Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
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TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: January 7, 2013
To: Interested Person
From: Kathy Harnden, Land Use Services
503-823-7318 / Kathy.Harnden@portlandoregon.gov

NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in 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 it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 12-202549 LDP

GENERAL INFORMATION

Applicant: Kevin Partain / Urban Visions
223 NE 56th Avenue / Portland, OR 97213

Owner: Garden Properties LLC / Attn: Gary Ives
14210 SE Harney St / Portland, OR 97236-5354

Site Address: 5239 SE 109TH AVE

Legal Description: BLOCK 3 N 1/2 OF LOT 7, GAMMANS
Tax Account No.: R303100950
State ID No.: 1S2E15BD 06700
Quarter Section: 3541
Neighborhood: Powellhurst-Gilbert, contact Mark White at 503-761-0222.
Lents, contact Cora Potter at 503-823-4550.
Business District: Midway, contact Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin
Zoning: R5a – Residential 5,000 with the Alternative Design Density (a) overlay
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:
The applicant is proposing to partition the subject site into two parcels with each being 35 feet wide, 140 feet long, and 4,895 square feet in area. Both parcels will have direct frontage on SE 109th Avenue and will be developed with one detached house each. The existing house on the site will be demolished. There are two trees on the site, both Douglas fir trees, located in the southwest corner, which will be preserved to meet the Tree Preservation requirements.

A Land Use Review is required to ensure that proposed lots will be consistent with the desired character of the zone in which they are located, while allowing lots to vary somewhat

in size and shape, provided that the planned intensity of each zone is respected.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 2 units of land. Therefore this land division is considered a partition.

Relevant Approval Criteria:
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 the Open Space and Residential Zones**

FACTS

Site and Vicinity: The site is located in a developed neighborhood that has consistent lot sizes ranging between approximately 9,100 square feet to 9,900 square feet and developed with single dwellings. The subject site contains approximately 9,792 square feet and contains an existing house (to be demolished) and a single width driveway. Two trees, which are to be preserved, are located in the southwest corner of the site.

The surrounding neighborhood is also developed with single dwellings, with about half having attached or deattached garages. The lot immediately adjacent to, and south of, the subject site is developed with a flag lot, which is rare in this neighborhood.

Infrastructure:

- **Streets –** The site has approximately 70 feet of frontage on SE 109th Street. At this location, SE 109th is classified as a Local Service Street for all modes in the Transportation System Plan. It is improved with approximately 28 feet of center-striped paving within a 50-foot wide right of way. There are no curbs, planter areas or sidewalks at this location. Parking is allowed on both sides of SE 109th.

- **Tri-Met** provides frequent transit service approximately 450 feet south of the site on SE Harold via Tri-Met Bus Route 10.

- **Water Service –** There is an existing 6-inch DI water main in SE 109th Avenue, with one existing 5/8-inch metered service to the site which may be available for use to one of the two properties. A second service for the new lot will be required.

- **Sanitary Service -** There is an existing 8-inch PVC public sanitary only sewer line in SE 109th Avenue that serves the site with an existing lateral to the site. A second lateral will be required.

Zoning: The site is located in the **Residential 5 (R5)** zone which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the "a" overlay.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus 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 November 27, 2012. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN 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:
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	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	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	There are no pedestrian connections 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 33.610 contains the formula for calculating density and lot dimension requirements applicable in the R5 zone. The site contains 9,790 square feet. The applicant is proposing 2 single-family parcels.

Minimum and maximum densities in the R5 zone are based on the size of the site, with a maximum density of one unit per 5,000 square feet. The site has a minimum required density of 2 units and a maximum density of 2 units. The applicant is proposing 2 parcels. Therefore the density standards are met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	4,895		35	140	35
Parcel 2	4,895		35	140	35

*Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

The proposed lots meet the Lot Area, depth and front lot line standards. However, the proposed lots, at 35 feet wide, do not meet the width standard, and therefore must be reviewed and approved through the "Narrow Lot" standards of the code as described below.

Narrow Lots
Parcels 1 and 2 are each 35 feet wide, which is one foot narrower than the minimum lot width of 36 feet for the R5 zone, as shown in the table above. The Zoning Code allows the minimum lot width to be reduced below the minimum dimension stated above, provided that all of the following regulations are met (33.610.200.D):

a. On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations;

Findings: The purpose of Lot dimension regulations are as follows:

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots do not narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The site plan depicts building footprints of 990 square feet, with dimensions of 24.75 feet by 40 feet, which is a reasonably sized house. The 4,985 square-foot rectangular lots and the proposed development meet all applicable setback requirements and shows the proposed houses oriented towards the street. The width of the proposed houses

leaves the required 5-foot setbacks to property lines. Therefore, further division would not be possible due to the lack of access from SE 109th Avenue. Each lot will have a large outdoor area at the rear of approximately 2800 square feet. The plans show existing and proposed water and sanitary sewer services that demonstrate Parcels 1 and 2 have access for utilities and services. The proposed lots will each have access to a public street and will not be landlocked, nor do they narrow to an unbuildable width close to the street.

