



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: August 14, 2008
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / sean.williams@ci.portland.or.us

NOTICE OF A TYPE II 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 08-140270 AD

GENERAL INFORMATION

Applicant: Royal Raymond
Ztec Engineers, Inc.
3737 SE 8th Avenue
Portland, OR 97202

Owner: Ryan S Van Gordon
17490 NW Autumn Ridge Drive
Beaverton, OR 97006-4075

Site Address: 5433-5437 SE 87th Avenue

Legal Description: S 20' OF LOT 4 BLOCK 3 LOT 5 BLOCK 3 N 30' OF LOT 6 BLOCK 3, RAYBURN PK

Tax Account No.: R691800560

State ID No.: 1S2E16BD 04800

Quarter Section: 3639

Neighborhood: Lents, contact Judy Welch at 503-771-4667.

Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Zoning: Residential 2,000 (R2) w/ Alternative Design Density Overlay Zone (a).

Case Type: Adjustment (AD)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

A Lot Confirmation & Property Line Adjustment (PLA) application (08-140268) was submitted to reestablish a property line of a previously platted lot within the subject site and adjust the line to a desired location. The applicant wishes to adjust the property line to the location of a common wall of an existing storage building located on the western half of the property. This would effectively create a zero lot line setback to the newly established and adjusted property line. Therefore, an adjustment is required to the required setback of 5-feet (33.120.220) for the R2 zone. Each half of the storage building serves the existing duplexes on the site that will be located on separate lots after the lot confirmation and PLA is completed.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.805.040 A.-F., Approval Criteria for Adjustments.**

ANALYSIS

Site and Vicinity: The site is developed with two duplexes and a detached accessory structure (storage building) that contains storage space for each unit on the property. The main entrances and front facade of the duplexes are oriented towards each other. The site is considered a through lot with frontage on SE 87th Avenue to the east and SE 86th Court (unimproved) to the west. The site is accessible via a pedestrian path from SE 87th Avenue and vehicle access is accomplished from SE 86th Court. Two parking spaces are located on the north and south side of the storage building. Zoning within the vicinity predominantly consists of a Multi-Dwelling designation with a mixture of development types. Three other lots on SE 87th Avenue are developed in the same manner as the subject property.

Zoning: The R2 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

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

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 11, 2008**. The Water Bureau and Urban Forestry have no concerns regarding the adjustment proposal (Exhibit E-1). The following Bureaus have responded with comments:

Site Development Section of BDS: Cannot support the adjustment without assurance that sanitary sewer, septic system and stormwater management requirements are addressed prior to approval of the PLA. A party sewer is located on the property and shall be resolved through obtaining plumbing permits to establish separate connections for each duplex. Existing cesspools on the site must be decommissioned. A shared maintenance agreement will be required for the stormwater system for the shed (Exhibit E-2).

Note: *This decision cannot be conditioned to require mitigation of Site Development issues addressed above as it is not relative to the request for setback adjustment. However, these requirements shall be resolved prior to approval of the PLA.*

Bureau of Environmental Services: No objections to the proposal. Additional comments shall be provided at the time of the PLA regarding stormwater management requirements (Exhibit E-3).

Life Safety Plans Examiner: No objections to the proposal. A separate building permit will be required for the project (Exhibit E-4).

Bureau of Transportation: No objection to the proposal. However, it was noted that improvements and dedication may be required in the event of future development or land use reviews if appropriate (Exhibit E-5).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 11, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The proposal for lot confirmation and property line adjustment would result in an underlying previously platted lot line to be located on the common wall of an existing storage building. The Zoning code provides exceptions for covered accessory structures to be located within required side and rear setbacks if less than 6-feet in height. However, the storage building is approximately 9-feet in height. Therefore, a side setback adjustment is required to allow the reestablished property line to bisect the structure. The purpose of the setback standards in the Multi-Dwelling zone is as follows:

