



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: April 21, 2008
To: Interested Person
From: Nizar Slim, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 07-171578 LDP

GENERAL INFORMATION

Applicant: Douglas G Lite,
13699 SE Maloy Ln
Milwaukie, OR 97222-8056

Site Address: 4924 SE 113TH AVE

Legal Description: N 53 1/3' OF LOT 4, MIDLAND AC TR **Tax Account No.:** R568200260

State ID No.: 1S2E15AC 06200 **Quarter Section:** 3542

Neighborhood: Powellhurst-Gilbert, contact James Chasse at 503-762-0863.
Business District: Midway, contact Donna Dionne at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin (no sub-district)

Zoning: R5a – Residential 5,000 with an Alternative Design Density overlay
Case Type: LDP (Land Division, Partition)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposed to divide this 12,665 square foot site into two smaller parcels. Parcel 1 will be 6,138 square feet with the existing house to remain. Parcel 2 will be 4,904 square feet and will provide a vacant site for future single dwelling development. *(The remaining square footage has been dedicated to street improvements). The applicant proposes to preserve a 10-inch Redwood tree on the site. There are several other trees on the site that are addressed in the Tree Preservation standards of chapter 33.630 of the Zoning Code.

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.**

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

ANALYSIS

Site and Vicinity: The site is relatively flat with a single detached home. There are several trees on site which are addressed below. Two streets are adjacent to the ends of the lot which characterize it as a through lot. Both streets are largely unimproved although they provide limited access to the site.

The immediate area has typically larger lots that have been developed with similar houses and some duplex development.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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 and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **March 7, 2008.**

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: One written response has been received from a notified property owner in response to the proposal.

Neighbor/Community Member's Concern:

- Opposition to any "Apartment"/multi-dwelling development or commercial buildings or use on site (see Exhibit F-1).

BDS Staff Response:

This is a single -dwelling zone (R5) and although there are provisions for some alternative development types, this proposal is only for single-dwelling development. In this case, one additional detached home is being proposed as potential future development. More of this is discussed in the report below.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
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 33.610 contains the density and lot standards applicable in the RF through R5 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.

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

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

Minimum = $(12,665 \text{ square feet} * .80) \div 5,000 \text{ square feet} = 2.02$ (which rounds down to a minimum of 2 lots, per 33.930.020.A)

Maximum = $12,665 \text{ square feet} \div 5,000 \text{ square feet} = 2.53$ (which rounds down to a maximum of 2 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1.

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

Lot Dimensions

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

The dimensions of the proposed lots (after adjusted for street dedications) as compared to the required lot dimension standards is shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	3,000 sq. ft.	6138 s.f.	4904 s.f.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	53.37 ft.	53.37 ft.
Minimum Lot Depth	50 ft.	115 ft.	91.9 ft.
Minimum Front Lot Line	30 ft.	53.37 ft.	53.37 ft.

* Width is measured at the minimum front building setback line

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). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Cherry	40	No	Yes: Hazardous	No	N/A
2	Redwood	10	No	No	YES	8 radial feet
3	Cherry	23	Yes	No	No	N/A
4	Plum	17	No	No	No	N/A
5	Pine	15	No	Yes: Dead	No	N/A
6	Douglas-Fir	35	No	Yes: Hazardous	No	N/A

The total non-exempt tree diameter on the site is 50 inches. The applicant proposes to preserve tree number 2 (Redwood) which comprise of 10 inches of diameter, or 20 percent of the total non-exempt tree diameter. This proposal does not comply with any of the Options of the tree preservation standards.

Therefore, in addition to preserving the Redwood, the applicant is also proposing the following mitigation options of 33.630.300:

33.630.300 Mitigation Option

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

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

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for detached housing, which is an allowed housing type in the R5 zone. The location of the existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R5 zone. Criterion C.4 above is met.

Most of the trees on site are unhealthy or otherwise hazardous. Of the few eligible trees, two were placed in the way of any feasible building site. The only tree that didn't extensively encumber a building area is being preserved. Therefore, the applicant has meet Criteria A, because as many trees as possible will be preserved.

