



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: October 27, 2008
To: Interested Person
From: Justin Fallon Dollard, Land Use Services
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NOTICE OF A TYPE I 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 to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-145070 LDP

GENERAL INFORMATION

Applicant: SV Trio Oregon - 11 LLC
1482 E Valley RD #234
Santa Barbara, CA 93108

Bob Tmur
Sierra Vista Properties
1482 E Valley RD #234
Santa Barbara, CA 93108

Representative: Ben Schonberger 503.827.4422
Winterbrook Planning
310 SW 4th Ave, Ste 1100
Portland, OR 97204

Site Address: 230-232 NE 53RD AVE

Legal Description: LOT 6 BLOCK 12, CENTER ADD
Tax Account No.: R145801650
State ID No.: 1N2E31DB 13800
Quarter Section: 3036

Neighborhood: Center, contact Sean Besso at 503-806-9014.
Business District: None
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Plan District: None

Zoning: R2.5, Residential 2,500
Case Type: LDP, Land Division Partition
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

This partition is reviewed through a Type I land use review because: (1) fewer than four lots are proposed; (2) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area; (3) no other concurrent Type I, II, or IIX land use reviews, except Environmental Review, are requested or required; and (4) an Environmental Review is not required (see 33.660.662). 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).

Proposal:

The applicant proposes to divide the existing 5,000 square foot lot into two parcels with three dwelling units using the corner lot provision of Chapter 33.110 Single Dwelling Zones.

Parcel 1 will measure approximately 3,386 square feet in size and contains an existing duplex, while Parcel 2 will measure approximately 1,614 square feet and maintain the existing single family home on the site.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.660.120 Approval Criteria for Land Divisions in Open Space and Residential Zones

ANALYSIS

Site and Vicinity: The site is relatively flat and currently has four detached structures located on it, a duplex, single family detached home, and two detached garages. The area surrounding the site is made up of predominately single family homes of various types.

Zoning: R2.5 - 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. Lots must be at least 1,600 square feet in area.

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

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **September 9, 2008**. 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.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 9, 2008**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

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	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone on the site.
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	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
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 33.610 contains the density and lot standards applicable in the RF through R5 zones. 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 = (5000 square feet * .80) ÷ 5,000 square feet = 0.8 (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 lots with 2 units on Parcel 1, and 1 unit on Parcel 2 for a total of 3 units on the site. This exceeds the maximum density normally allowed for a site in the R2.5 zone. However, Lot 1 has an existing duplex, which is allowed under Zoning Code provision in 33.110.240.E, which allows one extra unit (duplexes) on corner lots in the R2.5 zone. Since Parcel 1 is a corner lot, an additional unit is allowed on Parcel 1.

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 Table 610-2 of the Zoning Code):

	R2.5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	1,600 sq. ft.	3,386 sq.	1,614 sq.
Maximum Lot Area	NA	ft.	ft.
Minimum Lot Width*	36 ft.	50 ft.	36 ft.
Minimum Lot Depth	40 ft.	68.63 ft.	50 ft.
Minimum Front Lot Line	30 ft.	50 ft.	36 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.

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, no new development is proposed, the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved. This criteria is met.

33.635.200 – Land Suitability

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

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing detached garage straddling Parcels 1 and 2 in order to ensure that the new lots meet setback standards. A permit must be obtained and finalized for demolition of the detached garage. With this condition, the new lots can be considered suitable, and this criterion is met.

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

33.636.100 Requirements for Tracts and Easements

- A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:**

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

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

- B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.**

Findings: The following easements are proposed and/or required for this land division:

- A Reciprocal Access Easement is proposed to allow shared use of a driveway that will straddle proposed lot lines;
- If required, a Private Sanitary Sewer Easement may be needed across the relevant portions of Parcel 1 or 2, for a sanitary sewer lateral connection that will serve Parcels 1 and 2.

It should be noted that the Reciprocal Access Easement proposed allows the existing home on parcel 2, and the southern most unit in the duplex to have access to off-street parking via use of the existing driveway that is located along the property boundary separating Parcel 1 from Parcel 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, 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 is a corner lots and has approximately 50 feet of frontage on NE Everett St and 100 feet of frontage along NE 53rd Ave. NE Everett St. and NE 53rd Ave are classified as a local service street for all modes in the Transportation System Plan. NE 53rd Ave is also listed as a designated City Bikeway. Tri-Met provides transit service approximately 650 feet from the site on E. Burnside St. via bus 20. Parking is currently allowed on NE Everett St. and NE 53rd Ave on both sides. There is two driveways entering the site that provides access to off-street parking for both of the existing houses on the site.

