



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

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**Date:** January 27, 2010  
**To:** Interested Person  
**From:** Mark Bello, Land Use Services  
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**NOTICE OF A TYPE IIx DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

**CASE FILE NUMBER: LU 08-176812 LDS AD**

**GENERAL INFORMATION**

<b>Applicant</b>	<b>Owner</b>	<b>Surveyor</b>
Sabina G Brown 211 Otis St Santa Cruz, Ca 95060	Aaron Brown Kenneth A. Brown 211 Otis St Santa Cruz Ca 95060	Dale Marx Marx Assoc Box 565 Gresham OR 97202

**Site Address:** 5714 SE 15th Ave

**Legal Description:** LOT 2 BLOCK 1, THE C J REED TR  
**Tax Account No.:** R827300110  
**State ID No.:** 1S1E14DB 10500  
**Quarter Section:** 3632

**Neighborhood:** Sellwood-Moreland, contact Mat Millenbach at 503-239-1134.  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

**Zoning:** R1d Multi-Dwelling Residential 1,000 with d, design review overlay zone

**Case Type:** LDS AD Land Division (subdivision) with concurrent Adjustment  
**Procedure:** Type IIx, an administrative decision with appeal to the Hearings Officer.

**Proposal:**  
Land Division

Applicant proposes to divide the 5,965 square foot lot to create 4 lots. Lots 1 and 2 will be 1,350 square feet in area, Lot 3 will retain the existing house and will be 1,900 square feet in area, and Lot 4 will be 1,365 square feet in area. The site is in the R1d zone and is located at the intersection of SE 15th avenue and SE Reedway street.

City services are located in both SE 15<sup>th</sup> Avenue and SE Reedway Street. There is a single curb cut on SE 15<sup>th</sup> Avenue that provides access for a garage. This garage will be demolished and

replaced by new development on proposed Lot 2. The existing house will be then located on proposed Lot 3, without parking. Parking will be provided for proposed lots 1, 2 and 4.

The arborist report proposes to save the two cypress trees in the northeast corner of the site, These total 19.2 inches or 56% of total tree diameter on site.

The existing house is accessed from SE 15<sup>th</sup> Avenue. The land division proposal indicates three driveways from SE 15<sup>th</sup> Avenue to lots 1, 2 and 4 only. The current access is located where lot 2 is proposed.

On a corner lot, the front lot line is the shortest lot line that abuts a street. Currently, the front lot line is along SE Reedway Street. As a result of the land division, the front lot line for the existing house will be along SE 15<sup>th</sup> Avenue. The minimum required front building setback is 3 feet (36 inches). As a result of the land division, the existing house will have a front building setback of 27 inches. Therefore, the applicant requests an Adjustment to reduce the minimum front building setback from 3 feet (36 inches) to 27 inches.

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the Approval Criteria of Title 33.

- *Adjustment* The adjustment request must comply with the Approval Criteria of 33.805.040 A-F.
- *Land Division* The proposed land division must comply with Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

## ANALYSIS

**Site and Vicinity:** The applicant's site is a 5,965 square-foot parcel that is located on the southeast corner of the intersection of SE 15<sup>th</sup> Avenue and SE Reedway. The property is developed with a 1½ story residence and garage that is centered on the site. The development plan for the property includes retention of the house but demolition of the garage. The house will be sited on a new lot 3 and the garage will be replaced by housing on lot 2.

The site is bordered by residences to the east and south. The residence to the east is sited approximately the same distance from SE Reedway just on the other side of the common property line. The residence to the south is closer to SE Ramona with a detached garage just across the common property line. The full block bounded by SE 15<sup>th</sup> and SE Milwaukie Boulevard and by SE Reedway and SE Ramona is split between a single dwelling neighborhood on roughly the west half of the block and apartment or commercial on the east half. On the west part of the block there are two houses that front on SE Reedway and three that front on SE Ramona. Across SE 15<sup>th</sup> Avenue are houses that overlook Oak's bottom.

**Zoning:** The site is zoned R1, Medium Density Multi-dwelling Residential. This zone allows up to one unit per 1,000 square feet of site area and requires a minimum of one unit per 1,450 square feet of site area.

The site also has a "d" or Design Overlay Zone. This zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

**Land Use History:** A previous land division request was made but withdrawn in 2007 (LU 07-135015).

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed April 2, 2009 and the revised proposal on **October 1, 2009**. Some service Bureaus have responded with no issues or standard conditions.

Other bureaus have responded with detailed comments or conditions. Please see Exhibits E1 – E7 in the case file for additional details.

