



CITY OF PORTLAND
Bureau of Development Services
1900 SW Fourth Avenue, Suite 5000
Portland, OR 97201 **P524**
Land Use Review Decision
Case # LU 08-127743 LDP



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: August 8, 2008
To: Interested Person
From: John Cole, Land Use Services
503-823-3475 / ColeJA@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 08-127743 LDP

GENERAL INFORMATION

Applicant: Steven P Ediger,
4755 Alder St
West Linn, OR 97068

Representative: Royal Raymond,
Ztec Engineers Inc
3737 SE 8th Ave
Portland OR 97202

Site Address: 4015 SE LIEBE ST

Legal Description: LOT 5 BLOCK 2, HENRYS 5TH ADD
Tax Account No.: R376800180
State ID No.: 1S1E13AA 07600 **Quarter Section:** 3534

Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Nancy Chapin at 503-774-2832.

District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.
Zoning: R2.5 Residential 2,500

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

Proposal:

A proposal to divide a 5,000 square foot property into two 2,500 square foot parcels for development as (2) attached dwelling units in conformance with the R2.5 zone "narrow lot" development standards.

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.**

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).

ANALYSIS

Site and Vicinity: This site is located on the north side of SE Liebe Street. There is an existing residence located on the rear (N) portion of the property that will be removed. The surrounding neighborhood is characterized by single family and multi family residences on originally lots or on more recently subdivided properties.

Zoning: The R2.5 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 that there was one prior land use review for this site (LU 04-037453) which was withdrawn by applicant. There are no findings or conditions from that review that impact this case review.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on July 2, 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:** Three letters of support have been received from notified property owners in response to the public notice for this proposal. (see Exhibit F-1 through F-3 for more detail).

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	33.611	Lots	Applicable - See findings below
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.

Criterion	Code Chapter	Topic	Applicability Findings
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot standards applicable in the R2.5 zone. 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 = (5,000 square feet * .80) ÷ 5,000 square feet = 0.80 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 5,000 square feet ÷ 2,500 square feet = 2.00 (which rounds down to a maximum of 2 lots, per 33.930.020.B)

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

Lot Dimensions

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

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

	R2.5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	1,600 sq. ft.	2,500 sq. ft.	2,500 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	25 ft.	25 ft.
Minimum Lot Depth	40 ft.	100 ft.	100 ft.
Minimum Front Lot Line	30 ft.	25 ft.	25 ft.

* Width is measured at the minimum front building setback line

Narrow Lots

Parcels 1 and 2 are 25-feet wide each — narrower than the standard minimum width for the R2.5 zone, as shown in the table above. 33.611.200.C for R2.5 of the Zoning Code, however, allows narrower lots if the future development can meet certain standards:

- **If the lot abuts an alley, then vehicle access is allowed only from the alley;**
- **If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created under these provisions (lots that abut a pedestrian connection or common green are exempt from this standard).**
- **Lots must be configured so that at the time of development the length of the garage wall will be no more than 50% of the length of the street-facing building façade.**
- **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- **When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley; and**

The applicant has demonstrated that Parcels 1-2 can meet the narrow lot standards for the following reasons:

Preserves on-street parking

- Exhibit C-2 shows that 15-feet of uninterrupted curb space will be preserved for every narrow lot along SE Liebe street, after provision of driveways serving the lots (including the required 3-foot curb returns on either side of the driveway entrance). A condition of

approval is required to assure that this curb space will continue to be preserved when the lots are developed or re-developed.

50 percent garage wall limitation

- The applicant is proposing two 20' wide attached dwelling units. A 10' wide garage wall would be permitted. This would allow for an 8-foot wide garage door with 1 foot of structural support on either side. According to the Building Plan Review division of the Bureau of Development Services, this configuration of garage wall can be approved through an "engineered solution," that shows adequate structural support for the garage walls and door. Typically such solutions involve metal framing material and support members rather than wood, at a minimum. However, these solutions can be approved at the time of building permit review. With such an engineered solution, development on the proposed lots can provide a garage wall that occupies only 50 percent of the front façade of the house.

60 percent landscaping requirement for attached houses

- Parcels 1-2 will have driveways that share a common access to the public street. The driveways will be approximately 14 feet wide at the curb opening, and widen to approximately 23 feet near the entrance to the garage on each lot (Exhibit C-1). This configuration results in approximately 401 percent of the front yard devoted to driveway area. Therefore, the remaining 60 percent of area can be landscaped to meet this requirement.

