for future public improvements. This type of easement was permitted for a minor land partition (MLP2005-00009) through an adjustment process in 2006. Like the site partitioned in 2006, the subject site has sufficient land for dividing prior to right-of-way dedication.

FINDING: The Land Partition standards have not been fully met but can be as conditioned below.

CONDITION: Prior to final plat the applicant shall submit and receive approval for either a variance to the minimum lot size requirements under Section 18.370.010 or an adjustment to the street standards under Section 18.370.020.C.11.

Residential Zoning Districts (18.510):

Development standards in residential zoning districts are contained in Table 18.510.2 below:

**TABLE 18.510.2
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

STANDARD	R-4.5	Parcel 1	Parcel 2
Minimum Lot Size - Detached unit - Duplexes - Attached unit	7,500 sq. ft.	7,524 sq. ft.	7,500 sq. ft.
Average Minimum Lot Width - Detached unit lots - Duplex lots - Attached unit lots	50 ft. 90 ft.	70 ft.[1]	81 ft.[1]
Maximum Lot Coverage	-	N/A	N/A
Minimum Setbacks - Front yard - Side facing street on corner & through lots - Side yard - Rear yard - Side or rear yard abutting more restrictive zoning district - Distance between property line and front of garage	20 ft. 15 ft. 5 ft. 15 ft. -- 20 ft.	25 ft. N/A 22.5 ft./5 ft. 3 ft. [2] N/A 25 ft.	Can be met
Maximum Height	30 ft.	1 story/daylight basement	Can be met
Minimum Landscape Requirement	-	N/A	N/A

[1] Average lot width. Lot shapes are irregular.

[2] Rear yard setback is 3 feet to an existing, uncovered deck. The remainder of the home is approximately 19 feet from the rear property line.

A minimum lot size of 7,500 square feet is required for each lot. The proposed lot sizes meet this standard if the adjustment to the street improvement standards or variance to minimum lot size requirements is subsequently approved. Setbacks of the existing home are met for Parcel 1. The applicant states that the standards will be met on Parcel 2. Site and building plans for Parcel 2 will be reviewed through the building permit process to ensure compliance with the R-4.5 zone development standards, including setbacks and height restrictions.

FINDING: Based on the analysis above, the Residential Zoning District Standards will be met pursuant to the following conditions:

CONDITION: Prior to issuance of building permits, the applicant shall demonstrate that the height restriction and front, rear, and side yard setbacks for structures are as required for the base zone.

Access, Egress and Circulation (18.705):

Continuing obligation of property owner. The provisions and maintenance of access and egress stipulated in this title are continuing requirements for the use of any structure or parcel of real property in the City.

Joint Access. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided: Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and copies of the deeds, easements, leases or contracts are placed on permanent file with the City.

Both parcels have individual access to public streets. No joint access is proposed. This standard does not apply.

Curb cuts. Curb cuts shall be in accordance with Section 18.810.030N

Public street access. All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.

Both parcels will connect directly with a public street. Parcel 1 will continue to utilize an existing driveway to 106th Drive and Parcel 2 has frontage on both 106th Drive and Johnson Street. A new driveway was proposed to 106th, but sight distance cannot be obtained at this location as detailed under 18.705.030.H.1. This standard can be met as conditioned.

Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.

The applicant proposes to retain the existing driveway for Parcel 1 and to provide an additional driveway for Parcel 2. Both driveways provide access to SW 106th Drive, a local street with less than 2,000 ADT.

The applicant's engineer has submitted a sight distance report showing that the proposed driveway exceeds the required 250 feet of sight distance to the north but it limited to 190 feet to the south by a crest curve. Consequently, the applicant shall move the driveway to Johnson Street to achieve adequate sight distance or apply for a variance to this Code section.

Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.

This property is not located on a collector or arterial street; therefore the standard does not apply.

Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.

The property is not located on a collector or arterial and is not constructing a local street; therefore this standard does not apply.

Minimum access requirements for residential use. Table 18.705.1 states that the minimum vehicular access and egress for single-family dwelling units on individual lots shall be one, 10-foot paved driveway within a 15-foot-wide accessway. The minimum access width for 3-6 dwelling units is 20 feet with 20 feet of pavement.

The existing drive for Parcel 1 is 33.9 feet wide. A driveway is proposed for Parcel 2, which does not meet sight distance requirements under 18.705.030. A new driveway location must be proposed and approved. This standard can be met as conditioned below.

Private residential access drives shall be provided and maintained in accordance with the provisions of the Uniform Fire Code.

No private access drives/flag lots are proposed with this application. Tualatin Valley Fire and Rescue was sent a copy of the proposal but submitted no comments to the City.

Access drives in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus by one of the following: a) A circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet; b) A hammerhead-configured, paved surface with each leg of the hammerhead having a minimum depth of 40 feet and a minimum width of 20 feet; c) The maximum cross slope of a required turnaround is 5%.

Access drives in excess of 150 feet in length have not been proposed with this application. This standard does not apply.

FINDING: The standards for Access, Egress, and Circulation were not completely met.

CONDITIONS:

- ◆ Prior to building permit issuance the driveway for Parcel 2 shall be moved to Johnson Street to achieve adequate sight distance or application for a variance to this Code requirement shall be requested and approved.
- ◆ Prior to building permit issuance a site plan shall be submitted for review and approval that shows the minimum access width requirements are met.

