



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: October 11, 2012
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NOTICE OF A TYPE II_x 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-150927 LDS

GENERAL INFORMATION

Applicant: Guy Bryant, GPB Development LLC
6027 SE Main Street
Portland OR 97215

Site Address: 1730 NE Schuyler Street

Legal Description: BLOCK 12 LOT 9 W 1/2 OF LOT 10, JOHN IRVINGS 1ST ADD
Tax Account No.: R430303540
State ID No.: 1N1E26DC 05500
Quarter Section: 2832

Neighborhood: Irvington, Dean Gisvold as 503-284-3885
District Coalition: Northeast Coalition of Neighborhoods, Chris Lopez at 503-823-4575

Zoning: Multi-Dwelling Residential 1,000 (R1)
Alternative Design Density (a) overlay

Plan District: Albina Community
Other Designations: Irvington Historic District

Case Type: Land Division-Subdivision (LDS)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer

Proposal: The applicant proposes a **Land Division-Subdivision** to divide a 7,500-square foot property into 5 lots. Lots 1 and 5 are proposed to be 1,750 square feet, and Lots 2, 3, and 4 are proposed to be 1,350 square feet. The applicant plans to develop the property with 5 attached houses (*to be evaluated through a separate Type III Historic Design Review*). Vehicular access to the residential units is proposed from NE Schuyler via a shared driveway on the east side of the site. The driveway is to be placed in a shared access and utility easement. A private sewer easement is proposed on the west side of the property, as well.

This subdivision proposal is reviewed through a Type II_x procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 5 units of land (5 lots). Therefore this land division is considered a subdivision.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The subject site is a 7,500 square foot lot located on the southeast corner of the intersection of NE Schuyler Street and NE 17th Avenue, within the *Irvington Historic District*. The site was occupied by a single dwelling residence, which was moved to a different location in 2004, so the site is currently vacant.

The site slopes down from the east to the west, with an overall grade change of approximately 5 percent across the site. The overall site grade is approximately three to four feet above the grade of the adjacent sidewalks.

Two large Horsechestnut street trees are located along the NE 17th Avenue frontage, and two smaller street trees are located on the NE Schuyler Street frontage.

Directly across from the site on both NE 17th and NE Schuyler, there are two-story multi-unit buildings. The *Westminster Presbyterian Church*, built in 1914, is located diagonally across the street from the site. The church is designated as a historic landmark. Other surrounding development includes a commercial corridor along NE Broadway, and mix of single and multi-dwelling development within a two block radius.

Infrastructure:

Streets: The site is located in an area with a well developed street grid. NE 17th Avenue and NE Schuyler Street are designated Bikeways and Local Service Walkways by the Transportation System Plan. NE Broadway, half a block to the south, is classified as a Regional Main Street, transit street, bikeway, and city walkway. The nearest transit stop to the site is on the northeast corner of Broadway and 17th, providing service for the #9 and #77 TriMet bus routes.

The site has approximately 75 feet of frontage on NE Schuyler Street, and approximately 100 feet of frontage along NE 17th Avenue. NE Schuyler is currently improved with a 24-foot roadway and a 4-foot planter (with 2 street trees) and a 6-foot sidewalk in a 56-foot right-of-way. NE 17th is currently improved with 36-foot paved roadway and an 8-foot planter (with 2 street trees) and 6-foot sidewalk in a 60-foot right-of-way. Parking is currently allowed on both sides of the abutting streets.

Water Service: There is an existing 8-inch CI water main in NE 17th Avenue. There is also water available to Lot 1 from the existing 6-inch CI water main in NE Schuyler Street.

Sanitary Service: There are existing public vitrified clay combined sewers in NE 17th Avenue (20-inch) and NE Schuyler Street (16-inch).

Zoning: The site is located in the **Multi Dwelling Residential 1,000 (R1)** zone, and within the **Alternative Design Density (a)** overlay. In addition, the site is within the **Irvington Conservation District**, which is part of the **Historic Resource Protection** overlay zone. The site is also within the **Albina Community Plan District**.

