



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: May 2, 2008
To: Interested Person
From: Mark Bello, Land Use Services
503-823-7810 / mark.bello@ci.portland.or.us

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

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

CASE FILE NUMBER: LU 07-162648 LDP

GENERAL INFORMATION

Owner	Applicant
Norma J Kerr 6525 SE Franklin St Portland, OR 97206-2617	Kevin Partain 223 NE 56th Ave Portland, OR 97213-3705

Site Address: 7420 SE LINCOLN ST

Legal Description: LOT 32, TABOR PK AC
Tax Account No.: R818900670
State ID No.: 1S2E05DC 08300
Quarter Section: 3238

Neighborhood: Mt. Tabor, contact Dave Hilts at 503-780-0826.
Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.

Zoning: R5 Residential 5,000
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 proposes to partition the 10,035-sq. ft. site into two parcels. Proposed Parcel 1 (northern parcel) contains the existing residence to remain and fronts on SE Lincoln Street. It is 4,876 sq. ft. in area, 75.02 feet wide and 65 feet deep. Proposed Parcel 2 (southern parcel) contains another structure that will be removed. It fronts SE Grant Street. Parcel 2 is proposed to be 5,159 sq. ft. in area, 73.7 feet wide and 70 feet deep. [Note that these figures will change with a required dedication for the pedestrian connection and potential dedication to SE Grant Street.

The site is currently a through lot between SE Lincoln Street and SE Grant Street. The applicant has recently dedicated a one-foot wide right-of-way for pedestrian connection

purposes between SE Lincoln Street and SE Grant Streets. The right-of-way will be widened as part of this preliminary plan approval and will provide a pedestrian connection between the two public streets.

The existing house will remain. Accessory detached garages will be removed. Services will be provided from SE Lincoln Street and SE Grant Street. The applicant proposes a drywell to manage stormwater from new construction on Parcel 2.

The arborist report proposes to preserve the only tree on site, a 14-inch shore pine located in the front yard of the site.

Relevant Approval Criteria: The relevant criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

ANALYSIS

Site and Vicinity: The double frontage site is relatively flat and is currently developed with a one-story single family dwelling that is set back approximately 20 feet from SE Lincoln Street. At the time of application there were two accessory structures also on-site. A shore pine is located in the front yard along the SE Lincoln Street frontage.

The site is a regularly platted lot, lot 32 of Tabor Park Acres. Lots along SE Lincoln Street and SE Grant Street between SE 72nd Avenue and SE 75th Avenue are still generally undivided despite the R5 zoning. However, lots to the east of the site have been divided into smaller sites. The two lots immediately adjacent to this site are approximately 5,000 sq. and 7,500-sq. ft. in area.

The street grid is incomplete here. SE Lincoln Street and SE Grant Street do not extend farther east than SE 75th Avenue. SE 75th Avenue north of SE Lincoln Street is dedicated to a width of only 20 feet; SE 75th Avenue south of SE Grant Street is dedicated to a width of only 40 ft, then 20 ft. As mentioned above, there is currently a one-foot right-of-way for a future pedestrian connection between SE Lincoln and Grant.

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.

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 **October 22, 2007**.

- 1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E 1-6 for details. The comments are addressed under the appropriate criteria for review of the proposal.
- 2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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 - All of the proposed parcels are corner lots. In this context, solar access standards express no lot configuration preference.
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, no new street is proposed or required. (The applicant has previously dedicated a one-foot wide right-of-way for a pedestrian connection.) 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 = (10,035 square feet * .80) ÷ 5,000 square feet = 1.60 (which rounds up to a minimum of two parcels, per 33.930.020.A)

Maximum = 10,035 square feet ÷ 5,000 square feet = 2.00 parcels.

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 two parcels. 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.

With right-of-way dedication, to widen the pedestrian connection and on SE Grant Street, the dimensions of the proposed lots 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.	4,290	3,968
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	66	64
Minimum Lot Depth	50 ft.	65	70
Minimum Front Lot Line	30 ft.	66	64

* Width is measured at the minimum front building setback line

** These figures are approximate and include dedication to SE Grant Street and the north-south pedestrian connection.

The findings above describe how the applicable lot standards are met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). The inventory identifies the following tree 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	Shore Pine	14	No	No	Yes	10 ft.

The total non-exempt tree diameter on the site is 14 inches. The applicant proposes to preserve the pine, 100 percent of the total non-exempt tree diameter. 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 location and root protection zone are indicated on the preliminary plan/tree preservation plan (Exhibit C-1).