Both NE Everett St. and NE 53rd Ave are fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that three existing dwelling units on the site can continue to be safely served by this existing street without having any significant impact on the level of service provided.

It should be noted that Transportation (PDOT) made comments (exhibit E-2) regarding off street parking at the site. The applicant has adequate room, and has proposed to provide one off street parking space for each unit located on the site. Parcel 1 (the duplex) will continue to access the off street parking available from NE Everett St., which will be used by one of the two units in the duplex. The second unit located in the duplex, along with the existing detached home located on Parcel 2 will have off street parking access via the existing curb cut and driveway located along the property line separating Parcel 1 from Parcel 2. As previously discussed, a reciprocal access easement will be placed over this driveway area to allow both units to access off street parking.

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. An existing 6-inch water main is available in NE Everett St. and an existing 8-inch water main is available in NE 53rd Ave. Parcel 2 has an existing water service from the main located in NE 53rd Ave.

As a result of the proposed land division, the water line that provides service to the existing duplex on Parcel 1 will no longer be located entirely on the same lot as the units. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat, the water service for the existing duplex must be relocated, so that the service connection will be located along the frontage of Parcel 1. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch public combination sanitary sewer located in both NE Everett St. and NE 53rd Ave that can serve the sanitary needs of the proposed lots. According to the plumbing records 230 and 232 NE 53rd Avenue (Duplex on Parcel 1) currently share one sewer lateral that is located in NE Everett St. The existing connection in NE Everett St can be retained to be used by proposed Parcel 1. Prior to final plat approval, each of these two lots must have individual connections to the main line in NE Everett and NE 53rd Avenue. There is an available public combination sewer in NE 53rd Ave for connection of the proposed Parcel 2. Please see exhibit E-1 for details

Plumbing permit records indicate that the sewer line for the duplex was repaired in 2006, and that the sewer line for the house was replaced in 2006. There are no as-built records to document the location of these sewer lines. Prior to final plat approval, the location of the sewer lines must be shown on a supplemental plan. Metal tracer wire detection or video sewer scoping should be used to accurately determine the location of the sewer lines. If the sewer lines are found to cross the new property line, then the applicant must place the existing line(s) in an easement. Private sewer easements must be at least 10 feet wide. Please see exhibits E-1 and E-5 for 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. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. The site meets the through street and pedestrian connectivity requirements. As a result, the remaining standards and approval criteria related to street location, and design are met or 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 A-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcel 1 (the lot with the existing duplex):** The downspouts of the existing duplex at 230-232 NE 53rd Avenue are directed to underground rain drains, except the downspout south of the porch on the west side of the duplex which discharges to the ground via a downspout extension. According to plumbing permit #45490 dated 2/13/24, the rain drains for the duplex discharge to the public sewer, which is acceptable. There is no record of the stormwater discharge locations for the existing garage, and the locations could not be determined during the site visit.

- **Parcel 2 (the lot with the existing house):** The downspouts of the existing house at 222 NE 53rd Avenue are directed to underground pipes and to the ground. There are no city records on where the underground pipes are directed.

Because the house and duplex have basements, stormwater must be collected or otherwise comply with the Stormwater Management Manual. Prior to final plat approval:

1. The applicant must submit a supplemental plan identifying the location of all subsurface stormwater facilities and discharge/disposal points for the garage that will be retained on Parcel 1, and for the house on Parcel 2. The locations must be determined using storm sewer video scoping, metal tracer wire detection, or an equivalent method, and locate markers must be provided on site upon request. The applicant must also provide documentation regarding the method used to determine the location of the subsurface stormwater facilities to Site Development. If a plumbing permit is required to modify or install subsurface stormwater facilities, then the permit must be finalized prior to final plat approval.
2. The downspout on the east side of the house on Parcel 2 that drains to the ground must be redirected to discharge to a splash block that drains to vegetated areas at least 5 feet from property lines, 10 feet from structures on adjacent properties, and 6 feet from a basement, or to an approved subsurface stormwater system.

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 Parcels 1 and 2. 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 Duplex and house identified to remain on Parcels 1 and 2 of 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 duplex on Parcel 1 will be approximately 8 feet from its new southern property line. Additionally, the existing house on Parcel 2 will be approximately 12 feet from its new northern 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.

