



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: July 7, 2008
To: Interested Person
From: Paul Cathcart, Land Use Services
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NOTICE OF A TYPE II_x 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 07-167508 LDP AD

GENERAL INFORMATION

Applicant: Donald R and Teresa Ratliff
10122 N Allegheny Ave
Portland, OR 97203-1633

Representative: Clyde J Travis
10104 N Tyler Ave
Portland, OR 97203

Site Address: 10122 N Allegheny Ave
Legal Description: TL 16200 0.46 ACRES, SECTION 06 1N 1E
Tax Account No.: R941060340
State ID No.: 1N1E06CB 16200
Quarter Section: 2023
Neighborhood: St. Johns, contact Lorelei Juntunen at 503-516-3579.
Business District: North Portland Business Assoc, contact Steve Weir at 503-283-3883.
District Coalition: Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-823-4135.

Zoning: Residential 5,000 (R5)

Case Type: Land Division Partition (LDP) with an Adjustment (AD)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to divide the 19,802 square foot property identified above into three parcels. Parcel 1 would be 11,532 square feet and would contain the existing house and garage. Parcels 2 and 3 would be 4,135 square feet each and would provide buildable area for a detached or attached house.

The applicant is also requesting an Adjustment to the maximum lot size for Parcel 1. The R5 zone has a maximum lot size of 8,500 square feet.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) three lots are proposed; and (4) a concurrent review (Adjustment to maximum lot size) is 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 Zoning Code section 33.660.120, Approval Criteria for Land Divisions in an Open Space or Residential Zone and section 33.805.040, Approval Criteria for Adjustments.

ANALYSIS

Site and Vicinity: The site is a through lot with frontage on N. Allegheny Avenue and N. Tyler Avenue. The existing house and garage face N. Allegheny Avenue. Five lots of the Olympia Haven subdivision abut the property to the south. Ranch and two story houses built from the early 1920s through the 1990s characterize surrounding development.

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

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on January 29, 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.

Criterion	Code Chapter	Topic	Applicability Findings
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

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

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

Minimum = $(19,802 \text{ square feet} * .80) \div 5,000 \text{ square feet} = 3.16$ (which rounds down to a minimum of 3 lots, per 33.930.020.A)

Maximum = $19,802 \text{ square feet} \div 5,000 \text{ square feet} = 3.96$ (which rounds up to a maximum of 4 lots, per 33.930.020.B)

The applicant is proposing 3 parcels. The density standards are therefore met.

Lot Dimensions

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

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

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	3,000 sq. ft.	11,532 sq. ft.	4,135 sq. ft.	4,135 sq. ft.
Maximum Lot Area	8,500 sq. ft.			
Minimum Lot Width*	36 ft.	83.75 ft.	41.86 ft.	41.87 ft.
Minimum Lot Depth	50 ft.	137.70 ft.	98.76 ft.	98.76 ft.
Minimum Front Lot Line	30 ft.	83.75 ft.	41.86 ft.	41.86 ft.

* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site and evaluates their condition (Exhibit A.3). The inventory identifies 25 trees on the site. The arborist exempted 12 because they are unhealthy. The non-exempt trees on the site comprise 176 inches of tree diameter. The proposed tree preservation plan (Exhibit C.2) would preserve four trees that have been exempted by the arborist report. Tree preservation credit is not given for trees that are exempt from the tree preservation requirements. The two non-exempt trees proposed for preservation by the applicant (#29 and #34 and) have respective diameters of 18 and 55 inches. Their combined diameter of 73 inches would preserve 41 percent of the non-exempt tree diameter and meet Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The Tree Preservation Plan has been revised showing the preserved trees and the required root protection zones (Exhibit C.2). The project arborist did not offer an alternative root protection zone for tree #34. The root protection zone for this tree encompasses the entire width of Parcel 1. As noted below, proposed Parcel 1 is larger than the maximum lot size for the R5 zone and would be further dividable. To allow this potential division in the future, the root protection zone of tree #34 can be evaluated at a future date in conjunction with a land division of Parcel 1 to determine an alternative root protection zone. 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. Site Development indicates that a 1995 code compliance case (95-000972 CC) did not resolve the issue of undocumented fill on the site. The applicant has submitted a geotechnical report conducted for the site that recommends structural loads from new buildings on the proposed parcels be placed in firm native soil below the level of the fill. As indicated above, the site is relatively flat and contains no other known geological hazards. With the condition that building permits for the construction of the foundation and drywells require Special Inspections by a Professional Engineer or a Certified Engineering Geologist, this criterion can be 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 property is a through lot with approximately 84 feet of frontage on N. Allegheny Avenue and N. Tyler Avenue. Both streets are classified as local service streets for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met does not provide transit service within 500 feet of the site. Parking is allowed on one side of N. Allegheny Avenue and one side of N. Tyler Avenue. There is one driveway entering the site from N. Allegheny Avenue that provides access to off-street parking for the existing house.