This criterion is met, subject to the condition that any further construction on Parcel 1 be carried out in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2).

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

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

33.635.100 – Clearing and Grading

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

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, and 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. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. The shore pine is located in the front yard of Parcel 1 and is not adjacent to potential right-of-way dedications or new construction. This criterion is met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

Findings: The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new parcel can be considered suitable for new development.

Existing accessory structures will be demolished and City permits will be required to ensure that proper demolition takes place. 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, and Transportation has not required a study. (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 76 feet of frontage on SE Lincoln Street and 75 feet of frontage on SE Grant Street. SE Lincoln Street and SE Grant Street are classified as a local service streets for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately ¼ mile from the site on SE Division St. via bus 4. Parking is currently allowed on SE Lincoln St., on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE Lincoln Street has 40 feet of right-of-way and is improved with approximately 12 feet of pavement. There are no curbs and no sidewalks in the vicinity of the subject site. There are intermittent gravel shoulders on both sides of SE Lincoln Street that currently accommodate on-street parking. Street improvements along the subject site's SE Lincoln Street frontage will not be required. No property frontages along SE Lincoln Street in the vicinity of the subject site have been improved with curbs or sidewalks. Transportation notes that providing street frontage improvements along the subject site's SE Lincoln Street frontage would result in a very isolated improvement which would not provide a significant benefit. Execution of street and storm sewer waivers of remonstrance for participation in future SE Lincoln Street improvements under a Local Improvement District will suffice.

SE Grant Street has 40 feet of right-of-way and is improved with approximately 26 feet of pavement, with no curbs and no sidewalks along the subject site frontage. SE Grant Street has been improved with intermittent curb and sidewalk west of the subject site. The site's SE Grant Street frontage will be required to be improved to the standards of the City Engineer. These standards have been developed and adopted with the intent of providing safe infrastructure for all modes, including vehicles, pedestrians, bicycles and transit. There are additional properties along SE Grant Street with redevelopment potential that will be required to improve frontages to meet City standards. The incremental improvements that will occur along SE Grant Street will improve safety for all modes of transportation. Full site improvements will be required along SE Grant Street to include curb, associated paving, sidewalks, street trees and street lighting. It is anticipated that swales will be required for stormwater management related to the improvement. An additional eight-foot dedication will likely be required.

Portland Transportation has identified the need to widen the new north-south oriented pedestrian connection between SE Lincoln Street and SE Grant Street to be located along the subject site's eastern property line in order for the subject land partition to meet the Connectivity and Location of Rights-of-Way approval criteria. A 6-foot wide hard-surface pedestrian/bicycle facility with a total right-of-way width of 10 feet will be required. There is an existing 1-foot wide Public Pedestrian Utility Way that has been recorded along the site's eastern property line. The applicant will be required to dedicate 9 feet of right-of-way along the pedestrian connection to provide a total right-of-way width of 10 feet for the Public Pedestrian Utility Way.

The subject pedestrian connection must be constructed under a street job permit to City standards per the requirements of the City Engineer. A bond and contract ensuring the improvements of the pedestrian connection and SE Grant Street will be completed will be a condition of final plat approval. The required dedications can occur with the final plat. Waivers must be recorded prior to final plat approval. (See Exhibit E 2.3 for additional details.)

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

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

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

- The water standards of 33.651 have been verified. An existing 5/8-inch water main is available in SE Lincoln and a 6" water main in SE Grant St. Parcel 1 has an existing water service. Water is available to serve Parcels 2 from the water main in SE Grant St. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 48"x 51" public sanitary sewer located in SE Lincoln that currently serve the sanitary needs of the proposed Parcel 1. The City-owned sewer located in SE Grant Street must be extended to provide sanitary service to the proposed site. In order to determine the sewer extension requirements, the applicant is required to meet BES requirements for a Public Works Permit or a Trades Permit. (This will be determined during final plat review. 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.

33.653.020 Stormwater Management Approval Criteria

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

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

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved

method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

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

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

The applicant has proposed the following stormwater management methods (Exhibit A-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 on SE Grant St. 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 swale located between the curb and the new sidewalk. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site; however, testing will be needed to determine if it is feasible. Details of street improvements will be worked out at a PDOT pre-design meeting. 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 (approximately eight feet wide).

BES will review the stormwater management portion of street improvements as part of the Public Works Permit for the construction of the street. 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 existing house has downspouts that drain onto the ground. Site Development has noted that the splash blocks must be installed prior to final plat approval.
- 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. After receiving the results of simplified infiltration testing, Site Development has indicated conceptual approval of the drywell. (See Exhibit A.3). To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval by BES and BDS Site Development.

