



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

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Date: April 27, 2009
To: Interested Person
From: Joan Frederiksen, 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 08-182289 LDP

GENERAL INFORMATION

Applicant: Nels Peterson
RP & Associates
211 NE Weidler Street
Portland, OR 97232

Representative: Charles Stone
RP & Associates
211 NE Weidler Street
Portland, OR 97232
(503)-288-7458

Site Address: Lot west of 2426 SE Clinton Street
Tax Account No.: R270408
Legal Description: SIMONS ADD; BLOCK 6, LOT 4 TL 8401
State ID No.: 1S1E11AA 08401
Quarter Section: 3332
Neighborhood: Hosford-Abernethy, contact Kina Voelz at 971-207-9243.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.
Plan District: None
Zoning: Residential 2,500 (R2.5)
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to divide this vacant 5,815 square foot site into two lots. Each lot will have approximately 2,908 square feet, and will be just over 29 feet wide. The lots are proposed to be developed with attached houses. Tree planting mitigation is proposed in lieu of tree preservation.

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 subject property is located on the south side of SE Clinton Street west of property addressed 2426 SE Clinton Street. In 2008 the applicant undertook a Lot Confirmation (08-166308 PR) that asserted this site as a separate and legal lot from aforementioned property to the east. A detached garage is located in the southwest corner of the subject property that will be demolished as a part of this review. Two trees are located on the site subject to tree preservation, one of which is significant in terms of size.

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 March 3, 2009.

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: A total of three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Respondents have raised a number of concerns, as summarized here. These are followed by a staff response:

- The notification for this case lacked transparency and was misleading because it neglected to include the "entire" impact of the proposal.
- The demolition of the existing home (adjacent to the land division site) for only one new home is wasteful and unsustainable.

Staff Response: *The house at 2426 SE Clinton sat on a large lot. Underlying this large lot there was a historically platted lot line (from the original 1892 subdivision). Through an administrative process called a Lot Confirmation, in 2008 the applicant claimed re-establishment of that historic lot line and then had two lots - one on which the house sits and one that was vacant except for the garage. (The State of Oregon mandates that these*

historically platted lots be recognized and that they are still to be considered legal lots of record in many circumstances.

At that time the applicant also requested an administrative process called a Property Line Adjustment - movement of a property line - to adjust the newly confirmed lot line to the east 14 feet. The end result of these two processes was 2 lots, one with the house on it and a width of 36 feet and a vacant one with a width of 49.25 feet. Because these two processes are administrative, the existing City code does not provide for public notice. The concerns related to lack of notification for such process must be referred to the Bureau of Planning and Sustainability or City Council.

This Land Division proposal is a request to divide the vacant lot (that resulted from the above described processes) into two lots. Because legally this vacant lot is now wholly separate from the lot with the existing house, the land division "site" is only the vacant lot and the land division does not encompass the existing house or the lot it sits on. The land division notice is required to describe the work proposed on the 'site' that is under review; not on adjacent properties. Nonetheless, it is understandable that there would be interest in understanding the potential end result of all that is proposed from what was once one lot. It is the City's goal to be transparent and clear as often as possible.

Regarding the concern over demolition of the existing adjacent house, the City in this case has no regulations in place related to preservation of old homes. Furthermore, because land division regulations do not have any criteria that address the types of sustainability considerations that are noted, I will not be able to address those in any decision for this proposal. Citizens are encouraged to express concerns related to this element of a sustainable City with City Council who have the ability to direct policy discussions and decisions.

- Creation of a new fence along the west property line of the site will both limit the useable area of the existing shared driveway remaining in use west of the site, and potentially hinder view of right of way for vehicle maneuvering purposes.
- When existing trees are removed, request that trees that do not shed seed pods or which have sprouts be planted. Request that no bamboo be allowed.
- Request that the horse tie-down rings be retained.

Staff Response: *Unfortunately, although there had been an existing shared driveway, with two garages served – one on each property – for many years, there is no legal easement in place that would secure the continued use of this area – even in part – by the property to the west. Consequently, it is up to the current property owner of the site to agree or not to some kind of shared use of this area. Because the area of concern is partly off-site and there is no easement, staff can not address impacts to the neighboring driveway in this decision.*

Concerns about a new fence along the western property line of the site limiting views for vehicle maneuverability are understandable. It is not clear what the final grade will be. However, in the first ten feet of the site (the front setback area) fences are not allowed to be over 3.5 feet tall (from grade). This may alleviate some of the concerns expressed. You can also contact Portland Bureau of Transportation (503-823-7002) about what their standards for visibility are and if there is any recourse through their regulations.

