



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

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**Date:** July 7, 2008  
**To:** Interested Person  
**From:** Rachael Hoy, Land Use Services  
503-823-0646 / [RachaelH@ci.portland.or.us](mailto:RachaelH@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 08-111496 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Justin Pritchard,  
3331 NE 39th Ave  
Portland, OR 97212

**Site Address:** 9648 SE YUKON ST  
**Tax Account No.:** R162901410  
**State ID No.:** 1S2E16DB 04800      **Quarter Section:** 3640  
**Neighborhood:** Lents, contact Judy Welch at 503-771-4667.  
**Business District:** Foster Area, contact Nancy Chapin at 503-313-1665.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** Johnson Creek Basin  
**Zoning:** R1a – Residential 1000 with an “a” overlay for Alternative Design Density Overlay

**Case Type:** LDP - Land Division Partition  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

#### **Proposal:**

The applicant is proposing a land division that will result in two lots, approximately 1,525-sq. ft. each. There are two new townhomes currently under construction on the site that will remain after the land division (07-114666 RS & 07-114669 RS). As a result of the land division there will be one attached house on each new parcel. The applicant is handling on-site stormwater in drywells. All trees on the site are exempt species, therefore none of these trees will be required to be preserved.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110). For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

**ANALYSIS**

**Site and Vicinity:** This is a mid block site located on the south side of SE Yukon street. There are two new townhomes on the site that will remain after the land division. The surrounding neighborhood is characterized by single family and multi family residences on originally platted lots or on recently subdivided properties.

**Zoning:** The site is zoned R1 – Residential 1,000. The R1 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing

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

**Land Use History:** City records indicate one prior land use review for this site (LU 07-129284 AD). The applicant received approval for five adjustments associated with plans to develop a duplex on the site. The first adjustment reduced the west side setback from 5 feet to 4 feet. The second adjustment reduced the east side setback from 5 feet to 4 feet. The third adjustment increased the maximum allowed front yard vehicle area from 40 percent to 45 percent. The fourth adjustment increased the maximum allowed length of the garage wall from 50 percent of the street-facing façade to 63 percent. The fifth adjustment increased the maximum allowed impervious surface area on the site from 50 percent to 56 percent. With the approval of the various adjustments, the applicant could move forward with the building permit review process for two townhomes on the property (07-114666 RS & 07-114669 RS).

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on April 15, 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.

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>A</b>	<b>33.612</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone on the site.
<b>C</b>	<b>33.631</b>	<b>Flood Hazard Area</b>	<b>Applicable - See findings below.</b>
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.
<b>G</b>	<b>33.635 .100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635 .200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
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 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.
<b>K</b>	<b>33.641</b>	<b>Transportation Impacts</b>	<b>Applicable - See findings below</b>
<b>L</b>	<b>33.651 - 33.654</b>	<b>Services and Utilities</b>	<b>Applicable - See findings below</b>

**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. Chapter 33.612 contains the lot standards applicable in the Multi-dwelling 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.

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 3,410 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. No new streets or public street dedications are proposed with this land division. Therefore the resulting lot size for calculating density is 3,410 square feet.

In this case, Parcels 1 and 2 are proposed for single dwelling development. Therefore, the density requirements for this site are calculated as follows:

Minimum = 3,052 (site area) ÷ 1,450 (minimum density from Table 120-3) = 2.10 (which rounds down to a minimum of 2 unit, per 33.930.020.A).

Maximum = 3,052 (site area) ÷ 1,000 (maximum density from Table 120-3) = 3.05 (which rounds down to a maximum of 3 units, per 33.930.020.B).

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

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

#### Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

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/Chapter 33.612 of the Zoning Code):

	<b>R1 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
<b>Lots for Attached or Detached Houses</b>			
Minimum Lot Area	none	1,526 sq.ft.	1,526 sq.ft.
Minimum Lot Width*	none	20 ft.	20 ft.
Minimum Lot Depth	none	76.30 ft.	76.30 ft.
Minimum Front Lot Line	10 ft.	20 ft	20 ft.