Density Computations and Limitations (18.715):

Chapter 18.715 implements the Comprehensive Plan by establishing the criteria for determining the number of dwelling units permitted. The number of allowable dwelling units is based on the net development area. The net area is the remaining parcel area after exclusion of sensitive lands and land dedicated for public roads or parks. The net area is then divided by the minimum lot size permitted by the zoning district to determine the number of dwelling units that may be developed on a site.

Based on the formulas in Chapter 18.715 of the City of Tigard Community Development Code, the maximum and minimum number of units permitted on the site is based on the net developable area, subtracting sensitive land areas, land dedicated to public parks, land dedicated for public right-of-way, land for private streets or access drives, and lot area for the existing home from the total site area. The density is calculated as follows:

Gross Site Area	15,024 sq. ft.
Lot for Existing Home	- 7,524 sq. ft.
Net Site Area	7,500 sq. ft.

The resulting net area is 7,500 square feet. If this area is divided by the minimum lot size for the zone (7,500), then the maximum number of additional lots permitted on this site is 1 and the minimum number is 1. The applicant's proposal to create 1 additional lots for single-family detached homes meets the maximum and minimum density requirements of the R-4.5 zone.

FINDING: Based on the analysis above, the Density Standards have been satisfied.

Exceptions to Development Standards (18.730):

Allowed projections into rear yard setbacks. Open porches, decks or balconies not more than 36 inches in height and not covered by a roof or canopy, may extend or project into a required rear or side yard provided such natural yard area is not reduced to less than three feet and the deck is screened from abutting properties. Porches may extend into a required front yard not more than 36 inches.

The existing home on Parcel 1 has a rear yard deck built over a concrete pad. Based on the survey, the concrete pad has an average elevation of 171.80. Therefore, the wood deck is 1.43 feet above the ground. An uncovered deck not more than 36 inches in height is permitted within the rear yard setback as long as the yard is not reduced to less than 3 feet and the deck is screened from abutting properties.

The existing deck is set back 3 feet from the proposed property line of Parcel 2. The applicant reasons that screening may not be necessary since a dwelling will not be constructed on the area east of the deck meaning there is no privacy interest that must be protected. At the same time the applicant states that if required, the applicant proposes to plant a row of evergreen shrubs in the 3-foot area. As the standard does not allow for an exception, staff has conditioned the applicant to install the required screening.

FINDING: The Exceptions to Development Standards can be met as conditioned below.

CONDITION: Prior to the final plat, the applicant shall:

- A. Submit for review and approval revised plans showing the type of screening proposed for the 3-foot area east of the existing deck on Parcel 1.
- B. Install screening according to the approved plan.

Landscaping and Screening (18.745):

All landscaping shall be installed according to accepted planting procedures.

The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.

The plant material shall be of high grade, and shall meet the size and grading standards of the American Standards for Nurberg Stock (ANSI Z-60, 1-1986, and any other future revisions); and

Certificate of Occupancy. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the City such as the posting of a bond.

Existing vegetation on a site shall be protected as much as possible: 1) The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and 2) the plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around the individual trees).

Tree protection is addressed under the Tree Removal section of this decision.

Street trees: Section 18.745.040

Section 18.745.040.A.: All development projects fronting on a public street, private street or a private driveway more than 100 feet in length approved after the adoption of this title shall be required to plant street trees in accordance with the standards in Section 18.745.040C.

This project has frontage on both SW 106th Drive and SW Johnson Street. Street trees are required along both frontages and shall be planted in accordance with the standards for size and spacing in this title, under Section 18.745.040.C. The tree removal plans prepared by the Project Arborist show trees along both frontages. Since the plans are not to scale, the City Arborist cannot determine if the trees are correctly spaced. A condition of approval will ensure the spacing standards are met.

FINDING: Based on the analysis above, the Landscaping standards have not been fully met. However, if the applicant complies with the conditions below the standards will be met.

CONDITIONS:

- ◆ Prior to final plat the applicant shall submit for review and approval, revised plans to scale showing street tree spacing that meet the standards of 18.745.040.C.
- ◆ Street trees for Parcel 1 shall be planted according to the approved plan prior to final plat.
- ◆ Street trees for Parcel 2 shall be planted according to the approved plan prior to final building inspection.

Off-street Parking and Loading Requirements (18.765):

This Chapter is applicable for development projects when there is new construction, expansion of existing use, or change of use in accordance with Section 18.765.070 Minimum and Maximum Off-Street Parking Requirements.

The proposed partition will create two lots for single-family residences. Table 18.765.2 requires that one (1) off-street parking space be provided per detached dwelling unit. There is no maximum limit on parking allowed for detached single-family dwellings. There is also no bicycle parking requirement for single-family dwellings. The existing residence has spaces in the garage and driveway. To ensure that the new home constructed in this development complies with these standards, the following condition shall apply:

CONDITION: At the time of submittal for building permits for individual homes within the development, the developer shall submit materials demonstrating that one (1) off-street parking space, which meets minimum dimensional requirements and setback requirements as specified in Title 18, will be provided on-site for each new home.

Tree Removal (18.790):

Chapter 18.790.030 requires the submittal of a tree plan that identifies the location size and species of all trees on the site, a program to save existing trees over 12-inch diameter at breast height (dbh) or mitigate for their removal, identification of trees to be removed, and a protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

As required for partitions, the applicant submitted a tree plan conducted by Gary Drendel, certified arborist, however the tree plan does not contain all of the required elements. These elements are discussed in further detail below under "Plan Requirements."

