



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** May 20, 2008  
**To:** Interested Person  
**From:** Mieke Stekelenburg, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 07-170846 LDP**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Mia C Mahedy-Sexton  
3915 SW Plum St  
Portland, OR 97219-6018

**Site Address:** 3901 SW Plum St  
**Legal Description:** BLOCK 2 LOT 23&24 TL 5700, BRUGGER VIEW  
**Tax Account No.:** R111000520  
**State ID No.:** 1S1E29BD 05700  
**Quarter Section:** 3925  
**Neighborhood:** Multnomah, contact Brian Russell at 503-869-1632.  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.  
**Plan District:** None  
**Zoning:** R5 – Residential 5,000  
**Case Type:** LDP – Land Division (Partition)  
**Procedure:** Type Iix, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is proposing a 2-parcel partition on a site that contains approximately 11,081 square feet of site area. The land division will create one standard and one flag lot. Parcel 1, the flag lot will contain approximately 5,775 square feet of site area. Parcel 2, the standard lot will contain approximately 5,306 square feet of site area. Tree preservation standards apply. Street frontage improvements and associated stormwater management facilities are required.

This partition proposal is reviewed through a Type Iix procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (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).

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

**Site and Vicinity:** The site is located in a Potential Landslide Hazard area as designated by the Comprehensive Plan. It has a moderate slope toward SW Plum Street, which is improved with only a dirt roadway. The surrounding area is developed with single family detached development with multifamily development east of the site on SW Barbur Blvd. The properties across the street are zoned R1 and R2, which allow for much higher density than the subject property (zoned R5). There are a few trees on the site that are located on Parcel 2 in an area where development would typically be located.

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:** 07-143408 PLS (Lot Confirmation/Property Line Adjustment)

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on February 6, 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:** 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	Applicable - See findings below.
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.

Criterion	Code Chapter	Topic	Applicability Findings
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	No Applicable – No new tracts or easements are proposed
I	33.639	Solar Access	Not Applicable - 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	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, but the site is within the potential landslide hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum =  $11,081 \text{ square feet} - \text{amount of site area landslide hazard area (entire site)} * .80 \div 5,000 \text{ square feet} = 0$ . There is no minimum density requirement for this site.

Maximum =  $11,081 \text{ square feet} \div 5,000 \text{ square feet} = 2.2$  (which rounds down to a maximum of 2 lots, per 33.930.020.B)

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 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):

	<b>R5 Zone Requirement</b>	<b>Proposed Parcel 1 (Flag Lot)</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area	3,000 sq. ft.	5,775	5,306
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	-	82
Minimum Lot Depth	50 ft.	-	64
Minimum Front Lot Line	30 ft.	-	85
Minimum Flag Lot Width**	40 ft.	99	
Minimum Flag Lot Depth**	40 ft.	50	

\* Width is measured at the minimum front building setback line

\*\* For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

#### Flag Lots

Parcel 1 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located 19 feet from the west property line and 18 feet from the east property line, which would preclude the creation of a lot that would meet the minimum width standard of the R5 zone of 36 feet. Two lots are proposed. As discussed above, minimum density has been met. The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet. Therefore, Parcel 1 is allowed.

#### **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 and evaluates their condition (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	<b>English Walnut</b>	<b>16</b>	<b>N</b>	<b>N</b>	<b>N</b>	-
2	<b>English Walnut</b>	<b>13</b>	<b>N</b>	<b>N</b>	<b>N</b>	-
3	<b>Norway Maple</b>	<b>22</b>	<b>N</b>	<b>Y</b>	<b>N/A</b>	-

4	<b>Plum</b>	<b>6</b>	<b>N</b>	<b>Y</b>	<b>N/A</b>	<b>-</b>
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The total non-exempt tree diameter on the site is 29 inches. The applicant would be required to preserve 10 inches of tree diameter or 35% of the non-exempt diameter. The applicant is not proposing to save any of the non-exempt trees on the site.

The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the 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.**

There are two non-exempt trees located on the site, labeled Tree #1 and Tree #2 (Exhibit C-1). These trees are both located on Parcel 2, the vacant lot. The trees are located in an area where the applicant proposes to locate a new single family home. It is not practical for either of these trees to be preserved and still be able to site a moderately sized home. Therefore, the applicant has met Criteria A, because as many trees as possible will be preserved.