**Neighborhood Review:** Notice for the proposed land division was mailed on April 2, 2009 and October 1, 2009. Twenty-two written responses were received from either the Neighborhood Association or notified property owners, in response to the original notice. A Revised Notice of Proposal in Your Neighborhood, which included the requested Adjustment to the front setback for proposed lot 3, was mailed on October 1, 2009. All of the responses that were received for both notices expressed concerns and were either directly opposed to the proposal or required additional studies and conditions to be met. The concerns expressed in these responses are summarized below:

- The proposal crams in four lots, which will result in tall, skinny houses that will block light and air and dwarf the remaining single-dwelling residence;
- The proposal is uncaring as to impacts on safety and livability, especially traffic and parking congestion. A Transportation Impact Study should be required;
- The density of number of allowed units and potential development is too great;
- The reduced setback is out of character with development pattern and changes the character of the neighborhood. The subdivision should be denied;
- Concerns regarding potential limits on on-street parking;
- Could plans for homes, with parking and driveways be reviewed prior to approval of subdivision?
- Concerns regarding storm water and waste water drainage plans and their impacts on the area;
- Concerns regarding the retention of existing trees and impacts on aesthetics, as well as soil stability in a landslide hazard area. An engineering study should be conducted to ensure that additional runoff will not make the ridge above Oaks Bottom less stable;
- Concerns that the proposal is not in keeping with a reasonable physical relationship between residences or reasonable outdoor areas and negatively impacts appearance and livability:
- Opposed to density and height allowed under R1 zoning since it is out of character with the older existing single-dwelling residences in the area;
- Belief that proposed lot 3 is not wide enough to accommodate the existing house, stating that the house is 31 feet, 4 inches wide, north to south, along SE 15<sup>th</sup> and the proposed lot is only 28 feet wide. States that lot 3 would have to be enlarged to accommodate the existing house and then asks whether minimum density would still be met;
- The measurements of the proposed subdivision do not add up to the current lot’s dimensions and that 500 square feet is unaccounted for in the proposal;
- States that the most northerly Cypress Tree is on City property and not on applicant’s land;
- The dogwood tree, located between proposed lots 1 and 2 should be retained;
- Doesn’t allow adequate separation for fire protection and access for firefighting.
- Can applicant ensure that the development of the lots will meet community design standards, so that they are compatible with existing development in the area?
- How and when was R-1 zoning adopted in this neighborhood? What was the process and how far does it extend along 15<sup>th</sup> Avenue?
- Commitment requested to have property owner work closely with the neighborhood on a design review to assure that any building constructed will comply with the applicable Community Design Standards.

*Staff Note: Neighborhood concerns about density, height and other neighborhood context issues are tied to the R1 zoning adopted as part of the 1997 Sellwood Neighborhood Plan. The plan adopted CM zoning along SE Milwaukie and R1d zoning along SE 15<sup>th</sup> Avenue as far west as the*

bluff. The Sellwood-Moreland plan also imposed the “d” design overlay zone on the site and all other sites in the R1 zone. In 2002 a new land division code changed lot minimum dimension standards and approval criteria. Zoning remained the same.

The rezoning to R1 intended that a site this size could be developed with 4 – 6 housing units. The existing house can be retained on one of the new lots as long as the zoning code’s development standards are met. As part of this review, staff identified one development standard that could not be met within the feasible constraints of remodeling/renovation. This is the new front yard setback requirement along SE 15<sup>th</sup> Avenue. The applicant has applied for this adjustment.

Other compatibility issues will be addressed as part of a future design review required of projects in the “d” overlay zone. The applicant must either meet the standards of Chapter 33.825 of the zoning code or ask for discretionary review and approval.

Transportation has reviewed the project and considered parking and access issues. Transportation has no objections (See Exhibit E3.)

The Bureau of Environmental Services and Site Development, Bureau of Development Services have required detailed analysis of stormwater management and have informed the applicant of issues relating to the location of the site east of the bluff overlooking Oak’s Bottom. The applicant has responded with information that satisfies both bureaus who have recommended approval with conditions.

The applicant submitted a survey that incorrectly indicated that Lot 3 is 1,400 sq. ft. in area. The applicant has corrected the figure to 1,900 sq. ft.

Although the applicant indicates that 4 trees will be considered for preservation, the vine maple is not a tree and one of the cypresses at the northeast corner appears to be exempt from consideration as it straddles the north property line. (See discussion regarding tree preservation requirements, approval criterion B).

## ZONING CODE APPROVAL CRITERIA

This report first addresses the adjustment request and then the land division proposal.

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

### 33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

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

**Findings:** Adjustment Request: Reduce the minimum front building setback from 3 feet (36 inches) to 27 inches for proposed lot 3. The purposes of building setback requirements are

- to maintain light, air, separation for fire protection, and access for fire fighting;

- to reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences;
- to promote options for privacy for neighboring properties, and
- to provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.
- Larger front setbacks are required to promote open, visually pleasing front yards.

In this case, the house is an existing structure that will maintain the same relationship to the street frontage that it has always held. The definition of the front lot line is a shortest street-facing property line. This means that the front lot line will change with approval of the subdivision from being along SE Reedway to being along SE 15<sup>th</sup> Avenue. Because the position of the structure will not change, the nine-inch reduction in the depth of the required setback will not have any effect on light, air, separation for fire protection or access for fire-fighting. There will not be any changes in privacy for the existing neighboring properties from this aspect of the proposal because the house will not be changing position. Approval of the request will allow residential infill to occur, in the character of the adopted R1 zone. Therefore, the proposed front setback equally meets the purposes of the regulation and this criterion is met.

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

**Findings:** This site is in a residential zone. The residential area is defined as the area from SE Ellis Street to SE Knight and west of RHd or CM zoning along SE Milwaukie. The residence on proposed Lot 3 is an existing part of the neighborhood fabric. The house has always faced SE 15<sup>th</sup> Avenue and will continue in its present location and relationship to the street. Although the property line between the house and street will be relabeled a front property line, no visual change will occur that would detract from the appearance or the livability of residential area as a result of the Adjustment request. Therefore, this criterion is met.