The R1 zone is a medium-density multi-dwelling zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes,

townhouses, and rowhouses.

The purpose of the Alternative Design Density (a) overlay is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. *The proposal does not include the use any of the provisions of this overlay zone.*

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks. The regulations that pertain to these properties protect certain historic resources in the region and preserve significant parts of the region's heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties. *New development on the site will be subject to Historic Design Review through a separate land use review.*

The Albina Community Plan District implements the Albina Community Plan. The plan district is intended to ensure that new higher-density commercial and industrial developments do not overwhelm nearby residential areas. Infill housing compatibility and affordability is encouraged by eliminating off-street parking requirements for small multi-dwelling housing projects. *The proposal does not include the use any of the provisions of this plan district.*

Land Use History: As noted in the Site History Research (Exhibit G.2), city records indicate that three prior land use reviews occurred at this site. Two cases were withdrawn. The third is void, since no action was taken to implement the approved development within the allowed time frame.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits "E" for details.

Neighborhood Review: A *Notice of Proposal in Your Neighborhood* was mailed on **July 27, 2012**. Seven written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

Four emails were received from Dean Gisvold, the land use chair for the Irvington neighborhood association (*Irvington Community Association*). The first two noted general objections to the application, based, in part, on having limited materials about the proposal. Following his review of additional application materials and a meeting with the applicant, Mr Gisvold provided a third letter. That letter notes general support for the proposal, subject to the Historic Design Review process, and for preservation of the 2 large street trees along the site frontage on NE 17th Avenue.

In three other letters (emails) from notified neighbors, the primary concerns are related to the preservation of street trees along NE 17th Avenue, the installation of new street trees along NE Schuyler, and stormwater management for the proposed development.

Staff response: All the letters have been provided to the applicant to foster further communication. Requirements related to the preservation and installation of street trees are regulated by Urban Forestry, and are address in the Other Technical Requirements section, below. Stormwater management requirements are addressed in Criterion L, below, and in the comments provided by the Bureau of Environmental Services (Exhibit E.1). New development on the site will be subject to Historic Design Review through a separate land use review.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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 criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No trees were identified on the plans provided in the land division application. After the application was submitted, BDS staff conducted a site visit and noted a tree trunk and branches in the northeast corner of the site. Urban Forestry staff, who also visited the site, determined that the trunk and branches were that of an apple tree. Urban Forestry staff noted the tree appeared diseased, so the tree would have been exempt from the Tree Preservation regulations. Based on these factors, the tree could have been removed with no replacement or mitigation requirements. As such, at the time of this review, no significant trees or trees in excess of 6 inches in diameter were located fully on the site.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	No pedestrian connections are proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

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 density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 5 lots for attached housing in the R1 zone.

For sites less than 10,000 square feet in area, the minimum density in the R1 zone is one unit per 2,000 square feet and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is 7,500 square feet, so the site has a minimum required density of 4 units and a maximum density of 7 units.

The required and proposed lot dimensions are shown in the following table:

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Attached Houses	none	15	none	15
Duplexes	none	none	none	10
Lot 1	1,725	23	75	23
Lot 2	1,350	18	75	18
Lot 3	1,350	18	75	18
Lot 4	1,350	18	75	18

Lot 5	1,725	23	75	23
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In this case, the proposed lots meet the R1 lot dimension standards for both attached houses and duplexes. However, if each of the 5 lots were developed with a duplex that would result in a density of 10 units. Similarly, if Lot 1 and 5 (the widest lots) were further divided into duplex lots that could result in an overall density of 11 units. Each of these scenarios would exceed the maximum allowed density of 7 units. Therefore, it is necessary to allocate the minimum and maximum density on each lot, to avoid development or further division of lots that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

Since Lots 1 and 5 are the widest lots, the applicant proposes to allocate one additional unit of density to each of those lots. As such, Lots 1 and 5 will have a maximum density of 2 units. In the event Lots 1 and 5 are proposed to be developed with duplexes, the applicable development standards must be met at that time. Presently, duplexes cannot be attached to structures with more than 4 total units (33.120.270.F.3).

