



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: July 3, 2008
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 07-176555 LDP AD

GENERAL INFORMATION

Applicant: Julio C Mendoza
6514 SE Tolman Street
Portland, OR 97206

Representative: Daniel G Maloney
Timeless Design & Development
0406 SW Nevada Street
Portland, OR 97219

Site Address: 6514 SE Tolman Street

Legal Description: LOT 1 BLOCK 28, TREMONT PL
Tax Account No.: R842410030
State ID No.: 1S2E17CC 10800
Quarter Section: 3637
Neighborhood: Mt. Scott-Arleta, contact Jim Williams at 503-772-1059.
Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.
Plan District: None
Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP) & Adjustment (AD)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to partition a 5,000 square foot lot into two parcels of approximately 3,260 (Parcel 1) and 1,740 (Parcel 2) square feet. A concurrent adjustment review is requested to the minimum dimension of the required outdoor area for Parcel 1 from 12 feet by 12 feet to approximately 8.5 feet by 25 feet. Minor modifications to an attached garage are proposed for compliance with building coverage standards on proposed Parcel 1. The applicant is proposing the mitigation option as an alternative to meeting tree preservation standards.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is 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).

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(s):

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**
- **33.805.040, Approval Criteria for Adjustments**

ANALYSIS

Site and Vicinity: The site is located on the southeast corner of SE Tolman Street and SE 65th Avenue with an unimproved public alley bordering the eastern property boundary. Improvements consist of a single family dwelling on the eastern half of the site that will remain after the land division. Nine significant Douglas fir trees were documented in a submitted arborist report. However, seven trees are exempt from preservation standards as they are located partially off the property, within 10 feet of a structure to remain or hazardous/unhealthy. The surrounding neighborhood is predominately developed with detached residential homes with Single-Dwelling zoning.

Zoning: The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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 and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on March 21, 2008.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: 6 written responses have been received from notified property owners in response to the proposal. The expressed comments and concerns of the letters from notified property owners and Staff's response are addressed below:

- Tree removal: The primary concern of the neighborhood is the potential removal of a significant stand of Douglas-fir trees within the land division site. The

neighborhood would like these trees to remain as they assist in stormwater management, provide shade in the summer and increase property values.

Staff Response: Submitted arborist report(s) document nine significant Douglas-fir trees within the land division site. As further described below in findings associated with criterion B, a majority of the trees on site are exempt from the City's Tree Preservation code for various reasons. Three of the nine trees will be removed to allow for a reasonable building site on proposed Parcel 2. Although exempt, two trees will be required to be preserved through the mitigation option. The applicant has indicated no desire to remove the remaining trees as they will all be located on the parcel with the existing development. City regulations attempt to balance goals of providing additional housing opportunities with tree preservation. The removal of three out of nine trees appears to adequately balance the City's goals as is discussed in more detail in this decision.

- Parking / Traffic: A number of letters expressed concerns regarding the vehicular impacts that would be generated from an additional home in the area such as parking and traffic.

Staff Response: The Bureau of Development Services enforces on-site parking requirements. However, this site is exempt from on-site parking requirements due its proximity to frequent public transportation. The Bureau of Transportation reviews all other related transportation impacts and based on the evidence available, they have determined that any proposed impacts from the land division will be insignificant (Exhibit E-2).

- Outdoor area: The adjustment to required outdoor area dimensions will create an area inadequate for outdoor use by future residents.

Staff Response: As discussed below in the findings associated with approval criteria for adjustments, it has been determined that the proposed adjustment to the required outdoor area dimensions equally meets the purpose of the regulation being modified.

- Neighborhood compatibility: The lot size of proposed Parcel 2 is significantly smaller than that of lots within the neighborhood and vicinity.

Staff Response: The minimum lot area in the Residential 2,500 (R2.5) Zone is 1,600 square feet (33.611.200.B). Proposed Parcel 2 is 1,740 square feet in size and is therefore allowed by right. Lot size compatibility is not one of the required approval criteria for a land division review. Zoning in this neighborhood is the product of a natural progression from higher density zoning along the Woodstock Boulevard corridor (R2) to lower density zoning which begins south of SE Cooper Street (R5). The R2.5 zoning designation within this area was adopted in 1990.

