



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** November 12, 2008  
**To:** Interested Person  
**From:** Stephanie Beckman, 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 07-178301 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Stephen Zahm & Eva Gold 503-230-0900  
757 SE 34th Ave  
Portland, OR 97214

**Site Address:** 2625 SE 35TH PL  
**Legal Description:** LOT 8 BLOCK 1, RAVENSWOOD  
**Tax Account No.:** R691300170  
**State ID No.:** 1S1E12AB 04900 **Quarter Section:** 3334  
**Neighborhood:** Richmond, contact Douglas Klotz at 503-233-9161.  
**Business District:** Division-Clinton Business Association, contact Katherine Cosgrove at 503-234-8585.  
**District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.  
**Zoning:** R2.5 – Residential 2,500 square feet  
**Case Type:** LDP – Land Division (Partition)  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:** The applicant proposes to divide this approximately 5,700 square foot lot into two parcels. Parcel 1 will be 2,776 square feet and Parcel 2 is proposed to be 2,924 square feet and will provide a vacant site for future development. Parcel 1 contains an existing Single Dwelling Unit with an Accessory Dwelling Unit that will remain. The existing garage will be removed.

The applicant proposes on-site stormwater management for the new parcel with a drywell. Water and sanitary sewer service are available for Parcel 2 in SE 35<sup>th</sup> Place. The only tree on-site, a 19-inch European Cutleaf Birch will remain.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

**Relevant Approval Criteria:**

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

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

## ANALYSIS

**Site and Vicinity:** The site is primarily flat and situated on the corner of SE 35<sup>th</sup> Place and SE Clinton Street. Both streets are fully improved with sidewalks and planter strips. The site contains an existing residence and an attached garage. There is one tree on the site, a European Cutleaf Birch that will be preserved. The immediate area is comprised of a mixture of single-dwelling and multi-dwelling development. Commercial development and zoning is present to the north along SE Division Street.

**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.

**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 December 20, 2007

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:** One written response has been received. A letter from neighbors indicated that the existing house is being used as a duplex and that they would like to see the house converted to a single-dwelling with approval of this proposal. See Exhibit F.1 for additional details.

**Staff Response:** The property owner has obtained a building permit for the purpose of establishing the second unit in the existing structure as a legal accessory dwelling unit. That permit (08- 132967 RS) has obtained final inspection approval. Accessory dwelling units are allowed in all residential zones, provided the relevant standards are met.

## 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.

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>A</b>	<b>33.610</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
<b>B</b>	<b>33.630</b>	<b>Trees</b>	<b>Applicable - See findings below.</b>
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.
<b>G</b>	<b>33.635 .100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635 .200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
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.
<b>K</b>	<b>33.641</b>	<b>Transportation Impacts</b>	<b>Applicable - See findings below</b>
<b>L</b>	<b>33.651 - 33.654</b>	<b>Services and Utilities</b>	<b>Applicable - See findings below</b>

**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 = (5,700 square feet \* .80) ÷ 5,000 square feet = 0.91 (which rounds up to a minimum of 1 lots, per 33.930.020.A)

Maximum = 5,700 square feet ÷ 2,500 square feet = 2.28 (which rounds down to a maximum of 2 lots, per 33.930.020.B)

The applicant is proposing 2 lots. 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):

	<b>R2.5 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>
Minimum Lot Area	1,600 sq. ft.	2,776 sq. ft.	2,924 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	48.7 ft.	51.3 ft.
Minimum Lot Depth	40 ft.	57 ft.	57 ft.
Minimum Front Lot Line	30 ft.	48.7 ft.	51.3 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 has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). The inventory identifies the following trees on the site:

<b>Tree #</b>	<b>Species</b>	<b>Diameter (inches)</b>	<b>Significant? (On Table 630-1)</b>	<b>Exempt? (per 33.630.030)</b>	<b>To be retained?</b>	<b>RPZ (Root Protection Zone)</b>
<b>1</b>	European Cutleaf Birch	19	No	No	Yes	See Tree Preservation Plan

The total non-exempt tree diameter on the site is 19 inches. The applicant proposes to preserve tree 1, which comprises 100 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-1).