With conditions regarding the allocation of density for each lot, this criterion will be met.

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

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.

Clearing and Grading: In this case, the site is not located within the Potential Landslide Hazard Area. The site grades are somewhat irregular currently due, in part, to the demolition of the prior development. Generally, the majority of the site is approximately three to four feet above the adjacent sidewalk grade, with a down slope (less than 5 percent grade) from the east to the west. The site will require grading for the proposed driveway and to accommodate the proposed building foundation and utilities. However, no significant clearing or grading will be required to make the new lots developable. In addition, there are no trees on the site, which are required to be preserved.

However, as noted in the response from Urban Forestry, protection measures must be in place for the two large street trees along the NE 17th Avenue frontage, during any work activities within the root protection zone. These requirements are addressed in more detail in the *Other Technical Requirements* section, below.

Land Suitability: The site was formerly in residential use, but the house was removed in 2004, and there is no record of any other use in the past. As indicated above, the site topography is irregular, but it is not known to contain geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development.

Based on these factors, this criterion is met.

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

Findings: No tracts are proposed or required for this land division. The following easements are proposed and/or required for this land division:

- A Shared Driveway/Reciprocal Access Easement is proposed to allow shared use of a driveway that will cross Lots 1 through 5;
- A Private Storm Sewer Easement is required across the relevant portions of Lots 1 through 5 for all shared stormwater management facilities.

- A Private Sanitary Sewer Easement is required to allow a private sanitary sewer manhole to serve Lots 1 through 5 and provide a single point of connection to the public sanitary sewer.

As noted in the comments from the Bureau of Environmental Services, Plumbing Code appeals must be approved to allow shared stormwater management and sanitary sewer facilities. The applicant has obtained approval of a Plumbing Code appeal for the shared sanitary sewer facilities; and, as discussed in the section regarding Stormwater Management, below, an appeal must also be obtained for the shared stormwater management system.

Further, to ensure the size of the shared driveway easement is sufficient for the intended use, the applicant must demonstrate that vehicles can maneuver safely within the area allocated for that use. To address this requirement, the applicant submitted a *Circulation and Parking Study* prepared by Kittelson & Associates (Exhibit A.2) which includes turning templates for compact and mid-sized vehicles. The study indicates that the proposed on-site circulation system can serve the development for the majority of vehicle types anticipated, *provided the garage doors are at least 12-feet in width.*

In this situation, the development on the site is subject to Historic Design Review, and that review has not yet been completed. The size and location of the new residential structures, including the size of the shared driveway and garage doors will be evaluated through that review. As such, the size of the garage doors and the size of the shared driveway may be subject to change.

Therefore, a condition is warranted which requires that the applicant must demonstrate that the Historic Design Review has been approved, and the approval includes plans which provide garage doors of sufficient width and a shared driveway of sufficient size to provide safe and efficient maneuvering into and out of each on-site parking space, in accordance with the recommendations of the Kittelson & Associates *Circulation and Parking Study* (Exhibit A.2).

In the event the size of the shared driveway changes based on the Historic Design Review decision, the size of the shared driveway easement may be changed to match. Or, if all on-site parking is eliminated from the proposal (as none is presently required at this location), then a shared driveway easement will not be required.

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

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

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

- K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**
L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

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. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.

The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in NE 17th Avenue.

The preliminary utility plan currently shows new water service locations for each lot through the root zones of the two street trees on the NE 17th. As noted in the comments from Urban Forestry, and addressed in *Other Technical Requirements* section, below, these trees are to be protected and any work within the root zones is subject to review and approval by Urban Forestry.

33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.

The sanitary sewer standards of 33.652 have been verified. There are existing public vitrified clay combined sewers ins NE 17th Avenue (20-inch) and NE Schuyler (16-inch) that can serve the sanitary needs of the proposed lots, subject to conditions noted below.