\*Width is measured from the midpoints of the side lot lines.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, this criterion is therefore met.

**C. Flood Hazard Area. If any portion of the site is within the flood hazard area, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, must be met.**

**33.631.100 Flood Hazard Area Approval Criteria**

- A. RF through R2.5 zones. The following criteria must be met in the RF through R2.5 zones:**
1. Where possible, all lots must be outside of the flood hazard area; and
  2. Where it is not possible to have all lots outside of the flood hazard area, all proposed building areas must be outside of the flood hazard area.
- B. R3 through IR, C, E, and I zones. The following criteria must be met in the R3 through IR, C, E, and I zones:**
1. Where possible, each lot must have adequate area outside of the flood hazard area to accommodate allowed or proposed uses. This criterion does not apply to river-dependent uses; and
  2. Where it is not possible to create lots that have adequate area outside of the flood hazard area to accommodate allowed or proposed uses, the following must be met:
    - a. Lots must be configured so that development on them will reduce the impact of flooding and to provide the greatest protection for development from flooding;
    - b. Lots must be configured so that allowed or proposed uses that are not river-dependent will be able to locate on the highest ground and near the highest point of access, and so that development on the lots can be configured in a manner that will minimize obstruction of floodwaters; and
    - c. Where the proposed uses and development are river-dependent, lots must be configured so that development on them will minimize obstruction of floodwaters.
- C. In all zones. The following criteria must be met in all zones:**
1. Services proposed in the flood hazard area must be located and built to minimize or eliminate flood damage to the services; and
  2. The floodway must be entirely within a flood hazard tract unless river-dependent land-uses and development are proposed on the site.

**Findings:** The northwest corner of the site was in the flood hazard area according to FEMA maps when this land use application was submitted. The applicant submitted a request to the Federal Emergency Management Agency (FEMA) to remove the parcels from a designated Special Flood Hazard Area (Exhibit A-2). FEMA provided a Letter of Map Amendment Determination Document (Removal) response to the applicant. FEMA has determined that the property is not located in the Special Flood Hazard Area. Therefore, FEMA's response amends the National Flood Insurance Program (NFIP) maps and removes the applicant's site from the flood hazard area. (See Exhibit A-2).

This criterion 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:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criteria is met.

### **33.635.200 – Land Suitability**

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

The site is currently in residential use, and there is no record of any other use in the past. 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 lots 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 40 feet of frontage on SE Yukon street. SE Yukon street is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 200 feet from the site on SE Foster road via bus 14. Parking is currently allowed on SE Yukon, on both sides.

Yukon street is currently improved with a 32 foot paved roadway with curbs in a 40 foot right-of-way. As part of the building permit process for the two townhomes on the property (07-114666 RS and 07-114669 RS) the applicant was required to dedicate 9 feet of right-of-way and construct a 6-foot sidewalk along the sites frontage. 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. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

With the dedication of right of way and the completion of improvements under the building permits mentioned above, no additional dedication or improvements will be required. 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 4-inch water main is available in SE Yukon street. Water is available to serve the proposed development from the water main in SE Yukon street. Parcels 1 and 2 each have 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-inch PVC public sanitary sewer located in SE Yukon street that can serve the sanitary needs of the proposed parcels. Parcels 1 and 2 each have an existing sewer service from that main. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. The site meets the through street and pedestrian connectivity requirements. As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable.

**33.653.020 Stormwater Management Approval Criteria**

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

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

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

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

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

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

- **Parcels 1 and 2:** There are two building permits that have been issued for townhomes on the property. Site Development has indicated that the permits 07-114666RS and 07-114669RS have approved two drywells as shown on the site plan (Exhibit C.1). The individual drywells will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells.

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

## **DEVELOPMENT STANDARDS**

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

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

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

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcels 1 and 2. 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 R1 zone (Please see section on Other Technical Standards for Building Code standards.)