N. Allegheny Avenue is fully improved with a paved roadway, curbs, planting strips, and 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, the existing 9-foot wide sidewalk corridor does not meet the City's 11-foot wide sidewalk corridor requirement in this location. Additional right-of-way must be dedicated along the N. Allegheny frontage of the site to accommodate this future improvement. Sidewalk reconstruction to meet the sidewalk corridor standard will not be required with this decision. With this dedication, the existing dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

N. Tyler Avenue is improved with a paved roadway, curbs, and planter strip. There is no sidewalk on N. Tyler Avenue along frontage of this site. Portland Transportation has determined that sidewalk improvements will be required along N. Tyler Avenue to create an 11-foot sidewalk corridor and ensure safe pedestrian travel. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. With these improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. See Exhibit E-2 for more details.

This criterion is met, with the condition that sidewalk improvements are made to the N. Tyler Avenue frontage of the site, and the required right-of-way dedication to N. Tyler Avenue and N. Allegheny Avenue are 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 water main is available in N. Allegheny Avenue. Parcel 1 has an existing water service from that main. Water is available

to serve the proposed Parcels 2 and 3 from the 6-inch water main in N. Tyler Street. 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 N. Allegheny Avenue that currently serves sanitary needs of Parcel 1. The sanitary needs of Parcels 2 and 3 can be served by the main line in N. Tyler Avenue. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

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

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

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

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

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

The applicant has proposed the following stormwater management methods (Exhibit 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 N. Tyler Avenue frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.
- **Parcels 2 and 3:** Stormwater from these lots will be directed to individual soakage trenches/drywells that 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 soakage trenches/drywells. However, to assure that an adequate area for the soakage trench/drywell for the new house is retained when the lot is developed, BES has recommended a minimum 15-foot rear building setback for Parcels 2 and 3 to accommodate the soakage trench/drywell. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval by BES.

- Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground and into underground pipes. Site Development has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development. If the stormwater disposal system for the existing house will not be fully located on the parcel it serves after the land division, then appropriate easements must be provided on the final plat. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of Site Development and obtain finalized plumbing permits for the modifications prior to final plat approval.

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.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable - No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable - The proposal includes a common green/shared court/pedestrian connection instead of a traditional street.
33.654.120.C.3.c	Turnarounds	Not applicable - No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable - No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable - There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable - No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable - No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.

Code Section	Topic	Applicability Findings
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

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 N. Bank Street and N. Olympia Street, which have a distance between them of approximately 345 feet. There are no other east/west 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 a through street is not required in this location.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

The only new through pedestrian connections included in the proposal are new sidewalks along the N. Tyler Avenue frontage of the site. 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: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way of N. Allegheny Avenue or N. Tyler Avenue 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.

APPROVAL CRITERIA FOR ADJUSTMENTS

The applicant has requested an Adjustment to the maximum lot size of 8,500 square feet in the R5 zone for Parcel 1. The requested Adjustment is reviewed below.

The approval criteria for adjustments are found in Chapter 33.805.040 of the Zoning Code. Adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**
- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**
- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**
- D. City-designated scenic resources and historic resources are preserved; and**
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and**
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

Maximum Lot Size

Findings: An adjustment to the maximum lot size requirement for Parcel 1 is being proposed concurrently with the land division application. The required maximum lot size for the R5 zone for detached houses is 8,500 square feet. The applicant is proposing a parcel size of 11,532 square feet, or 3,032 square feet over the maximum allowed. Therefore an adjustment is required to allow the larger lot size. For an adjustment to be granted to this requirement, the proposal must “equally or better” meet the purpose of the regulation to be modified, which is 33.610.200 (Lot Dimensions):

33.610.200 Lot Dimension Standards

Lots in the RF through R5 zones must meet the lot dimension standards of this section.