Related to retention of the existing horse tie-down rings in the curb adjacent to the site, please contact Portland Bureau of Transportation (503-823-7002) for their protocol in this matter.

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	33.611	Lots	Applicable - See findings below.
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
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 - The proposed development is for something other than single-dwelling detached homes and all of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below.
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below.

Applicable Approval Criteria are:

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

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

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the

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

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

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

Minimum = (5,815 square feet * .80) ÷ 5,000 square feet = 0.93 (which rounds up to a minimum of 1 parcel, per 33.930.020.A)

Maximum = 5,815 square feet ÷ 2,500 square feet = 2.32 (which rounds down to a maximum of 2 parcels, per 33.930.020.B)

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

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

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

	R2.5 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area	1,600 sq. ft.	2,908 sq. ft.	2,907 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	29.14	29.13
Minimum Lot Depth	40 ft.	100 ft.	100 ft.
Minimum Front Lot Line	30 ft.	29.63 ft.	29.62 ft.

* Width is measured at the minimum front building setback line

Narrow Lots

Parcels 1 and 2 are approximately 29 feet wide, which is narrower than the standard minimum width for the R2.5 zone, as shown in the table above. Section 33.611.200.C of the Zoning Code, however, allows narrower lots if the future development can meet certain standards:

- **If the lot abuts an alley, then vehicle access is allowed only from the alley;**
- **If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created under these provisions (lots that abut a pedestrian connection or common green are exempt from this standard).**
- **Lots must be configured so that at the time of development the length of the garage wall will be no more than 50% of the length of the street-facing building façade.**

- **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- **When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley; and**

The applicant has demonstrated that Parcels 1 and 2 can meet the narrow lot standards for the following reasons:

Alley access:

- The site does not have access from an alley, so this standard does not apply.

Preserves on-street parking

- Exhibit C-1 demonstrates that 15-feet of uninterrupted curb space will be preserved for Parcels 1 and 2 along SE Clinton Street, after provision of driveways serving the lots (including the required 3 foot curb returns on either side of the driveway entrance). A condition of approval is required to assure that this curb space will continue to be preserved when the lots are developed or re-developed.

50 percent garage wall limitation

- The applicant has demonstrated, with Exhibit C-2 that each lot will be able to accommodate a garage that will occupy no more than 50 percent of the length of the street-facing building wall.

60 percent landscaping requirement for attached houses

- Parcels 1 and 2 will have individual driveways that are approximately 9 feet wide. Each lot is approximately 29 feet wide, which will still allow for the 60% standard to be met in the area not devoted to driveway pavement.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, 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 and evaluates their condition (Exhibit A-2). The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Flowering Plum	22.5	Yes	No	No	N/A
2	Box Elder	18.75	No	No	No	N/A

The total non-exempt tree diameter on the site is 41.25 inches.

Because the applicant proposes to remove both trees on the site, the proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options of 33.630.300:

33.630.300 Mitigation Option

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

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

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for attached housing, which is an allowed housing type in the R2.5 zone. The location of the existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R2.5 zone. Criterion C.4 above is met.

Both of the existing trees within the subject property are located on proposed Parcel 1 and are situated in a manner that would make it impractical to site a dwelling and viably preserve the trees. These trees are of a fairly large stature and would require significant root protection zones that would effectively render a majority of Parcel 1 useless in terms of development options. Therefore, the applicant has met Criteria A, because as many trees as possible will be preserved.

The total non-exempt tree diameter on the site is 41.25 inches between the Flowering Plum and Box Elder. The applicant has submitted a tree mitigation plan that proposes to plant 3 Dawyck Purple (*Fagus sylvatica*) trees along the rear property line of Parcels 1 and 2. These trees were chosen based on their compatibility with the neighborhood and mature height that will meet or exceed the existing trees on the site. Option 1 of the Tree Preservation Chapter would require that 35% or approximately 14 inches of the existing tree diameter on site to be preserved. Based on a planting size of 1.5 to 2 inches, approximately 7 to 9 trees would be needed to equal the amount of existing inches that would be required to be preserved. However, based on the size of these parcels it is anticipated that over planting would result once this amount of trees reach a mature size. Therefore, the applicant shall plant 1 tree in addition to the 3 proposed for mitigation, all of which shall be a minimum 2 inch caliper size (Exhibit C-1). Additionally, of the 4 required mitigation trees Parcels 1 and 2 shall include a Magnolia tree in the front yard which is chosen for its compatibility with existing foliage on this street. Because only 8 of the existing 14 inches that would be required to be preserved is made up through the mitigation planting, the applicant will be required to pay into the tree fund an equivalent to the remaining 6 inches of tree diameter.