The applicant proposed to re-use an existing 4-inch cast iron lateral that served the previous development on the site. The applicant requested 3 plumbing code appeals to allow that existing lateral to be used for a shared sanitary sewer manhole to serve the 5 proposed lots, and to allow the sanitary services for the lots to be located within a private easement. The first two appeals were denied; however, the third appeal request was granted provided the shared lateral is changed from a 4-inch to a 6-inch line. As noted in the response from BES: *It is the current understanding of staff that the appeal decision allows flexibility in the location of the shared manhole and 6-inch lateral (provided they will be located appropriately within the proposed easement); therefore staff recommends that the manhole and 6-inch lateral be constructed in a location that results in the least amount of interference with the root systems of the existing street trees, to the satisfaction of Urban Forestry.* Additionally, BES recommends that *prior to final plat approval, the applicant must submit a revised supplemental/ utility plan showing that the shared sanitary manhole will connect to the public sewer via a 6-inch line in a manner that is consistent with the decisions issued in BDS plumbing code appeals 9094-9098.*

Further, any easement for shared sanitary sewer facilities must be provided on the Final Plat; and 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.

33.653.020 & .030 Stormwater Management criteria and standards– See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater, subject to the conditions below.

The applicant proposes to discharge all on-site runoff into a single drywell. The driveway runoff will be treated in flow-through planters, before discharging to the drywell. As outlined in detail in the BES response: *BES staff finds the planters acceptable for the purpose of preliminary approval because they are close to the required minimum sizing and because the purpose of the planters are for treatment only (i.e. not detention) since the ultimate disposal point will be in a drywell. However, prior to final plat approval the applicant must provide either: a completed Simplified Approach form and a correspondingly revised supplemental/ utility plan to demonstrate that the project will meet minimum Simplified sizing; or a Presumptive or Performance approach stormwater report to document that the planters will be sized adequately to provide water quality benefits only. Additionally, prior to final plat approval, the applicant must either obtain approval of a plumbing code appeal for the shared stormwater system from BDS, or submit a revised supplemental/ utility plan and stormwater report to indicate how individual systems will be provided for each lot to the satisfaction of BES and BDS.*

Additionally, BES notes that the Oregon Department of Environmental Quality (DEQ) regulates underground injection control (UIC) facilities to protect groundwater. Drywells and soakage trenches are examples of UICs. It is the applicant's responsibility to register all on-site UICs with DEQ, as appropriate.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030

33.654.120.C Width and Design of the street right-of-way**33.654.130.D Partial Rights of way**

Portland Transportation reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services, and provided the following comments:

At this location, both NE Schuyler and NE 17th are classified as Local Service Streets for all modes and are improved to current City standards. No dedications or street improvements are required other than repairing any damaged sidewalk sections and installing street trees as needed.

The applicant traffic engineer, Kittelson & Associates, have provided information related to trip generation, on-street parking impacts, and a circulation analyses of the on-site driveway and parking spaces. The project can expect to generate 30 trips during a typical weekday, of which 2 will occur during and AM Peak Period and 3 during the PM Peak Period. This relatively small amount of Peak Period traffic will not have any significant impacts on local street levels of service that warrants any mitigation. The site is located within 100 feet of Tri Met Line 9 and 77, and Line 8 is within 500-feet.

On-street parking impacts: Each unit will have an on-site parking space. The site also has 175-feet of frontage on the two streets where approximately 6-7 on-street parking are located. With the close proximity to excellent transit service, and within a fully developed multi-modal street system, the project should not have any impacts on the availability of on-street parking to neighboring residents or businesses.

PBOT finds that the transportation system can safely support the proposal in addition to existing uses in the area.

Based on these factors, this criterion is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. In the event an easement may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways, the easement may be provided on the final plat. As such, this criterion will be met.

DEVELOPMENT STANDARDS

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.

Future Development The applicant plans to develop the property with 5 attached houses. In addition to the various Multi-Dwelling (R1) development standards that will be applicable to this lot, the development will also be subject to a Type III Historic Design Review, since the site is located in the Irvington Historic District.

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 and Topic
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 - Water availability
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 - Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17, Transportation System Plan Design of public street
Development Services/503-823-7300 www.portlandonline.com/bds	Titles 24 -27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets

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.