- **They maintain light, air, separation for fire protection, and access for fire fighting;**
- **They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;**
- **They promote a reasonable physical relationship between residences;**

- **They promote options for privacy for neighboring properties;**
- **They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;**
- **They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and**
- **Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.**

The existing storage building contains four separate units that appear to be equal in size each with an entrance on the east elevation of the structure. As a result of the subsequent lot confirmation and PLA, storage units 1 and 2 will be located on the southern tract of land and storage units 3 and 4 will be located on the northern tract. Although the Zoning Code allows structures to be located in a required setback, building code requires structures within 3-feet of a property line to be fire protected. Therefore, the common wall between storage units 2 and 3, where the reestablished property line will be located, must be retrofitted to meet applicable fire prevention standards. In addition to structural upgrades, the storage shed is easily accessible from all elevations for fire fighting purposes.

The required minimum density is currently met with the site as is and will continue to be met for each individual tract of land after the lot confirmation and PLA. The location of the storage building within the setback creates a reasonable physical relationship between each tract of

land and is a typical development style in the City of Portland. Because the structure already exists, the only resultant impacts of the proposal are internal to the subject property. Front setbacks will not be altered as a result of the proposal and SE 87th Avenue and SE 86th Court are not designated as transit streets. The proposal is consistent with the purpose of setback regulations. Therefore, this criterion is met.

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

Findings: The confirmation and property line adjustment of an existing platted lot within the subject property will not alter the appearance of the residential area. No additional development is proposed. The lot confirmation will allow the duplexes to now be sold separately if desired. Three other properties in the immediate vicinity are developed in the same manner as the subject property with two duplexes and a storage shed or garage. All of which contain underlying platted lot lines that will allow the opportunity to accomplish the same outcome as this proposal. Therefore, the proposal will not detract from the livability or appearance of the area. This criterion is met.

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

Findings: Only one adjustment is requested. This criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: The site does not contain any scenic or historic resource designations. This criterion is not applicable.

E. Any impacts resulting from the adjustments are mitigated to the extent practical;

Findings: As addressed in the preceding findings, there are no discernable impacts that will result from the proposed adjustment. As a result of reestablishing the property line to bisect the storage building, a common wall of the structure is required to be improved to meet fire protection standards which will increase overall safety of the site in the event of a fire hazard. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental overlay zone. This criterion does not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

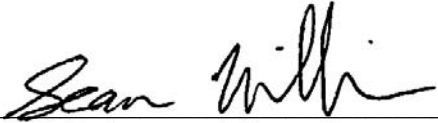
The applicant proposes one adjustment associated with a proposed lot confirmation and property line adjustment. As noted in this report, the proposal to reduce the minimum side setback to allow an existing property line to be reestablished and adjusted to bisect an existing

storage building is able to meet the adjustment approval criteria based on substantial conformance with applicable standards and established situations on the site and in the surrounding neighborhood. Therefore, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an adjustment to the required side setback to allow an existing storage shed to remain as the result of a proposed lot confirmation and property line adjustment, per the approved site plan, Exhibit C-1, signed and dated August 12, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-140270 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A final building permit for modifying the storage building so that it meets all pertinent building codes pertaining to zero lot line construction shall be completed prior to approval of the Lot Confirmation and Property Line Adjustment.

Decision rendered by:  on August 12, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: August 14, 2008

Staff Planner: Sean Williams

About this Decision. This land use decision is **not a permit** for development. 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 June 24, 2008, and was determined to be complete on July 9, 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 June 24, 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.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 28, 2008** at 1900 SW Fourth Ave. Appeals can 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. 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 503-823-7967 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.portlandonline.com.