The conclusion to require only 4 mitigation trees was influenced by tree planting that will be required with new building permits. Section 33.248.020.H, known as the T1 tree planting

standard, requires trees to be planted on new lots as part of the approval of future building permits. On lots that are 3,000 square feet or smaller, the T1 tree standard requires that at least 3 inches of tree diameter be planted per lot. Therefore, beyond the two mitigation trees to be planted on each parcel an additional 3 inches of tree diameter will be required with each building permit. This will result in a total of 3 to 4 trees per parcel, which reasonably anticipates tree growth and should not result in over planting.

Criteria B is met with a condition of approval requiring 4 trees to be planted on Parcels 1 and 2 with a minimum caliper size of 2 inches, of which a Magnolia tree shall be planted in the front yard of each parcel, prior to final building permit approval for new houses on these parcels in conjunction with payment into the City Tree Fund the amount equivalent to 6 inches of trees.

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

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

33.635.100 – Clearing and Grading

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

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

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 59.25 feet of frontage on SE Clinton Street. SE Clinton Street is classified as a Transit Access Street, City Bikeway, City Walkway and a local service street for all other modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service along the frontage of the site on SE Clinton Street via bus #10. Parking is currently allowed on both sides of SE Clinton Street at this location. The site is vacant, and there are no existing off-street parking spaces on the site.

At this location, SE Clinton Street is improved with a 36 foot wide paved roadway surface and pedestrian corridor that consists of a ½ foot curb, 4 foot planting strip, 6 foot sidewalk and 2 foot setback to private property (4-6-2) all within a 60 foot wide right-of-way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The existing pedestrian corridor exceeds the City's Pedestrian Design Guide recommendation for width and configuration on a street of this classification. Therefore, Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the proposed development can be safely served by this existing street without having any significant impact on the level of service provided.

Portland Transportation has noted the presence of a speed bump in SE Clinton Street directly in front of the land division site. Due to anticipated conflicts with vehicle access for the proposed parcels, the applicant will be responsible for relocating the speed bump at the time of development of the new parcels. See Exhibit E-2 for more details.

With the condition of approval described above, 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. Water is available to serve the proposed development from the water main in SE Clinton Street. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 60 inch public combined sewer located in SE Clinton Street that can serve the sanitary needs of the proposed lots. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The subject site is located on a block that contains dimensions of approximately 200 feet by 500 feet. Additionally, no street connections have been identified in the vicinity of this property in the Portland Master Street Plan. Therefore, Portland Transportation has no concerns regarding street connectivity relative to the proposed land division. As a result, the remaining standards and approval criteria related to street connectivity, 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 C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcels 1 & 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots 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. Upon request from Site Development the applicant submitted the results of an infiltration test (Exhibit A-4) in the location of the proposed drywells. With test results demonstrating that on site infiltration is feasible with the use of drywells, Site Development has indicated conceptual approval of the drywells.

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.

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Narrow Lots-- development on Parcels 1 & 2 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.2/1.5 times the width of the structure, per 33.110.215.B.2; and
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.250.E.4.c (1)

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, 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 the Fire Bureau in regards to Aerial Fire Department Access Roads. These requirements are based on the technical standards of Oregon Fire Code and Title 31. See Exhibit E-4 for more details.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C-2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation, stormwater management and development standards relative to creation of narrow lots.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2 parcel partition that will result in two narrow lots for attached housing consistent with R2.5 zone standards, as illustrated with Exhibit C-2, subject to the following conditions:

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

Existing Development

1. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 1. Alternately, the applicant can execute a covenant with the City stating that the structure will be removed if a primary structure has not received final inspection on the parcel with the accessory structure within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.

Other requirements

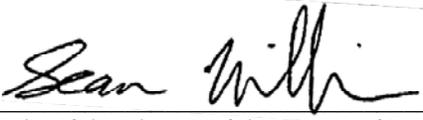
2. The applicant must pay into the City Tree Fund the amount equivalent to 6 inches of trees. Payment must be made to the Bureau of Development Services, who administer the fund for the Parks Bureau.

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

1. 4 trees shall be planted on Parcels 1 and 2 with a minimum caliper size of 2 inches, of which a Magnolia tree shall be planted in the front yard of each parcel, prior to final building permit approval for new houses on these parcels.

2. A minimum of 15 feet of uninterrupted curb space must be preserved along the frontage of Parcels 1 and 2.
3. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.
4. The applicant shall be responsible for paying for the relocation of the speed-bump located in SE Clinton Street directly in front of the site. The applicant should contact Carl Snyder, Senior Engineer with the Portland Bureau of Transportation's Traffic Investigations Section at (503) 823-5220 to arrange for the relocation.