Fire Bureau: The applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow/water supply, addressing, and aerial fire department access road. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

Urban Forestry: As outlined in the response from Urban Forestry, there are two street trees along the NE 17th Avenue frontage will be affected by the project. No limb pruning or root pruning of these trees may be done without a Tree Pruning Permit from the City Forester. Additionally, any excavation on the subject property or the public right-of-way that will occur within the root zone of these street trees must be approved by Portland Parks and Recreation/Urban Forestry. The two street trees along the NE Schuyler frontage will be removed and replaced after the building permit has been issued. A written permit from the City Forester is required to remove, destroy, cut, break or injure any tree of any size in a street or public area, as detailed in Title 20.40.090.D. These requirements are based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 5-lot subdivision, 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:

- Private easements for shared access and utilities, which are contingent upon the decisions for the Plumbing Code appeals and Historic Design Review
- Maintenance agreements for the easements
- Allocation of density

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

Additionally, in response to the neighborhood concerns regarding street trees, the management of those trees will be addressed through Urban Forestry regulations at time of development. The concerns about stormwater management will be addressed through conditions required prior to final plat, and through implementation of the Stormwater Management Manual regulations at the time of permit review. The specific development on the site will be subject to Historic Design Review, and the neighbors and neighborhood association will be notified about that land use review, and interested parties will have an opportunity to comment on the development proposal at that time.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 5-lot subdivision, that will result in 3 lots (Lots 2, 3 and 4) for attached houses and 2 lots (Lots 1 and 5) for attached houses or duplexes, with easements for shared access and utilities, as illustrated with Exhibit C.1, subject to the following conditions:

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

- The proposed general location of future building footprints and sanitary sewer and stormwater management facilities and water services for each of the lots.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. If on-site parking is provided, a minimum 20-foot wide Shared Driveway/Reciprocal Access Easement shall be shown and labeled on the final plat, extending from NE Schuyler Street and adjacent to the rear lot lines of Lots 1 through 5, in accordance with the plans required per Conditions C.6. The easement shall allow shared use of this area for all purposes for which a driveway would typically be used.
2. A private sanitary sewer easement, for the benefit of Lots 1 through 5, shall be shown and labeled over the relevant portions of Lots 1 through 5.
3. A private storm sewer easement, for the benefit of Lots 1 through 5, shall be shown and labeled over the relevant portions of Lots 1 through 5.
4. A recording block for each of the legal documents such as maintenance agreement(s), or acknowledgement of special land use conditions, as required by Condition C.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Utilities

1. The applicant must submit a revised supplemental/utility plan showing that the shared sanitary manhole will connect to the public sewer via a 6" line in a manner that is consistent with the decisions issued in BDS plumbing code appeals 9094-9098.
2. The applicant must provide to the satisfaction of BES either:
 - a) a completed Simplified Approach form and a correspondingly revised supplemental/utility plan to demonstrate that the project will meet minimum Simplified Approach stormwater sizing; or
 - b) a Presumptive or Performance approach stormwater report and a correspondingly revised supplemental/utility plan to document that the planters will be sized to provide adequate water quality treatment.
3. The applicant must either obtain BDS approval of a plumbing code appeal for the shared stormwater system, or submit a revised supplemental/utility plan and stormwater report to indicate how individual stormwater systems will be provided for each lot to the satisfaction of BES and BDS.
4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire

Bureau to demonstrate that Appendix B of the Fire Code is met; an exception is used; or an approved Fire Code Appeal has been granted.

Required Legal Documents

5. A Maintenance Agreement shall be executed for the Shared Driveway/Reciprocal Access, Private Sanitary Sewer, and Private Stormwater Management Easements described in Condition B above. Each agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. Each agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Other requirements

6. The applicant must demonstrate that a Historic Design Review has been approved for the proposed development, and the approval includes plans which provide garage doors of sufficient width and a shared driveway of sufficient size to provide safe and efficient maneuvering into and out of each on-site parking space, in accordance with the recommendations of the Kittelson & Associates *Circulation and Parking Study* (Exhibit A.2). In the event the size of the shared driveway and maneuvering area changes based on the Historic Design Review decision, the size of the shared driveway easement may be changed to match.