The applicant has submitted an adequate tree mitigation plan that proposes 5 - 2" trees along the north east border of Parcel 2. As discussed above, the applicant would be required to preserve 35% or 10" of tree diameter on the site. Therefore a total of 10" must be planted on the site. The trees should be dispersed appropriately throughout the site. Requiring the replacement trees to be native species, chosen from the Portland Plant List, will help to foster and maintain the City's natural heritage. In addition, the trees will grow over time to provide additional benefits. The applicant is also proposing the use of porous paving for the new driveway on Parcel 2. This will help to mitigate for the loss of the two trees that will need to be removed. The mitigation plan submitted adequately mitigates for the loss of trees and better meets the purpose of the chapter. Therefore, criteria B is met.

The site is less than 15,000 square feet, which limits a practicable arrangement of lots that would allow enough room for a reasonable building site. Therefore, criteria "C" is met.

Section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted on new lots as part of the approval of future building permits. The T1 tree standard requires the planting of at least 2 inches of tree caliper per 1,000 square feet of site area, which would result in 10" of new trees planted on Parcel 2. This 10" combined with the 10" of mitigation trees will result in 20" of trees planted on the site. Because of the small size of the parcels it is not practical for 10" trees beyond the T1 standard to be planted entirely on Parcel 2 without jeopardizing the overall health of all of the trees on the site. Therefore, it may be appropriate to disperse the mitigation trees on both Parcels 1 and 2. Because the new lots will be adequately sized, additional trees can be planted on the lots without jeopardizing the overall health of the mitigation trees or the trees planted to meet the T1 requirement. Therefore the mitigation trees must be provided in addition to the trees planted on each lot to meet the T1 requirement.

Criteria B is met with a condition of approval requiring a total of 10" of mitigation tree diameter to be planted on Parcel 1 and 2. Trees to be planted on Parcel 1 (the flag lot) must be done prior to final plat approval. The remaining trees to be planted on Parcel 2 must be planted prior to final building permit approval for the new house on Parcel 2. T1 standards also apply for Parcel 2.

Code Section 33.110.240, Alternative Development Options, requires a landscaped buffer on lots that are 10,000 square feet or less in area. As such Parcel 1, the proposed flag lot, must meet this requirement. The landscaped area, which excludes the pole and the lot line that separates the flag lot and the lot from which it was divided, must be at least 3 feet deep and landscaped to at least the L3 standards of Section 33.248. Tree planting for the landscaped buffer can count toward meeting the tree mitigation requirement. This landscaped area must be installed prior to final plat approval.

With the conditions required above, this requirement is met.

**D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.**

### **33.632.100 Landslide Hazard Area Approval Criterion**

**The following approval criterion must be met: Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.**

**Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Alternative development options including alternative housing types and reduced density may be required in order to limit the risk to a reasonable level.**

**Findings:** The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited.

In order to evaluate the proposal against this criterion, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A-3). The Site Development Division of the Bureau of Development Services evaluated the report, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The

proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation has concurred that the applicant's proposed method of stormwater disposal at the site will not have a significant detrimental impact on the slope stability on or around the site. The applicant is proposing a soakage trench to manage roof runoff from the existing house. The soakage trench will treat the stormwater and allow the water to slowly infiltrate into the ground. Parcel 2 will manage stormwater off site. It will be treated and retained in a flow through planter and discharged into a new storm sewer as discussed later in this report under the findings for "Stormwater Management Approval Criteria." Site Development has concurred with the findings of the applicant's geotechnical report.

With the conditions of approval described above, the stormwater management criteria is met.

**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:** A Preliminary Clearing and Grading Plan was not submitted with the land division application however, the applicant did submit a Landslide Hazard Report (Exhibit A-3) that describes how clearing and grading should occur on the site to minimize erosion risks. Tree preservation for existing trees is not required.

The applicant's geotechnical engineer recommends that the amount of grading work occurring on the site be minimized as much as possible. It is anticipated that the grading will primarily involve excavating for the foundations of the new house and trenching for the utilities, but will not include mass grading of the site to alter the existing contours outside of what is required for a standard building envelope. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns through appropriate foundation design and the use of retaining walls. Stormwater runoff from the lots will be appropriately managed through a soakage trench for Parcel 1 that will capture water and slowly infiltrate to the ground and through a flow through planter that will capture stormwater and direct it off site to a new storm sewer. These methods assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal for Parcel 2 a clearing, grading and erosion control plan shall be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide

Hazard Study to assure that the grading will not create any erosion risks. Additional information may be required at the time of building permit application.

