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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: June 3, 2009

To: Interested Person

From: John Cole, Land Use Services
503-823-3475 / ColeJA@ci.portland.or.us

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 09-110487 LDP

GENERAL INFORMATION

Applicant: James and Diana Harryhill,
311 B Ave #C
Lake Oswego, OR 97034

Preston Hiefield,
Sierra Capital Trust Inc
18861 SW Martinazzi Avenue, Ste 205
Tualatin OR 97062

Representative/ Surveyor: Joe Ferguson,
Ferguson Land Surveying
646 SE 106th Ave
Portland OR 97216

Site Address: 412 NE BEECH ST

Tax Account No.: R497103520
State ID No.: 1N1E23CC 26100 **Quarter Section:** 2631
Neighborhood: King, contact Maureen Mimiaga at 503-381-4805.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.
Plan District: Albina Community
Zoning: CGd General Commercial with a Design District overlay
Case Type: LDP Land Division (Partition)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: To divide a 4,500 square foot site located on the southeast corner of NE Martin Luther King Boulevard and NE Beech Street into two parcels. Parcel 1 containing the two

story building will be 2,079 square feet in size. Parcel 2 containing the one story storefront will be 2,421 square feet in size. Both structures are proposed to be retained during the land division. No new development is proposed.

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

33.662.120 Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones.

ANALYSIS

Site and Vicinity: This property is located on the southeastern corner of NE Martin Luther King Boulevard and NE Beech Street. It is occupied by two structures; a two story frame constructed building is located on the eastern portion of the site while a one story "storefront" occupies the northwestern corner. A grassed area at the southwestern corner of the property and an oversized handicapped parking space with access from NE Beech occupy the remainder of the site. The surrounding neighborhood is a mixture of commercial activity along the NE Martin Luther King Boulevard frontage while single family and or small scale multi-dwelling residential development occurs to the east of this property.

Zoning: The CG zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market.

The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

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 April 27, 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: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN A COMMERCIAL, EMPLOYMENT, OR INDUSTRIAL ZONE

33.662.120 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 **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial 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	33.613	Lots	Applicable - See findings below

Criterion	Code Chapter	Topic	Applicability Findings
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone on the site.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.635 .100	Clearing and Grading	Applicable - See findings below.
F	33.635 .200	Land Suitability	Not applicable - There is no record of any previous land uses or conditions that would create a hazard.
G	33.636	Tracts and Easements	Applicable - See findings below.
H	33.639	Solar Access	Not applicable - The proposed development is for something other than single dwelling homes.
I	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
J	33.641	Transportation Impacts	Applicable - See findings below
K	33.651 - 33.654	Services and Utilities	Applicable - See findings below

A. Lots. The standards and approval criteria of Chapters 33.613 through 33.615 must be met;

Findings: Chapter 33.613 contains the lot standards applicable in the commercial zones. Chapter 33.613 works in conjunction with other chapters of the Zoning Code to ensure that land divisions create lots that can support appropriate uses and development. The standards are as follows:

33.613.100 Minimum Front Lot Line Standard
Each lot must have a front lot line that is at least 10 feet long.

Each proposed lot has a front lot line that is at least 10 feet long. Parcel 1 has a front lot line of 41.58 feet and Parcel 2 has a front lot line of 37.25 feet. This standard is met.

33.613.200 Minimum Lot Area, Width and Depth Approval Criterion
There are no minimum lot area, width or depth standards. Lots must be of a size, shape, and orientation that is appropriate for the location of the land division and for the type of development and use that is contemplated.

The proposed partition is intended to accommodate the existing development on site. After the creation of the proposed property line each new parcel will contain one of the existing structures, green space and a portion of the existing handicapped space. (On-site parking is not required in this location.)Each of the structures has street frontage. The buildings are oriented to both NE Beech and Martin Luther King Boulevard. This is similar to other corner properties along NE martin Luther King Boulevard.