Staff Planner: Sean Williams for Joan Frederiksen

Decision rendered by:  **on April 23, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 27, 2009

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 December 8, 2008, and was determined to be complete on February 26, 2009.

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 December 8, 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 requested that the 120-day review period be extended, as stated with Exhibit A-3.

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.

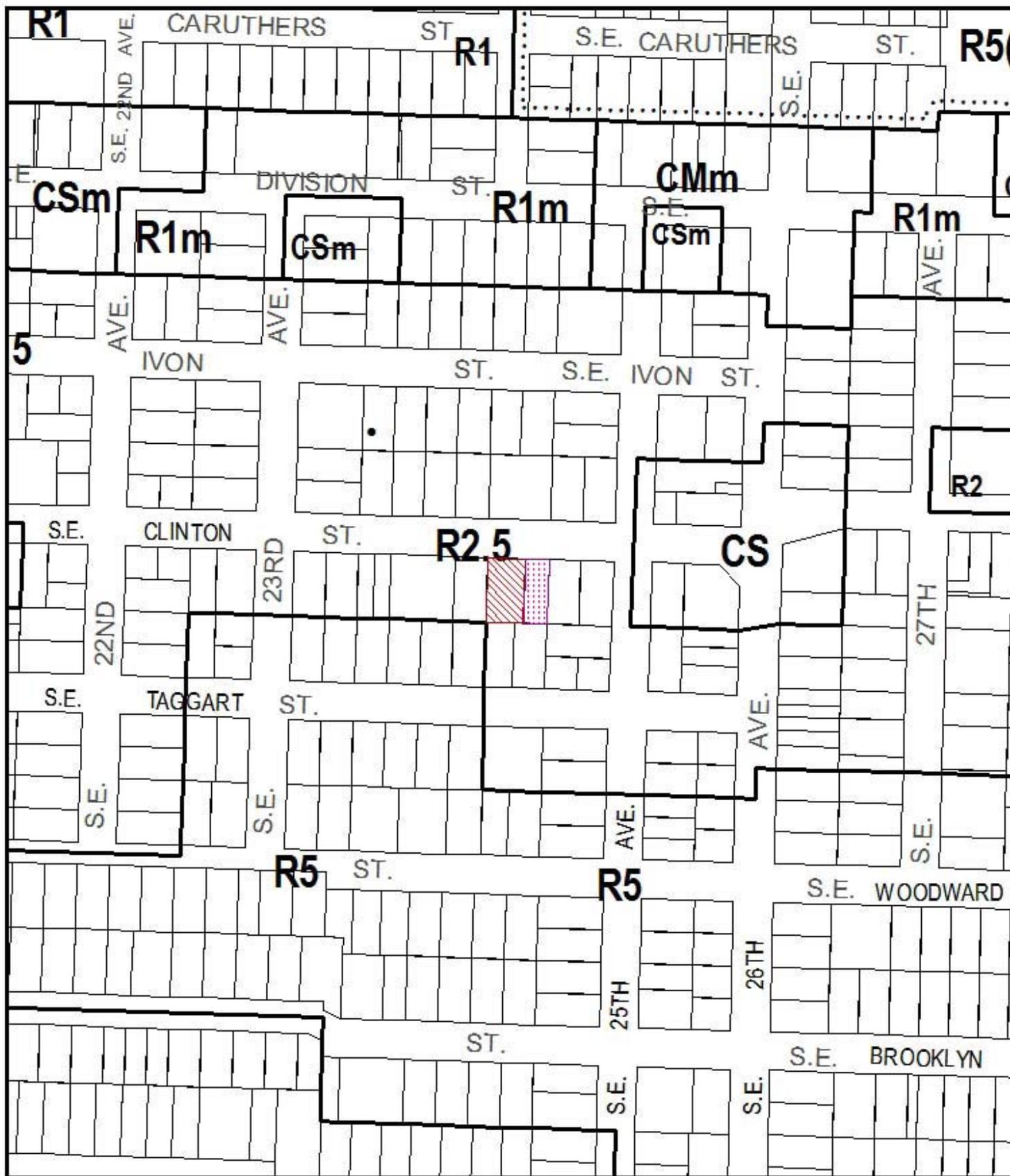
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information 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
 - 1. Land Division Approval Criteria
 - 2. Arborist report
 - 3. Hold request, January 7, 2009
 - 4. Infiltration test
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Site Plan (attached)
 - 2. Preliminary development 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 Plans Examiner
- F. Correspondence:
 - 1. Val Ballestrem, March 4, 2009, Concerns regarding proposal
 - 2. Cathy Galbraith, March 23, 2009, Concerns regarding proposal
 - 3. Gerald Johnson, April 2, 2009, Concerns regarding proposal
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Letter of incomplete information to the applicant, December 30, 2008
 - 4. Staff response to Val Ballestrem email, March 6, 2009