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

**Findings:** Only one Adjustment is being requested. Therefore, this criterion does not apply.

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

**Findings:** There are no scenic or historic resources on the site. Therefore, this criterion does not apply.

**E. Any impacts resulting from the adjustment are mitigated to the extent practical.**

**Findings:** No impacts are expected to occur from approval of the requested Adjustment because the position of the house on Lot 3, in relation to the street will not be changing. Therefore, this criterion does not apply.

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

**Findings:** The site is not located in an environmental zone. Therefore, this criterion does not apply.

**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>
A	33.612	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 when the minimum density for the site 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	Applicable - See findings below.
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 33.612 contains the lot standards applicable in the Multi-dwelling zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development

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

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 5,965 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. No new streets or public street dedications are proposed with this land division.

In this case, Lots 1 through 4 are proposed for residential development. Therefore, the density requirements for this site are calculated as follows:

Minimum = 5,965 (site area) ÷ 1,450 (minimum density from Table 120-3) = 4.11 (which rounds down to a minimum of 4 units, per 33.930.020.A).

Maximum = 5,965 (site area) ÷ 1,000 (maximum density from Table 120-3) = 5.96 (which rounds up to a maximum of 6 units, per 33.930.020.B).

The applicant is proposing 4 lots. The density standards are therefore met.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal. Lot 1 is a corner lot and Lot 3 is the largest lot, so these lots will be assigned a minimum of one unit and a maximum of two units. Lots 2 and 4 will be allowed a minimum and maximum of one unit.

#### Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

The R1 zone allows various housing types including detached and attached houses and duplexes. The dimensions of the proposed lots as compared to the required lot dimension standards for these housing types is shown in the following tables (listed in Chapter 33.612 of the Zoning Code; the standards listed below are those in effect at the time of application):

	<b>R1 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>	<b>Proposed Lot 3</b>	<b>Proposed Lot 4</b>
<b>Lots for Attached or Detached Houses</b>					
Minimum Lot Area	none	1,350	1,350	1,900	1,365
Minimum Lot Width*	none	27 ft.	27 ft.	38 ft.	27.3 ft.
Minimum Lot Depth	none	50 ft.	50 ft.	50. ft.	50 ft.
Minimum Front Lot Line	10 ft.	50 ft.	50 ft.	50 ft.	50 ft.

\*Width is measured from the midpoints of the side lot lines.

	<b>R1 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>	<b>Proposed Lot 3</b>	<b>Proposed Lot 4</b>
<b>Lots for Duplexes</b>					
Minimum Lot Area	none	1,350	1,350	1,900	1,365
Minimum Lot Width*	none	27 ft.	27 ft.	38 ft.	27.3 ft.
Minimum Lot Depth	none	50 ft.	50 ft.	50. ft.	50 ft.
Minimum Front Lot Line	10 ft.	50 ft.	50 ft.	50 ft.	50 ft.

\*Width is measured from the midpoints of the side lot lines.

The findings above describe how the applicable lot standards are 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 four trees on site, two cypresses, a dog wood and a vine maple. However, the land division code considers a vine maple a shrub rather than a tree. Also, Tree #1, a 8.7 inch cypress is exempt from consideration for preservation as the survey shows the tree straddling the property line. The following table indicates the revised proposal for tree preservation:

<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>2</b>	Cypress	10.5	No	No	Yes	6 ft.
<b>3</b>	Dogwood/Cornus florida	6.7	No	No	No	

The table indicates that the tree #2 cypress only will be preserved. 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 -- 10.5 inches divided by total 17.2 inches is 61% of trees on site to be preserved. The applicant has provided a Tree Preservation Plan (amended) that shows the preserved Cypress and the required root protection zone (Exhibit C-2).

**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. Also, stormwater overflow will be directed to the public sewer system rather than infiltration into the ground (See Exhibits E-1 and E-5). The cypress to be preserved is located at the northeast corner of the site and will be fenced off from construction. Construction will leave existing contours and drainage patterns intact as much as practicable. 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.**

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. City records indicate that the existing house connects to the public sanitary sewer in SE Reedway Street. Prior to final plat approval, the applicant must obtain final approval of a plumbing permit to cap and locate the existing sewer line. As discussed above, any additional stormwater will also be disposed via the public sewer system. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development once the sewer relocation is completed. Both Site Development and Bureau of Environmental Services have reported how the stormwater flow-through planters and public sewer system will function. With conditions of approval, this criterion is met.

**I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

*The solar access criteria are applied to proposed lots based on the orientation of the streets, as described below.*

**33.639.100, Solar Access Approval Criteria**

**On streets that are within 30 degrees of a true east-west axis, the narrowest lots should be interior lots on the south side of the street and corner lots on the north side of the street.**

**On streets that are within 30 degrees of a true north-south axis, the widest lots should be interior lots on the east or west side of the street [not applicable as Lots 1 – 4 form a single row of proposed lots north to south.]**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

In this case the site is on a corner, and fronts on both SE 15<sup>th</sup> Avenue. All of the proposed lots are on the east side of an north-south oriented street.