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

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

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

33.635.100 – Clearing and Grading

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

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

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

33.636.100 Requirements for Tracts and Easements

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

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

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

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with

the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easements are proposed and/or required for this land division:
- A Reciprocal Access Easement is proposed to allow shared use of a driveway/parking space that will straddle proposed lot line;
- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 2, for a sanitary sewer lateral connection that will serve Parcel 1.
- Additional stormsewer easements may be required if subsequent documentation reveals that underground storm facilities cross the new property line.

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

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

With the conditions of approval discussed above, this criterion is met.

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

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

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

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

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

The site has approximately 37.25 feet of frontage on NE Martin Luther King Boulevard and 90 feet of frontage on NE Beech. Martin Luther King Boulevard is classified as a Major City Traffic Street, Major Transit Priority Street, City Bikeway, City Walkway, Major Emergency Response Street and Major Truck Route. NE Beech is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service adjacent to the site on NE Martin Luther King Boulevard via bus 6. Parking is currently allowed on both sides of NE Beech but is prohibited on Martin Luther King Boulevard in front of this property. There is one driveway entering the site that provides

access to an off-street parking space located midway between the two story structure and one story storefront.

N Beech and NE Martin Luther King Boulevard are improved with a curb and a ten-foot wide sidewalk corridor adjacent to this site. City standards call for a 12-foot and 15 foot corridor respectively. Although this is greater than is currently provided, the existing commercial storefront is proposed to be retained. The Bureau of Transportation does not seek additional street dedications where they conflict with existing structures to remain. Accordingly PBOT is not asking for either street dedication or sidewalk corridor improvements. Because the land division will not result in additional development on this site or additional traffic trips PBOT finds that 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 the site can be safely served by the existing streets and sidewalks 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 6 inch water main in NE Beech provides water to each building through separate water service lines. These water services can remain and continue to provide service to each parcel after the land division. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been conditionally verified. There is an existing 8" VSP combined sewer located in NE Martin Luther King Boulevard that currently serves the sanitary needs of the proposed lots. See Exhibit E-1 for more details. While there remains some question regarding the current sanitary sewer service it appears that a party sewer provides a single sanitary connection for both buildings. Such a configuration is in conflict with the applicable plumbing codes. Therefore, prior to final plat approval the applicants will be required to provide the results of sewer line video for both buildings and show the location on a supplemental plan and provide high-contrast durable surface locate makers on site. Plumbing permits must be obtained and finaled for any required work necessary for upgrading the current sewer connections to meet the Plumbing Code.

  As a result of the proposed land division, the existing sewer connection that serves the building on Parcel 1 will cross over Parcel 2 to reach the sewer main in NE martin Luther King Boulevard. An easement is proposed to support the continued use of the MLK Combined Sewer by Parcel 1. A Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat.

- The technical standards of Chapter 33.653 related to stormwater management have been conditionally 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 two structures on this property currently are served by gutters and downspouts that lead into the ground and discharge to unidentified location(s). The location of these subsurface facilities must be accurately determined using storm sewer video scoping, metal tracing wire detection, or an equivalent method and must be shown on a supplemental plan. High contrast durable surface locate markers must be provided on site and a copy of the scoping video or locate report provided to Site Development. (See exhibit E-5)

If the results of these efforts confirm that stormwater is currently directed to the public sewer then these stormwater drains can continue. If such stormwater drainlines cross a property line they will need to be supported by an appropriate easement and noted on the plat with a supporting recorded maintenance agreement. If any new development is proposed on these properties or if modifications to the existing stormwater management system are required then infiltration testing may be required to determine if on-site infiltration is feasible at this location.

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:

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1 and 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the general commercial zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site: Staff has reviewed the existing development on site for conformance with the applicable CG Zone standards including but not limited to required setbacks, maximum lot coverage and minimum landscaping requirements. Placement of the proposed property line will not cause the existing development to remain to fall out of compliance with any CG zone standard.