A significant reduction in the root protection zone for this tree is proposed to allow for the southeast corner of the proposed house. The arborist has investigated the roots in this area and has determined that the tree will be able to survive this encroachment. The tree plan provides a specific location for the tree protection fencing and suggests that root pruning occur prior to excavation for the house foundation. Given the importance of this work, the residential building permit should not be issued until the applicant provides a letter from the arborist indicating the root pruning is complete and the root protection fencing is installed per their recommendation in Exhibit A.2.

This criterion is met, subject to the condition that development on Parcel 2 be carried out in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2) and as conditioned above.

**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 lot developable. Tree protection fencing will be installed to limit disturbance in that area. 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.**

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

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

*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 100 feet of frontage on SE 35<sup>th</sup> Place and 57 feet of frontage along SE Clinton Street. SE 35<sup>th</sup> Place and SE Clinton Street are classified as local service streets for all modes in the Transportation Element of the Comprehensive Plan, with the exception that SE Clinton is a City Bikeway. Tri-Met provides transit service approximately 360 feet from the site on SE Division Street via bus 4. Parking is currently allowed on both sides of SE 35<sup>th</sup> Place and SE Clinton Street. There is currently one driveway entering the site, which will be removed.

SE 35<sup>th</sup> Place and SE Clinton Street 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 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. An existing 8-inch water main is available in SE Clinton Street and a 6-inch water main is available in SE 35<sup>th</sup> Place. Parcel 1 has an existing water service from SE 35<sup>th</sup> Place. Water is available to serve Parcel 2 from the water main in SE Clinton Street or SE 35<sup>th</sup> Place. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch VSP public sanitary sewer located in SE Clinton Street and an existing 12-inch CSP public sanitary sewer located in SE 35<sup>th</sup> Place that can serve the sanitary needs of the proposed lots. A original responses from BES and BDS Site Development noted a possible party sewer issue between this property and 3537 SE Clinton. The party sewer

violation has been resolved by a plumbing permit for 3537 SE Clinton to install a new sewer line on that property (08-161418 PT finalized 9/25/08). However, in the process of investigating the sewer situation, it was discovered that the sewer for the existing house on this property is in disrepair and must be repaired or replaced prior to final plat approval. A supplemental plan must be provided showing the as-built location of the sewer and all other existing and proposed utilities for both lots prior to final plat approval. See Exhibit E-1 and E.5 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.

### **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 \*), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. Site Development has noted that stormwater from the downspouts must be collected or otherwise comply with the stormwater manual. Prior to final plat approval, the applicant must demonstrate that the downspouts for the existing house comply with the Stormwater Manual. If an upgrade is required the retrofit permit must be finalized and the new system shown on the supplemental plan.
- **Parcel 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 as shown on the conceptual plan Exhibit C.2. The applicant has provided infiltration testing to demonstrate a drywell will work in this location and Site Development has indicated conceptual approval of the drywell.

With the conditions of approval described above, the stormwater management criteria are met.

### **Right of Way Approval Criteria**

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>33.654.110.B.1</b>	<b>Through streets and pedestrian connections</b>	<b>Applicable - See findings below</b>
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable – No street, common green, shared court, or pedestrian connection is proposed.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Not applicable – No utility easement needs have been identified.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

**33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:**

- a. **Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. **Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. **Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
- d. **Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
- e. **Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

**Findings:** The site is located at the corner of SE Clinton Street and SE 35<sup>th</sup> Place. Due to the site's corner location, no additional through street or pedestrian connection is necessary or practicable. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is 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.

In this case, there are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5-feet from the (south) new property line. Therefore, the required setbacks are being met to the house. However, there is a set of concrete stairs within the setback that are over the 2 ½ feet allowed in that area. The applicant must make modifications to the stairs or location of the proposed lot line to meet this standard. Alternatively, an approved adjustment review can be obtained prior to final plat approval. To ensure that setback standards continue 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 garage that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. A demolition permit is required. The applicant must provide documentation prior to final plat approval that the required demolition permit has received final inspection.
- **Required Off-Street Parking** - A paved driveway and garage provides parking for the existing house on Lot 1. As a result of this land division, the parking space for the existing house will be located on a different lot, and will no longer be available to Parcel 1. 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 feet from the site on SE Division Street via bus number 4. Bus number 4 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.