A. Purpose. The lot dimension standards ensure that:

- Each lot has enough room for a reasonably-sized house and garage;
- **Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;**
- **Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;**
- Each lot has room for at least a small, private outdoor area;
- **Lots are compatible with existing lots;**
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street
- Each lot has adequate access from the street;
- Each lot has access for utilities and services; and
- Lots are not landlocked.

The proposed increase in the maximum lot size from 8,500 square feet to 11,532 square feet (3,032 square feet difference) can meet the purpose statement of the Lot Dimension Standards. At 11,532 square feet, Parcel 1 could be further divided under the current R5 zoning. However, each future lot created in the R5 Zone must either provide 30 feet of street frontage or be a flag lot that provides a minimum 12-foot "pole" width with street frontage.

Lots adjacent to this site in the R5 zone range from approximately 4,700 to 20,473 square feet, so the size of Parcel 1 would be compatible with the size of other existing lots in the area. All of the other applicable lot sizes of the R5 zone are met with Parcel 1. Therefore the intent of the lot dimension standards are met and Criterion A is satisfied.

This proposal is in a residential zone (not an OS, C, E, or I zone). The proposed lot size is 3,032 square feet greater than the maximum lot size allowed by the R5 zone. The existing lot is 19,802 square feet. Surrounding properties in the R5 zone range in size from approximately 4,750 to 20,473 square feet. While Parcel 1 would be over the maximum lot size allowed, proposed Parcel 1 would be closer to the average lot size for the surrounding area. A parcel area of this size, put into the context of surrounding lot sizes and residential uses, would not detract from the appearance or livability of the residential area. Therefore criterion B is satisfied.

Only one Adjustment is being requested, therefore Criterion C does not apply.

No City-designated scenic or historic resources are affected, so criterion D does not apply.

The proposed lot size for Parcel 1 should not have any appreciable impacts to the surrounding residential area. The proposed partition would build out the minimum density for the zone. Criterion E is met.

The proposal is not in an environmental zone, so criterion F does not apply.

Conclusion

The approval criteria for granting an Adjustment to the required maximum lot size 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.

In this case, there is one Zoning Code standard that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 55 feet from the new property line. The existing garage will be 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to aerial Fire Department access roads. These requirements are based on the technical standards of Title 31 and the Fire Code.

CONCLUSIONS

The applicant has proposed a 3-lot partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Right-of-way dedication on N. Allegheny Avenue and N. Tyler Avenue
- Construction of a sidewalk to City standards on N. Tyler Avenue

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot partition, that will result in three standard lots as illustrated with Exhibit C.1, subject to the following conditions:

Approval of an Adjustment to the maximum lot size in the R5 Zone.

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for N. Allegheny Avenue and N. Tyler Avenue. The required right-of-way dedication must be shown on the final plat.

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

Existing Development

1. Documentation shall be submitted, to the satisfaction of the Site Development Section of the Bureau of Development Service, of the location of the stormwater disposal system for the existing house. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must meet one of the following:

- Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
- Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.3). Specifically, trees numbered 29 and 34 are required to be preserved, with the root protection zones indicated on Exhibit C.2. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision. The root protection zone for tree numbered 34 may be modified by a certified arborist should Parcel 1 ever be further divided. Documentation that an alternative root protection zone will preserve this tree will be required to modify the root protection shown on the tree preservation plan.
2. The applicant must meet the requirements of Site Development for the building permits issued for the construction of foundations and drywells. Specifically, Special Inspections by a Professional Engineer or Certified Engineering Geologist during construction for all new foundations to confirm that structural loads are placed in firm native soil below the fill material will be required. Special Inspections shall be required by a Professional Engineer or Certified Engineering Geologist during drywell construction to confirm the depth and placement of drywells. Infiltration testing shall be performed if deemed necessary by the engineer or engineering geologist.
3. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.
4. The minimum rear building setback for Parcels 2 and 3 shall be 15 feet to assure that adequate space is available to accommodate a stormwater disposal facility that can comply with the requirements of the Stormwater Management Manual.
5. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of N. Tyler Avenue. The applicant must obtain an approved Right Of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk. The Right of Way permit must be finalized before the final inspection of building permits for the primary structures on Parcels 2 and 3.