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 Adjustment Committee 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 Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **August 29, 2008 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision 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
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

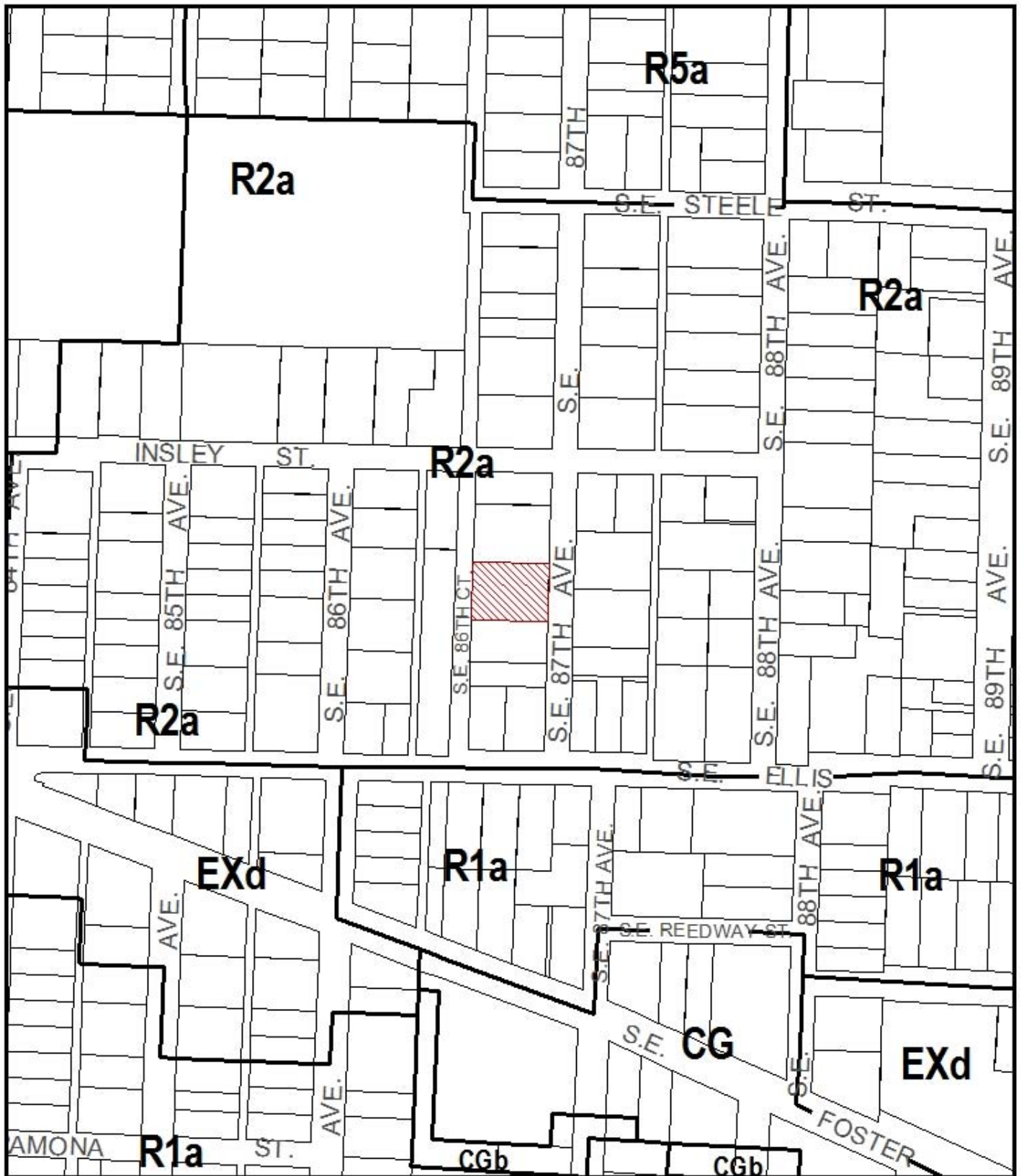
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau & Urban Forestry
 - 2. Site Development Review Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Life Safety Plans Examiner
 - 5. Bureau of Transportation
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application