Therefore, the applicant has demonstrated that these lots can accommodate reasonably sized houses and garages while meeting the development standards of the Residential 5000 (R5) zone

b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet;

Findings: The proposed lot width is 35 feet with detached houses; therefore this standard is met.

c. If the lot abuts a public alley, then vehicle access must be from the alley. This requirement will be imposed as a condition of approval of the land division;

Findings: The site does not abut an alley, so this standard does not apply.

d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development;

Findings: The applicant proposes 9-foot wide garages on façades of 24.75 feet in width, which meets the garage width standard of 33.110.253.E. The applicant has demonstrated, with Exhibit C.2 that each lot will be built with a house that is greater than 22 feet in width and will be able to accommodate a garage that will occupy less than 50% of the length of the street facing façade. Therefore, the garage limitation standards of Subsection 33.110.253.E can be met.

e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and

- **Findings:** Parcels 1 and 2 will be developed with detached houses. Therefore, this standard does not apply.

f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of subparagraphs 2.c and d. As a condition of approval of the land division, the property owner must execute a covenant with the city.

Findings: On-site parking is required in the R5 zone. Each proposed dwelling will have a 9 foot wide by 18-foot long driveway, which is large enough to accommodate 2 passenger vehicles each; therefore, this standard is met.

The findings above show that the applicable density and lot dimension standards are met. Therefore this criterion is 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.

Two large Douglas fir trees are located in the southwest corner of this site. One is 20 inches in diameter and the other is 30 inches in diameter. Both trees are proposed to be retained.

The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Douglas fir	20	No	Yes	20 ft
2	Douglas fir	30	No	Yes	30 ft

The total non-exempt tree diameter on the site is 50 inches. The applicant proposes to preserve trees 1 and 2, which comprise 50 inches of diameter, or 100 percent of the total non-exempt tree diameter on the site. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C.2).

To ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Parcels 1 and 2 be carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and that an acknowledgement of tree preservation requirements is recorded with the final plat.

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

Findings:

Clearing and Grading
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 nearly flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading is required to make the new lots developable. In addition, the two trees on the site are located at the rear of the property, well away from the area where new development on the site is anticipated. Therefore, this criterion is met.

Land Suitability
The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system/cesspool on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning this facility. With this condition, the new lots can be considered suitable for new development, and 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 and noted earlier in this decision. Water is available to serve the proposed development from the water main in SE 109th Avenue. Proposed Parcel 2 has an existing water service from that main. Proposed Parcel 1 will require a new water service and meter, appropriately sized. This criterion will be met at the time of Building Permit Review.

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

The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. The existing lateral serving Proposed Parcel 2 must be capped at the time of demolition of the existing residence, but will be available for use by proposed Parcel 2 at the time of development. A new lateral to serve proposed Parcel 1 must be constructed to the public main at the applicant's or owner's expense at the time of development review. Therefore, with conditions requiring capping of the original lateral prior to demolition of the existing house, and installing a new lateral to proposed Parcel 1, this criterion can be met.

In addition, Site Development has determined that there is an older cesspool/septic system on the site which does appear to have been decommissioned at the time the existing house was connected to the public sewer system. This in-ground septic system must be decommissioned. The demolition permit for removal of the existing house must include decommissioning the existing on-site sewage disposal system, unless the applicant obtains final approval of decommissioning permits prior to demolition of the house.

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

BES has verified that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management method:

- **Parcels 1 and 2:** Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these parcels has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.

Therefore, this criterion is met.

33.654.110.B - Through streets and pedestrian connections
33.654.130.B - Extension of existing public dead-end streets & pedestrian connections
33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document.