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

1. 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	1
4	1	1
5	1	2
Total	5	7

2. The applicant must provide addresses for the structures and an aerial fire department access way to the satisfaction of the Fire Bureau.
3. Street trees must be managed in accordance with city tree codes. No limb pruning or root pruning of street trees may be done without a Tree Pruning Permit from the City Forester. Any excavation in the City right-of-way or on the project site that will occur within the root zone of the street trees must be approved by Portland Parks and Recreation. Call City Nature/Urban Forestry (503) 823-4489 regarding street tree requirements.

Staff Planner: Kate Green

Decision rendered by:  **on October 5, 2012.**
By authority of the Director of the Bureau of Development Services

Decision mailed October 11, 2012

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 June 15, 2012, and was determined to be complete on July 24, 2012.

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 June 15, 2012.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended a total of 35 days (Exhibit G.3). Unless further extended by the applicant, **the 120 days will expire on: December 26, 2012.**

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 October 25, 2012** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 .

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.

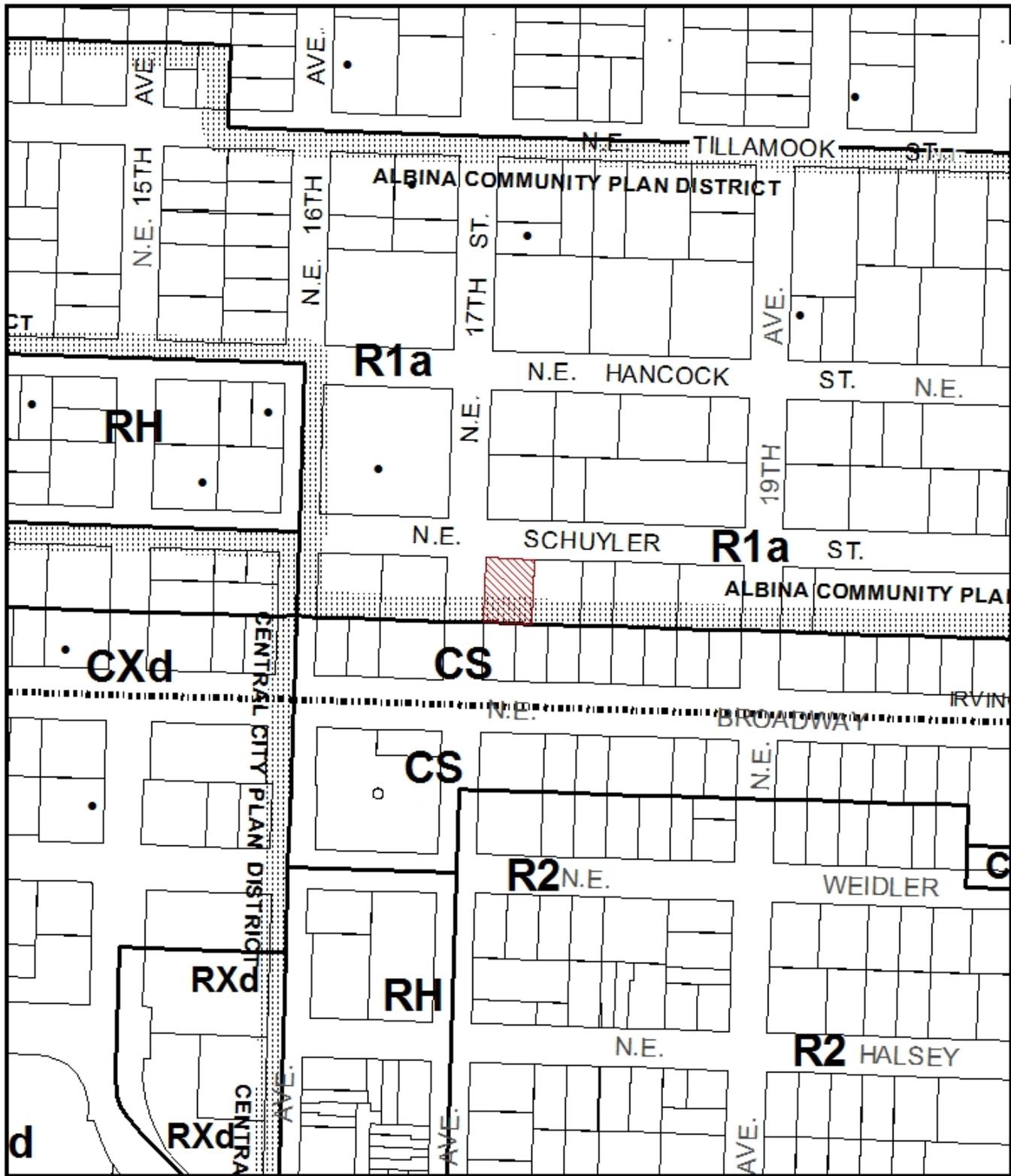
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Supplemental Narrative
 - 2. *Circulation and Parking Study*/Transportation Report/Kittelson & Associates
 - 3. Density Allocation
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat Plan (attached)
 - 2. Conceptual Site and Landscape Plan
 - 3. Conceptual Site Utility and Erosion Control Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Urban Forestry/Parks
- F. Correspondence:
 - 1. Mary Wahl, August 3, 2012, concerns re: street trees and stormwater management
 - 2. Lee Klinger and Jo Zettler, August 7, 2012, concerns re: street trees and stormwater management
 - 3. Elizabeth Nordeen, August 11, 2012, concerns re: street trees
 - 4. Dean Gisvold/*Irvington Community Association*, August 26, 27, 28, and September 2, 2012, concerns re: access to application materials, preservation of street trees, and Historic Design Review of the new structures
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Review timeline extensions
 - 4. Letter to applicant re: incomplete application