The mitigation plan along with the Redwood being preserved provides for approximately the same caliper inches as Option 1 of the Tree Preservation Chapter. Option 1 would require that 35% or 17.5 (rounded to 18) inches of the existing tree diameter on site be preserved. The addition of (4) trees at 2" each, is slightly over the 17.5 inches that would be required to be preserved.

The applicant has submitted a Tree Preservation and Mitigation plan showing the preserved tree on Parcel 2, its required root protection zones (Exhibit C-1) and planting plan that proposes (2) Red Sunset Maples and (2) Flowering Plums for a total of (4) trees to be planted on Parcel 1. By placing the trees on Parcel 1 (the lot with the existing house and the larger of the two lots), it allows the trees more flexibility of arrangement, viability of survival and does not further restrict the building area on Parcel 2.

Criteria B is met with a condition of approval requiring (4) 2" min. caliper trees* (Red Sunset Maples, Flowering Plums-[non-fruiting variety]- or other species approved by City Arborist) to be planted on Parcel 1, the lot with the existing house, prior to final plat approval. A Zoning Permit must be obtained, and receive final inspection approval verifying that these trees have been planted.

* Please consider surrounding environmental conditions such as soil composition, overhead power lines, ground utilities, etc. when choosing species and planting site.

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. This criteria 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. Although the site is currently connected to the public sanitary sewer, there is an old 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 the decommissioning of this facility. With this condition, the new lots can be considered suitable for new development, and 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 53 feet of frontage on both SE 113th and 114th Avenues. Both are classified as local service streets for all modes in the Transportation System Plan; SE 113th is also designated as a City Walkway. Tri-Met provides transit service approximately 1,100 feet from the site on SE Harold Street via bus 10. Parking is currently allowed on both SE 113th and 114th Avenue on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE 113th Avenue and SE 114th Avenue are improved with paved roadways, and gravel shoulders. There is a curb but no planter strips, or sidewalks on SE 113th Avenue and only a gravel shoulder on SE 114th Avenue. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb and sidewalk improvements must be made to both streets in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 6-inch water main is available in SE 114th Avenue. Water is available to serve the proposed development from the water main in SE 114th Avenue. Parcel 1 has an existing water service from another main located in SE 113th Ave. which can continue to serve the needs of the existing house. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There are TWO existing public sanitary sewers. A 12-inch PVC main is located in SE 113th and an 8-inch PVC main is present in SE 114th Avenue, both can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from the SE 113th main. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. Further, potential connectivity opportunities are assessed on a case by case basis. In this case, the subject property appears to meet the distance requirements for a west-east pedestrian connection between SE 113th Ave and SE 114th Ave. However, other considerations taken into account include the remaining square footage after all dedications occur, stormwater management requirements for additional width and dedication needs and existing structure's location. In consideration of the above and in recognition of a less problematic possible location to the north, a Pedestrian Corridor will not be required at the subject location. As result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards, with curbs and sidewalks (discussed earlier in this report). Stormwater from these new impervious areas will be directed into an 8-foot wide infiltration swale located between the new curb and sidewalk on SE 114th Avenue; and a 4-foot wide planter strip located in SE 113th Ave. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the proposed swale is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site must be provided on the final plat.

BES requires a Public Works Permit for the construction of such a swale. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval.

- **Parcel 1 (the lot with the existing house):** The downspouts of the existing house (with basement) are directed to the ground. There are no splash blocks. Prior to final plat approval, splash blocks must be installed and all downspouts within the required property line setback (5 feet) must be relocated to meet the approval of Site Development.
- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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. Site Development has indicated conceptual approval of the drywell.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. 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 R5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site (Parcel 1) must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 51 feet from the new rear property line and 24 feet from the front property line (after required dedication). Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. A paved parking pad provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located closer to the new front property line and the related curb cut may need to be rebuilt. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 or clear evidence that the existing space is being maintained prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2. These requirements are based on the technical standards of Title 31 and the Fire Code.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Tree Preservation
- On-site Stormwater Disposal
- Existing Development
- Sanitary Sewer Service
- Fire Code Appeal
- Street Trees
- Street Dedication and Improvement