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 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Fire Code	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>

<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
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 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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 strip adjacent to Parcel 1 prior to final plat approval. See Exhibit E.6. This requirement is based on the standards of Title 20.
- The applicant must demonstrate that Fire Bureau requirements for aerial fire access are met or the height of the new structure will be limited to 30 feet measure to the eave. See Exhibit E.4.

## **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 were the party sewer and the status of the dwellings to remain on Parcel 1. Both of these issues have been resolved by the applicant. With the conditions of approval listed below this proposal can be approved.

## **ADMINISTRATIVE DECISION**

**Approval** of a Preliminary Plan for a 2-lot partition, that will result in 2 standard lots as illustrated with Exhibit C-1, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey. 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;
- Existing and proposed utilities, including the requirements of Conditions B.1 and B.2 below.
- Any other information specifically noted in the conditions listed below.

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

### **Existing Development**

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the repair or replacement of the sewer lateral serving the existing house to remain on Parcel 1. The required plumbing permit must have final inspection approval and the as-built location must be shown on the supplemental plan.
2. The applicant must meet the requirements of Site Development Section of the Bureau of Development Services for the stormwater systems on the existing house to remain on

Parcel 1. 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 required retrofit permits must have final inspection approval and the new system must be shown on the supplemental plan.

3. The applicant must obtain a finalized demolition permit for removing the garage on the site.
4. The applicant must demonstrate that the stairs located on south side of the house to remain on Parcel 1, complies with setback requirements. Options include:
  - Move the proposed property line to provide adequate setback;
  - Obtain a finalized building permit for modifications to the stairs; or
  - Obtain a approved Adjustment review to allow the stairs to remain in the setback.

**Other Requirements**

5. The applicant must plant 2 street trees in the planter strip on SE 35<sup>th</sup> Place adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for 6-8-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.

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-2). Specifically, tree numbered A1 (19" Birch), is required to be preserved, with the root protection zone indicated on Exhibit C-2. 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. Prior to issuance of the residential building permit for Parcel 2, the applicant must provide confirmation from an arborist that the root pruning needed for excavation of the foundation is complete and the root protection fencing is installed per their recommendation in Exhibit A.2.
3. The applicant must demonstrate compliance with aerial fire access requirements to the satisfaction of the Fire Bureau or the height of new structures will be limited to 30 feet, measured to the eave.

Decision rendered by:  on November 7, 2008  
By authority of the Director of the Bureau of Development Services

**Decision mailed November 12, 2008**

**Staff Planner: Stephanie Beckman**

**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 21, 2007, and was determined to be complete on December 17, 2007.

*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 21, 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 G-4.