- Off-Street Parking - A paved parking pad provides limited parking for the existing development on site. As a result of this land division, the parking space will be bisected by the proposed lot line. 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 adjacent to this site on Martin Luther King Boulevard via bus 6. Bus number 6 provides peak-hour service meeting this requirement. As a result, on-site parking is not required for Parcel 1 or 2. If as proposed however a parking space is provided that crosses over the new property line then either an access easement or reciprocal access easement must be provided on the final plat supported by a plat note and maintenance agreement. These documents must describe the rights and responsibilities of each property in regards to the parking space.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

- **"D" Design Overlay Zone. Note that this site falls within a design overlay zone. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.**

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	**Code Authority**	**Topic**	**Contact Information**
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/

Bureau	Code Authority	Topic	Contact Information
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip prior to final plat approval. This requirement is based on the standards of Title 20.
- The Life-Safety Section of the Bureau of Development Services has noted that exterior walls located between 5 and 10 feet from a property line must be fire rated for exposure to fire from the inside. Prior to final plat approval the applicants must submit documentation that the existing structures on-site comply with this building code requirement. (Exhibit E-7)Relocation of the proposed property line approximately two feet to the east in order to comply with this building code requirement will be considered a change "not substantial enough to warrant a new review of the Preliminary Plan." As described in code section 33.662.320.B.

CONCLUSIONS

The applicant has proposed a 2 lot partition as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: documentation of and improvements to storm and sanitary sewer services to these properties; provision of supporting easements and street tree planting.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition to support existing development as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The location of existing sewer lines and stormwater drain lines

B. The final plat must show the following:

1. A 9-foot wide Access Easement; or Reciprocal Access Easement across the common property line shall be shown and labeled on the final plat, as shown between Lot1 and Lot 2 The easement shall allow use or shared use of this area for all of the purposes that a driveway/ parking space would be typically used for.

2. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2.

3. Private storm sewer easements may be required if existing facilities to remain or newly created facilities are shown to cross the proposed property line.

4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition * below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Existing Development

1. Documentation of the location of the stormwater disposal system for the existing buildings using stormsewer video, tracer wire or other approved methodology shall be submitted to the Site Development Section of the Bureau of Development Services. The location of any existing or required stormwater systems serving the existing buildings must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing buildings will extend across the proposed property line or otherwise not direct stormwater to an approved stormwater disposal point then the applicant must meet one or both of the following:

   - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
   - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

2. The applicant must meet the requirements of Site Development for the sanitary sewer systems serving the existing structures on-site. Specifically, the applicant must provide the results of sewer line videos or other acceptable sewer location documentation for both buildings; show the locations on a supplemental plan, and provide high contrast durable surface markers on-site. If a party sewer is confirmed then final plumbing permits to establish separate sewer connections for each lot will be required.

3. The applicant must plant 2 street tree(s) in the planter strip on Beech Street in locations indicated by white paint placed on the curb by the Urban Forester. Street trees will be chosen from the City's approved street tree list for the 3.5- 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.

4. The applicant must document compliance with Oregon State Safety Code 602.1 and 704.5 pertaining to the fire rating of building walls between 5 and 10 feet from property lines. This can be done by documenting that the existing buildings meet this requirement, obtain a finalized building permit to achieve compliance or shifting the proposed property line so that the 10 foot setback is achieved. Alternatively the applicants must receive an appeal from these building code requirements.

Required Legal Documents

5. Maintenance Agreements shall be executed for the Reciprocal Access Private Sewer and any Stormwater Management Easement area described in Conditions B1, 2 & 3 above.

The agreements shall include provisions assigning maintenance responsibilities for the easement areas and any shared facilities within those areas, consistent with the purpose of the easement, and all applicable City Code standards. The agreements must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

Staff Planner: John Cole

Decision rendered by: _____ **on June 1, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed June 3, 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 February 24, 2009, and was determined to be complete on April 23, 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 February 24, 2009.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: 8/21/09.**

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.