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



- Minimum Setbacks – The existing townhomes identified to remain on the site will become attached houses at the completion of the land division. The internal setback will be zero. The external setbacks will need to be in conformance with the approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The adjustment approved 4 foot side setbacks from the east and west side property lines to the adjacent lots. 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 lot lines.
- Attached houses – When the land division is complete, the structure currently under construction will be converted to attached houses located on each lot. The preliminary plan shows a common wall located on the new property line. A supplemental survey is required at the time of final plat to ensure that all structures on the site at that time continue to comply with this requirement.
- Parking and Loading – The existing front yard vehicle pavement will be in conformance with an approved Adjustment or other Land Use Review decision that specifically approves an increase to the maximum allowed percentage of front yard vehicle paving to 45 percent. 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 proposed mitigation for the adjustment of installing pervious pavers as the vehicle area surface.
- Floodplain Standards – The existing garage will be in conformance with an approved Adjustment or other Land Use Review decision that specifically approves to increase the maximum allowed impervious surface from 50 percent to 56 percent. 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 proposed mitigation for the adjustment of installing pervious pavers for the driveway to limit stormwater impacts.

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.

<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
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>

Bureau	Code Authority	Topic	Contact Information
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.

- To comply with building code requirements, the structure currently under construction on the site will need to be converted to rowhouses or attached houses located on individual lots. Based on the fact that the units are being constructed as townhouses (2005 Oregon Residential Specialty Code R317.2 Townhouse), no major building code conflicts are expected. Conversion to rowhouses will require the following:
  - A Maintenance and Easements Agreement for common building elements must be provided for review and approval with the final plat. The agreement must be recorded with the plat. A recording block must be included on the plat in substantial conformance with: *“A Maintenance and Easements Agreement for Common Building Elements has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

Because rowhouse development is specifically intended for individual lots, no rowhouse permits can be accepted by BDS until after the new lots are created by recording the Final Plat. However, because the structure is already under construction on the site, and must be converted to rowhouses to be in compliance with City codes, the applicant will not be permitted to sell the individual lots until the conversion is complete. Prior to Final Plat approval the applicant must execute a covenant with the City that states that the lots and homes cannot be sold separately until building permits to convert the structure to rowhouses have received final inspection approval. The covenant must be recorded with Multnomah County.

## CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issue identified with this proposal is the requirement to convert the structure currently under construction to rowhouses or attached houses to comply with building code requirements.

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 2 parcels for attached houses as illustrated with Exhibit C-1, subject to the following conditions:

**A. Supplemental Plan.** One copy of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- 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. A recording block must be included on the plat in substantial conformance with: "A *Maintenance and Easements Agreement for Common Building Elements* has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

1. The supplemental plan required under Condition A, shall document that the following are met:
  - Requirements for attached houses (location and length of common wall in relation to the new property line)

**Required Legal Documents**

2. A Maintenance and Easements Agreement for common building elements shall be provided for review and approval with the final plat.
3. The applicant shall execute a covenant with the City that states that the lots and homes cannot be sold separately until building code requirements to convert the homes to rowhouses is complete. The covenant shall be recorded with Multnomah County. After the final plat is recorded, permits (07-114666 RS) and 07-114669 RS) can be finalized to convert the existing structure to rowhouses. When the permits have final approval, the covenant will be released by City.

**Decision rendered by:**  **on July 2, 2008**

By authority of the Director of the Bureau of Development Services

**Decision mailed July 7, 2008**

**Staff Planner: Rachael Hoy**

**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 February 26, 2008, and was determined to be complete on April 10, 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 February 26, 2008.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