Caution: The submitted design on exhibits C-2 and C-3 is right at the maximum allowed driveway area permitted by Code. Some of the remaining required landscaping area is shown to be devoted to stairs on the applicants proposed building footprint example. This building plan will have to be revised in order to comply with the 60% frontyard landscape requirement and may need to be revised Code Section 33.110.230.D. which requires the main entrance to an attached dwelling to be located within four feet of the average grade.

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

- 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;**
- Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- 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;**
- Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- 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. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easements are proposed and/or required for this land division:

- A Reciprocal Access Easement will be required to allow shared use of a driveway that will straddle proposed lot lines;
- A Private Stormwater Management Easement is required across the relevant portions of Parcels 1 and 2, for a shared soakage trench that will provide stormwater disposal for both parcels.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreements be prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for a Reciprocal Access Easement for the benefit of Parcel 1 & Parcel 2 has been recorded as document no. _____, Multnomah County Deed Records.”

“A Declaration of Maintenance agreement for a Stormwater Management Easement for the benefit of Parcel 1 & Parcel 2 has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, 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 50-feet of frontage on SE Liebe street. SE Liebe street is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 371-feet from the site on SE 39th Ave. Parking is currently allowed on SE Liebe street, on both sides.

SE Liebe street 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. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met.

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. Water is available to serve the proposed development from an existing 6-inch water main in SE Liebe street. Parcel 2 has an existing water service from that main. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in SE Liebe that can serve the sanitary needs of the proposed parcels. Parcel 2 has 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 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:** Stormwater from these lots will be directed to a shared drywell that will treat the water and slowly infiltrate it into the ground. There is sufficient area for a shared stormwater facility within a ten by ten foot easement that can be adequately sized to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywell.

With conditions of approval that require the easement be shown on the final plat and that a supporting maintenance agreement be recorded, 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.

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- **Narrow Lots-- development on Parcels 1 & 2 will be subject to the following standards at the time of development permitting:**
 - **Height of the structures will be limited to 1.2/ 1.5 times the width of the structure, per 33.110.215.B.2; and**
 - **Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.250.E.4.c (1)**
 - **60% of the area between the front lot line and the front building line must be landscaped for attached houses 33.110.240.C.2.d.**

Caution: Minor modifications may be required to the submitted example site plan in order to meet these standards. Additional revisions may be required to building plans to meet other code requirements including but not limited to requirements that main entrance be located within 4' of average grade. Adjustments to these requirements are not allowed.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access and addressing height of buildings or portion of buildings. These requirements are based on the technical standards of Title 31 and the Fire Code.

CONCLUSIONS

The applicant has proposed a two-lot partition to create two single-family residential lots. The existing house on the site will be demolished and will be available for new development meeting narrow lot standards of the R2.5 zone as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are stormwater management and compliance with the narrow lot standards.

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 attached narrow lots as illustrated with Exhibit C-1, subject to the following conditions:

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

- Stormwater management setback requirements
- Access Driveway Easement and setback requirements

B. The final plat must show the following:

1. A nine foot-foot wide by 24 foot deep (minimum) Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Parcel 1 and Parcel 2 as shown on Exhibit C-1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A 10'X10' Shared stormwater management easement shall be shown and labeled on the final plat, centered on the common property line between Parcel 1 and Parcel 2 as shown on Exhibit C-1. The easement shall allow shared use of this area for a drywell serving the stormwater needs of both parcels.
3. Two recording blocks for the maintenance agreements required to support the reciprocal access easement and stormwater management easement. The recording block(s) shall, at a minimum, include language substantially similar to the following example:
 - *“A Declaration of Maintenance Agreement for Reciprocal Access Easement for the benefit of Parcel 1 & Parcel 2 has been recorded as document no. _____, Multnomah County Deed Records.”*
 - *“A Declaration of Maintenance Agreement for Private Stormwater Management Easement for the benefit of Parcel 1 & Parcel 2 has been recorded as document no. _____, Multnomah County Deed Records.”*

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

Existing Development

1. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures.

Required Legal Documents

2. Maintenance Agreements shall be executed for the easement areas described in Condition B-1 and B-2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. A minimum of 15 feet of uninterrupted curb space must be preserved along the frontage of Parcels 1 & 2.
2. 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.

Decision rendered by:  on August 5, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed August 8, 2008

Staff Planner: John Cole

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 May 8, 2008, and was determined to be complete on June 30, 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 May 8, 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.