As shown by the findings above, the Services and Utilities criteria are met.

Right of Way Approval Criteria

Chapter 33.654 also contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. Applicable criteria relate to connectivity and the width of the pedestrian connection.

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;
- b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;
- c. Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoids existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;
- d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;
- e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.

Findings: The Connectivity and Location of Rights-of-Way approval criteria call for through streets and pedestrian connections to be required where appropriate and practicable taking a number of factors into consideration. The existing street network in the vicinity of the subject site generally meets the City's suggested spacing standard for east-west oriented through streets, but does not meet the City's suggested spacing standard for north-south oriented through streets. A new north-south oriented through street connection between SE Lincoln Street and SE Grant Street to align with SE 75th Avenue would establish a street network that better meets the suggested through street spacing standard; however, the existing lot patterns in the vicinity preclude a street connection at this location. In lieu of a through street connection at this location, Portland Transportation has determined that a pedestrian connection along the eastern property line of the subject site will adequately meet the Connectivity and Location of Rights-of-Way approval criteria.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is met.

33.654.120.E. Approval criterion for the width of pedestrian connections. The width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end.

Findings: Portland Transportation has identified the need for a new north-south oriented pedestrian connection between SE Lincoln Street and SE Grant Street to be located along the subject site's eastern property line in order for the subject land partition to meet the Connectivity and Location of Rights-of-Way approval criteria. A 6-foot wide hard-surface

pedestrian/bicycle facility with a total right-of-way width of 10 feet will be required. There is an existing 1-foot wide Public Pedestrian Utility Way that has been recorded along the site's eastern property line. The applicant will be required to dedicate 9 feet of right-of-way along the Public Pedestrian Utility Way's western property line to provide a total right-of-way width of 10 feet.

The subject pedestrian connection must be constructed under a street job permit to City standards per the requirements of the City Engineer. A bond and contract ensuring the improvements will be completed will be a condition of final plat approval. The required dedications can occur with the final plat.

For the reasons described above, this criterion is met.

With the conditions of approval described above, services and utilities approval 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 is not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

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 is one Zoning Code standard that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site 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 at least five feet from the new property line. 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.

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/
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:

- Fire Apparatus Access Roads. The applicant must provide verification that access on SE Grant Street is the required minimum 20 feet in width.
- Dead End on Access Roads. SE Grant St is a dead end access road that does not provide an adequate turning radius.

The applicant is required to provide an adequate access and turnaround or be granted a Fire Code Appeal. These requirements are based on the technical standards of Title 31 and the Fire Bureau Code.

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 primary issues identified with this proposal are:

- Improvements and/or dedications for segments of SE Grant Street, and the pedestrian connection;
- Provision of sanitary sewer;
- Fire Access.

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 standard lots with detached housing, as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. That plan must portray how the conditions of approval

listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints, utilities and stormwater facilities for each of the vacant lots.
- 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 SE Grant Street and the pedestrian connection. 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. The applicant shall sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements along the SE Lincoln Street frontage) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.
2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE Grant Street and within the pedestrian connection. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review and the Bureau of Environmental Services for the required improvements.

Utilities

3. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE Grant Street. The public sewer extension requires that a Public Works Permit be initiated to determine the method of extension allowed by BES prior to final plat approval. The applicant must either provide engineered designs, and performance guarantees for the Public Works permit or final the Trade Permit as determined by BES. (See Exhibit E.1).
4. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Parcel 2 (minimum street width and SE Grant Street turnaround). Alternately, the applicant will need to obtain a Fire Code Appeal to this requirement. (See Exhibit E.4). If appeals are granted, the applicant shall record an Acknowledgement of Special Land Use Conditions with the final plat that describes any conditions of the appeal.

Existing Development


5. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 1. Specifically, splashblocks must be installed that meet minimum setbacks. (See Exhibit E.5).

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

1. Any development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2). Specifically, the shore pine shall be preserved with a ten-foot root protection zones as 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. If appeals are granted as fulfillment of Condition C.4 above regarding adequate fire access to Parcel 2, all conditions of the Fire Code Appeal must be met at the time of development.

Decision rendered by:  **on (April 29, 2008.)**
By authority of the Director of the Bureau of Development Services

Decision mailed May 2, 2008

Staff Planner: Mark Bello

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 September 14, 2007, and was determined to be complete on October 18, 2007.

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 September 14, 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 waived the 120-day review period, as stated with Exhibit A-4.