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in two regular lots while retaining the existing house on Parcel 1 and creating a vacant lot to be developed with a detached single-family house as illustrated with Exhibit C-1, subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- All existing and proposed utilities (includes Water, Sanitary and Storm);

- The proposed general location of future building footprints and stormwater facilities for the vacant lot;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for BOTH SE 113th and SE 114th Avenues. The required right-of-way dedication must be shown on the final plat.

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

Streets

1. SE 113th Avenue: The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE 113th Avenue. The applicant must obtain an approved Right Of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip. The improvements along the frontage of Parcel 1, where the existing house will be retained, must be constructed prior to final plat approval.
2. SE 114th Avenue: The improvements along the SE 114th Ave frontage may be constructed with new development on Parcel 2, however, a Performance Guarantee (for that work) to the satisfaction of the Bureau of Transportation Engineering is required prior to final plat approval.
3. All relevant control access strips are required to be released in conjunction with dedications prior to final plat approval.

Utilities

4. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Parcel 2. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

5. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. A copy of the final inspection approval for a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan. Alternatively, if a conforming parking space exists, then it must be clearly shown on the Supplemental Survey. An application for a Land Use Review to waive or modify parking requirements may be submitted at the Development Services Center. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.
6. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 1. Specifically, splash blocks must be installed and all downspouts within the required property line setback (5 feet) must be relocated to meet the approval of Site Development. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2). Specifically, the Redwood tree is required to be preserved, with the root protection zone of 8 radial feet, indicated on Exhibit C-1. 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.
2. Mitigation Planting on Parcel 1, the lot with the existing house, shall be in conformance with the Planting Plan and include the planting of (four), 2" min. caliper trees that are of a species approved by the City Arborist prior to final plat approval. A Zoning Permit must be obtained, and receive final inspection approval verifying that these trees have been planted.

* Please consider surrounding environmental conditions such as soil composition, overhead power lines, ground utilities, etc. when choosing species and planting site.

3. The applicant will be required to install residential sprinklers in the new houses on Parcel 2 to the satisfaction of the Fire Bureau.
- 4.

Decision rendered by:  **on April 16, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) April 21, 2008

Staff Planner: Nizar Slim

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 October 23, 2007, and was determined to be complete on March 5, 2008.

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 October 23, 2007.

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.

Some of the information contained in this report was provided by the applicant.