Lot 1 will be on the corner, but is not wider than interior lots to the south. Lot 2 is proposed to be identical in width, lot 3 will be 38 feet in width and lot 4 is 27.30 feet in width. Lot 3 cannot be any narrower because of the location of the existing lots. Lots 1, 2 and 4 can be adjusted in width but the code does not specify how much. With a condition of approval that lot 1 be adjusted to be wider than lots 2 and 4, 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 50 feet of frontage on SE Reedway Street and approximate 119 feet of frontage on SE 15<sup>th</sup> Avenue. Both streets are designated as Local Service Streets for all modes in the Transportation Element of the Comprehensive Plan.

SE Reedway Street and SE 15<sup>th</sup> Avenue both have existing 60-foot rights-of-way and are improved along the site frontages with 28-foot wide streets, curbs, and 6-foot wide sidewalks separated from the curb by 7.5-foot wide planter strips. The existing improvements on both streets meet City standards. City standards for City street, curb, and sidewalk improvements have been developed and adopted with the intent of providing safe infrastructure for all modes of transportation including vehicles, pedestrians, bicycles, and transit.

Portland Transportation has review street configuration of both rights-of-way and will require no street frontage improvements or right-of-way dedications:

- SE 15<sup>th</sup> Avenue

The existing 16-foot wide sidewalk corridor (0.5' curb, 7.5' planter, 6' sidewalk, 2' frontage zone) along the SE 15<sup>th</sup> Avenue site frontage exceeds the City's standard sidewalk corridor width for a local street. So, the 0.6 ft. encroachment does not affect the ability to maintain a satisfactory width. The current driveway may need to be reconfigured or relocated to access new development on lot 2. If the existing curbs and/or sidewalks along the site's SE 15<sup>th</sup> Avenue site frontage are in disrepair or become damaged during the development of the site, the applicant shall reconstruct the curbs and/or sidewalks to the standards of the City Engineer.

- SE Reedway Street

The existing 16-foot wide sidewalk corridor (0.5' curb, 7.5' planter, 6' sidewalk, 2' frontage zone) along the SE Reedway Street site frontage exceeds the City's standard sidewalk

corridor width for a local street. If the existing curbs and/or sidewalks along the site's SE Reedway Street site frontage are in disrepair or become damaged during the development of the site, the applicant shall reconstruct the curbs and/or sidewalks to the standards of the City Engineer.

The existing widths of SE Reedway Street and SE 15th Avenue are wide enough to accommodate parallel on-street parking on both sides of the street. Portland Transportation has responded that there are no significant on-street parking impacts expected with the subject land division. Also, there are no major transportation-related neighborhood impacts expected from the land division. Given that Lot 1 has only 27 feet of street frontage and access from SE Reedway is foreclosed by tree preservation considerations (the two cypresses are growing in the northeast corner of lot 1), a SE 15<sup>th</sup> Avenue curb cut should be located as far south as possible.

Transit service is provided by TriMet less than ¼ mile from the subject site on SE Milwaukie Avenue (bus line 19) and on SE 17th Avenue (bus line 70) with bus stops located at SE Milwaukie Avenue/SE Ramona Street and at SE 17th Avenue/SE Knight Street. Bus line 70 provides frequent service.

The proposed land division is expected to generate approximately 30 additional daily vehicle trips with three of the additional trips occurring in each of the AM and PM peak hours onto the surrounding transportation system. A traffic impact study was not required for this land division. Because of the well connected grid pattern of streets in the vicinity of the site the three additional vehicle trips expected during the peak hours may take a variety of routes to or from the site, or some of the three trips may be offset by transit usage. The impacts to area intersections from three potential peak hour trip are expected to be de minimis.

In consideration of the proximity of transit, the limited increase in traffic anticipated, and the availability of alternative routes for vehicles to access the subject site Portland Transportation concludes that the transportation system can support the proposed development for all of the stated evaluation factors.

With the conditions 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. There is an existing 5/8-inch metered service which provides water to the existing residence on the site from the 6-inch water main in SE Reedway Street. The Water Bureau responds that existing service is adequate to provide water to Lot 1, the furthest north of the proposed new lots. Prior to Final Plat approval, a new service will need to be purchased for the house on Lot 3 to connect to the main in SE 15<sup>th</sup> Avenue.
- There is water available from the 6-inch water main in SE 15th Avenue. Proposed Lots 2, 3, and 4 will get their water from the 6-inch water main in SE 15th Avenue. This includes the existing residence.

City code requires metered water services to be installed in the public right-of-way, adjacent to the properties they are to serve. The applicant will be required to purchase the new water services from the Water Bureau. Fees for this will be calculated at the time of Building Permit application, with fees added directly to the Building Permit.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 16-inch public sanitary-only sewer located in SE 15th Avenue and SE Reedway Street. According to City plumbing records, the 16-inch sanitary sewer located in SE Reedway Street currently

serves the sanitary disposal needs of the existing house (proposed Lot 3) by means of an existing service branch located approximately 64 feet from the manhole west of this property in the intersection of SE Reedway Street and SE 15th Avenue (refer to BES As-built #2-0554).

Each lot must be shown to have a means of access and individual connection to the public sanitary sewer system, as approved by BES, and must be shown on a site plan prior to final plat approval. New service branches to the main line in SE Reedway Street and/or SE 15th Avenue will be required to be constructed to serve the proposed development at the applicant's or owner's expense at the time of development.

The existing service branch to the existing house on proposed Lot 3 must be capped and a new service must be established. Permits for this work must be obtained and finalized prior to final plat approval.