- Accessory Structure – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structure that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides one of the two required parking spaces for the existing duplex on Parcel 1. As a result of this land division, the driveway leading to one of the two required parking spaces for the duplex on Parcel 1 and the existing house located on parcel 2 will be partially located on both lots. In order to ensure that parking requirements continue to be met, a reciprocal access easement must be shown on the final plat and the supplemental plan allowing shared use of this driveway area for access to off street parking for the existing house on Parcel 2 and one of the duplex units located on Parcel 1. Additionally, the supplemental survey is required to show a paved parking pad for the existing house on Parcel 2 and one of the duplex units located on Parcel 1 that meets Zoning Code section 33.260.120. If applicable, the applicant will be required to final a Zoning permit prior to final plat approval that provides on-site parking for each unit.
- Main Entrance- The applicant is utilizing Zoning code standard 33.110.240.E.2, which allows duplexes on corner lots in the R2.5 zone if the lot complies with the minimum lot size standard in the R2.5 zone. In order to utilize this provision, Zoning code standard 33.110.240.E.4 requires that each unit of the duplex have its address and main entrance oriented toward a separate street frontage. In this case the main entrance for the duplex faces NE 53rd Ave. Since this duplex has already been built with its main entrance facing NE 53rd Ave, planning staff has determined that it qualifies as a pre-existing non-conforming situation and does not have to meet Zoning code standard 33.110.240.E.4.

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/

Bureau	Code Authority	Topic	Contact Information
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 Urban Forestry for street tree planting in the existing planter strips (NE 53rd Ave and NE Everett St.) adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: documenting the exact location of sanitary sewer laterals serving the site, documenting stormwater facilities for the detached garage on Parcel 1; redirecting the downspouts of the existing house on Parcel 2; planting street trees to the satisfaction of Urban forestry and demolishing the detached garage straddling the property line between Parcels 1 and 2.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in one standard lot, and one corner lot for the existing duplex on the site as illustrated with Exhibit C-1, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for (Land Use Review, BES, Site Development) review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - All sanitary sewer laterals on the site, per the results of video sewer scoping
 - All subsurface stormwater facilities for the detached garage on Parcel 1
 - Any other information specifically noted in the conditions listed below.
- B. The final plat must show the following:**
1. A Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the driveway located between Lot 1 and Lot 2 (extending from NE 53rd Ave to the rear lot lines of Parcels 1-2. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.

2. If required per condition C.2 below, A private sanitary sewer easement, for the benefit of Parcel 1 or 2, shall be shown and labeled over the relevant portions of Parcels 1 or 2.
3. If required, A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: *"A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."*

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

Utilities

1. The applicant shall meet the requirements of the Water Bureau concerning purchasing a separate metered water service for the existing duplex on Parcel 1.
2. The applicant shall meet the requirements of BES and Site Development and document the location of the sewer lateral serving the existing duplex on parcel 1 and the existing house on Parcel 2. Video scoping should be used to accurately determine the location of the sewer lines, and this information should be shown on the Supplemental Survey. If the sewer lines are found to cross a property line, the applicant must place the existing lines in easements. Private sewer easement must be 10 ft. wide.

Existing Development

2. The applicant must obtain a finalized demolition permit for removing the detached garage straddling the property line between Parcels 1 and 2.
3. As required per condition A above, the applicant must document on the supplemental survey that the existing house on Parcel 2 and one of the two duplex units located on Parcel 1 have on-site parking that meets Zoning Code section 33.260.120. If applicable, the applicant will be required to final a Zoning permit prior to final plat approval that provides on-site parking for each unit.
4. Documentation of the location of the stormwater disposal system for the existing detached garage on Parcel 1 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 detached garage must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing detached garage will extend beyond the boundaries of Parcel 1 (the lot with the existing detached garage), then the applicant must provide a finalized plumbing permit for modifications to the stormwater system that result in a system that meets City requirements.
5. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 2. Specifically, the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
6. The applicant must plant two street trees. One in the planter strip on NE 53rd Ave and one in NE Everett St, both adjacent to parcel 1. Street trees will be chosen from the City's approved street tree list for the 3-1/2 foot planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

Required Legal Documents

7. A Maintenance Agreement shall be executed for the Reciprocal Access described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Decision rendered by:  **on October 20, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed October 27, 2008

Staff Planner: Justin Fallon Dollard

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 July 11, 2008, and was determined to be complete on September 5, 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 July 11, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed,

as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at www.portlandonline.com.