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

 Historic Landmark



This site lies within the:
IRVINGTON HISTORIC DISTRICT

File No.	<u>LU 12-150927 LDS</u>
1/4 Section	<u>2832</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E26DC 5500</u>
Exhibit	<u>B (Jun 21,2012)</u>

DATE: 6-13-2012	SCALE: 1"=10'
DRAWN BY: BB	
PROJECT NO: 12-045	
FILE: P:\12-045\12-045 12.DWG	

LOT 9 AND THE WEST 1/2 OF LOT 10, BLOCK 12, JOHN IRVINGS 1ST ADDITION LOCATED IN THE SW 1/4 OF SECTION 26, T9N, R12E, W4E, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

GPB CONSTRUCTION INC

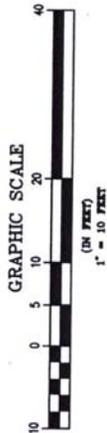
SITE MAP

W.B. WELLS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 4020 NE FREMONT STREET
 PORTLAND, OREGON 97213
 PHONE: 503.944.8200
 FAX: 503.944.8202
 E-MAIL: WBWELLS@WELLSURV.COM

SHEET 1 OF 1

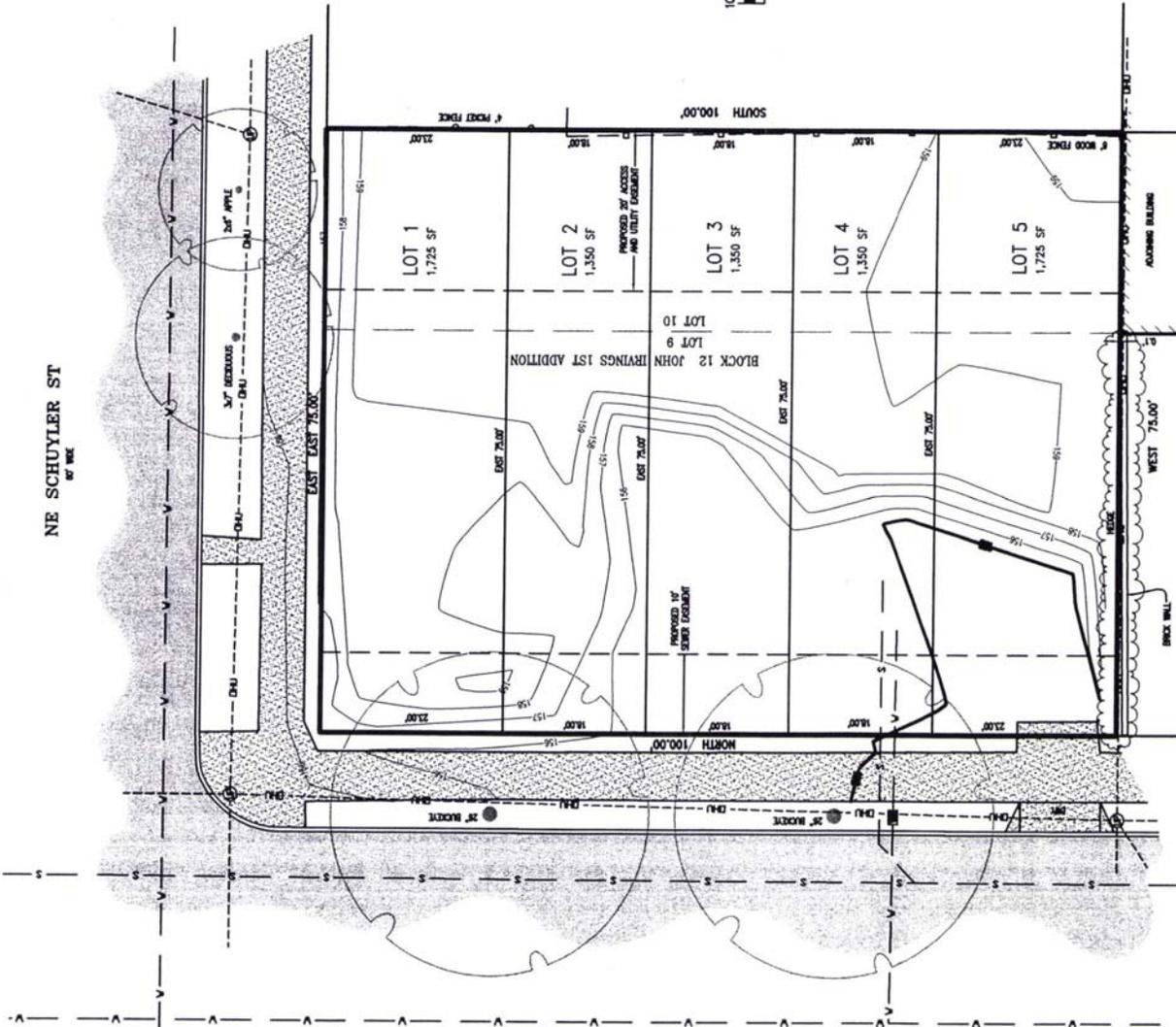