Decision rendered by: Paul Cathcart on July 2, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed July 7, 2008

Staff Planner: Paul Cathcart

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 4, 2007, and was determined to be complete on January 22, 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 4, 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 until the applicant could provide additional information to address the issues raised in the February 27, 2008 land use response from Site Development.

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 July 21, 2008** 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.

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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an Adjustment. This concurrent approval must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an Adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: an Adjustment to maximum lot size. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

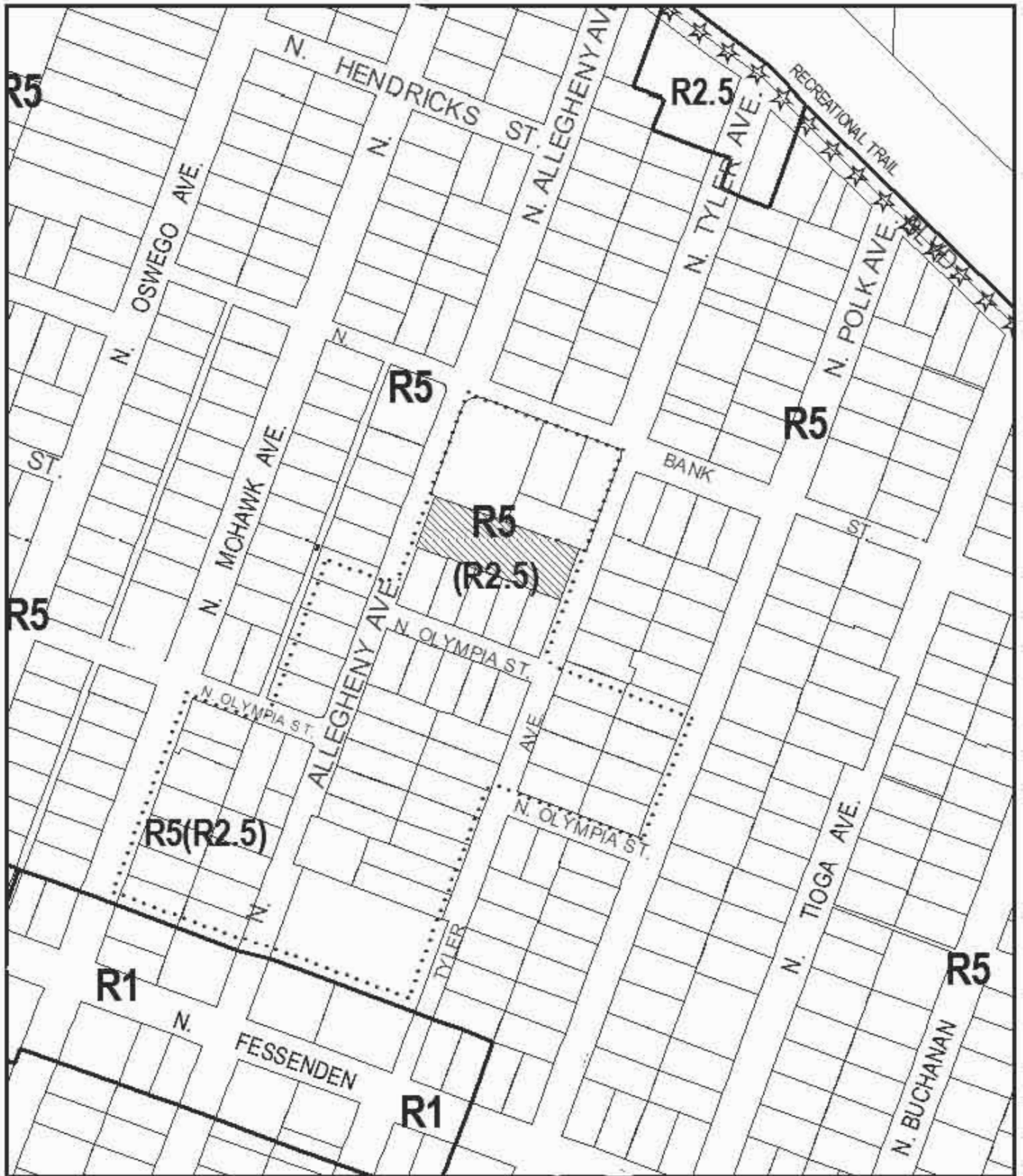
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
 - 1. Response findings to Land Division Approval Criteria
 - 2. Response findings to Adjustment Criteria
 - 3. Arborist Report dated April 26, 2007
 - 4. Letter from Clyde Travis to Paul Cathcart dated January 15, 2008
 - 5. Letter from Clyde Travis to Paul Cathcart dated June 11, 2008
 - 6. Limited Engineering Geological/Geotechnical Investigation dated April 30, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Tree Preservation Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of Bureau of Development Services
 - a. Land Use response dated February 13, 2008
 - b. Land Use response dated June 27, 2008
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of Bureau of Development Services
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. LU application for Adjustment of maximum lot size
 - 4. 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