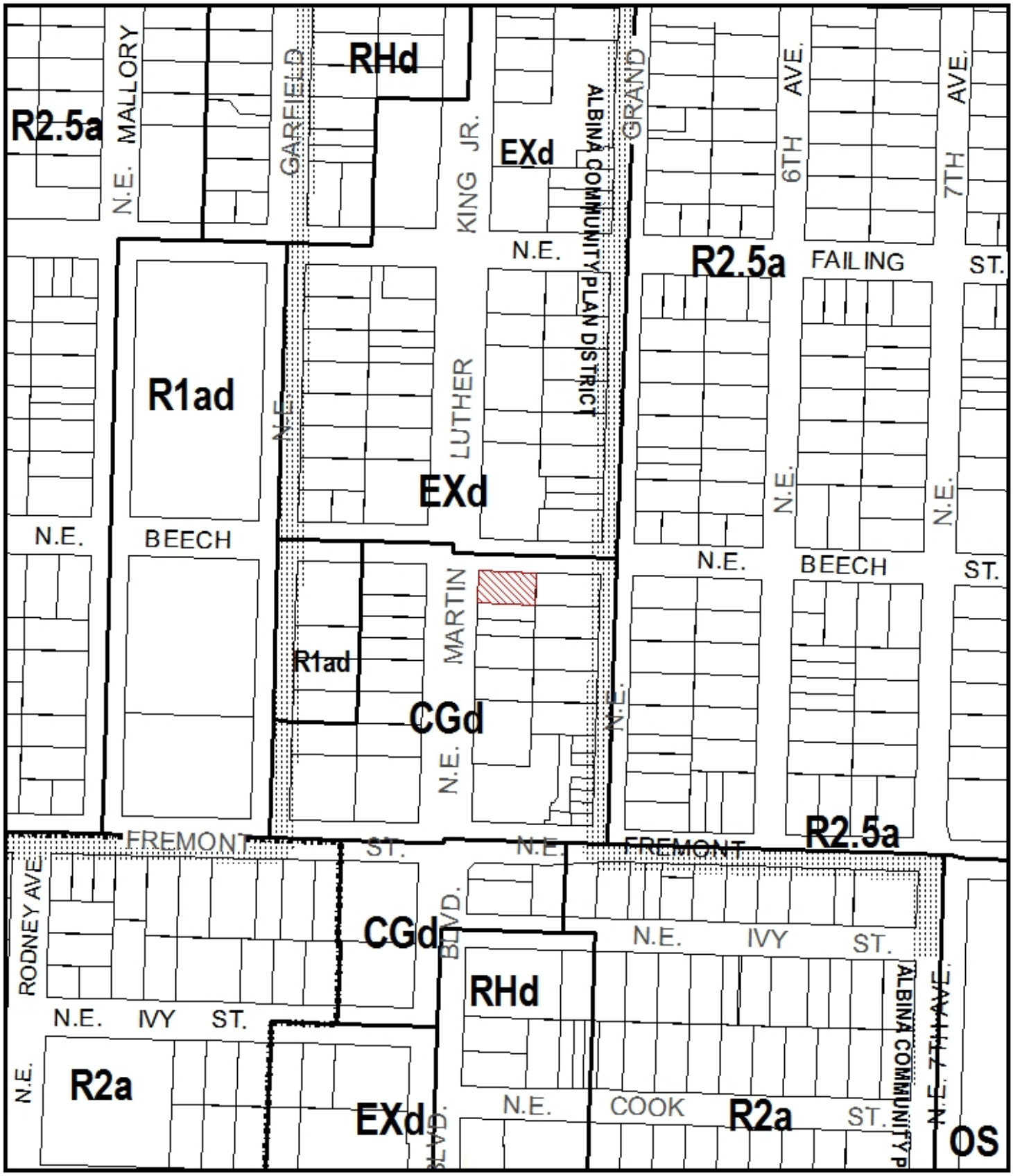
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information 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 including incomplete response
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site 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
F. Correspondence: None received
G. Other:
   1. Original LU Application
   2. Incomplete letter dated March 10, 2009