APPROVAL CRITERIA-

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for

unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The purpose of the outdoor area standards is to assure opportunities for outdoor relaxation or recreation. The standards work with the maximum building coverage standards to ensure that some of the land not covered by buildings is of an adequate size and shape to be usable for outdoor recreation or relaxation. The location requirements provide options for private or semiprivate areas. The requirement of an outdoor area serves in lieu of a large rear setback requirement and is an important aspect in addressing the livability of a residential structure.

The applicant is proposing to satisfy the outdoor area requirement for proposed Parcel 1 in both the rear and west side yard. Required outdoor areas may not be located in the front building setback and a majority of the east side yard is occupied by vehicle paving area. Approximately 590 square feet of contiguous outdoor area is available between the rear and west side yard, which is greater than double the requirement for detached housing in the single dwelling zone. However, the minimum dimension of 12' by 12' is not met within this area. The west side yard contains a dimension of approximately 8.5' (width) by 25' (depth) with a minor extension of 2' from a chimney. This area is of adequate size to accommodate both active and passive activities and is connected to the rear yard providing a continuous area for outdoor recreational use. In addition, an entrance on the west side of the house provides convenient access and is conducive to private use of the area.

Although the required dimensions are not met, the outdoor area for Parcel 1 resulting from the land division upholds the purpose of required outdoor area standards. Therefore, this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The existing house will maintain a reasonable setback to the new property line in relation to existing development in the vicinity. The overall outdoor area on the lot between the rear, front and west side yard ensures an adequate area for the residents of the site to enjoy outdoor living. The reduction of 3.5 feet in the width of the outdoor area dimension will not detract from the livability or appearance of the residential area. This criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: The site does not contain any scenic or historic resource designations. This criterion is not applicable.

E. Any impacts resulting from the adjustments are mitigated to the extent practical;

Findings: There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental overlay zone. This criterion does not apply.

Approval Criterion A-F have been met as indicated above. Therefore, the adjustment request to the minimum outdoor area dimensions may be approved.

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.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. 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 applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.611	Lots	Applicable - See findings below.
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Not applicable.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.

Criterion	Code Chapter	Topic	Applicability Findings
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below.
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot standards applicable in the R2.5 zone. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = (5,000 square feet * .80) ÷ 5,000 square feet = 0.80 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 5,000 square feet ÷ 2,500 square feet = 2

The applicant is proposing 2 parcels. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are

compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

	R2.5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	1,600 sq. ft.	3,260 sq. ft.	1,740 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	81.5 ft.	40 ft.
Minimum Lot Depth	40 ft.	40 ft.	43.5 ft.
Minimum Front Lot Line	30 ft.	81.5 ft.	40 ft.

* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant submitted an arborist report with the application in which trees within the land division site were inventoried and evaluated based on their condition (Exhibit C-2). An additional arborist report (Exhibit C-3) was submitted as it was determined the original did not adequately address tree preservation standards. Numerous trees are exempt from preservation standards because they are either within 10 feet of the existing residence that will remain on parcel 1 or partially located within the right-of-way or an adjoining site. In addition, a site visit was performed with the City Urban Forester at which time tree #335 was determined to be unhealthy and hazardous due to significant damage to the main stem. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
329	Douglas fir	25	Yes	Within 10' of building to remain		
330	Douglas fir	24	Yes	" "		
331	Douglas fir	29	Yes	" "		
332	Douglas fir	26	Yes	Partially in ROW		
333	Douglas fir	22	Yes	Within 10' of building to remain		
334	Douglas fir	26	Yes		No	
335	Douglas fir	36	Yes	Hazardous/Damaged		
336	Douglas fir	26	Yes		No	
337	Douglas fir	22	Yes	Partially in adjacent property		

The proposal does not meet any of the tree preservation options in 33.630.100. The applicant proposes instead to use the mitigation options of 33.630.300:

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
 - 1. Minimum density;**
 - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
 - 3. Implementation of an adopted street plan;**
 - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
 - 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**
 - 6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.**

The site is 5,000 square feet in area and the applicant wishes to divide the site for detached housing, which is an allowed housing type in the R2.5 zone. Tree number 334, 335 (exempt) and 336 are located within the area of proposed Parcel 2 and are situated such that a reasonable building area would not be feasible considering required root protection zones and applicable development standards of the R2.5 zone. Criterion C.4 above is met.