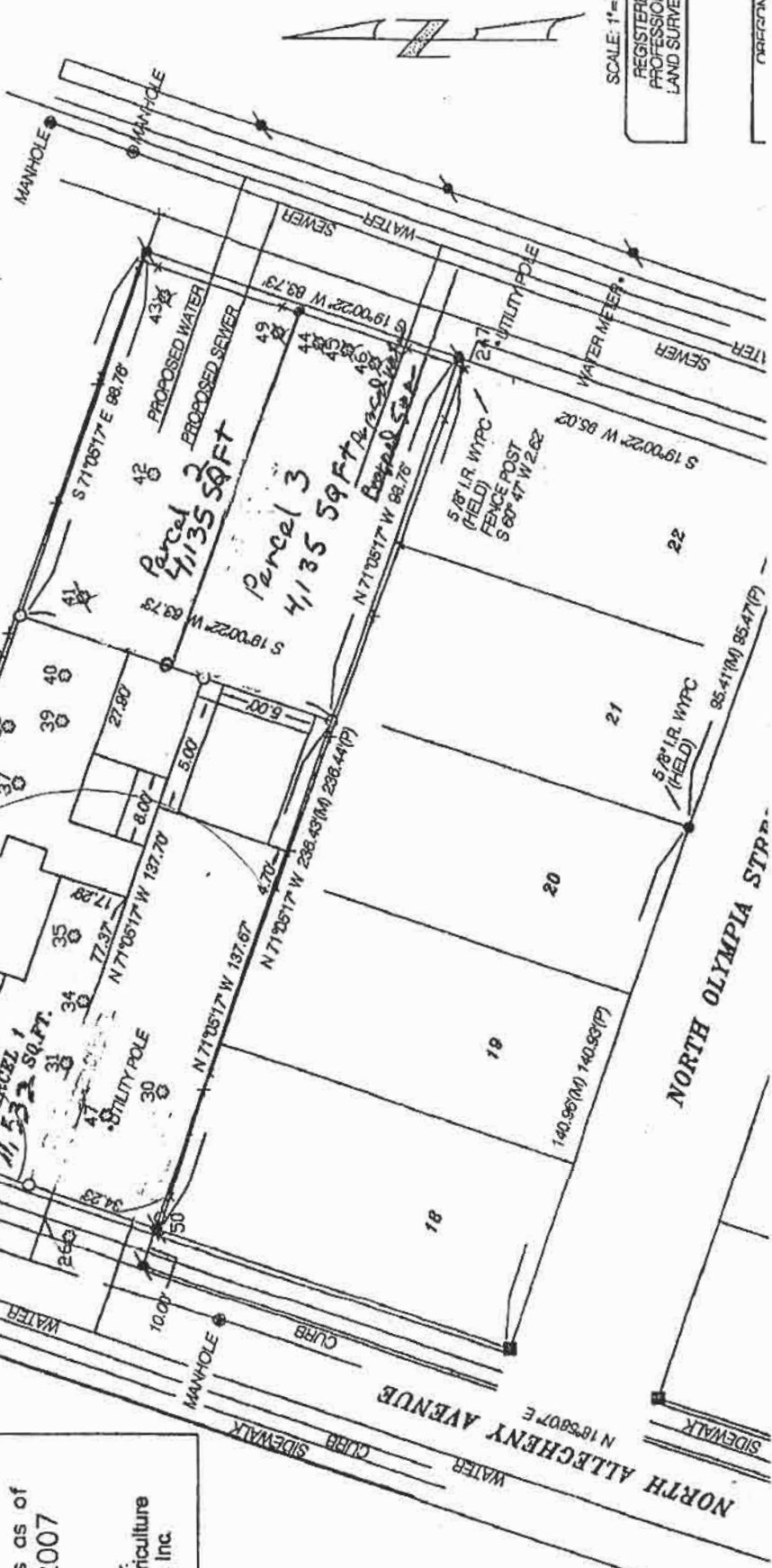
File No.	<u>LU 07-167508 LDP AD</u>
1/4 Section	<u>2023</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E06CB 16200</u>
Exhibit	<u>B (Jan 28, 2008)</u>