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

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any

project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

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

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

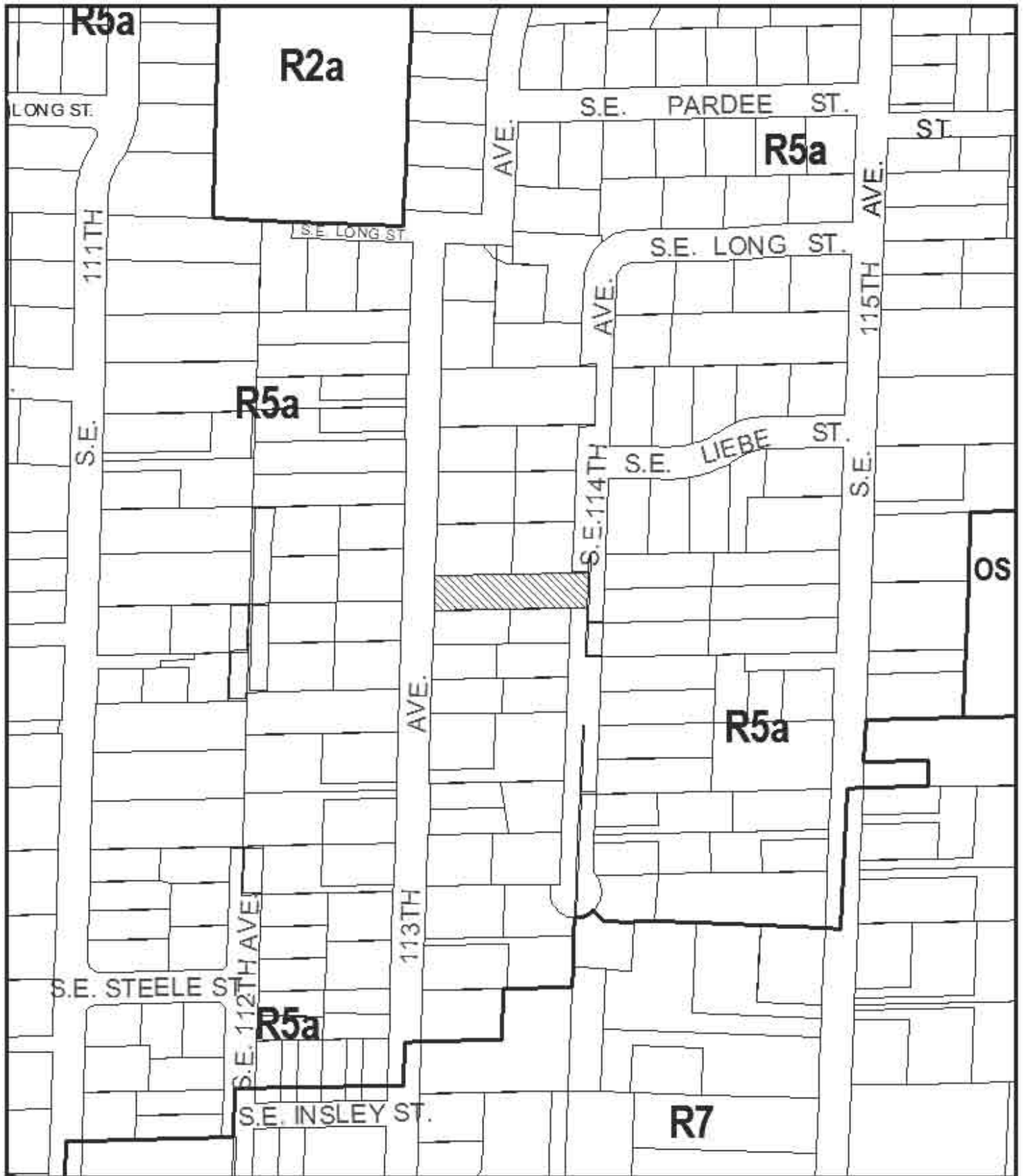
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at www.portlandonline.com.

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant’s Statement (Narrative)
 - 2. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site/Tree Preservation/Planting/Utility Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety, BDS
- F. Correspondence:
 - 1. Ron Kusah, 4-2-08, General Concern
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter



ZONING



Site



NORTH

This site lies within the:
JOHN SON CREEK BASIN PLAN DISTRICT

File No.	LU 07-171578 LDP
1/4 Section	3542
Scale	1 inch = 200 feet
State Id	1S2E15AC 6200
Exhibit	B (Oct 30, 2007)

CASE NO. 07-171573 LDP
 EXHIBIT C-1

SITE/TREE PLANTING/TREE PRESERVATION PLAN.