A specific house plan has not been chosen for Parcel 2, and the applicant is not constructing a home at this time. As the applicant cannot determine which trees will be removed, four alternative plans have been provided.

- Alternative 1: no removal
- Alternative 2: remove tree #6
- Alternative 3: remove tree #7
- Alternative 4: remove both trees #6 and #7

Plan requirements. The tree plan shall include the following:

- 1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;**

The Arborist Report identified the location, size and species of all existing trees, consistent with this standard.

- 2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:**
 - a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;**
 - b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
 - c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
 - d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.**

There are 5 viable existing trees and one (1) previously removed tree (14 inch birch) on site greater than 12 inches, making 6 trees subject to mitigation. The applicant states that the birch was removed due to hazardous conditions (diseased and damaged from storms). Only the stump of the tree remains, which is not adequate for the arborist to establish the condition of the tree. As noted above, the applicant has not determined exactly which trees will eventually be removed and therefore, has presented four alternative tree plans. Each plan indicates the trees on the property that are to remain and those proposed for removal.

This requirement has not been met.

Based on the alternatives provided in the arborist report, mitigation will be required as follows:

- Alternative 1:** 5 of 6 trees over 12.0" diameter preserved = 83.3% retention, **no mitigation required.**
- Alternative 2:** 4 of 6 trees over 12.0" diameter preserved = 66.6% retention, 50% mitigation required. 50% x 27" removed = **13.5" of mitigation required.**
- Alternative 3:** 4 of 6 trees over 12.0" diameter preserved = 66.6% retention, 50% mitigation required. 50% x 37" removed = **18.5" of mitigation required.**
- Alternative 4:** 3 of 6 trees over 12.0" diameter preserved = 50% retention, 50% mitigation required. 50% x 50" removed = **25.0" of mitigation required.**

The applicant will need to provide a mitigation plan with a signature of approval from the project arborist that meets the replacement requirements in Section 18.790.060.D. A cash assurance for the equivalent amount of mitigation will be required at the rate of \$125 per inch to be mitigated. Trees that are required by other code provisions such as street trees are not eligible for mitigation credit.

3. Identification of all trees which are proposed to be removed;

All of the trees proposed to be removed are identified in the applicant's Tree Preservation Plans and Arborist Report.

4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

The guidelines for tree protection are outlined in the arborist report, but the plans do not reflect these measures. The applicant shows general tree protection fencing on the tree plan, but plans need to display the required tree protection fencing, tree protection specifications, and the tree protection zone dimensions to scale per the project arborist's report.

Section 18.790.040 states that any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

The applicant has proposed four alternative tree plans, some of which show retaining trees on-site. Removal of retained trees is restricted. A condition of approval will ensure that this standard is met.

FINDING: Based on the analysis above, the Tree Removal standards will be met, if the applicant complies with the conditions listed below:

CONDITIONS:

Tree Protection

- ♦ Prior to building permit issuance the applicant shall submit revised plans to the City Arborist for review and approval showing accurately and to scale the tree protection specifications and tree protection fencing dimensions outlined in the arborist report. The plans shall include a signature of approval from the project arborist.
- ♦ Prior to building permit issuance, the applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

- ◆ If work is required within an established tree protection zone, the project arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The project arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
 - ◆ The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist.
 - ◆ Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the locations of trees that were preserved on the lot during site development. In addition, the plans shall include accurate locations of tree canopy driplines and protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to commencing construction. The fencing shall remain in place through the duration of all of the building construction phases, until the Certificate of Occupancy has been approved. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.
 - ◆ Prior to final plat the applicant/owner shall record a deed restriction on Parcel 1 to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
 - ◆ Prior to issuance of building permits the applicant/owner shall record a deed restriction on Parcel 2 to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
- Mitigation**
- ◆ Prior to issuance of building permits the applicant shall submit a mitigation plan to the City Arborist for review and approval. Mitigation can be accomplished by either planting the number of caliper inches removed or paying a fee-in-lieu at the rate of \$125 per caliper inch, or any combination thereof. If a mitigation planting proposal is submitted, it needs to have a signature of approval from the project arborist certifying that it meets the requirements of 18.790.060D and that the species and placement of mitigation trees has been reasonably calculated to provide for their growth to maturity. The mitigation proposal shall show the species, location, and spacing of mitigation trees in relation to buildings, infrastructure, existing trees, street trees, and each other.