As noted above, all of the trees within Parcel 1 are exempt as they are within 10 feet of the existing residence that will remain. Tree #337 is exempt because it is located partially in the adjacent property to the south and tree #332 is exempt as it is located partially within the right-of-way of SE Tolman Street. Myles Black of Urban Forestry has indicated that tree #332 must be retained and protected unless otherwise approved for removal by the Urban Forestry Division of Portland Parks and Recreation (Exhibit E-6). As a result, development shall not commence on Parcel 2 without an on-site inspection from a City of Portland certified arborist and a tree protection fence shall be erected to minimize damage to the root system. It is likely that a majority, if not all of the trees will remain on proposed Parcel 1 based on the applicants desire to retain them, a high cost of removal and lack of further development options as the parcel is already at the allowed maximum building coverage for the zone. Criterion A is met.

The total non-exempt tree diameter on the site is 52 inches between tree #334 & #336. The applicant has proposed to mitigate for the removal of these two trees via a pervious paver driveway to accommodate future development on Parcel 2 and payment into the City tree fund. Because this site is exempt from parking requirements a pervious paver driveway may not be created at the time of development and therefore is not a reliable option for mitigation. Although tree #329 & #330 are exempt, City Staff regards preservation of these two trees as a better means to fulfilling the purpose of the tree preservation code as

opposed to payment into the City Tree fund. These trees will remain undisturbed based on their location within required setbacks and are clustered together which will make them less susceptible to storm damage. A tree preservation plan has been prepared showing the preserved trees and the required root protection zones (Exhibit C-3). Criterion B is met.

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

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

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. 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. As discussed above, a tree protection fence will be required around the tree partially located in the right-of-way during construction on proposed Parcel 2. This criterion is met.

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

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. 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.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 125 feet of frontage on SE Tolman Street and 40 feet of frontage on SE 65th Avenue. SE Tolman Street & SE 65th Avenue are classified as local service streets for all modes in the Transportation System Plan. Tri-Met provides frequent transit service approximately 460 feet from the site on SE Duke Street via bus #19. Parking is currently allowed on both sides of SE Tolman Street & SE 65th Avenue in the vicinity of the site. Off-street parking is provided to the site from an attached garage accessible via the adjacent alley.

Both SE Tolman Street & SE 65th Avenue are improved with 32 feet of paved roadway surface and a pedestrian corridor that consists of 6 foot curb-tight sidewalk within a 60 foot wide right of way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The recommended pedestrian corridor for streets of this classification consists of a .5 foot curb, 4 foot planter area, 6 foot sidewalk and .5 foot setback to private property. Adequate right-of-way area is available to accommodate the recommended pedestrian corridor for these two streets; however an isolated improvement for this property's frontages would not be consistent with the existing pedestrian corridors in the vicinity. Therefore, PDOT has determined that no right-of-way dedication or pedestrian corridor improvements will be necessary with this land use proposal. However, PDOT has determined that improvements to the adjacent alley will be necessary. The applicant will be required to pave an 18-ft x 27-ft section of the alley, as measured from the back of the existing sidewalk. Because this paved section will be less than 500 square feet in area stormwater management requirements will not apply.

Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met.

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. A 5/8 inch metered water service approximately 83 feet east of the intersection of SE Tolman Street and SE 65th Avenue serves the existing residence. Additional water is available to serve the proposed development from the 8 inch water main in SE Tolman Street or the 6 inch water main in SE 65th Avenue. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 21 inch CSP combination public sanitary sewer located in SE Tolman Street that serves the sanitary needs of the existing residence on Parcel 1. An 8 inch CSP combination public sanitary sewer is located in SE 65th Avenue that may also serve proposed development on Parcel 2. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The subject property is located on the southeast corner of SE Tolman Street and SE 65th Avenue and a public alley is adjacent to the west. The spacing standards for public streets are met in this area and Portland Transportation has no connectivity concerns. Therefore, this criterion is met. As result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcel 1 (the parcel with the existing house):** The existing house has downspouts that are connected variously to the ground and underground pipes. City records indicate that the rain drains of the existing house discharge to the combination sewer system. All stormwater facilities must be located on the same property as the structure

they serve and further, must not be situated so as to adversely affect existing development on-site or on adjacent properties. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development. If modifications are required to the existing stormwater system to meet the requirements of Site Development, the applicant must obtain finalized plumbing permits prior to final plat approval.