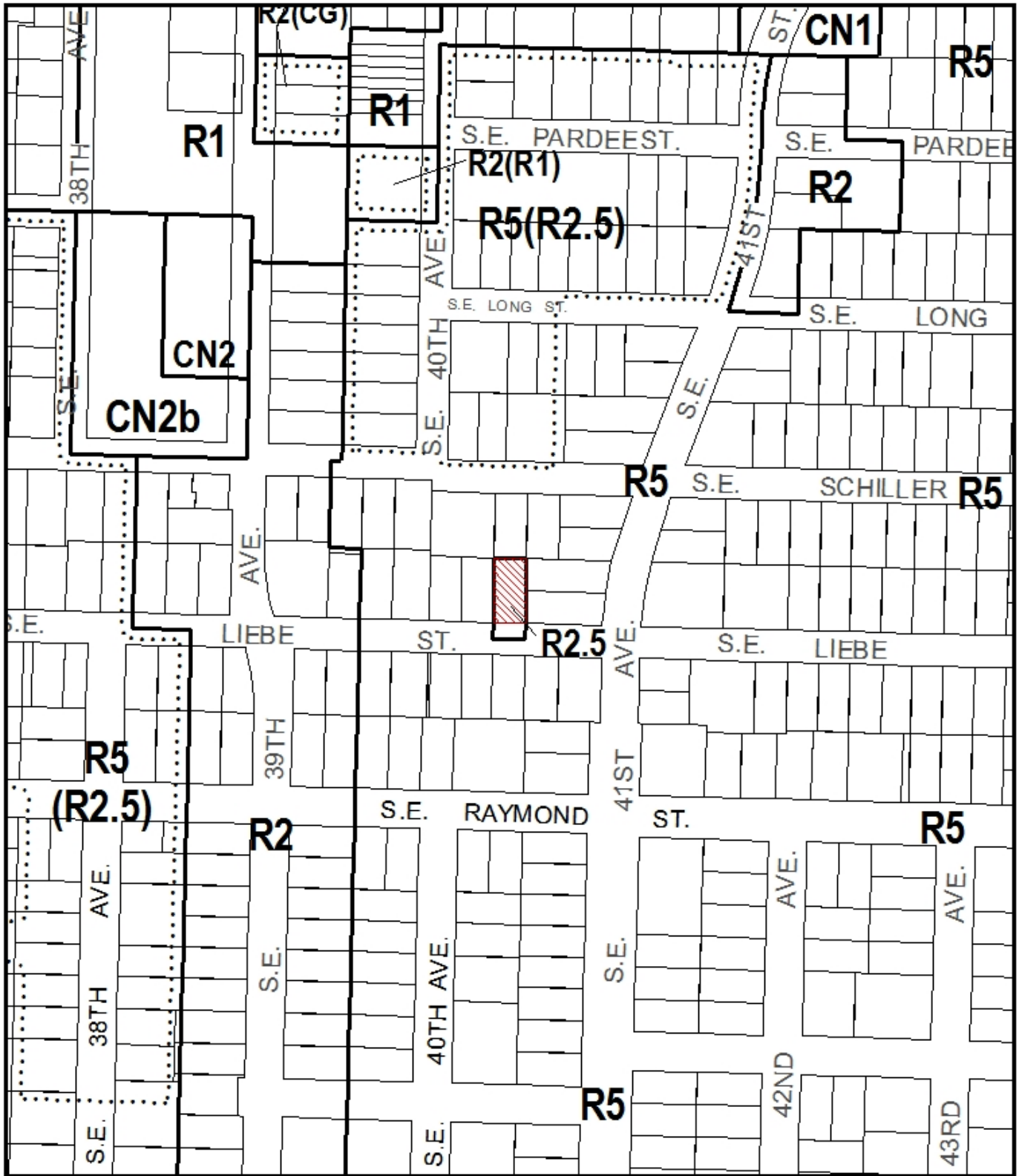
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Example footprint (attached)
 - 3. Preliminary Clearing & Grading and Utility Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Jane Morgan and David Thorness (4026 SE Schiller Portland, Or. 97202), received via mail on July 07, 2008.
 - 2. Norman & Jane Clavin (4007 SE Liebe ST Portland, Or. 97202), received via email on July 31, 2008.
 - 3. Gigi Rosenburg (3942 SE Liebe ST Portland, Or. 97202), received via email on July 31, 2008.
- G. Other:
 - 1. Original LU Application
 - 2. Rezone Ordinance No.131358
 - 3. Incomplete Letter May 28, 2008
 - 4. Request for Additional Information July 16, 2008
 - 5. Response Cover Letter July 18
 - 6. Correspondence from George Zifcak 6/23/08