**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](http://www.portlandonline.com).

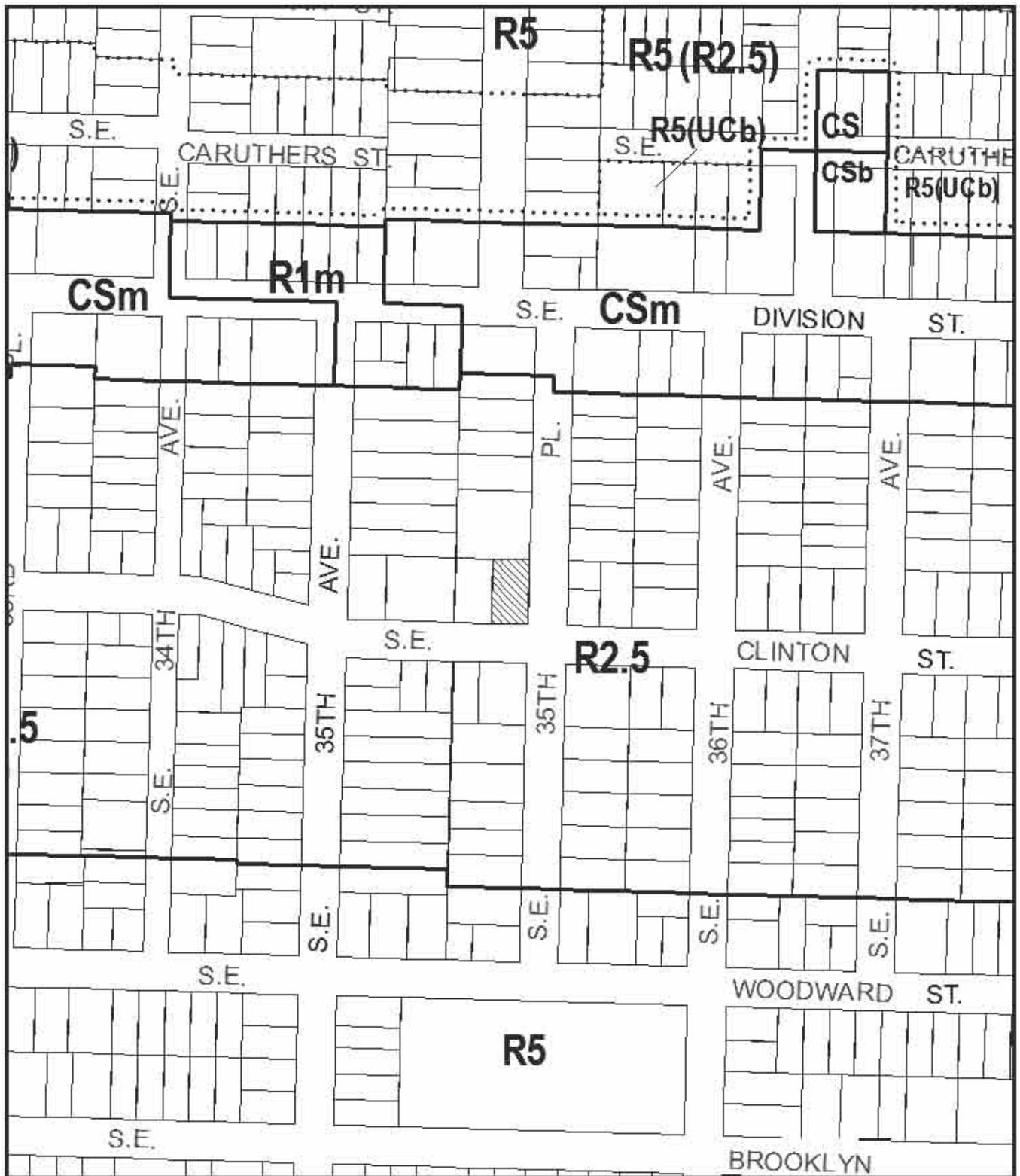
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Submittal
  - 1. Applicant's Narrative
  - 2. Arborist Report
  - 3. Extension Letter
  - 4. Infiltration test
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Plan (attached)
  - 2. Site Plan/Tree Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services (a&b)
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS (a-c)
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence:
  - 1. Jeff Watters and Anne Rowe, 1/10/08, neighbors concerned about use of existing house as a duplex, wanting conversion to a single dwelling unit
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter
  - 4. Permit information

**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



NORTH

File No.	<u>LU 07-178301 LDP</u>
1/4 Section	<u>3334</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E12AB 4900</u>
Exhibit	<u>B</u> (Nov 27, 2007)

# PRELIMINARY PLAN

EXISTING CONDITIONS, TREE SURVEY AND PROPOSED PARTITION PLAT  
 TAX LOT 4800, MAP 15 1E 12AB, LOT 6, BLOCK 1, RAVENWOOD, SITUATED  
 IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 1  
 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY,  
 OREGON