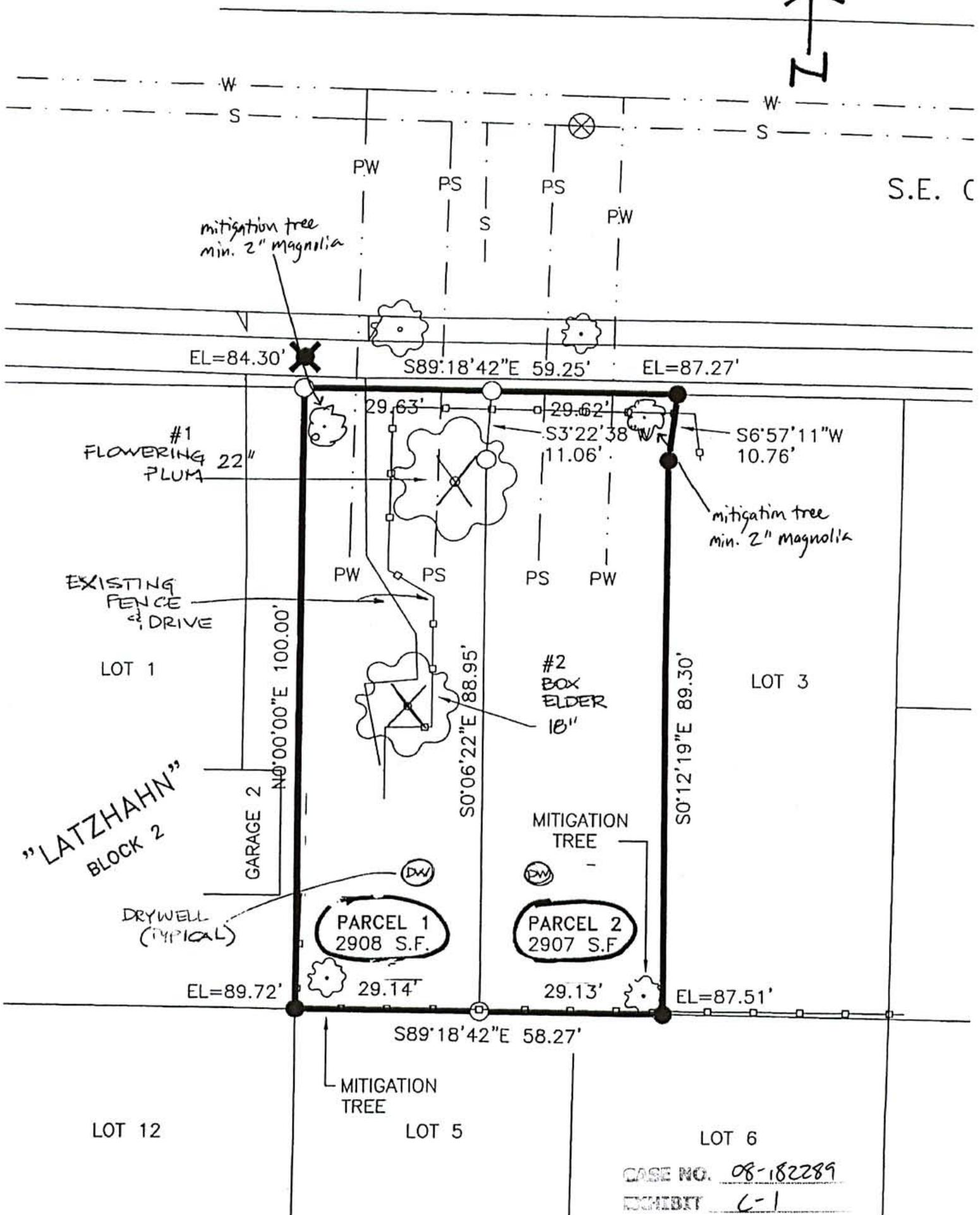


ZONING

-  Site
-  Also Owned



File No. LU 08-182289 LDP
 1/4 Section 3332
 Scale 1 inch = 200 feet
 State_Id 1S1E11AA 8400
 Exhibit B (Jan 27, 2009)



CASE NO. 08-182289
 EXHIBIT C-1