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

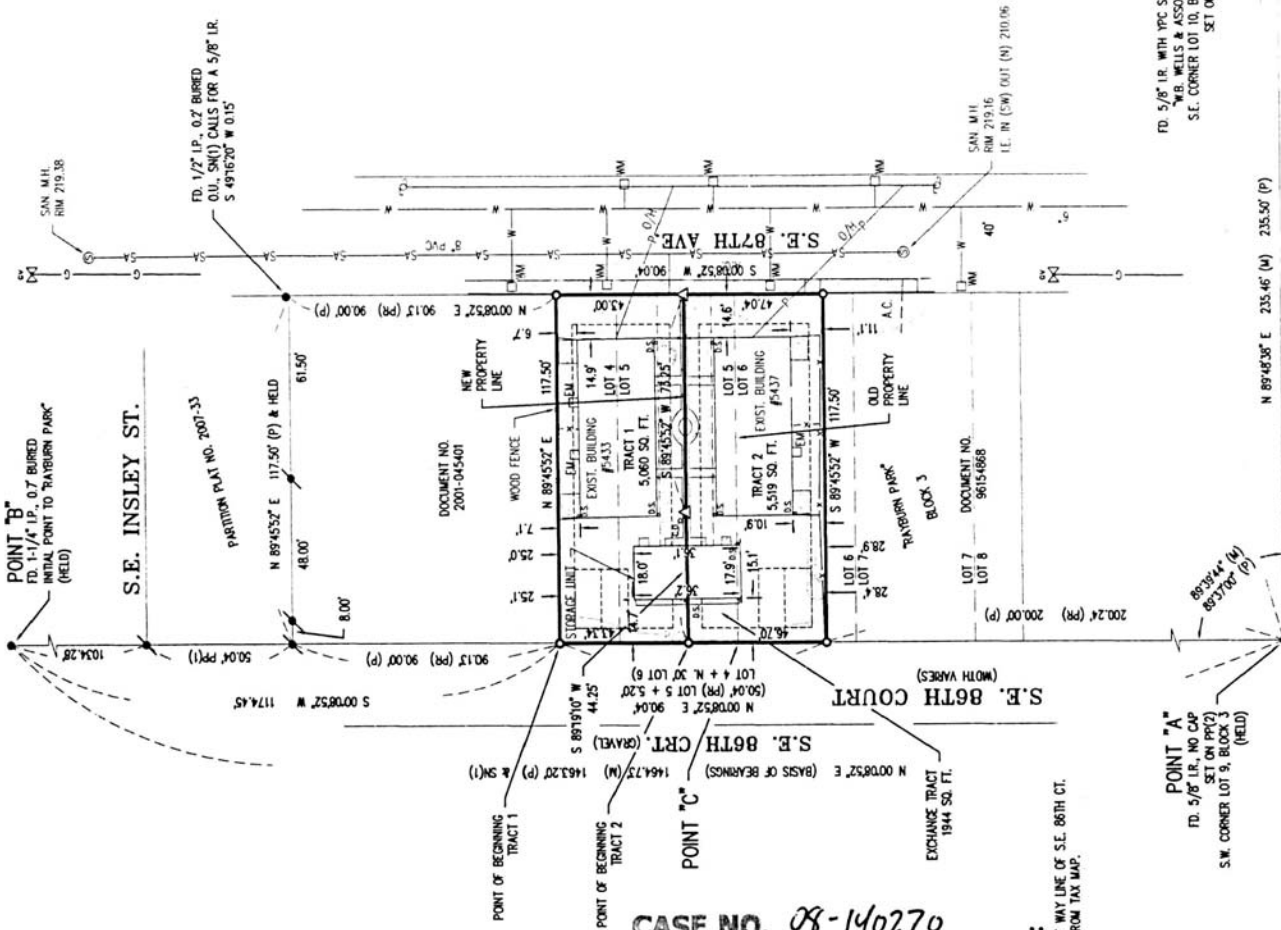


File No.	LU 08-140270 AD
1/4 Section	3639
Scale	1 inch = 200 feet
State Id	1S2E16BD 4800
Exhibit	B (Jun 26, 2008)