BENCHMARK
 CITY OF PORTLAND BENCHMARK NO. 1224, BRASS
 SET AT THE SOUTHWEST CORNER OF NE SCHUYLER
 STREET AND NE 17TH AVENUE, PORTLAND,
 OREGON - 101.726, CITY OF PORTLAND DATA

- LEGEND**
- O- OVERHEAD UTILITIES
 - S- SEWER PER CITY RECORDS
 - W- WATERLINE PER CITY RECORDS
 - WM WATER METER
 - UP UTILITY POLE
 - CONCRETE
 - ASPHALT



REGISTERED PROFESSIONAL LAND SURVEYOR
W.B. Wells
 JULY 17, 2005
 DEBORAH L. JACKSON
 EXPIRES 12-31-12

THE UNDERGROUND UTILITY LINES SHOWN HEREON ARE FROM A COMPARISON OF FIELD SURVEYS AND CITY RECORDS, PRIVATE AND GOVERNMENT SUPPLIED, "AS-BUILT" MAPS, AND APPROXIMATE ONLY. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES STATE THAT HE HAS UTILIZED ALL AVAILABLE INFORMATION FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.



NE SCHUYLER ST
 60' WIDE

NE 17TH AVE
 60' WIDE

CASE NO. 12-150927
 EXHIBIT C.1