Mitigation shall be based upon one of the following tree plan alternatives:

- Alternative 1:** 5 of 6 trees over 12.0” diameter preserved = 83.3% retention, **no mitigation required.**
- Alternative 2:** 4 of 6 trees over 12.0” diameter preserved = 66.6% retention, 50% mitigation required. 50% x 27” removed = **13.5” of mitigation required.**
- Alternative 3:** 4 of 6 trees over 12.0” diameter preserved = 66.6% retention, 50% mitigation required. 50% x 37” removed = **18.5” of mitigation required.**
- Alternative 4:** 3 of 6 trees over 12.0” diameter preserved = 50% retention, 50% mitigation required. 50% x 50” removed = **25.0” of mitigation required.**

- ◆ Prior to building permit issuance, the applicant shall submit a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required. Mitigation is calculated at \$125.00 per caliper inch. Any trees successfully planted on or off-site, in accordance with an approved Tree Mitigation Plan and Tigard Development Code Section 18.790.060.D, will be credited against the assurance two years after all of the trees are planted per the approved Tree Mitigation Plan. After the trees are planted, the project arborist shall submit a letter to the City Arborist to certify that all of the mitigation trees were properly planted per the approved Tree Mitigation Plan in order to set the starting point of the two-year tree establishment period. After the two-year establishment period, the applicant shall provide a re-inventory of the mitigation trees conducted by a certified arborist in order to document mitigation tree survival, and compliance with the approved Tree Mitigation Plan. The remaining value of caliper inches not successfully mitigated shall be paid as a fee in-lieu of planting from the original cash assurance.

Visual Clearance Areas (18.795):

This Chapter requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height. Trees may be placed within this area provided that all branches below eight (8) feet are removed. A visual clearance area is the triangular area formed by measuring from the corner, 30-feet along the right-of-way and along the driveway and connecting these two points with a straight line.

Clear vision areas are shown on the preliminary plat for the existing drive, proposed drive and street corner. Because the proposed access on SW 106th Drive cannot meet site distance requirements, the access for the future home on Parcel 2 must be from SW Johnson Street. Vision clearance areas have not been shown for this location. This standard has not been satisfied.

FINDING: Based on the analysis above, the Vision Clearance Standards are not met.

CONDITIONS:

- ◆ Place a note on the final plat for the visual clearance easement at the corner of SW 106th Drive and SW Johnson Street to the benefit of the City of Tigard. Said easement is subject to the City of Tigard Visual Clearance Area standards that restrict the height of plantings and structures (Tigard Development Code Chapter 18.795).
- ◆ Prior to building permit issuance for Parcel 2, a site plan shall be submitted for review and approval that shows the standards of 18.795 (Visual Clearance Areas) are met.

Impact Study (18.390)

Section 18.360.090 states, “The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions or denying an application:”

Section 18.390.040 states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standard, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.

In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. Section 18.390.040 states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.

The applicant has submitted an impact study. Stormwater currently flows from the high side of the site (Parcel 1) across Parcel 2 to existing weep holes on SW Johnson Street. The Engineering Division has conditioned the applicant to show how stormwater from both sites will be directed to an approved system. Water and sanitary sewer is or will be provided by public lines within SW 106th Drive or SW Johnson Street. Parks system development charges will be collected for each new home at building permit issuance as well as a Transportation Development Tax.

The Washington County Transportation Development Tax (TDT – effective July 1, 2009) is a mitigation measure that is required at the time of development. Based on Washington County figures TDTs are expected to recapture 28 percent of the traffic impact of new development on the Collector and Arterial Street system. The applicant will be required to pay TDTs of approximately \$4,599 (Effective July 1, 2009) per new dwelling unit.

Based on the estimate that total TDT fees cover 28 percent of the impact on major street improvements citywide, a fee that would cover 100 percent of this projects traffic impact is \$16,425 (\$4,599 divided by .28). The difference between the TDT paid, and the full impact, is considered the unmitigated impact on the street system; therefore the unmitigated impact of this project is \$11,826 (\$16,425 - \$4,599). The site has 150.25 feet of frontage along 106th Drive and 99.66 feet along Johnson Street. Both are classified as local streets. Two feet of right-of-way dedication is required to meet current standards. Because the existing site is large enough to be divided, the City has considered allowing the applicant to record a sidewalk easement or request a variance to the minimum lot size if dedication occurs. In addition the applicant would execute a Restrictive Covenant for future public improvements. The allowance for a sidewalk easement in lieu of dedication requires the applicant to apply and receive approval for an adjustment to the street improvement standards.

If the applicant chooses to dedicate the additional ROW instead of executing a sidewalk easement, the total dedication will be approximately 500 square feet. The estimated cost of the dedication is \$1,500 (500 square feet x \$3.00/square foot). The dedication is required to meet the street improvement requirements of Section 18.810.030. The total cost is less than the unmitigated impact on the arterial and collector system.

PUBLIC FACILITY CONCERNS

Street And Utility Improvements Standards (Section 18.810):

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

Streets:

Improvements:

Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.

Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.

Minimum Rights-of-Way and Street Widths: Section 18.810.030.E requires a local street to have a 54-foot right-of-way width and 32-foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.

This site is at the intersection of SW 106th Drive and Johnson Street. Both are classified as a local street on the City of Tigard Transportation Plan Map. At present, both streets have approximately 25 feet of right-of-way from centerline, according to the most recent tax assessor's map. An additional two feet of right-of-way is required to comply with current local street standards.

The applicant states that the "skinny street" standards of Table 18.810.1 of 18.810.030.E allow SW 106th Drive and Johnson Street to remain with a right-of-way width of 50 feet. However, Note 3 of the table allows the reduced width only if certain cross section criteria are met. Approval of the reduced width would require the applicant to meet the adjustment approval criteria of Section 18.370.020 C.11.

The additional two feet of right-of-way dedication would not allow for the minimum lot size of 7,500 square feet. The minimum lot size could be achieved by allowing the additionally required two feet of width to be placed within a public sidewalk easement.