### **33.635.200 – Land Suitability**

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

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site has a modest slope and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and Parcel 2 can be considered suitable for new development. 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 97 feet of frontage on SW Plum Street. SW Plum Street is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 360 feet from the site on SW Barbur Blvd via bus 12. Access to the existing house is provided via an existing access easement on the adjacent property to the west.

SW Plum Street is improved with a dirt roadway. There is no paving, curbs, planter strips, or sidewalks. 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 paving, curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible to and from 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. The existing right of way is currently 40' wide. A 9' wide dedication is required at the time of final plat to accommodate for half street improvements including 20 feet of paving, a 6" curb, up to 8' wide stormwater facility, 6' wide



sidewalk and 6” setback from the edge of the sidewalk to the property line. 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.

The existing house on Parcel 2 currently has access through an existing access easement over the adjacent property to the west. The applicant provided an easement recorded in 2005 that provides shared use of the driveway that straddles a portion of Parcel 1 and the abutting property to the west (Exhibit G-4). The applicant proposes and BDS approves of continued use of this easement to ensure access to Parcel 1. The easement area must be shown on the final plat.

This criterion is met, with the condition that street paving, 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 4- inch water main is available in SW Plum Street. Water is available to serve the proposed development from the water main in SW Plum Street. Parcel 1 has an existing water service from that main. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8” CSP sanitary sewer in SW Plum Street located approximately 45’ west of the eastern property line. This main is available to serve the sanitary needs of Parcel 2. Parcel 1 has an existing sewer service from that main. The applicant has proposed and BES has approved of a short sewer extension (permit number 08-113597-UB) that will extend the sanitary main in Plum street farther west. This short sewer extension will provide sanitary disposal service to the existing house and to alleviate a shared sewer issue at 9515 SW Plum Street. This permit (08-113597) must be finalized prior to final plat approval. See Exhibit E-1 for more details.

As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over Parcel 2 to reach the sewer main in SW Plum street. The applicant has proposed installing a new sanitary sewer line to serve the existing house on Parcel 1. The applicant must obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1. All plumbing permits must receive final inspection approval prior to Final Plat approval.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

### **33.653.020 Stormwater Management Approval Criteria**

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

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

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

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

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

The applicant has proposed the following stormwater management methods (Exhibit 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 paving, curbs and sidewalks (discussed earlier in this report). A new storm sewer extension is required to manage runoff from these improvements. Stormwater from these new impervious areas will be directed into a flow through planter that will capture and treat the storm water. Overflow from the flow through planter will be discharged to the new public storm sewer extension. The applicant has proposed a 3' wide flow through planter to manage runoff from the street improvements. BES has approved of the use of a flow through planter however the size of the facility will be determined at the time of the pre-design meeting. Additional dedication to accommodate this stormwater facility (up to 8') within the public right-of-way may be required and must be provided on the final plat.

BES requires a Public Works Permit for the construction of the storm sewer. Prior to final plat approval, the applicant must submit a financial guarantee, fees, and substantially complete engineered plans (as determined by BES) for the extension of the public storm sewer to serve as a disposal point for runoff from the public street improvements. The flow through planter and related requirements must be addressed for street improvements. With this condition and the condition that street dedications be shown on the final plat this criterion is met.

- **Parcels 2:** Stormwater from this lot will be directed into a flow-through planter that will remove pollutants and suspended solids. The water will drain from the individual planter to the proposed storm sewer in SW Plum Street. Parcel 2 has sufficient size for an planter box, and the Bureau of Environmental Services has indicated that the treated water can be directed to the proposed storm sewer extension in SW Plum Street.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. All gutters and down spouts for the existing house must be connected to the new soakage trench system. Modifications will be needed to redirect this and any other downspout that falls within the required setbacks. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks

In addition site development has noted that unless pervious pavement is used for the driveway for Parcel 1 (the pole portion of the flag lot) then a method of stormwater treatment and disposal must be provided for driveway runoff. As noted earlier in this report that applicant proposes to use the existing driveway adjacent to the property to continue to gain access to the existing house. However if the applicant chooses to pave the pole portion of the Parcel 1 then porous paving must be utilized or a method of stormwater management provided at the time of permitting.