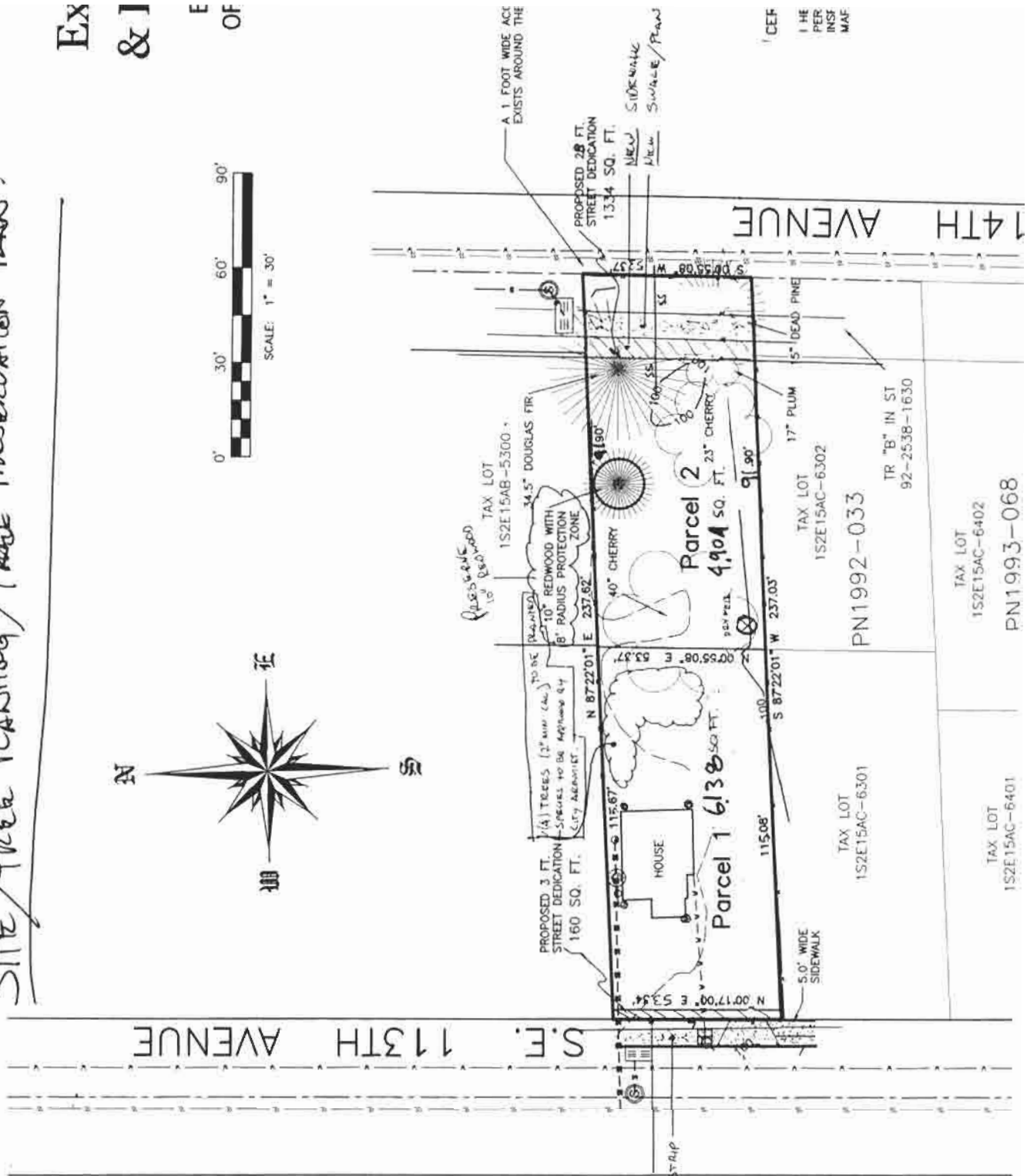
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LEGEND

These standard symbols will be found in the drawing.

- CATCH BASIN
- FIRE HYDRANT
- GUY WIRE
- POWER POLE
- STORM MANHOLE
- CONIFEROUS TREE
- DECIDUOUS TREE
- WATER METER
- WATER VALVE
- SANITARY SEWER CLEAN OUT
- ELECTRIC METER
- GAS METER
- SANITARY MANHOLE
- DOWNSPOUTS (APPROX. LOCATION)
- DEY WELLS



CEP
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 PER
 INS
 MAF

TAX LOT
 1S2E15AC-6402
 PN1993-068

TAX LOT
 1S2E15AC-6401

TAX LOT
 1S2E15AC-6302
 PN1992-033

TAX LOT
 1S2E15AC-6301

TR "B" IN ST
 92-2538-1630