- 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 A), and the Bureaus have responded as follows (Exhibits E-1 and E-5)

- There is no public storm-only sewer available to this property.
- Site Development has determined that the center of this property is located approximately 185 feet from the edge of the bluff west of the site. The site is within the required 200-foot setback from the slope. The slope exceeds 10 feet in height and is steeper than 2H:1V

(shown in Exhibit 2-1 of the 2008 Stormwater Management Manual). Site Development cannot support on-site infiltration of stormwater and stormwater from these lots will be directed to individual flow-through planters that connect to the public system.

- Site Development has reviewed the revised stormwater information provided by the applicant and BES has confirmed that the proposed flow-through planter sizing is adequate and that overflow connections to the public sewer system can be provided. The conceptual plan provided is acceptable for the purposes of this land-use review. However, a more detailed plan will be required at the time of permit review to install a stormwater system retrofit for the existing house on Lot 3; this work should be included in the permit to remodel the existing house to remove the attached garage. Prior to final plat approval: 1) all gutters and downspouts on the existing house shall be modified as needed so they are in good working order and all stormwater shall be directed to the new flow-through planter system, 2) required permits to install the stormwater retrofit system shall be finalized, and 3) the as-built location of the system shall be shown on a supplemental plan.

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.

### **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>
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
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 new street 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	Applicable - See findings below.
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.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
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 15<sup>th</sup> Avenue and SE Reedway and only extends 50 feet in an east-west direction and 119 feet in a north-south direction. Spacing standards listed above are always met on a corner site of this dimension because the site is at the corner and is smaller than the minimum spacing required.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

The only new through pedestrian connections included in the proposal are new sidewalks along the frontage of the site. This is a straight-line connection on which users will be able to see the ending of the pedestrian route from the entrance.

For the reasons described above, this criterion is met.

**Utility Location, Extension of Streets, Partial Rights of Way**

**33.654.130 Additional Approval Criteria for Rights-of-Way**

**A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.**

**Findings:** Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the proposed \*-foot width of the private street tract or right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the street tract or right-of-way have been identified as being necessary. Therefore, this criterion is 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 is 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.

Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

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

- **33.218 Community Design Standards**

The applicant has not provided staff with sufficient information to review these standards to see if they are met. As an alternative, the applicant can apply for discretionary design review (Chapter 33.825).

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Lot 3. 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 R1d zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment. (Please see section on Other Technical Standards for Building Code standards.)

- Street-Facing Facades in the Multi-Dwelling Zones -- In this zone, street-facing facades of buildings that contain any residential floor area are required to have windows and/or main entrance doors that comprise at least 15 percent of the façade area. The existing house encroaches into the SE 15<sup>th</sup> Avenue right-of-way. Any alternations that are proposed must meet zoning code development standards.

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 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
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 the Fire Bureau in regards to aerial fire department access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Lot 3 prior to final plat approval. This requirement is based on the standards of Title 20.

## CONCLUSIONS

The applicant has proposed a 4 lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). As five reports from Site Development and BES indicate, the applicant was able to satisfy bureau review relating to stormwater by providing flow through planters that discharge stormwater to the public sewer system.

The neighborhood association and many neighbors have raised concerns raised by City adoption of the 1997 Sellwood-Moreland plan and the 2002 revisions to the land division code. However, R1 zoning is not subject to review. And, future compatibility issues are further “downstream” at the time of development. As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 4-lot subdivision that will result in four lots, with an existing house to be located on Lot 3.

**Approval** of an adjustment to reduce the minimum front building setback for the existing house on Lot 3 from three feet (36 inches) to 27 inches (33.120.220.B)

The approved plan is illustrated by Exhibit C-3 and is subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed interior side setbacks for all of the lots if the reduced setback provisions of Section 33.120.270.D.1 are intended to be used.
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots. For the existing house on Lot 3, the as-built location of the stormwater system retrofit facilities and new sewer line shall be shown on a supplemental plan after required inspections are approved and permits are finalized. The Supplemental Plan must show two connections to the public sewer main in SE 15th for Lot 3
- Any other information specifically noted in the conditions listed below.

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

1. The Final Plat must show Lot 1 to be wider than Lots 2 and 4.

**Utilities**

2. Unless otherwise approved by Site Development, final approval of required permits to install a stormwater system retrofit for the existing house on Lot 3 shall be required prior to final plat approval.
3. Prior to Final Plat approval, the existing sewer service branch must be capped and a new service must be established for Lot 3. Permits for this work must be obtained and finalized prior to final plat approval.
4. The applicant will be required to purchase a new metered service for the existing residence, on proposed lot 3.