DATE: NOVEMBER 14, 2007  
 SCALE: 1" = 20' APPROX  
 FOR: EVA GOLD

## OWNER/APPLICANT

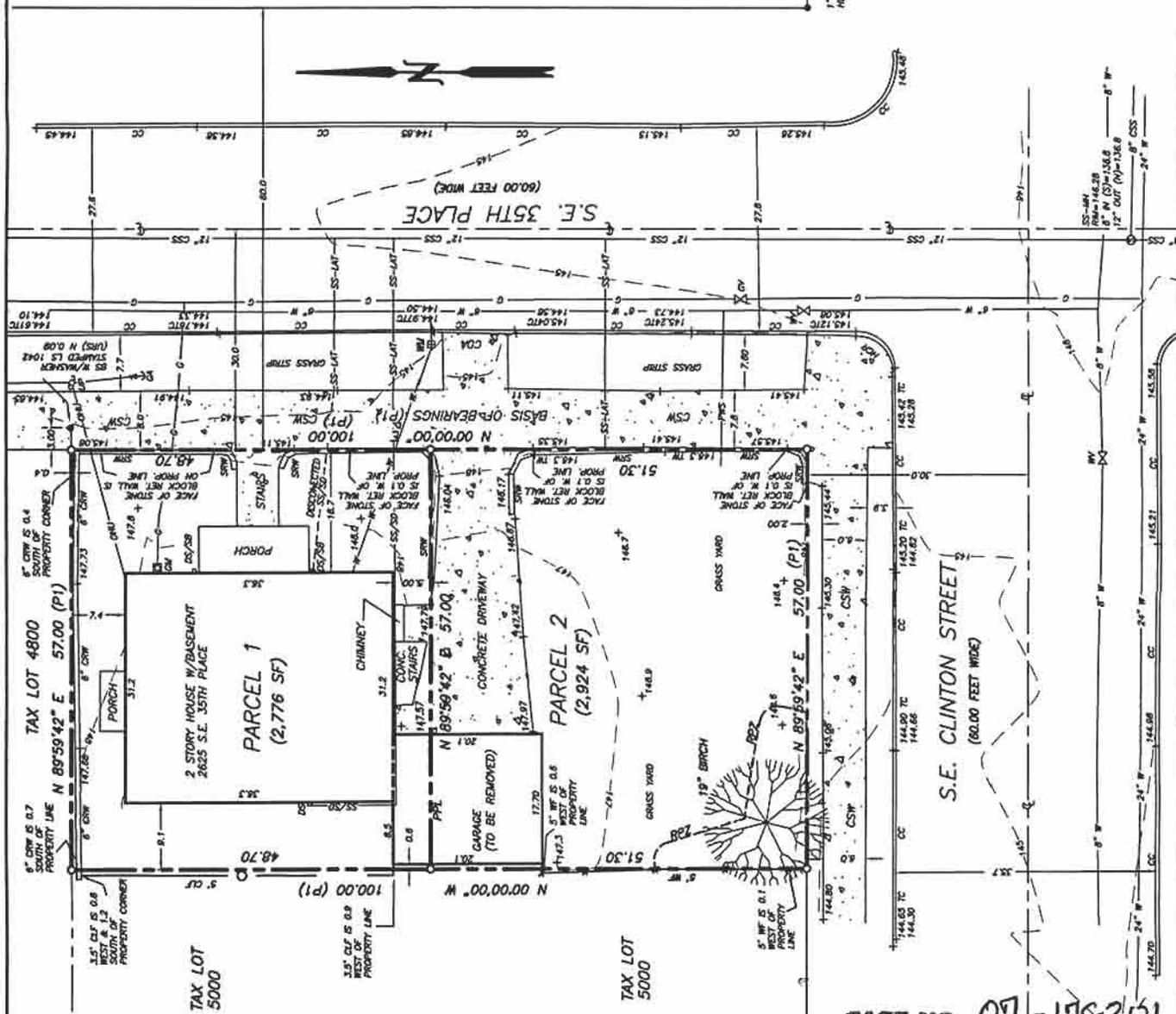
EVA GOLD  
 7257 S.E. 34TH AVE.  
 PORTLAND, OREGON 97214  
 PHONE: (503) 239-8571