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

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

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

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

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

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

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

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

#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

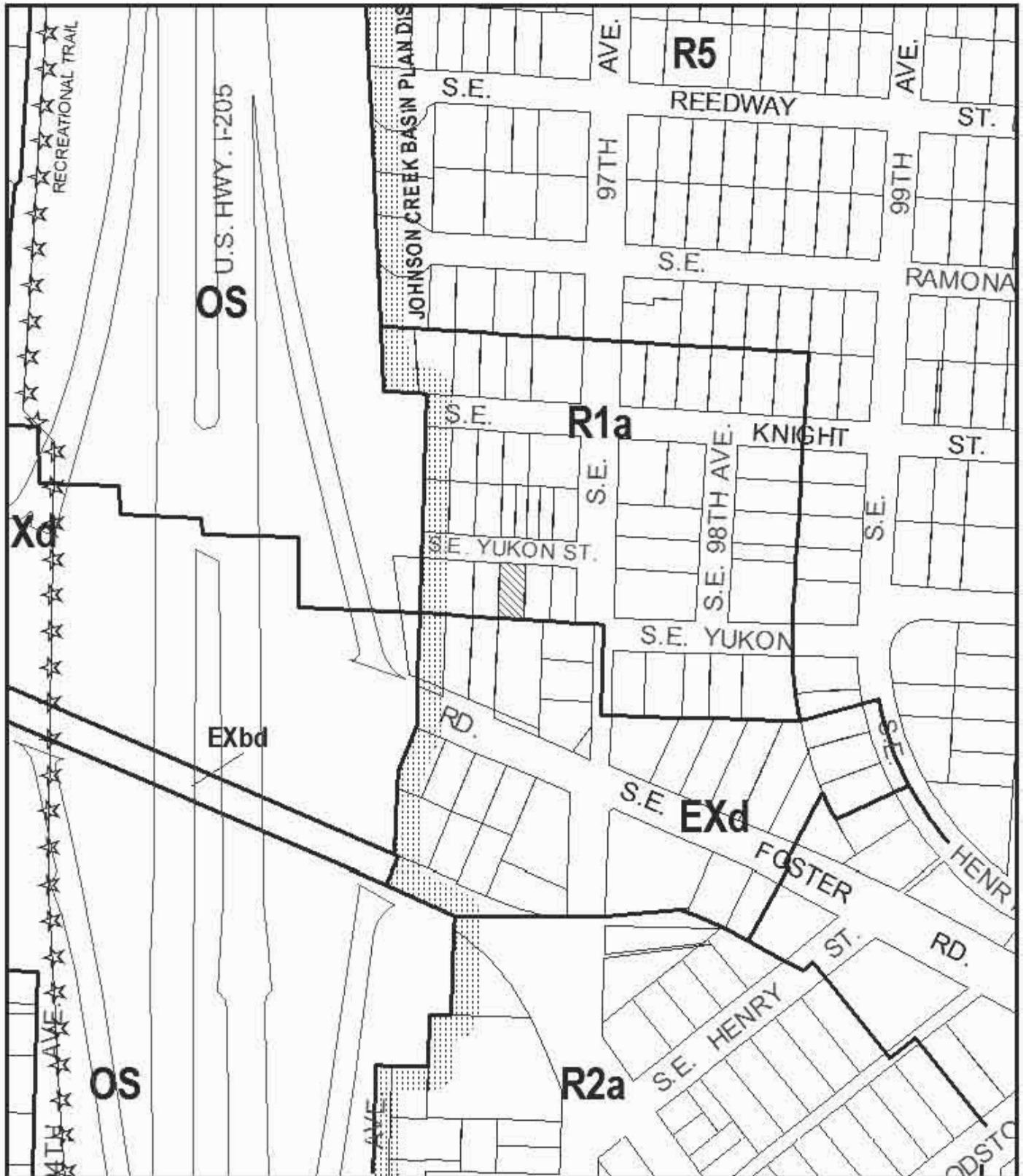
- A. Applicant’s Statement
  - 1. Narrative
  - 2. FEMA Letter of Map Amendment
  - 3. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety

F. Correspondence: None

G. Other:

1. Original LU Application
2. Site History Research
3. 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

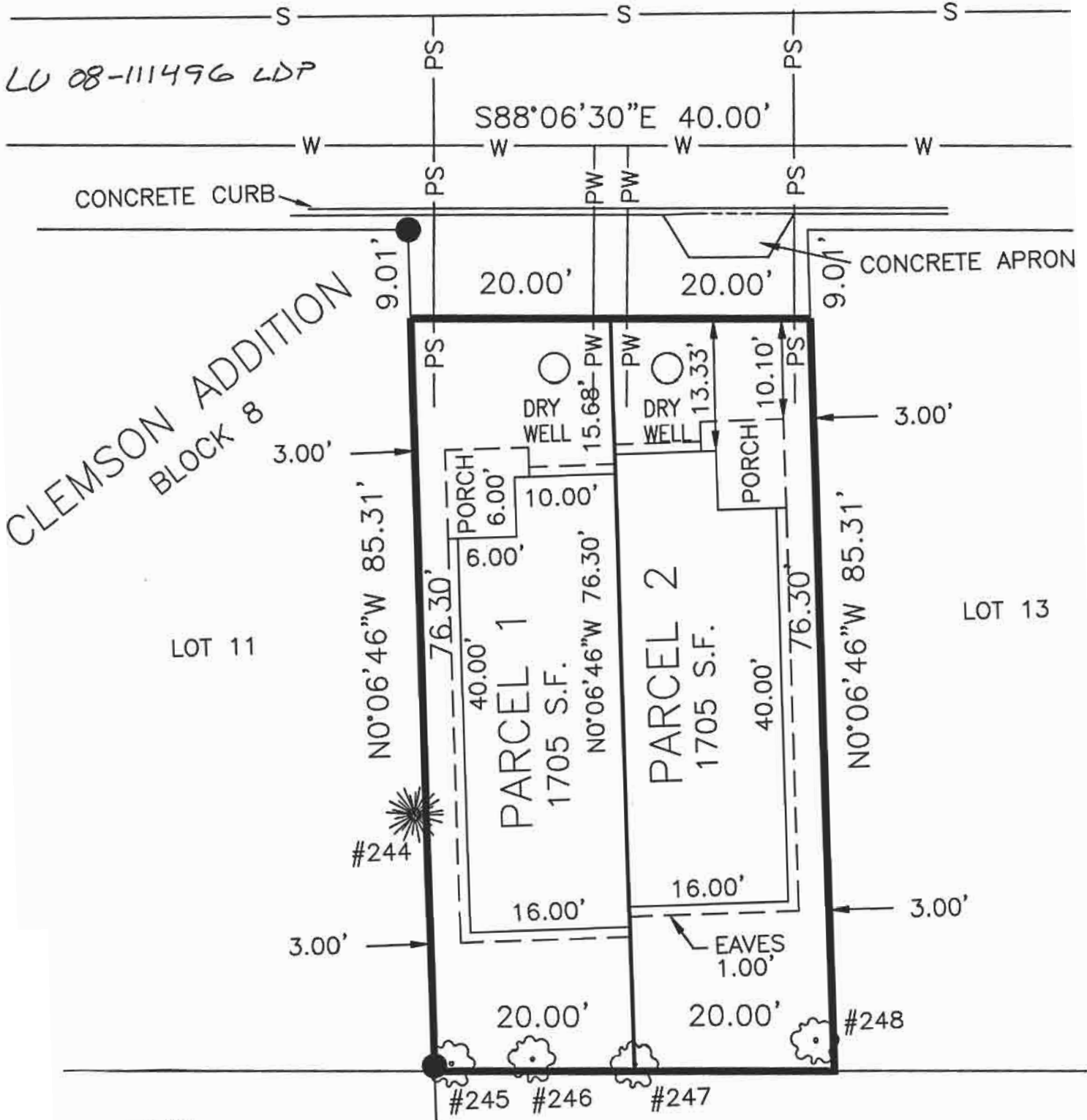
 Site



This site lies within the:  
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 08-111496 LDP
1/4 Section	3640
Scale	1 inch = 200 feet
State_Id	1S2E16DB 4800
Exhibit	B (Feb 28, 2008)

# SE YUKON STREET (40.00' WIDE)



CLEMSON ADDITION  
BLOCK 8

LOT 11

LOT 13

CLIENT:  
JUSTIN PRITCHARD

SITE ADDRESS:  
9648 SE YUKON ST.  
PORTLAND, OREGON

CASE NO. LU 08-111496 LDP  
EXHIBIT C-1