TREE PRESERVATION PLAN

EXISTING CONDITIONS MAP FOR A PROPOSED PARTITION PLAT
LOCATED IN THE SW QUARTER OF SECTION 6, T. 1N., R. 1E., W.M.
DEED BOOK 1122, PAGE 2288 MULTNOMAH COUNTY DEED RECORDS

CLIENT: CLYDE TRAVIS BY: LOVE LAND SURVEYS, INC.
JOB NUMBER: 08-4440 1415 WASHINGTON ST., OREGON CITY, OREGON 97045
DATE: OCTOBER 5, 2006 (503)866-4915
SCALE: 1"=30'

Tree Assessment
Tree Location Map
Numbered Tree Locations
Conditions as of
April 2, 2007
Completed by:
Istead's Arboriculture
Consultants, Inc.



SCALE: 1"=30'
REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON

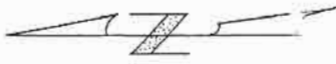
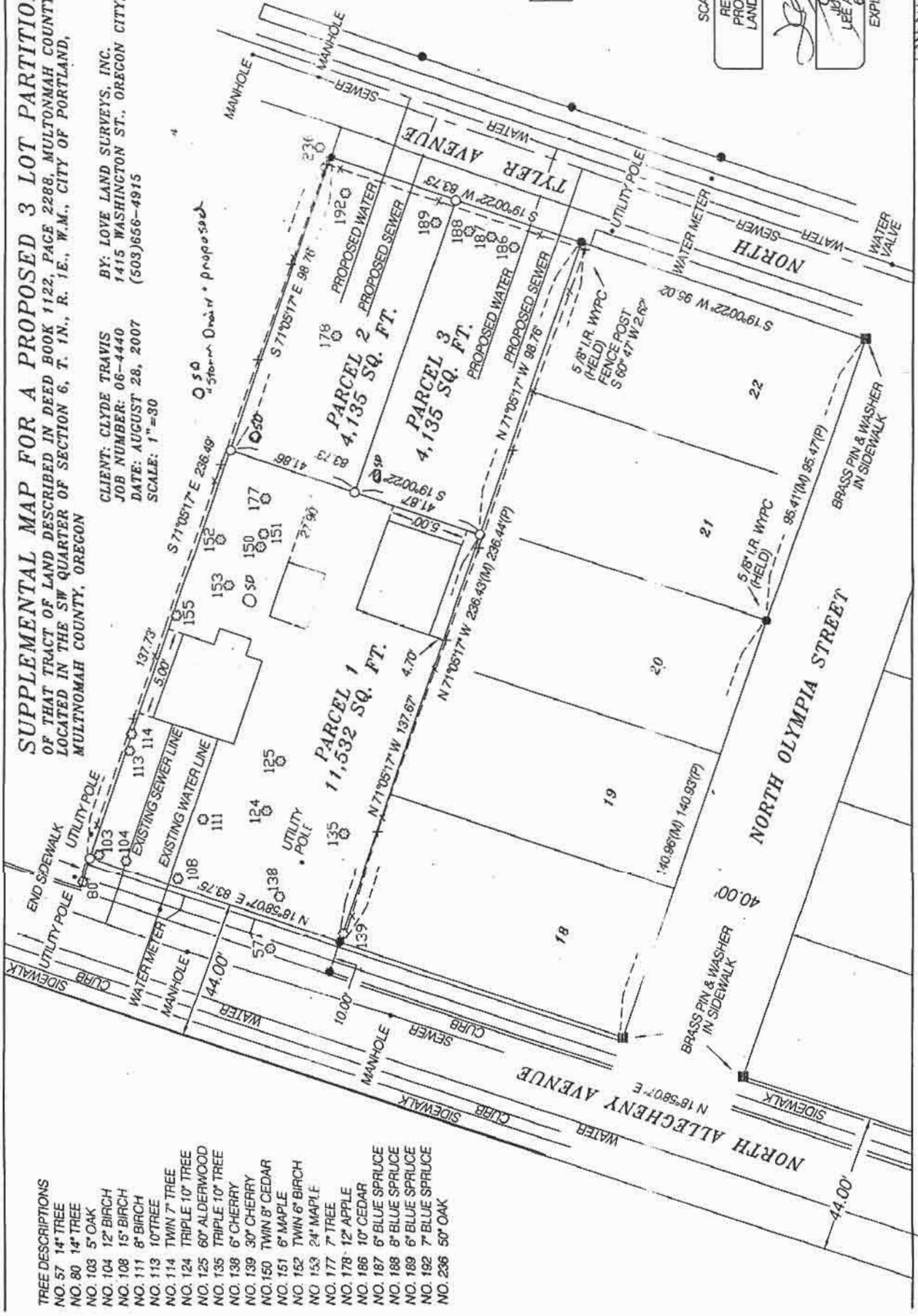
CASE NO. 11.07.107500 LDP AD
EXHIBIT C.2

SUPPLEMENTAL MAP FOR A PROPOSED 3 LOT PARTITION PLAT
 OF THAT TRACT OF LAND DESCRIBED IN DEED BOOK 1122, PAGE 2288, MULTONMAH COUNTY DEED RECORDS
 LOCATED IN THE SW QUARTER OF SECTION 6, T. 1N., R. 1E., W.M., CITY OF PORTLAND,