Both streets are currently improved with a 32-foot paved width and curbs but without sidewalks. In order to mitigate the impact from this development, the applicant should plant street trees, enter into a future streets improvement agreement for the remaining improvements and provide a two-foot wide public sidewalk easement along both frontages.

Future Street Plan and Extension of Streets: Section 18.810.030.F states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

The property is surrounded by existing residential development. There are no opportunities or needs for future streets or extensions of streets through this property.

Street Alignment and Connections:

Section 18.810.030.H.1 states that full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.

Section 18.810.030.H.2 states that all local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

The property is surrounded by existing residential development. There are no opportunities or needs for future streets or extensions of streets through this property.

Block Designs - Section 18.810.040.A states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

Block Sizes: Section 18.810.040.B.1 states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ♦ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ♦ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ♦ For non-residential blocks in which internal public circulation provides equivalent access.

Due to existing development surrounding the property there are no possible street connections or opportunities to create shorter block lengths through this site. SW 106th Drive connects Walnut Street with Tiedeman Avenue, and Johnson Street currently dead ends at Fanno Creek and is picked up on the opposite side of the creek.

Lots - Size and Shape: Section 18.810.060(A) prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

All of the parcels are less than 1.5 times the minimum lot size (7,500 x 1.5 = 11,250). Parcel 1 is 7,524 square feet and Parcel 2 is 7,500 square feet.

Lot Frontage: Section 18.810.060(B) requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

Parcel 1 has 85.33 feet of street frontage along SW 106th Drive. Parcel 2 has 64.92 feet of frontage on SW 106th and 99.66 feet of frontage on SW Johnson Street.

Sidewalks: Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets. Private streets and industrial streets shall have sidewalks on at least one side.

The applicant shall enter into a future street improvement agreement for SW 106th Drive and Johnson Street, which will include public sidewalks, thereby meeting this criterion.

Sanitary Sewers:

Sewers Required: Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

Over-sizing: Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

There is a public sewer line located in SW 106th Drive and a lateral that serves the existing home. The applicant's plans show a proposed lateral from the existing sewer to serve Parcel 2.

Storm Drainage:

General Provisions: Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

Accommodation of Upstream Drainage: Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

There are no upstream drainage ways that impact this development.

Effect on Downstream Drainage: Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

The CWS standards include a provision that would exclude small projects such as residential land partitions. It would be impractical to require an on-site water quantity facility to accommodate the storm water from the two parcels. Rather, the CWS standards provide that applicants should pay a fee in-lieu of constructing a facility if deemed appropriate. Staff recommends payment of the fee in-lieu on this application. Storm drainage for both parcels shall be directed to an approved system.

Utilities:

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- ♦ The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- ♦ The City reserves the right to approve location of all surface mounted facilities;
- ♦ All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- ♦ Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

Exception to Under-Grounding Requirement: Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along the frontage of SW Johnson Street. If the fee in-lieu is proposed, it must be approved by Mike McCarthy, Right-of-Way Administrator, and it is equal to \$35.00 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 99.66 lineal feet; therefore the fee would be \$3,488.

ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:

Fire and Life Safety:

Tualatin Valley Fire and Rescue (South Division) [Contact: John Dalby, 503-356-4723] provides fire protection services within the City of Tigard. There is an existing hydrant on the northwest corner of the site. The District should be contacted for information regarding the adequacy of the distribution system, the need for fire hydrants, or other requirements.

Public Water System:

Water service is provided by the City of Tigard. The applicant proposes to continue to use the existing service for Lot 1 and install an additional service from the existing main in SW 106th Drive to serve Lot 2.

Storm Water Quality:

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

The CWS standards include a provision that would exclude small projects such as residential land partitions. It would be impractical to require an on-site water quality facility to accommodate treatment of the storm water from the two parcels. Rather, the CWS standards provide that applicants should pay a fee in-lieu of constructing a facility if deemed appropriate. Staff recommends payment of the fee in-lieu on this application.

Grading and Erosion Control:

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

An Erosion Control Plan must be submitted with the PFI Permit application for review and approval.

Address Assignments:

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard. An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the City prior to final plat approval.

Survey Requirements:

The applicant's final plat shall contain State Plane Coordinates [NAD 83 (91)] on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22). These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ♦ GPS tie networked to the City's GPS survey.
- ♦ By random traverse using conventional surveying methods.

In addition, the applicant's as-built drawings shall be tied to the GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (

SECTION VI. OTHER STAFF COMMENTS

Tigard Police and the Public Works Departments were sent copies of the proposal and have no objection.

The City Arborist provided comments, which have been incorporated into the decision.

SECTION VII. AGENCY COMMENTS

Clean Water Services (CWS) has reviewed the proposal. Comments have been incorporated into the decision and conditions. A copy of the entire CWS letter is found in the land use file (MLP2009-00001).

Applicant's Response: Many of the comments submitted by CWS are typical of a subdivision application where new facilities and construction closely follow the preliminary and final plat approvals. They are not specific to the subject application. Applicant objects to the timing of the obligations recommended by CWS.

Qwest Communications states that this location falls out of the Qwest service area.

Verizon Communications stated that a 2' x 3' vault is located on the corner of the site within the area of the proposed sidewalk. The applicant is not proposing a sidewalk at this time.