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 08-127743 LDP</u>
1/4 Section	<u>3534</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E13AA 7600</u>
Exhibit	<u>B (May 14,2008)</u>

LM 08-127743 LDP

MULTNOMAH COUNTY
SURVEY RECORDS

DATE FILED: _____

REGISTER NUMBER _____

LEGEND:

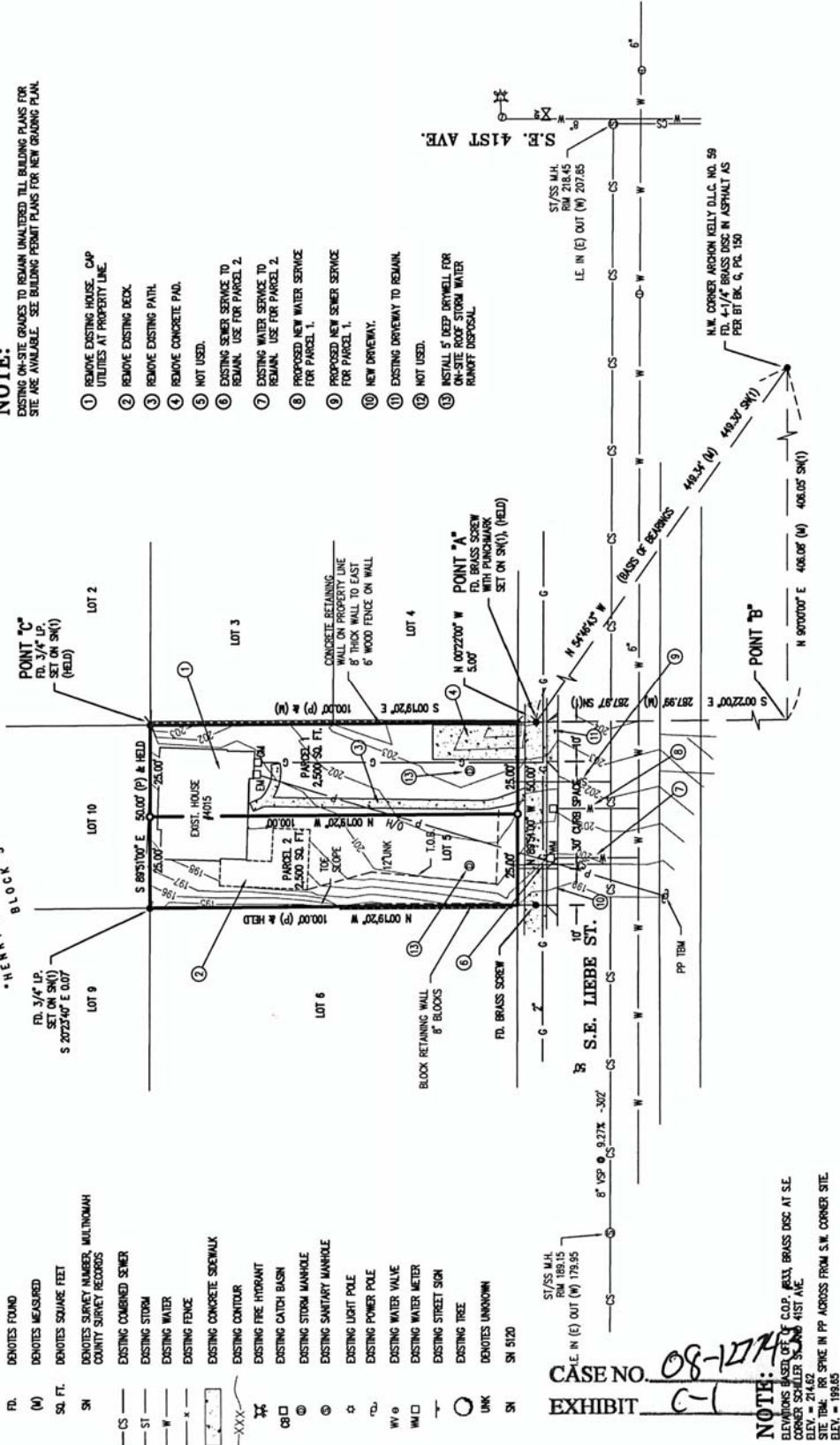
- DENOTES MONUMENTS FOUND AS NOTED
- DENOTES 5/8"x3/32" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED ZTEC L.S. 1944 SET ON
- UL DENOTES IRON ROD
- LP DENOTES IRON PIPE
- PL DENOTES PROKATED
- FD DENOTES FOUND
- (M) DENOTES MEASURED
- SQ. FT. DENOTES SQUARE FEET
- SN DENOTES SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- CS EXISTING COMBINED SEWER
- ST EXISTING STORM
- W EXISTING WATER
- E EXISTING FENCE
- XXX EXISTING CONCRETE SIDEWALK
- XXX EXISTING CONTOUR
- XX EXISTING FIRE HYDRANT
- CB EXISTING CATCH BASIN
- ⊙ EXISTING STORM MANHOLE
- ⊙ EXISTING SANITARY MANHOLE
- ⊙ EXISTING LIGHT POLE
- ⊙ EXISTING POWER POLE
- WV EXISTING WATER VALVE
- WM EXISTING WATER METER
- ⊙ EXISTING STREET SIGN
- ⊙ EXISTING TREE
- DN DENOTES UNKNOWN
- SN 5120