- **Parcels 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywell. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone (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 approximately 8-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.

- Required Off-Street Parking** – An attached garage facing the public alley currently provides parking for the existing house on Parcel 1. The parking space for the existing house will be not altered as a result of this land division. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 450 feet from the site on SE Duke Street via bus number 19. Bus number 19 provides peak-hour service meeting this requirement. As a result, Parcel 1 and 2 are exempt from parking requirements.
- Building Coverage** – Proposed Parcel 1 is 3,260 square feet in size. Therefore, the maximum building coverage allowed is 1,597.5 square feet as stated in Table 110-4 of Chapter 33.110 of the Zoning Code. The building coverage of the existing house is 1,631 square feet. In order to bring the existing house into compliance with building coverage standards for Parcel 1, the applicant has proposed to remove approximately 35 square feet of garage area. The applicant must obtain a finalized building permit for modifications to the existing house on proposed Parcel 1 that demonstrate compliance with 33.110.225 Building Coverage, in relation to the proposed new lot line. To ensure that this standard is met, a condition of approval is necessary.

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	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- The applicant must meet the requirements of the Fire Bureau in regards to aerial fire department access roads. This requirement is based on the technical standards of Oregon Fire Code & Title 31 (Exhibit E-4).
- The applicant must meet the requirements of Urban Forestry regarding retention & preservation of the tree identified as #332 in the arborist report that is located partially in the right of way. Because the tree is located within the right of way it is regulated by the Urban Forestry Division of Portland Parks. A written permit will be required from the property owner if the desired action is to remove this tree. Otherwise, development shall not commence on Parcel 2 without an on-site inspection from a City of Portland certified arborist and a tree protection fence shall be erected to minimize damage to the root system. This requirement is based on the standards of Title 20 (Exhibit E-6).

CONCLUSIONS

The applicant has proposed a 2 parcel partition in conjunction with an adjustment to the minimum dimension of the required outdoor area for Parcel 1, 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: tree preservation, outdoor area adjustment, building coverage and alley improvements.

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

ADMINISTRATIVE DECISION

Approval of an adjustment to reduce the required minimum outdoor area width dimension (33.110.235.B) from 12-feet to 8.5-feet.

Approval of a Preliminary Plan for a 2 parcel partition, that will result in one standard parcel that will retain the existing house (Parcel 1) and one standard parcel that will be made available for development consistent with R2.5 zone standards (Parcel 2), 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. 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 proposed general location of future building footprints and stormwater facilities for each of the vacant lots;
- Existing & proposed sanitary sewer and water connections for Parcel 1 & 2.
- Any other information specifically noted in the conditions listed below.

B. The following must occur prior to Final Plat approval:**Streets and Alleys**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements of the alley abutting Parcel 1. The applicant will be required to pave an 18-ft. x 27-ft. section of the alley, as measured from the back of the existing sidewalk. The asphalt improvement shall not exceed 500 square feet in area.

Existing Development

2. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Parcel 1 that demonstrate compliance with the following standard in relation to the proposed new lot line:
 - 33.110.225.B (Maximum Building Coverage Allowed in RF-R2.5 Zones);
3. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Site Development Section of the Bureau of Development 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 parcel with the existing home), then the applicant must meet one of the following:
 - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C-3) and the applicant's arborist report (Exhibit C-2). Specifically, trees numbered 329 and 330 are required to be preserved, with the root protection zones indicated on Exhibit C-3. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. Development shall not commence on Parcel 2 without an on-site inspection of tree #332, as identified in the attached tree preservation plan (Exhibit C-3), from a City of Portland certified arborist and a tree protection fence shall be erected to minimize damage to the root system. Alternately, a written permit will be required from the property owner if the desired action is to remove this tree.
3. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.