SECTION VIII. PROCEDURE AND APPEAL INFORMATION

Notice: Notice was mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

Final Decision:

**THIS DECISION IS FINAL ON JUNE 22, 2009 AND BECOMES
EFFECTIVE ON JULY 8, 2009 UNLESS AN APPEAL IS FILED.**

Appeal:

The Director's Decision is final on the date that it is mailed. All persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the Notice of Decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

THE DEADLINE FOR FILING AN APPEAL IS 5:00 PM ON JULY 7, 2009.

Questions:

If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.


PREPARED BY: Cheryl Caines
Associate Planner

June 22, 2009
DATE


APPROVED BY: Richard W. Bewersdorff
Planning Manager

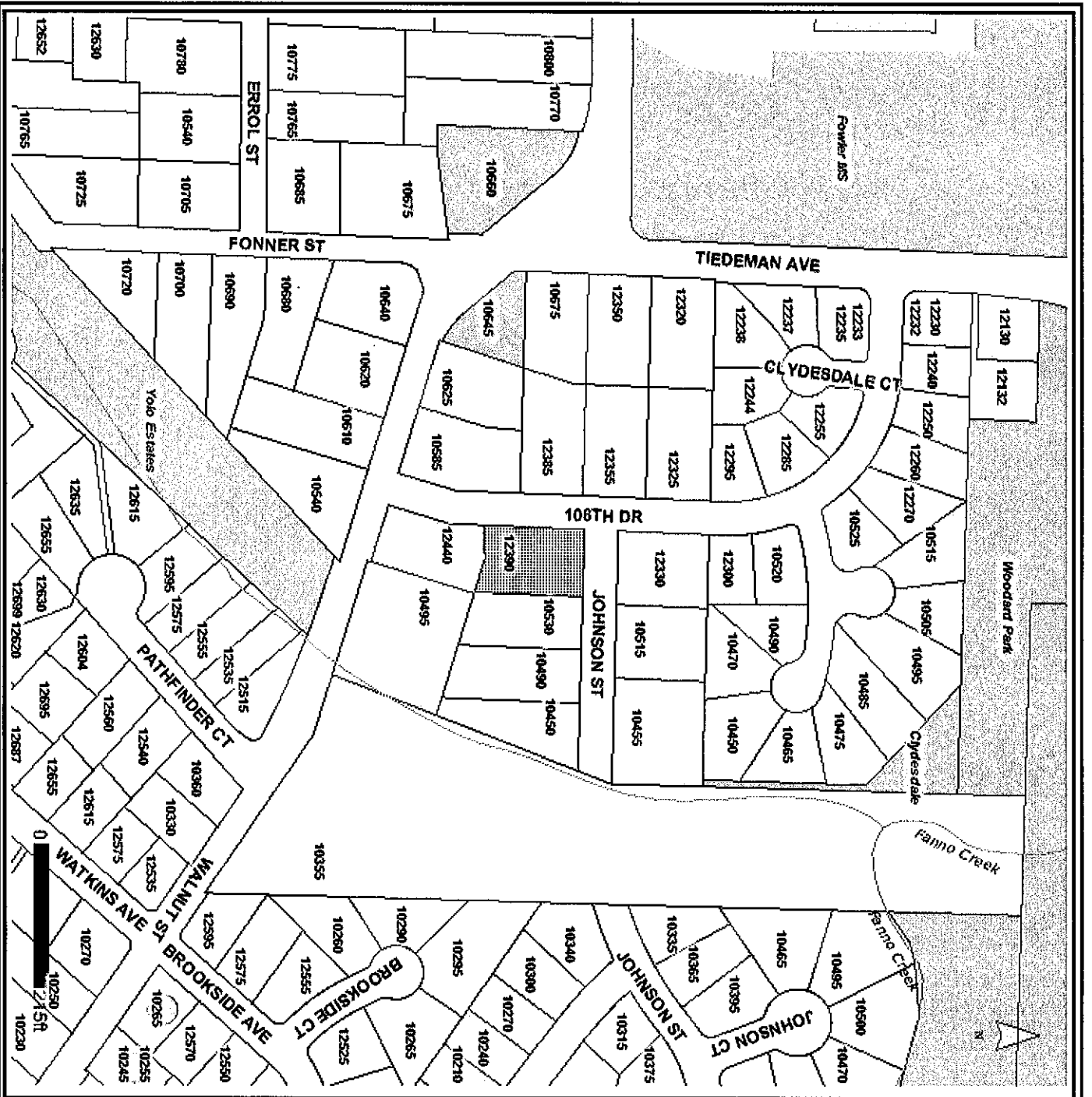
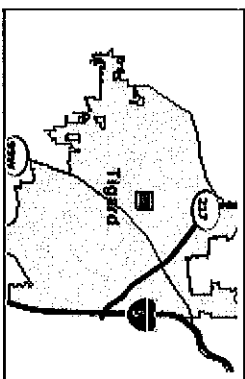
June 22, 2009
DATE

VICINITY MAP

MLP2009-00001

SANDERS PARTITION

 Subject Site



Information on this map is for general location only and should be verified with the Development Services Division.