 MULTONMAH COUNTY, OREGON

CLIENT: CLYDE TRAVIS
 JOB NUMBER: 06-4440
 DATE: AUGUST 28, 2007
 SCALE: 1"=30'

BY: LOVE LAND SURVEYS, INC.
 1415 WASHINGTON ST., OREGON CITY, OREGON 97045
 (503)656-4915

- NO. 57 14" TREE
- NO. 80 14" TREE
- NO. 103 5" OAK
- NO. 104 12" BIRCH
- NO. 108 15" BIRCH
- NO. 111 8" BIRCH
- NO. 113 10" TREE
- NO. 114 TWIN 7" TREE
- NO. 124 TRIPLE 10" TREE
- NO. 125 60" ALDERWOOD
- NO. 135 TRIPLE 10" TREE
- NO. 138 6" CHERRY
- NO. 139 30" CHERRY
- NO. 150 TWIN 8" CEDAR
- NO. 151 6" MAPLE
- NO. 152 TWIN 6" BIRCH
- NO. 153 24" MAPLE
- NO. 177 7" TREE
- NO. 178 12" APPLE
- NO. 186 10" CEDAR
- NO. 187 6" BLUE SPRUCE
- NO. 188 8" BLUE SPRUCE
- NO. 189 8" BLUE SPRUCE
- NO. 192 7" BLUE SPRUCE
- NO. 236 50" OAK



SCALE: 1"=30'
 REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 11, 2006
 LEE A. SPURGEON
 6560315
 EXPIRES 06/30/08

CASE NO. LU 07-167508 LDP
 EXHIBIT C.1

LU 07-167508 LDP