## LEGEND

- = 5/8" x 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED 'REPPETTO & ASSOC. INC.' TO BE SET.
- ⊕ = CENTER LINE
- ⊖ = MONUMENT FOUND AS NOTED.
- ⊗ = GAS METER
- ⊘ = GAS VALVE
- ⊙ = SANITARY SEWER MANHOLE
- ⊚ = SANITARY SEWER MANHOLE AT FINISHED GRADE OR FLOWLINE, UNLESS NOTED OTHERWISE
- ⊛ = UTILITY POLE
- ⊜ = WATER METER
- ⊝ = WATER VALVE
- ⊞ = DECIDUOUS TREE
- ⊟ = BRASS SCREW
- ⊠ = CONCRETE
- ⊡ = CONCRETE CURB
- ⊢ = CONCRETE DRIVEWAY APRON
- ⊣ = CHAIN LINK FENCE
- ⊤ = COMBINED SANITARY & STORM LINE
- ⊥ = CONCRETE SIDEWALK
- ⊦ = RAIN DOWNSPOUT
- ⊧ = NATURAL GAS LINE
- ⊨ = COT ANCHOR
- ⊩ = GAS VALVE
- ⊪ = GAS VALVE
- ⊫ = HANDICAP RAMP
- ⊬ = INVERT ELEVATION
- ⊭ = IRON PIPE
- ⊮ = IRON ROD
- ⊯ = MULTNOMAH COUNTY M.C.D.R. = DEED RECORDS
- ⊰ = MANHOLE
- ⊱ = SURVEYED UTILITY LINES
- ⊲ = RAIL OF MANHOLE ELEVATION
- ⊳ = ROOT PROTECTION ZONE
- ⊴ = SQUARE FEET
- ⊵ = SPLASH BLOCK
- ⊶ = TOP OF CURB ELEVATION
- ⊷ = TOP OF WALL ELEVATION
- ⊸ = UTILITY POLE
- ⊹ = WATER LINE
- ⊺ = WOOD FENCE
- ⊻ = WATER METER
- ⊼ = WATER VALVE
- ⊽ = YELLOW PLASTIC CAP
- ( ) = RECORD INFORMATION
- PI = PLAT OF RAVENWOOD SUMMERS
- URS = UNREGISTERED SURVEY (U.S. SUMMERS)
- SN = SURVEY RECORD NO. PER MULTNOMAH COUNTY SURVEY RECORDS.

## NOTES

1. BOUNDARY AND BASIS OF BEARINGS ARE HELD PER MONUMENTS FOUND. RECORD PLAT DATA AND RECORD SURVEY INFORMATION.
2. ELEVATIONS BASED ON CITY OF PORTLAND BENCH MARK 100.206.
3. 1.0" BRASS CAP IN CONCRETE AT THE N.W. CORNER OF S.E. 35TH PLACE AND S.E. DIVISION STREET. ELEVATION IS 141.57 FEET. CITY OF PORTLAND DATUM.
4. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. ALL UNDERGROUND UTILITY LINES MUST BE VERIFIED PRIOR TO CONSTRUCTION.
5. ZONING OF THE SUBJECT PROPERTY IS R2.5.
6. THE SUBJECT PROPERTY IS NOT LOCKED WITHIN THE 100 YEAR FLOOD ZONE.