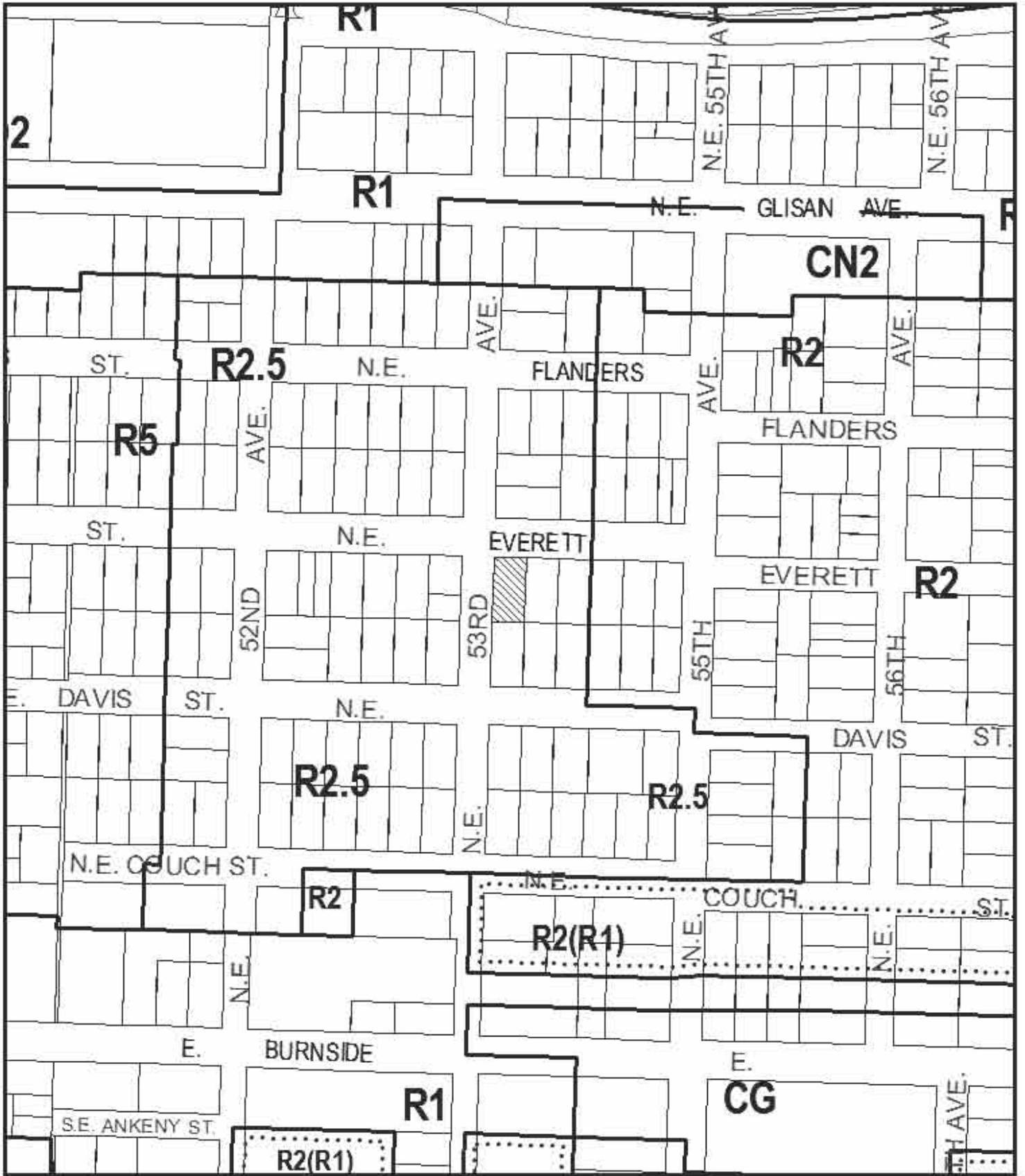
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Review Section of BDS
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 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

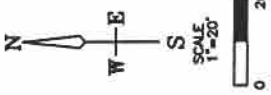
 Site



File No. LU 08-145070 LDP
 1/4 Section 3036
 Scale 1 inch = 200 feet
 State_Id 1N2E31DB 13800
 Exhibit B (Jul 15, 2008)