NOTE:

EXISTING ON-SITE GRADES TO REMAIN UNALTERED TILL BUILDING PLANS FOR SITE ARE AVAILABLE. SEE BUILDING PERMIT PLANS FOR NEW GRADING PLAN.

- 1 REMOVE EXISTING HOUSE, CAP UTILITIES AT PROPERTY LINE.
- 2 REMOVE EXISTING DECK.
- 3 REMOVE EXISTING PATH.
- 4 REMOVE CONCRETE PAD.
- 5 NOT USED.
- 6 EXISTING SEWER SERVICE TO REMAIN, USE FOR PARCEL 2.
- 7 EXISTING WATER SERVICE TO REMAIN, USE FOR PARCEL 2.
- 8 PROPOSED NEW WATER SERVICE FOR PARCEL 1.
- 9 PROPOSED NEW SEWER SERVICE FOR PARCEL 1.
- 10 NEW DRIVEWAY.
- 11 EXISTING DRIVEWAY TO REMAIN.
- 12 NOT USED.
- 13 INSTALL 5" DEEP DRYWELL FOR ON-SITE ROOF STORM WATER RUNOFF DISPOSAL.

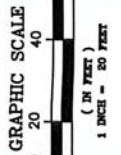
*HENRY'S 5TH ADDITION,
BLOCK 5



CASE NO. 08-1274
EXHIBIT C-1

NOTE:

ELEVATIONS BASED OFF OF C.O.P. BRASS DISC AT S.E. CORNER SCHALLER ST. AND 41ST AVE.
ELEV. = 214.62
SITE TBM. BR. SPIKE IN PP. ACROSS FROM S.W. CORNER SITE.
ELEV. = 198.85



ZTEC ENGINEERS INC.

3737 S.E. 8TH AVE., PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889

LOCATED IN THE N.E. 1/4 OF SECTION 13,
T.1S., R.1E., W.M. IN THE CITY OF PORTLAND,
MULTNOMAH COUNTY, OREGON

JOB#:	P3707-1
DATE:	11-28-07
SCALE:	1"=20'
DRAWN:	JHH
CHECKED:	CCF
FILE:	P3707PRE-OR
PLLOT:	2-12-08

STEVE EDIGAR

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1988
CHRIS FISCHBORN
1944

RENEWAL DATE: 1/2/2008

PRELIMINARY CLEARING & GRADING
AND UTILITY PLAN

"HENRY'S 5TH ADDITION"
BLOCK 5

FD. 3/4" I.P.
SET ON SN(1)
S 20°23'40" E 0.07'

POINT "C"
FD. 3/4" I.P.
SET ON SN(1)
(HELD)

LOT 9

LOT 10

LOT 2

S 89°51'00" E 50.00' (P) & HELD

EXIST. HOUSE
#4015

PARCEL 2
2,500 SQ. FT.

PARCEL 1
2,500 SQ. FT.

LOT 3

LOT 6

N 00°19'20" W 100.00' (P) & HELD

100.00' (P) & (M)

CONCRETE RETAINING
WALL ON PROPERTY LINE
8' THICK WALL TO EAST
6' WOOD FENCE ON WALL

LOT 4

BLOCK RETAINING WALL
8" BLOCKS

N 00°22'00" W
5.00'

POINT "A"
FD. BRASS SC
WITH PUNCHM.
SET ON SN(1)

FD. BRASS SCREW

N 89°51'00" W 50.00'

CASE NO. 086-27745

EXHIBIT C-1

enlarged

S.E. LIEBE ST.

1/2" = 1' 46' 43" W

(BAS)