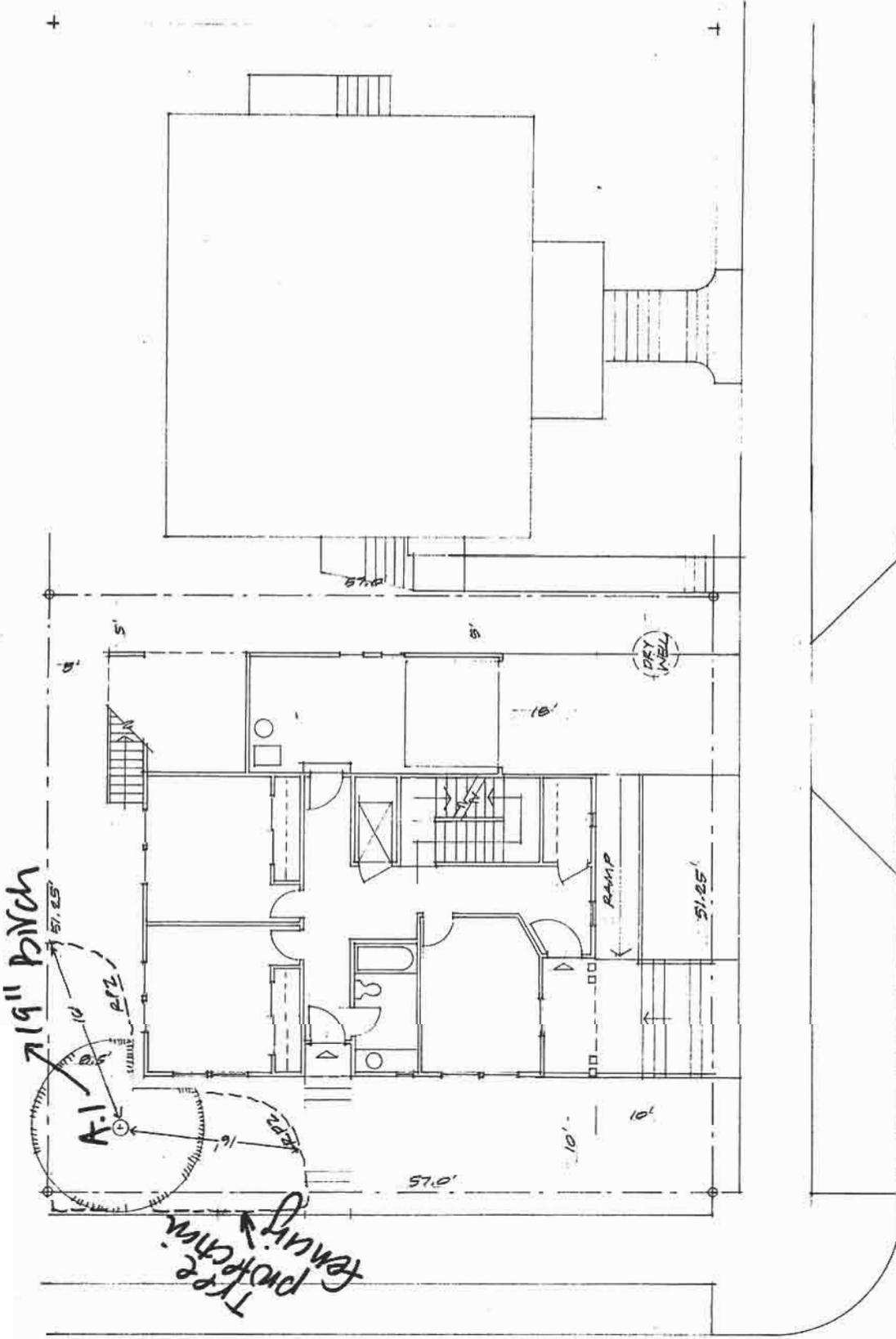


REGISTERED PROFESSIONAL LAND SURVEYOR  
*Steve Buxles*  
 OREGON  
 JULY 17, 1988  
 SEVEN P. BUXLES 251  
 RENEWED 12/31/07

REVISED:
<b>REPPETTO &amp; ASSOCIATES, INC.</b> LAND SURVEYORS
Plaza 125, Building G 12730 SE Stark Street Portland, Oregon 97233 Phone: (503) 408-1507 Fax: (503) 408-2370
DATE: NOV. 14, 2007 FILE: G07045.DWG
DRAWN BY: CJH JOB NO. 007045

CASE NO. 07-178301  
 EXHIBIT C-1

07-178301 LDP



SE CLINTON  
 SITE / FIRST FLOOR PLAN  
 1/8" = 1'-0"



CASE NO. 07-178301  
 EXHIBIT C-2

SE 35TH PLACE  
 Tree preservation - see EX. A.2 Arborist Report  
 - fencing and root pruning must be done prior  
 to issuance of permits