Scale 1:2,587 - 1 in = 216 ft

Map printed at 22-May-09 03:36 PM

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TIGARD MAPS

City of Tigard
13125 SW Hall Blvd
Tigard, OR 97223
503 639-4171
www.tigard-or.gov



LEGEND:

- DENOTES MONUMENTS FOUND AS NOTED
- RIM
- DENOTES 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED ZITER LS 1944
- DENOTES IRON ROD
- DENOTES IRON PIPE
- DENOTES GAS METER
- DENOTES SANITARY MANHOLE
- DENOTES ELECTRIC METER
- DENOTES MAILBOX
- DENOTES DOWNSPOUT
- DENOTES RED STRAIGHT PORTION
- DENOTES YELLOW PLASTIC CAP
- DENOTES MEASURED
- (M) DENOTES "COTTONWOOD PLACE"
- (P) DENOTES ORIGINAL PLAT CORNER
- P DENOTES ORIGIN UNKNOWN
- W DENOTES ORIGIN UNKNOWN
- G DENOTES GAS LINE
- P DENOTES ELECTRICAL LINE
- O/H OVERHEAD
- F/O FIBER OPTIC
- FFE FINISH FLOOR ELEVATION
- CO CLEAN OUT
- DS DOWN SPOUT
- XXXX EXISTING SPOT ELEVATION
- SN 28287
- SN(1)

PRELIMINARY
CITY OF TIGARD PLANNING DIVISION

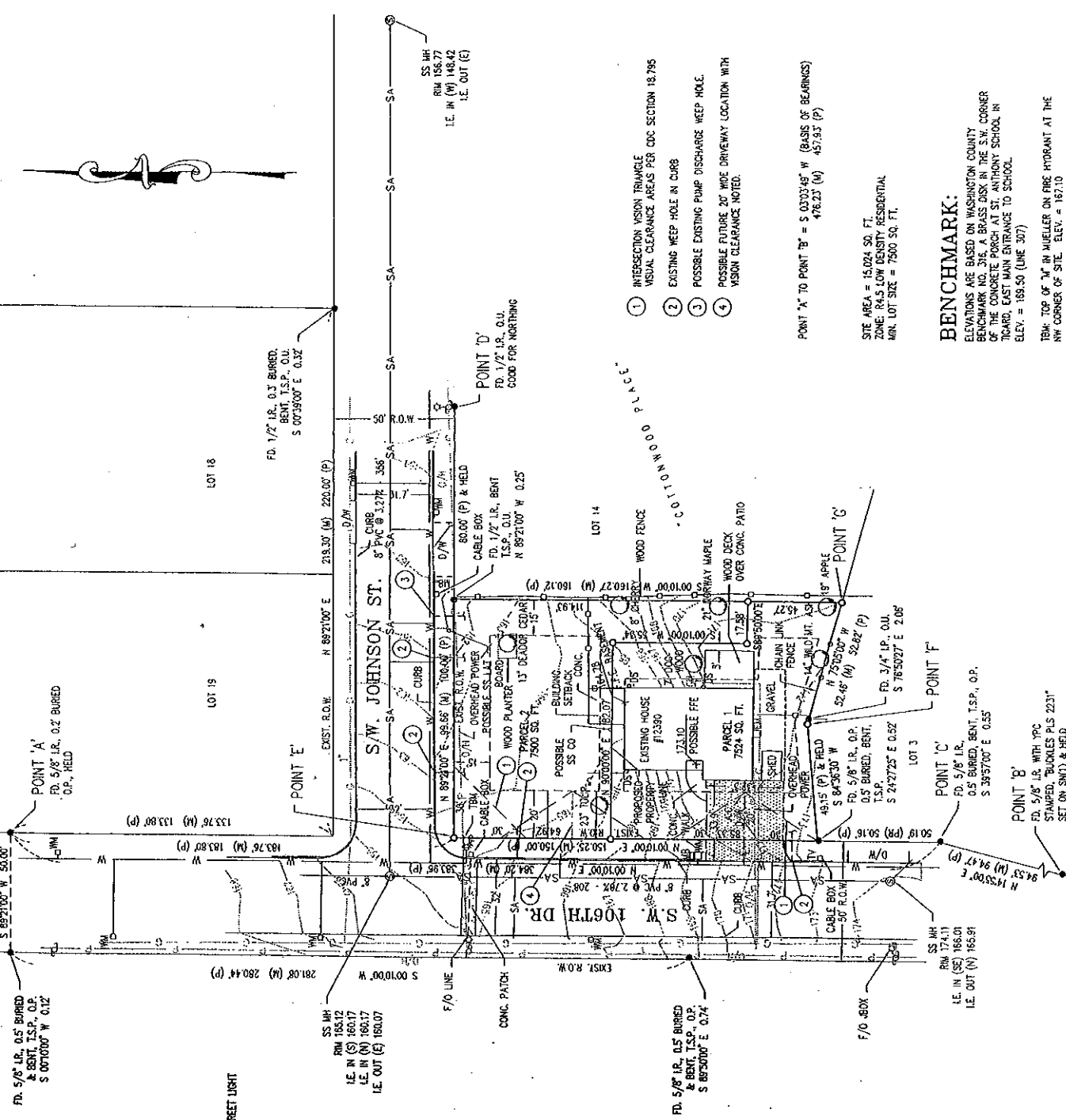
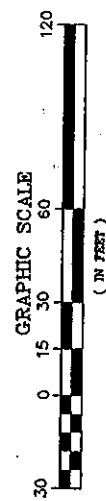
BY *Clair* DATE 6-22-09

NARRATIVE:

BASIS OF BEARINGS: N 05°33'49" E BETWEEN THE 5/8" IRON RODS FOUND AT POINTS 'A' AND 'B', AS CALCULATED FROM THE PLAT OF "COTTONWOOD PLACE."