Decision rendered by: _____ **on July 1, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 3, 2008

Staff Planner: Sean Williams

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 November 14, 2007, and was determined to be complete on March 19, 2008.

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 November 14, 2007.

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 (Exhibit G-2).

Note: 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.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 17, 2008** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee

waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 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.ci.portland.or.us .

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. This other concurrent approval must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with this concurrent land use review. The applicant, builder, or their representative may record the final decision on this concurrent land use decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approval was necessary for the land division to be approved: Adjustment. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

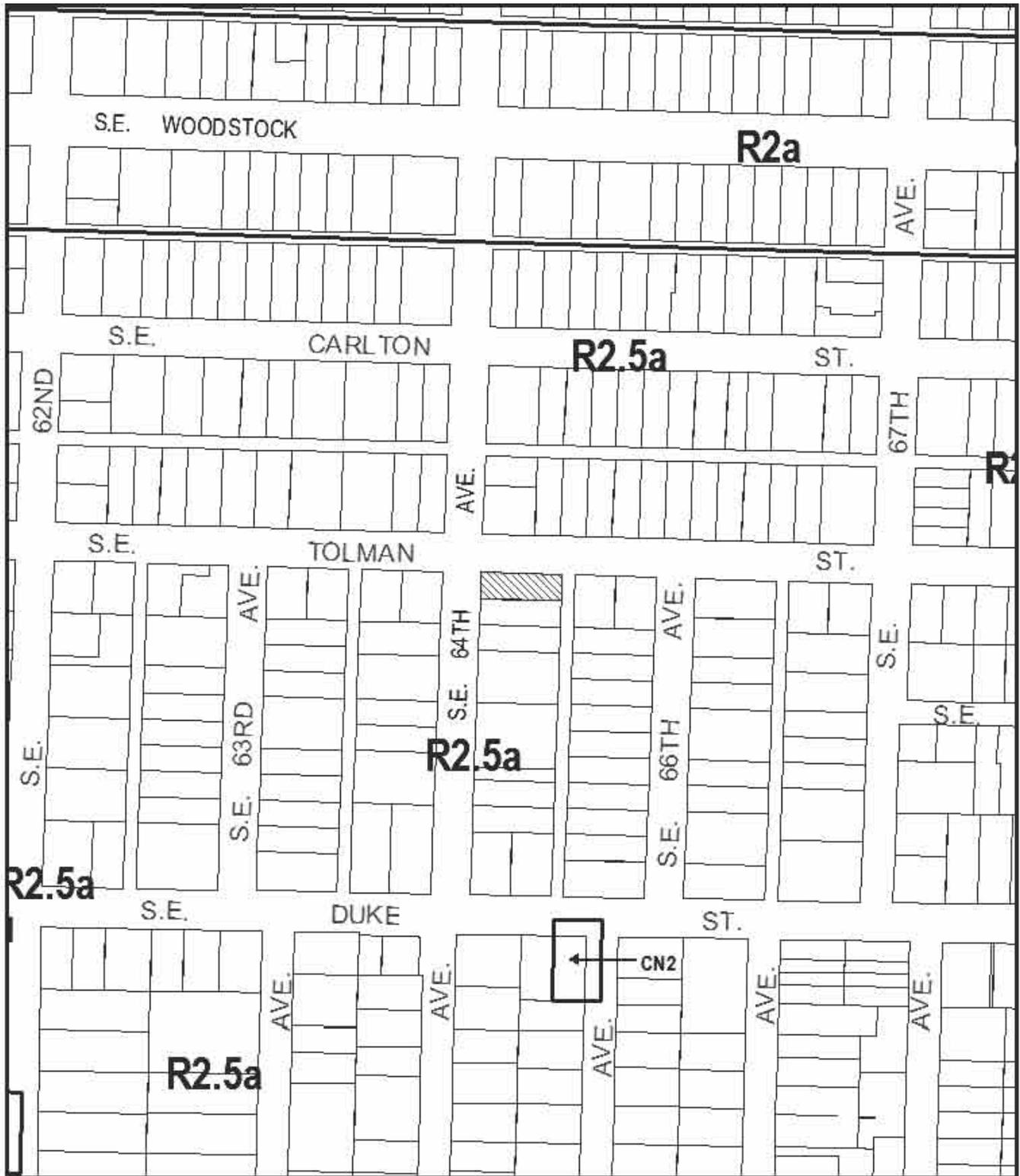
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Collier Arborist Report
 - 3. Tree preservation plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Anne Furfey; 6543 SE Tolman Street
 - 2. Marla Turner; 6329 SE Tolman Street (4/20/08)
 - 3. Susan Korpela, David Gottfried & Harold Gottfried; 6319 SE 66th Avenue (4/20/08)
 - 4. Chris Anderson; 6519 SE Tolman Street (4/21/08)
 - 5. Jaie Bosse; 6527 SE Tolman Street (4/19/08)
 - 6. Todd & Rebecka Rivers; 6536 SE Tolman Street (4/20/08)
- G. Other:
 - 1. Original LU Application
 - 2. 120-Day Waiver
 - 3. Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