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed,

as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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

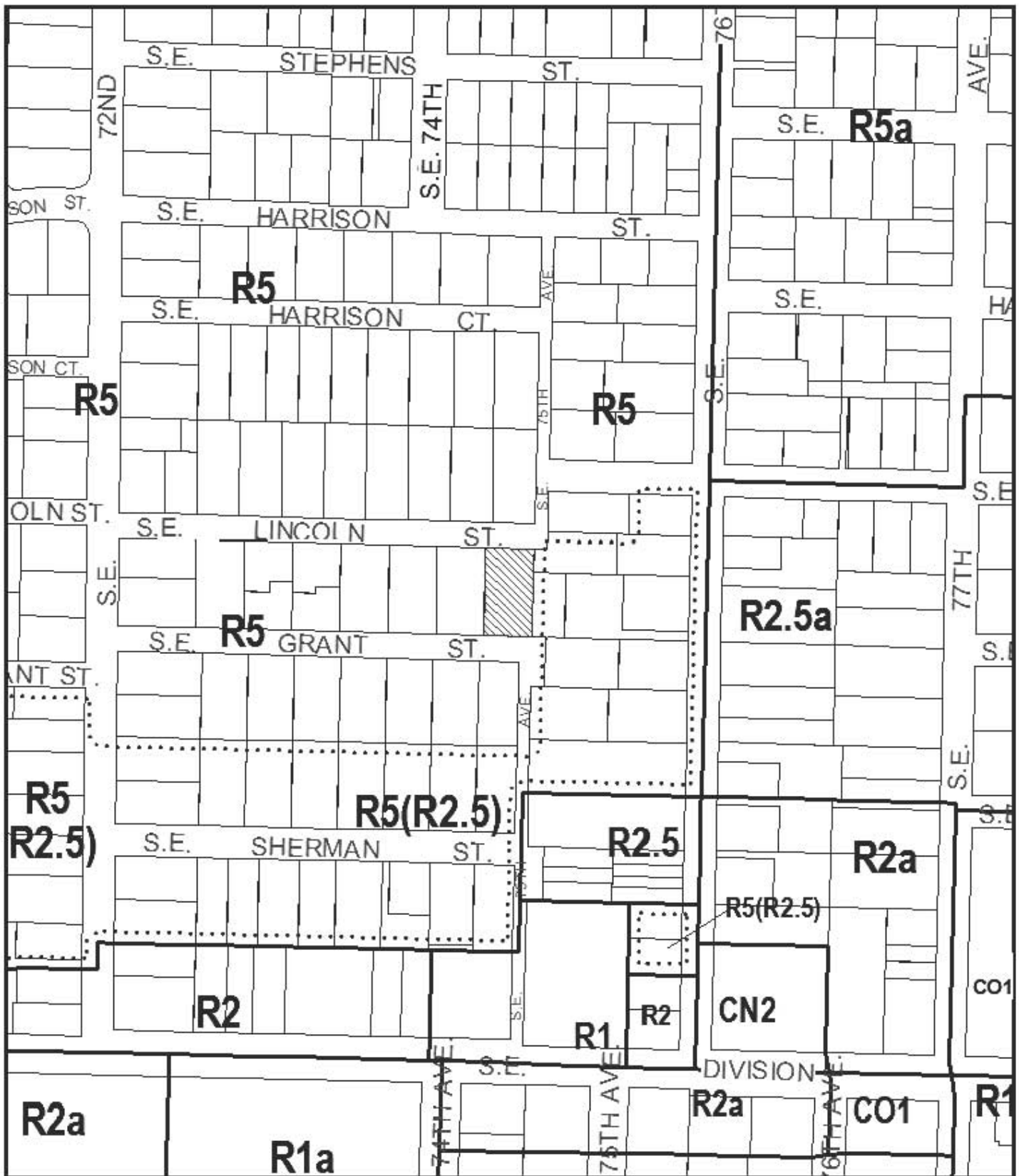
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittal
 - 1. Statement
 - 2. Arborist Report
 - 3. Infiltration Test
 - 4. Correspondence regarding processing timeline
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan and Tree Preservation 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 (three memoranda)
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS (Two memoranda)
 - 6. BDS, Life Safety
- F. Correspondence:
 - none
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. October 5, 2007 Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



Site



NORTH

File No.	LU 07-162648 LDP
1/4 Section	3238
Scale	1 inch = 200 feet
State_Id	1S2E05DC 8300
Exhibit	B (Sep 24,2007)