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



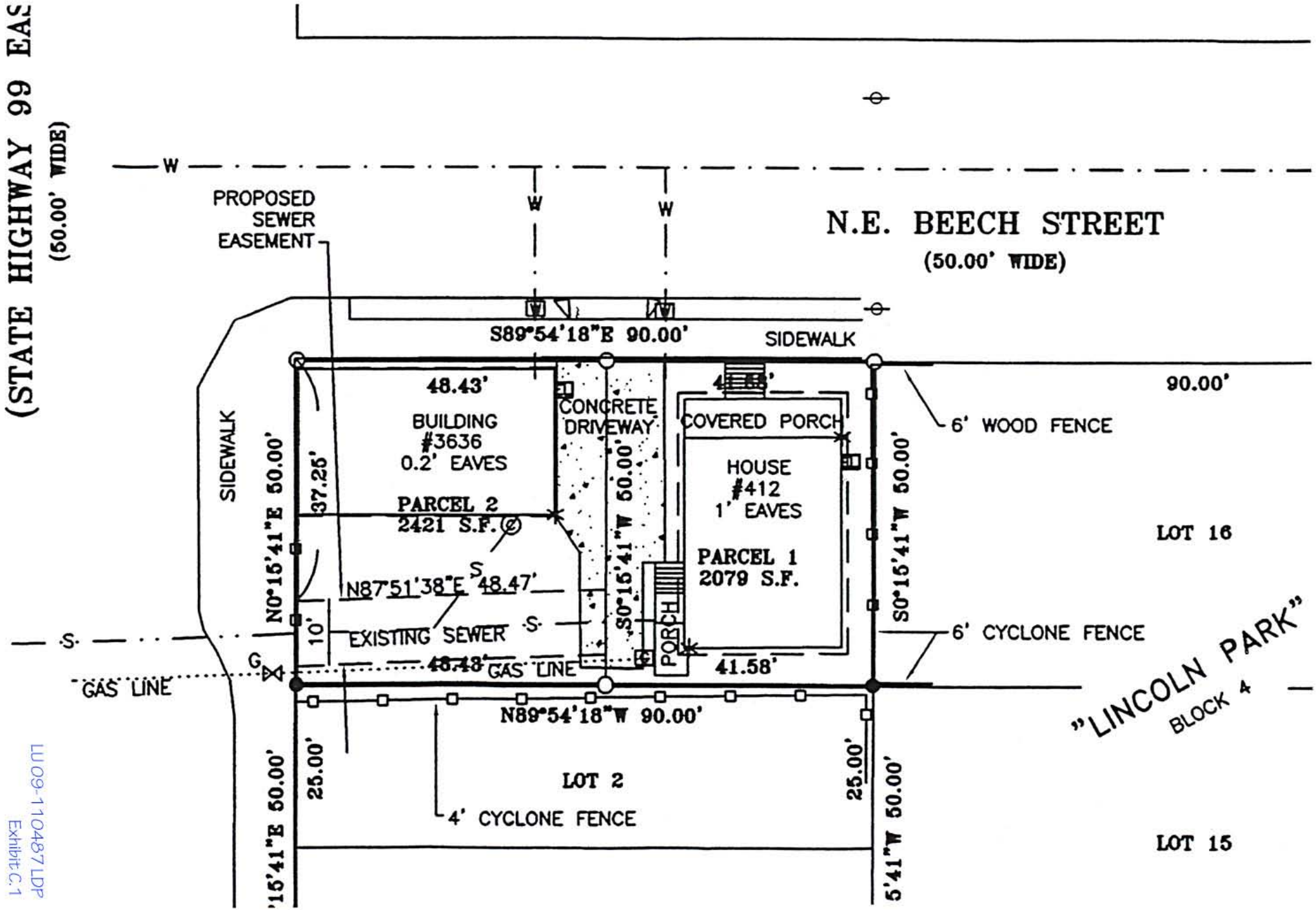
ZONING

Site

NORTH

This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT

File No.	LU 09-110487 LDP
1/4 Section	2631
Scale	1 inch = 200 feet
State_Id	1N1E23CC 26100
Exhibit	B (Feb 24,2009)



LU 09-110487 LDP
Exhibit C.1