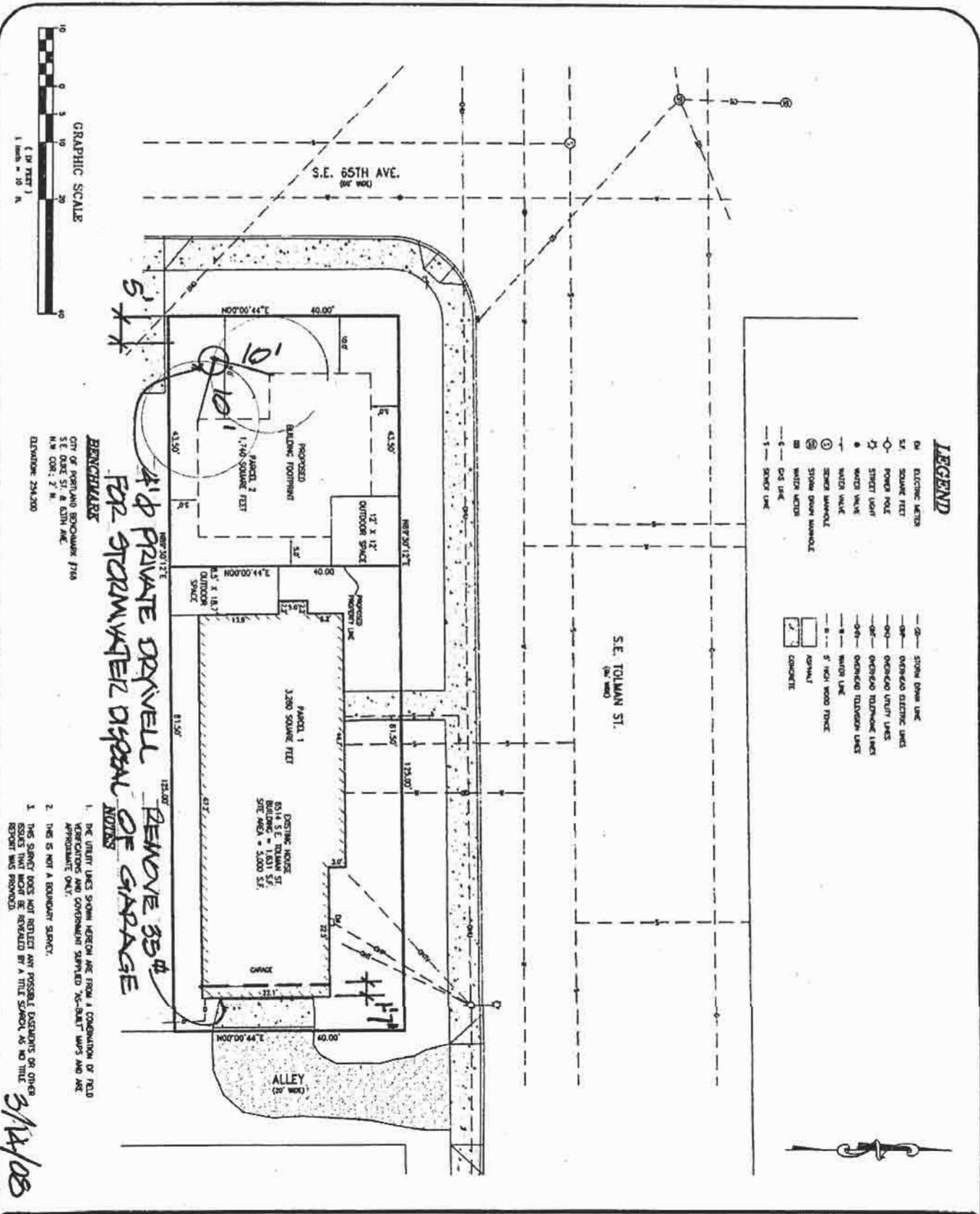


ZONING

 Site



File No. LU 07-176555 LDP,AD
 1/4 Section 3637
 Scale 1 inch = 200 feet
 State Id 1S2E17CC 10800
 Exhibit B (Nov 16,2007)



BENCHMARKS
 CITY OF PORTLAND BENCHMARK #716
 S.E. COR. ST. & 63TH AVE.
 N.W. COR. 2' N.
 ELEVATION: 294.300

**4\"/>
 REMOVE 33\"/>
 OF GARAGE**

- NOTES**
1. THE UTILITY LINES SHOWN HEREON ARE FROM A COMPARISON OF FIELD RECONSTRUCTION AND CONSTRUCTION SURVEYED RECORD MAPS AND ARE APPROXIMATE ONLY.
 2. THIS IS NOT A BOUNDARY SURVEY.
 3. THIS SURVEY DOES NOT REFLECT ANY POSSIBLE EASEMENTS OR OTHER RIGHTS.
- REPORT WAS PROVIDED.

LEGEND

⊖	ELECTRIC METERS	—○—	STORM DRAIN LINE
S.F.	SQUARE FEET	—○—	OVERHEAD ELECTRIC LINES
⊖	POWER POLE	—○—	OVERHEAD UTILITY LINES
⊖	STREET LIGHT	—○—	OVERHEAD TELEPHONE LINES
⊖	WATER VALVE	—○—	OVERHEAD TELEVISION LINES
⊖	WATER VALVE	—○—	WATER LINE
⊖	SEWER MANHOLE	—○—	5\"/>
⊖	STORM DRAIN MANHOLE	⊖	ASPHALT
⊖	WATER METERS	⊖	CONCRETE
—○—	Gas LINE		
—○—	SEWER LINE		