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

### **Right of Way Approval Criteria**

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.130.A	Utilities	Applicable - See findings below.

### **Applicable Approval Criteria are:**

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

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

**Findings:** The site is located between SW Capitol Hwy and SW Barbur Blvd. which have a distance between them of approximately 1,050 feet. There are no other north/south through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be a north-south through street provided in the vicinity of the site.

The site contains sufficient width to allow the creation of a public north-south through street. However, the properties adjacent to the portion of the site where the street would terminate are not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the South West District. No street connectivity requirements have been identified on the proposed site. Therefore, the proposal is consistent with the master street plan.

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

For the reasons described above, this criterion is met.

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

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

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

**Findings:** Any easements that may be needed for private utilities that cannot be accommodated within the proposed right-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**

**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.

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F)

**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 relates 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 10 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.
- Landscaping Parcel 1 – Parcel 1 is required to meet the Landscaping and Screening Standards of 33.248.020 C prior to final plat approval. This standard is based on 33.110.240.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

## OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements for flag lots. Flag lots shall have their address permanently displayed within 5-feet of the flag pole connection to the public way. The address shall be clearly visible from all vehicle approach points. 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 new planter strip adjacent to Parcel 1. Street tree requirements will be reviewed at the time street improvement application and/or at the time of building permit. This requirement is based on the standards of Title 20.

## 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:

- Stormwater management for existing and proposed development
- Tree mitigation
- Public street improvements to SW Plum Street

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 one flag lot and one standard lot 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;
- 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 SW Plum Street. The required right-of-way dedication must be shown on the final plat.
2. The existing Reciprocal Access Easement on the abutting westerly lot and Parcel 1 shall be shown and labeled on the final plat.

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

**Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SW Plum Street. 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 required street frontage improvements.

**Utilities**

2. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SW Plum Street. The applicant must obtain finalized permits for the public sanitary sewer extension (permit 08-113597-UB).
3. The applicant must initiate a public works permit, submit a financial guarantee, fees, and substantially complete engineered plans (as determined by BES) for the extension of the

public storm sewer to serve as a disposal point for runoff from the public street improvements and stormwater from Parcel 2.

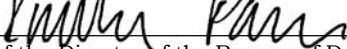
4. Prior to final plat approval, the applicant shall obtain and have finalized plumbing permits for capping the existing sanitary lateral connection to the house on Parcel 1 and providing a new lateral connection serving Parcel 1 from the new sanitary sewer main in SW Plum Street.

### **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, the gutters and downspouts must function properly, and they must direct water to the proposed soakage trench that meets setback requirements from the new lot lines. The applicant must obtain finalized plumbing permits for this work prior to final plat approval. **I**
6. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 1, the flag lot.
7. The applicant must obtain a finalized zoning permit for installing the required landscaping on proposed Parcel 1, the flag lot. Trees planted may count toward meeting the required 10" of tree mitigation.

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

1. The applicant must plant the remaining 10" of tree diameter on Parcel 2 at the time of development. Trees planted to meet the landscaping requirement on Parcel 1 (Condition C-7) may count toward mitigation. Mitigation trees are required in addition to T1 standards.
2. Pervious paving is required for driveways and parking areas on Parcel 2.

**Decision rendered by:**  **on May 15, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed 5/20/08**

**Staff Planner: Mieke Stekelenburg**

**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 19, 2007, and was determined to be complete on January 28, 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 19, 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 requested that the 120-day review period be extended 30-days (Exhibit A-4).

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on date** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us) .