Both the 530-ft spacing goal for public through streets and the 330-ft spacing goal for pedestrian connections are satisfied in the north-south direction, but not in the east/west direction within the subject or surrounding area/blocks. The subject block is, however, representative of the block pattern in the general area in terms of orientation and length. Further, as with other blocks in the area, the subject block is primarily built out with the type and density of the expected housing for the area's zoning. No further street or pedestrian connections are physically possible without impacting existing development on the subject block and beyond. Given the subject site's proximity to SE Mitchell St to the north, any further connectivity would be more feasible further south on the subject block. Therefore, Portland Transportation has no concerns relative to connectivity or locations of rights-of-way associated with the proposed land division partition. For these reasons, these criteria are met

33.641 – Transportation Impacts – 33.641.020 and 33.641.030
33.654.120.B & C Width and elements of the street right-of-way
33.654.130.D Partial Rights of way

Based on the available evidence, PBOT estimates that the increase in daily trips will total 2

peak-hour trips per day (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.). PBOT staff determined that this will have a minimal impact on existing facilities and capacity and that a traffic study is not required at this time (see Exhibit E-2 for a detailed analysis).

In reviewing this land division, Portland Transportation relied on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, additional right-of-way may be required along the frontage of the site. With these improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

The proposed development includes two separate driveways, requiring two separate curb cuts. Curb cuts and driveway construction must meet the requirements in Title 17. After construction, PBOT will require the applicant to construct the pedestrian corridor along the site frontage to City standards with a 4-foot wide planting strip between the pavement and curb, a 6-foot wide paved sidewalk, and a .5-foot buffer at the back of the sidewalk next to the property line. This will be required as a condition of development on both parcels.

Prior to Final Plat, the applicant must confirm that there is sufficient right of way to construct the 11-foot wide sidewalk corridor. If there is insufficient area, then the applicant will be required to dedicate sufficient property to the City at the time of Final Plat review to meet the 11-foot sidewalk corridor width requirement.

Therefore, this criterion will be met with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication, if required by PBOT, is shown on the Final Plat.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is 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.

- Narrow Lots – development on Parcels 1 and 2 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.2/1.5 times the width of the structure, per 33.110.215.B.2; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a; and
  - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause any structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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 regard to fire flow/water supply and fire hydrant spacing or obtaining an approved Fire Bureau appeal to this requirement at the time of Final Plat review. Addressing requirements must be met at the time of development. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The two primary issues identified with this proposal are that the lots will be "narrow" lots, rather than the standard width and that trees must be preserved on the site. The proposed one-foot reduction in lot width met the standards for "Narrow Lots" without additional requirements or conditions of approval. However, conditions of approval are required to ensure that development on Parcels 1 and 2 will be carried out in conformance with the Tree Preservation Plan (Exhibit C.2), that an acknowledgement of tree preservation requirements is recorded with the final plat, and that technical requirements of the City's Service Bureaus are completed.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in two narrow lots as illustrated with Exhibit C.1 and C.2 and subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 109th Avenue, if needed for installation of the required 11-foot-wide sidewalk corridor improvements. Any required dedication shall be shown on the final plat.

2. A recording block for each of the legal documents such as acknowledgements of special land use conditions, as required by Conditions C.6 and C.7 below. The recording block shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Requirements has been recorded as Document No. _____, Multnomah County Deed Records."

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

Streets and Alleys

1. The applicant must determine through the Final Plat Survey whether there is sufficient existing right of way in SE 109th to accommodate the required 11-foot wide sidewalk improvement corridor. If the plat survey reveals that there is insufficient existing right of way to construct curb and sidewalk improvements, the applicant/owner shall dedicate the amount of land necessary to construct the required improvements, and shall show the dedication on the Final Plat.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning the existing cesspool on the site.

3. The existing lateral serving Proposed Parcel 2 must be capped at the time of demolition of the existing residence.

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 that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior to final plat approval.

Existing Development

5. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. The site plan for the demolition permit must show all trees to be preserved and root protection zones as shown on Exhibit C.2. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.1).

Required Legal Documents

6. The applicant shall execute an Acknowledgement of Special Land Use Condition for Tree Preservation Requirements that apply to Proposed Parcel 2. A copy of the approved Tree Preservation Plan (Exhibit C.1) and the applicant's tree report in Exhibit A.1 must be included as Exhibits to the Acknowledgement. The Acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

7. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.2.) and the applicant's tree report (Exhibit A.1). Specifically, the two large trees located in the southwest corner of proposed Parcel 2 on the site (i.e., a 20-inch and a 30-inch-diameter Douglas Fir trees) are required to be preserved with a 30-foot radius

root protection zone, as indicated on Exhibit C.2. Tree protection fencing is required along the root protection zone which forms a 30-foot wide radius measured from the trunk of the 30-inch Douglas fir. The fence must be a 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Any proposed encroachment into the specified root protection zones must be justified to the City and 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.

8. The applicant must repair any curbs that are damaged during the development process to the satisfaction of the Bureau of Transportation.

9. At the time of building permit review, stormwater management facilities for Parcels 1 and 2 must be provided to the satisfaction of BES.