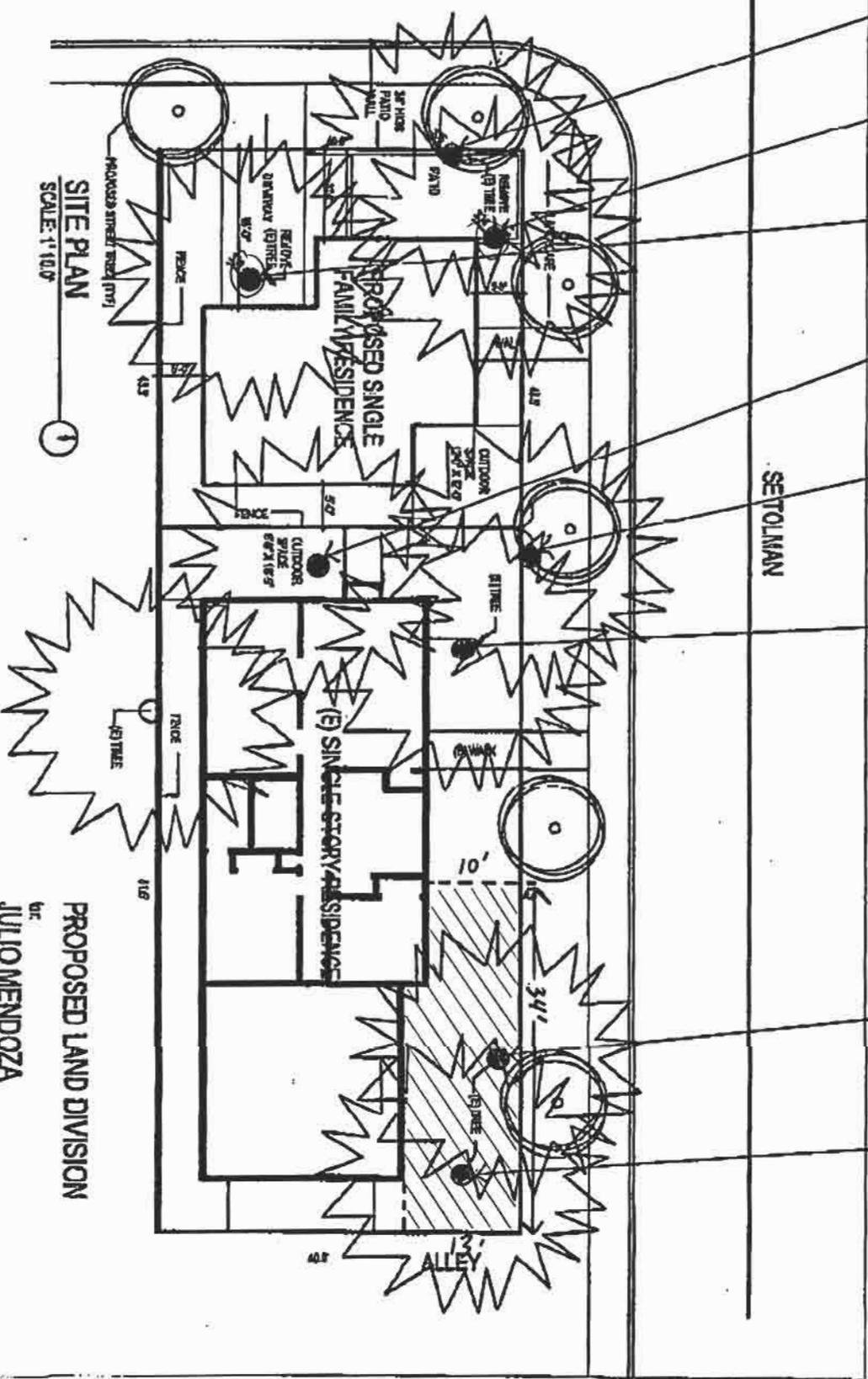
2007-176555 LU
 3/14/08

	<p>W.B. WELLS & Associates, Inc. ENGINEERS-SURVEYORS-PLANNERS 4230 NE FREMONT STREET PORTLAND, OREGON 97213 PHONE: 503.234.5295 FAX: 503.234.6530 e-mail address: info@wbwells.com</p>	<p>REGISTERED PROFESSIONAL LAND SURVEYOR OREGON 88717, 1994 THOMAS P. BERNHAUER 2005 EXPIRES 12-31-07</p>	<p>SUPPLEMENTAL SURVEY FOR DAN MALONEY LOT 1 OF "FREMONT PLACE" IN THE SW 1/4 OF SECTION 17, T1S, R2E, E2M CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON</p>	<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table> <p>DRAWN BY: AM/ALM CHECKED BY: TPB DATE: 08/13/07 SCALE: 1"=10' PLOT DATE: 11/02/07 JOB NO: 07-134 FILE: P:\07-134\0713413.DWG</p>								

CASE NO. 07-176555
EXHIBIT C-1

SE 65TH

2-22-08
Harry E. Randall
Asst. Planning Director
#720360



SITE PLAN
SCALE: 1"=100'

PROPOSED LAND DIVISION

for
JULIO MENDOZA
6514 SE TOLMAN
PORTLAND, OR 97206

Tree # 335
32" dia

Tree # 334
24" dia

Tree # 336
24" dia

Tree # 333
21" dia

Tree # 332
24" dia

Tree # 331
30" dia

Tree # 329
22" dia

Tree # 330
21" dia

Tree Preservation Plan

* not to scale

CASE NO. 07-176555
EXHIBIT C-3