PURPOSE OF SURVEY: TO PARTITION LOT 13 OF THE PLAT OF "COTTONWOOD PLACE" INTO 2 PARCELS AS SHOWN.

HELD THE 5/8" IRON ROD FOUND AT POINT 'A' AS AN ORIGINAL PLAT MONUMENT AND HELD THE 5/8" IRON ROD, SET BY SN 28287, AT POINT 'B' (SN 28287 REPLACED THE ORIGINAL PLAT 5/8" IRON ROD) AS BEING AT THE ORIGINAL PLAT CORNER. HELD THE PLAT BEARING ON S 07°07'00" W FROM POINT 'A' AND NORTH 14°55'00" EAST FROM POINT 'B' AND INTERSECTED THESE LINES AT POINT 'C'. NEXT, THE PLAT BEARING OF S 82°27'00" W WAS HELD FROM THE 5/8" IRON ROD FOUND AT POINT 'D', AND INTERSECTED WITH THE EAST RIGHT-OF-WAY LINE OF S.W. 10TH BORNE AT POINT 'E'. THE READING DISTANCE UP TO POINT 'A' IS 163.78' AND THE PLAT CALLS FOR 163.00'. THE NORTHEAST CORNER OF THE PROPERTY WAS ESTABLISHED AT THE PLAT DISTANCE OF 163.00 FEET FROM THE 5/8" IRON ROD FOUND AT POINT 'D'. NEXT, THE SOUTHWEST CORNER OF LOT 13 WAS ESTABLISHED BY HOLDING A PROPERED DISTANCE OF 50.19 FEET (SOUTH) FROM POINT 'C'. THEN POINT 'F' WAS HELD AT THE PLAT BEARING AND DISTANCE OF N 84°38'30" E AND 49.15 FEET FROM SAID SOUTHWEST CORNER OF LOT 13. LASTLY, THE PLAT BEARINGS OF S 07°07'00" W WAS HELD FROM THE N.E. CORNER OF THE PROPERTY AND WAS INTERSECTED WITH THE PLAT BEARING OF SOUTH 75°05'00" EAST FROM POINT 'A', AT POINT 'G'.



ZTEC ENGINEERS INC.
3737 S.E. 8TH AVE., PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889

JOB#:	S3810-1
DATE:	1/22/09
SCALE:	1"=30'
DRAWN:	JMS
CHECK:	CCF
FILE:	S3810-PRK2
PLAT:	S-14-08

LOCATED IN THE N.E. 1/4 OF SECTION 3,
T. 25., R. 1W., W.M., IN THE CITY OF TIGARD,
WASHINGTON COUNTY, OREGON

STEVE SANDERS

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 17, 1981
CHRIS FISCHBORN
1944
RENEWAL DATE: 1/1/2010

PRELIMINARY PLAT

BENCHMARK:

ELEVATIONS ARE BASED ON WASHINGTON COUNTY BENCHMARK NO. 216, A BRASS DISK IN THE S.W. CORNER OF THE CONCRETE PORCH AT ST. ANTHONY SCHOOL IN TIGARD, EAST MAIN ENTRANCE TO SCHOOL.
ELEV. = 189.50 (LINE 307)

BM: TOP OF "M" IN WHEELER ON FIRE HYDRANT AT THE NW CORNER OF SITE. ELEV. = 167.10

- 1 INTERSECTION VISION TRIANGLE VISUAL CLEARANCE AREAS PER CDC SECTION 18.795
- 2 EXISTING WEEP HOLE IN CURB
- 3 POSSIBLE EXISTING PUMP DISCHARGE WEEP HOLE.
- 4 POSSIBLE FUTURE 30" WIDE DRIVEWAY LOCATION WITH VISION CLEARANCE NOTED.

POINT 'A' TO POINT 'B' = S 07°03'49" W (BASIS OF BEARINGS)
476.23' (M) 457.93' (P)

SITE AREA = 15,024 SQ. FT.
ZONE: RA-5, LOW DENSITY RESIDENTIAL
MIN. LOT SIZE = 7500 SQ. FT.

FD. 1/2" I.R., 0.3 BURRED, BENT, T.S.P., O.U. S 07°39'00" E 0.32'

POINT 'D'
FD. 1/2" I.R., O.U. GOOD FOR NORTHING

POINT 'C'
FD. 5/8" I.R., O.P. 0.5 BURRED, BENT, T.S.P., O.P. S 24°27'25" E 0.52'

POINT 'E'
FD. 5/8" I.R., O.P. 0.5 BURRED, BENT, T.S.P., O.P. S 39°57'00" E 0.55'

POINT 'B'
FD. 5/8" I.R. WITH YPC SET ON SN(1) & HELD

FD. 5/8" I.R., 0.5 BURRED & BENT, T.S.P., O.P. S 89°50'00" E 0.74'

POINT 'A'
FD. 5/8" I.R., 0.2 BURRED O.P., HELD

POINT 'E'
FD. 5/8" I.R., 0.2 BURRED O.P., HELD

POINT 'G'
FD. 3/4" I.P., O.U. S 76°50'27" E 2.08'

POINT 'F'
FD. 5/8" I.R., O.P. 0.5 BURRED, BENT, T.S.P., O.P. S 24°27'25" E 0.52'