10. A new sanitary sewer service lateral must be constructed to serve proposed Parcel 1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage.

11. The applicant must obtain an approved right of way permit from the Portland Bureau of Transportation to install the required sidewalk corridor.

12. The improvements along the frontage of the undeveloped lot(s) may be constructed with development on each lot, per the City Engineer's discretion.

Staff Planner: Kathy Harnden

Decision rendered by: Kathy Harnden **on January 3, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed January 7, 2013

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 6, 2012, and was determined to be complete on **November 21, 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 November 6, 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 did not waive or extend the 120-day review period. (Unless extended by the applicant, **the 120 days will expire on: March 21, 2013.**

Some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria.

This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 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.portlandonline.com.

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

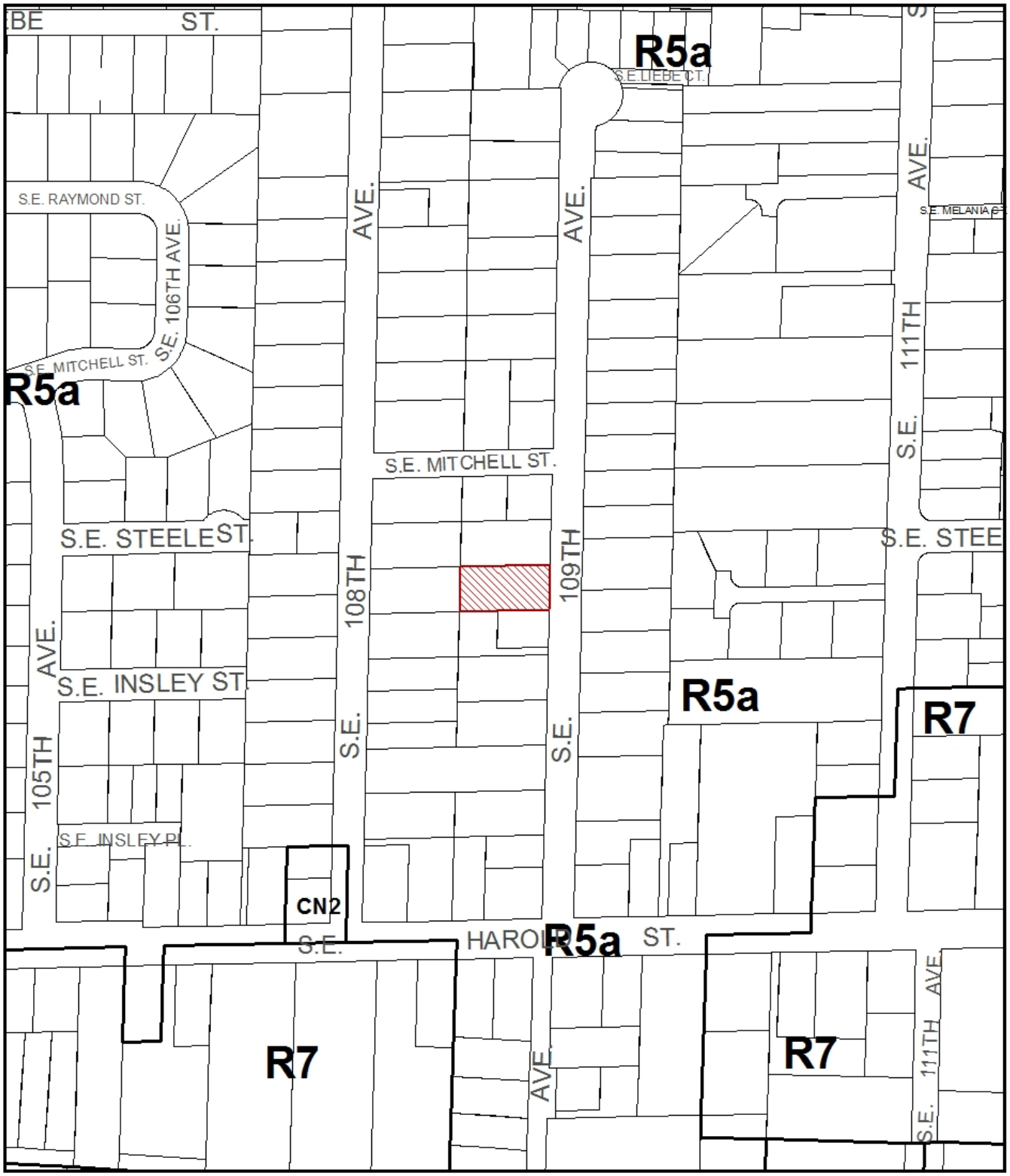
EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Narrative, including tree report
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Preliminary Partition Plat (attached)
   2. Existing Conditions Plan
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Bureau of Transportation Engineering and Development Review
   3. Water Bureau
   4. Fire Bureau
   5. Site Development Review Section of BDS
   6. Life Safety Plans Examiner
F. Correspondence: NONE

G. Other:
   1. Original LU Application
   2. Stormwater Report

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).