**Existing Development**

5. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Lot 3 that demonstrates compliance with the following standards in relation to the proposed new lot lines:
  - 33.120.232.B (standards for Street-Facing Facades in the Multi-Dwelling zones);
6. The applicant must meet the requirements of Site Development for the stormwater systems and new sewer line for the existing house to remain on Lot 3 (see Supplemental Plan condition of approval, above)

7. The applicant must plant one street tree in the planter strip on SE 15<sup>th</sup> Avenue adjacent to Lot 3. Street trees will be chosen from the City’s approved street tree list for 7-8- 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 Lot 1 shall be in conformance with the Tree Preservation Plan (Exhibit A.2) and the applicant's arborist report (Exhibit C-2). Specifically, tree number 2 is required to be preserved, with the root protection zones 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. The report from an arborist and any revisions to permit plans reflecting new root protection zones must be submitted and approved by Planning and Zoning prior to any working occurring in the root protection zone. If work is conducted in the RPZ and Planning & Zoning approval is not obtained before the work begins and the tree subsequently falls, it may result in a violation.
2. The minimum and maximum density for the lots in this land division are as follows:

Lot	Minimum Density	Maximum Density
1	1	2
2	1	1
3	1	2
4	1	1

3. If the existing curbs and/or sidewalks along the site’s street frontage are in disrepair or become damaged during the development of the site, the applicant shall reconstruct the curbs and/or sidewalks to the standards of the City Engineer.

**Staff Planner: Mark Bello**

**Decision rendered by:**  **on January 25, 2010**  
 By authority of the Director of the Bureau of Development Services

**Decision mailed January 27, 2010**

**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 10, 2008, and was determined to be complete on March 30, 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 November 10, 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 waived the 120-day review period, as stated with Exhibit (Exhibit G4). Unless further extended by the applicant, **the 120 days will expire on: March 30, 2010.**

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 10, 2010** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us) .

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

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

**Recording the final decision.**

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **February 11, 2009 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

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

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

For further information on your recording documents please call the Bureau of Development Services Land Use Review Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.

**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 City Planning Director, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**Recording other land use decisions.** If the preliminary land division approval also contains approval of other land use decisions (examples include adjustments, conditional uses, and environmental reviews), these other approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

The applicant, builder, or their representative may record the final decisions on these other land use decisions as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

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

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - A.1 Narrative
  - A.2 Tree Report
  - A.3 Supplementary Material regarding stormwater
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Tree Plan (attached)
  - 3. Preliminary Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
    - 1.1 May 4, 2009
    - 1.2 October 29, 2009
    - 1.3 January 12, 2010
    - 1.4 January 20, 2010
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
    - 3.1 April 28, 2009
    - 3.2 October 27, 2009
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
    - 5.1 April 8, 2009

5.2 May 5, 2009

5.3 January 8, 2010

5.4 January 20, 2010

6. Bureau of Parks, Forestry Division

7. Bureau of Development Review, Fire & Life Safety

F. Correspondence:

Use this format.