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

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

**Recording the 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



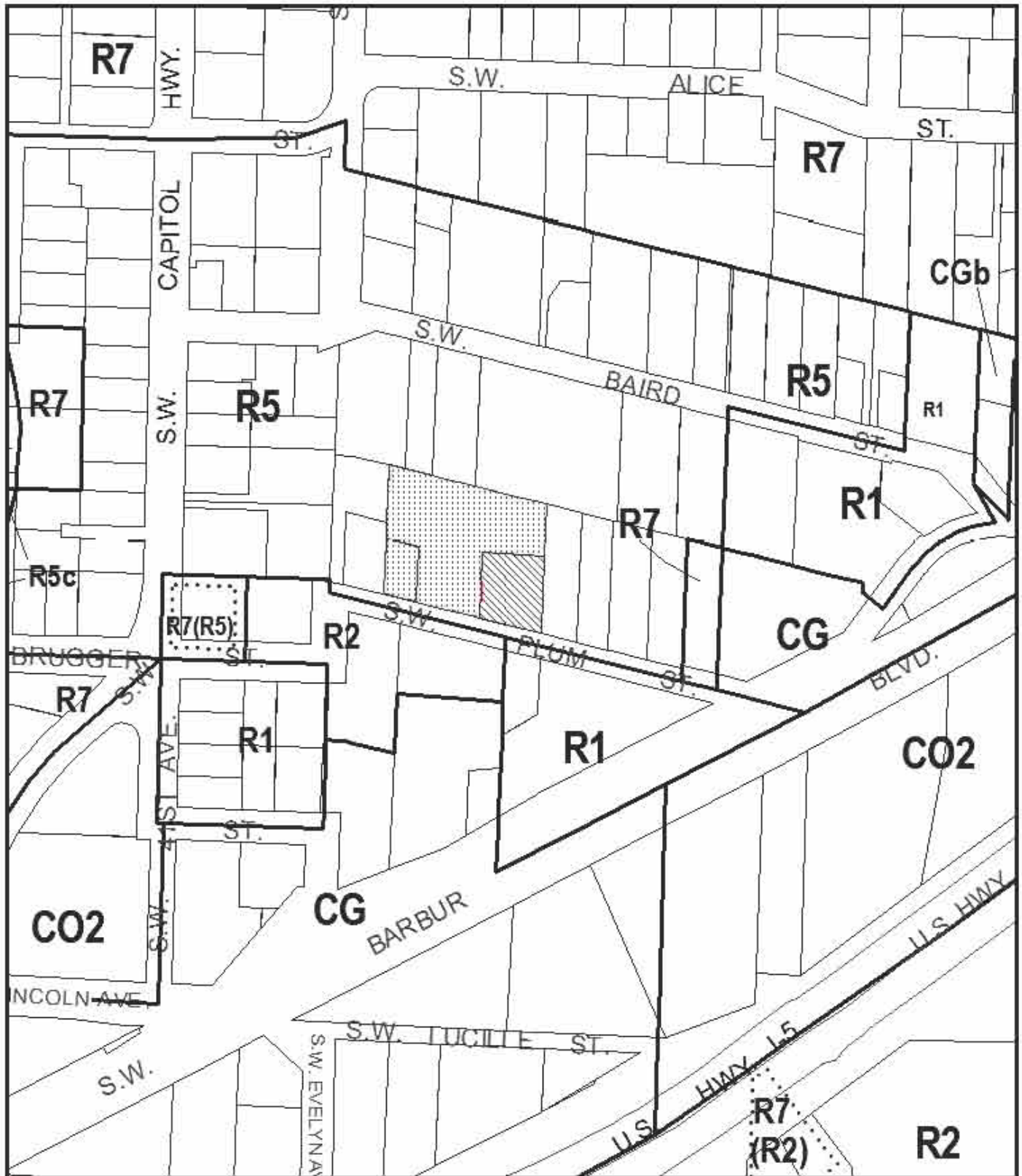
approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant's Narrative
  - 2. Arborist Report
  - 3. Geotechnical Report & Landslide Hazard Study
  - 4. 120-day extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Full size site and utility 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. Bureau of Parks, Forestry Division
- F. Correspondence: None submitted
- G. Other:
  - 1. Original LU Application
  - 3. Incomplete Letter
  - 4. Existing "Easement and Road Maintenance Agreement"
  - 5. 06-185676 PR Decision

**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
-  Also Owned



File No.	LU 07-170846 LDP
1/4 Section	3925
Scale	1 inch = 200 feet
State Id	1S1E29BD 5700
Exhibit	B (Oct 22, 2007)

# SITE PLAN 3901 SW PLUM ST

LOCATED IN THE  
 N.W. 1/4 SECTION 29, T.1S., R.1E., W.M.,  
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
 DATE: JULY 16, 2007 SCALE: 1"=30'  
 SURVEY PERFORMED FOR: MIA MAHEDY-SEXTON