SITE PLAN

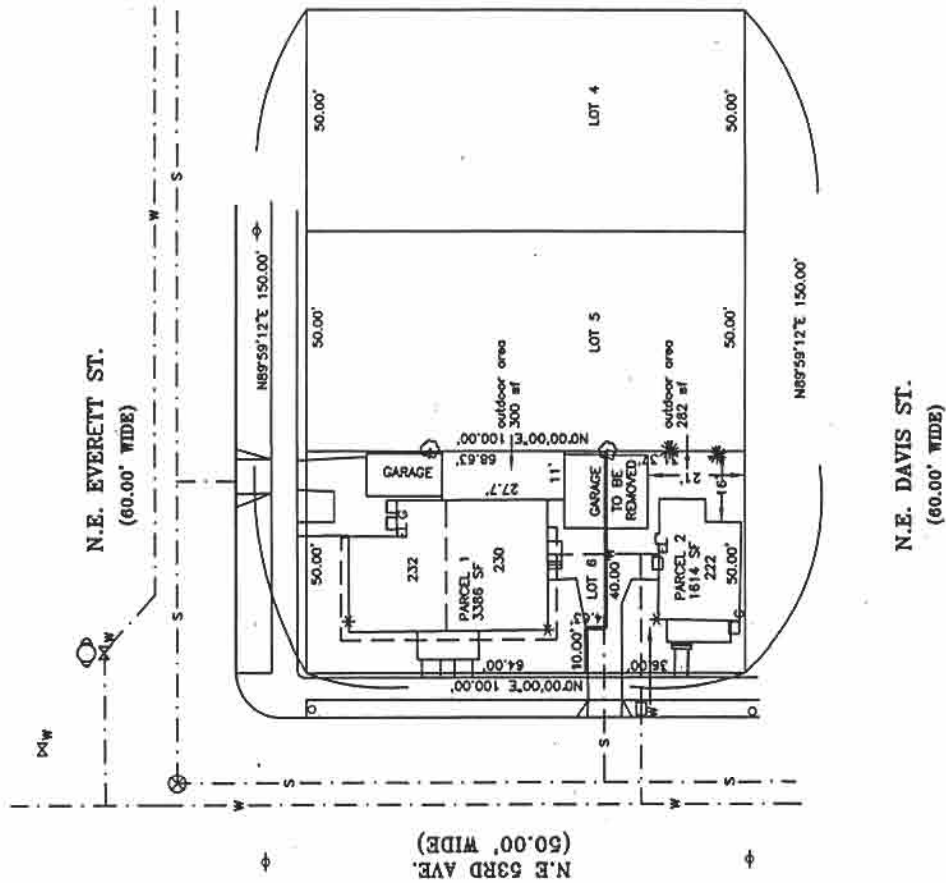
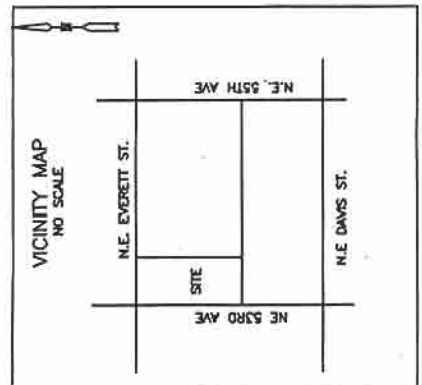
LOT 6, BLOCK 12, "CENTER ADDITION",
SITUATED IN THE NORTHEAST SE OF SECTION 31, T.1N., R.2E., W.M.,
IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
DATE: AUGUST 4, 2008



SYMBOLS

- UTILITY POLE
- ⊕ POWER POLE
- * DOWN SPOUTS
- W WATER METER
- C GAS METER
- EL ELECTRIC METER
- ⊕ W WATER VALVE
- ⊗ MANHOLE
- ⊠ CATCH BASIN
- ⊙ FIRE HYDRANT
- W WATER LINE
- S SANITARY SEWER
- ⊙ DECIDUOUS TREE
- ⊙ CONIFEROUS TREE
- ROOT PROTECTION ZONE

CASE NO 08-145070
EXHIBIT C-1



- NOTES:**
- ZONE IS R2.5
 - ALL TREES ARE EITHER ON ADJACENT PROPERTY OR ARE LINE TREES
 - DOWNSPOUTS ON EXISTING HOUSE WILL GO TO SPLASH BLOCKS
 - UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY
 - DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Joe A. Ferguson
OREGON
JULY 23, 1990
JOE A. FERGOUSON
2403
RENEWAL DATE 12/31/09

SHEET NO. 1 OF 1
JOB NO. 08-044 SP - A
DRAFTED: 8/19/2008 MT

Ferguson Land Surveying, Inc.
646 SE 106TH AVE., PORTLAND, OR 97216
Phone (503) 408-0601 Fax (503) 408-0602

CLIENT: ROBERT J. TMUR
230-232 NE 53RD AVE
PORTLAND, OR 97213