1. Joyce and Stanley Lee, April 23, 2009

2. Joyce Lee, April 25, 2009

3. Lisa Yeo, April 30, 2009

4. Ruth Williams, May 1, 2009

5. Gerald and Janice Bondy, May 2, 2009

6. Mat Millenbach, Chair, Land Use Committee, SMILE, May 3, 2009

7. Mark Simpson and Shari Dougal, May 2009

8. Stephen Johnsrud, May 4, 2009

9. Darian and Sarah Santner, May 4, 2009

10. John K. Ankeney and Rosemarie Evans, May 4, 2009

11. Meg Goldberg, May 4, 2009

12. Gregg and Kay Seiler, May 2, 2009

13. Joyce Lee and Stanley Lee, October 14, 2009

14. Ruth Williams, October 23, 2009

15. Tracy Klein and mark Magee, October 24, 2009

16. John K. Ankeney and Rosemarie Evans, October 27, 2009

17. Darian Santner, October 27, 2009

18. Rachael Rischar, October 29, 2010

19. Patrick McCormick and Meg Goldberg, October 29, 2009

20. Caroline Lehmkuh, October 29, 2009

21. Lisa Yao, October 29, 2009

22. Mat Millenbach, undated

G. Other:

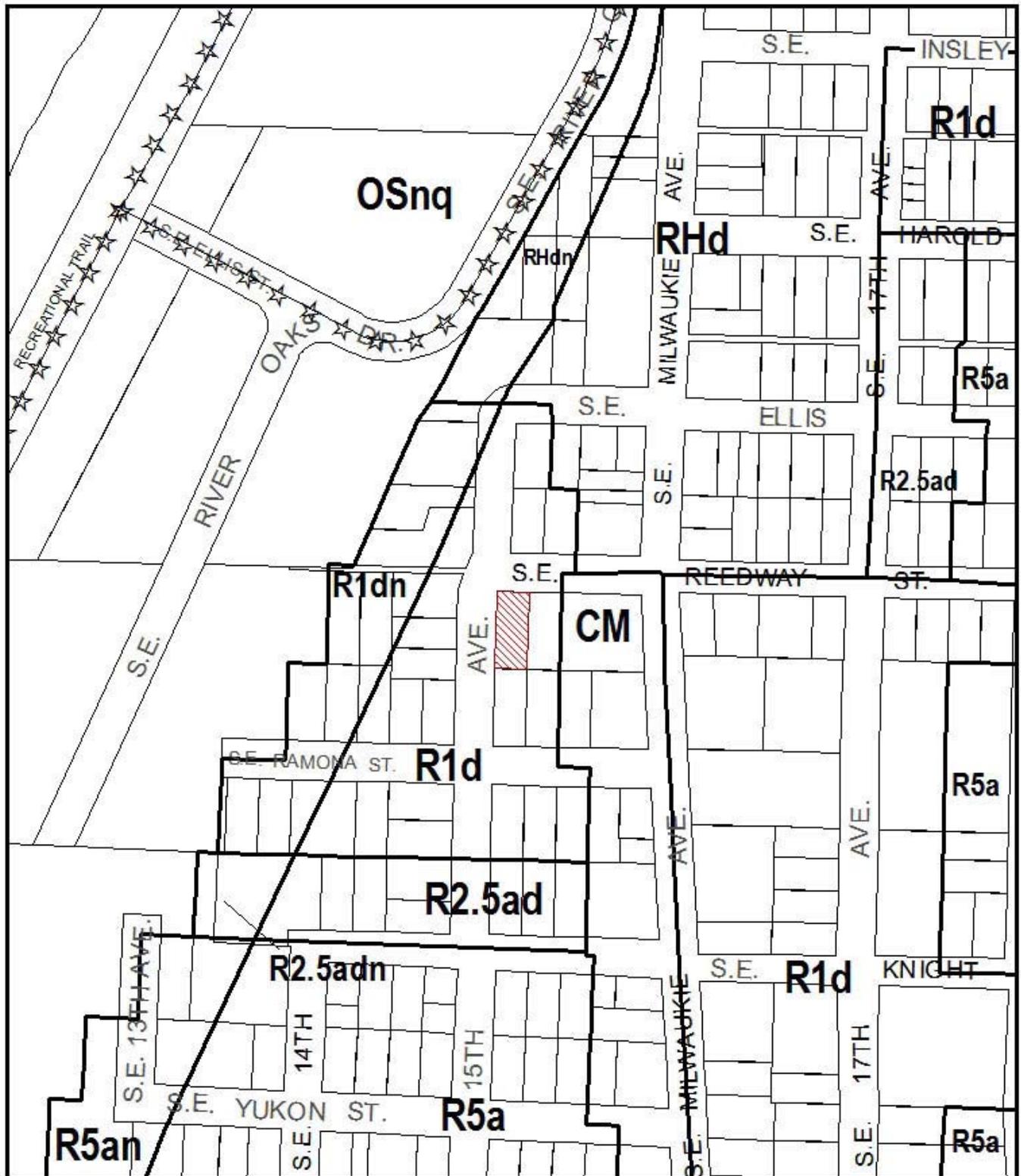
1. Original LU Application

2. Site History Research

3. Incomplete Letter, December 2, 2008

4. Applicant request for time extension

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING



Site



NORTH

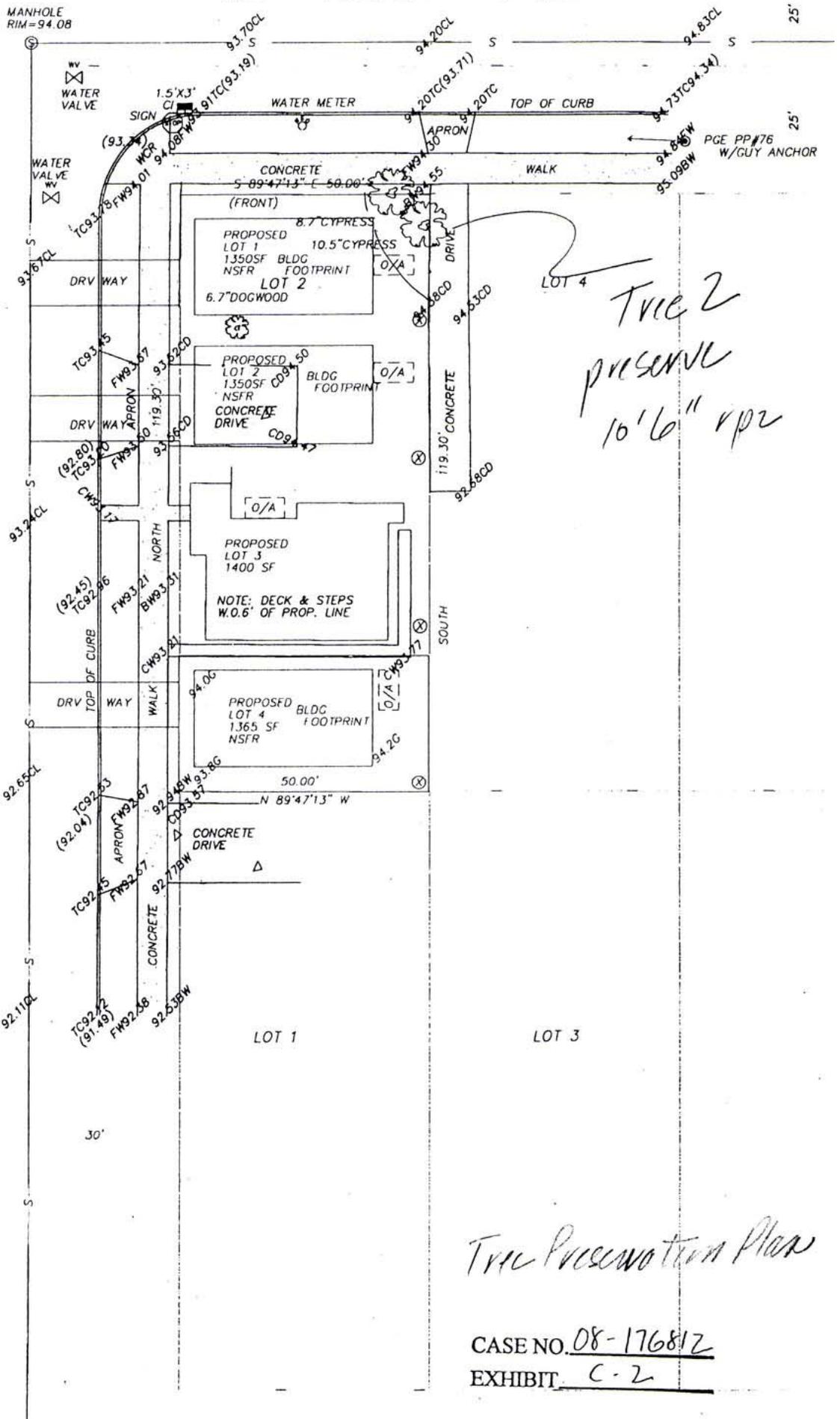
File No.	<u>LU 08-176812 LDS AD</u>
1/4 Section	<u>3632</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E14DB 10500</u>
Exhibit	<u>B (Sep 29, 2009)</u>