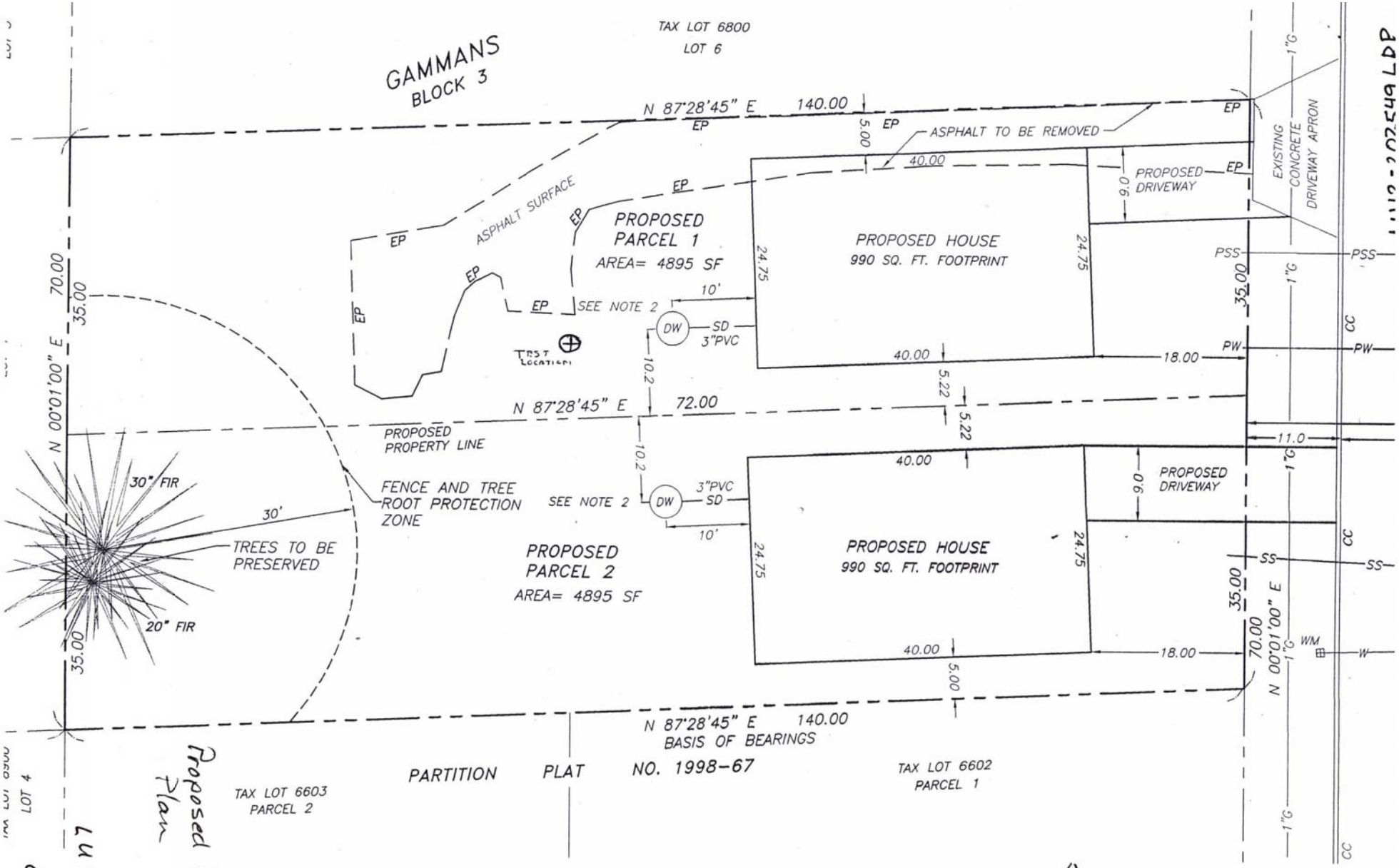
ZONING

Site

File No.	LU 12-202549 LDP
1/4 Section	3541
Scale	1 inch = 200 feet
State_Id	1S2E15BD 6700
Exhibit	B (Nov 07,2012)

NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT



Proposed Development Plan

LU 12-202549 DP

Ex. C.1

LU 12-202549 DP