S.E. REEDWAY STREET

PGE PP#9867

S.E. 15TH AVENUE



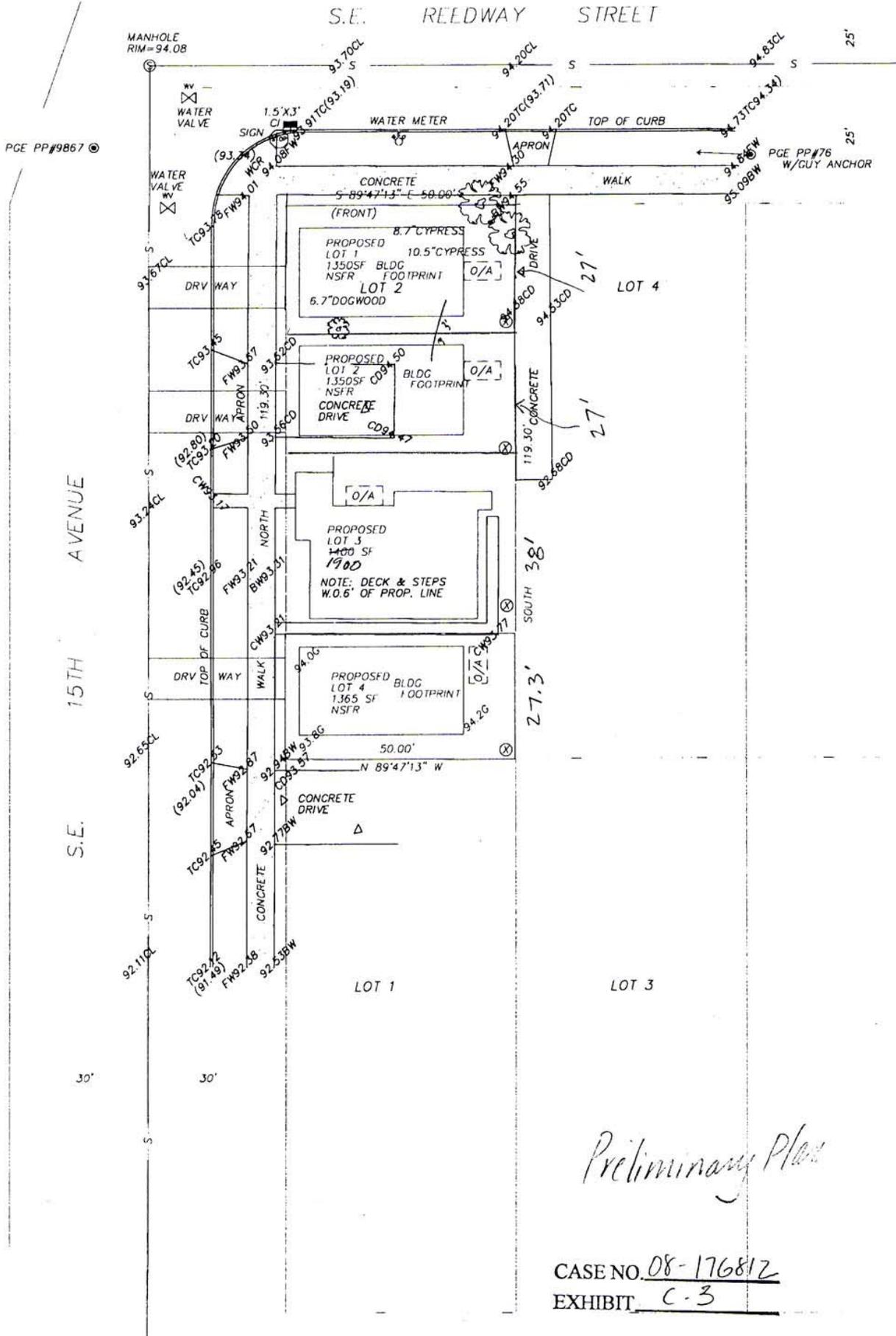
Tree 2  
 present  
 10'6" rpr

Tree Preservation Plan

CASE NO. 08-176812  
 EXHIBIT C-2

PGE PP#9867

PGE PP#76  
W/GUY ANCHOR



*Preliminary Plan*

CASE NO. 08-176812  
EXHIBIT C-3