DATE FILED: _____
REGISTER NUMBER _____

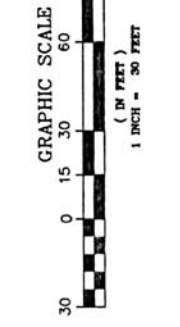
LEGEND:

- MONUMENTS FOUND AS NOTED
- DENOTES 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944", SET ON PP(1)
- DENOTES 5/8"x20" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944"
- △ DENOTES 1 1/2" BRASS DISC STAMPED "ZTEC LS 1944" SET ON
- IR. IRON ROD
- IP. IRON PIPE
- FD. FOUND
- (M) MEASURED
- SQ. FT. DENOTES SQUARE FEET
- SN DENOTES SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- SN(1) SN 28948
- SN(2) SN 49846
- PP(1) PARTITION PLAT NO. 2007-33
- P(2) PARTITION PLAT NO. 1998-69
- (P) DENOTES PLAT OF "RAYBURN PARK"
- SA EXISTING SEWER
- ST EXISTING STORM
- W EXISTING WATER
- EX EXISTING FENCE
- EX EXISTING SPOT ELEVATION
- EX EXISTING CONCRETE SIDEWALK
- EX EXISTING CONTOUR
- EX EXISTING FIRE HYDRANT
- EX EXISTING CATCH BASIN
- EX EXISTING STORM MANHOLE
- EX EXISTING SANITARY MANHOLE
- EX EXISTING LIGHT POLE
- EX EXISTING POWER POLE
- EX EXISTING WATER VALVE
- EX EXISTING WATER METER
- EX EXISTING STREET SIGN
- EX EXISTING TREE
- D DOORWOOD



CASE NO. 08-140270
EXHIBIT C-1

NOTE:
WEST RIGHT OF WAY LINE OF S.E. 86TH CT. WAS SCALED FROM TAX MAP.



NARRATIVE:

BASES OF BEARINGS: NORTH 00°08'52" EAST BETWEEN THE 5/8" IRON ROD FOUND AT POINT "A" AND THE 1-1/4" IRON PIPE FOUND AT POINT "B" AS PER PARTITION PLAT NO. 1998-69 AND PARTITION PLAT NO. 2007-33.

PURPOSE OF SURVEY: TO PARTITION THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2005-142347, MULTNOMAH COUNTY DEED RECORDS, AS ALL OF LOT 5, BLOCK 3, THE NORTH 30 FEET OF LOT 6, AND THE SOUTH 20 FEET OF LOT 4, ALL IN BLOCK 3 OF "RAYBURN PARK," INTO 2 PARCELS AS SHOWN.

WEST BOUNDARY LINE: HELD THE 5/8" IRON ROD FOUND AT POINT "A" AND THE 1-1/4" IRON PIPE FOUND AT POINT "B" FOR THIS LINE.

SOUTH LINE OF DOCUMENT NO. 2005-142347: THE DISTANCE FROM POINT "A" TO POINT "B" MEASURES 1.53 FEET MORE THAN THE DISTANCE CALLED FOR ON THE PLAT. THIS DISTANCE WAS PROPORTIONED FROM POINT "A" TO POINT "C" FOR A DISTANCE OF 230.24 FEET EXCEPTING THE NORTH 30 FEET OF LOT 6 FOR A DISTANCE OF 200.24 FEET FROM POINT "A" TO THE SOUTH LINE OF THE PROPERTY. THEN THE PLAT ANGLE OF 90°23'00" WAS HELD FROM THE WEST LINE OF THE PLAT.

EAST LINE OF BLOCK 3: HELD THIS LINE AS PARALLEL WITH THE WEST LINE OF THE PLAT AND AT THE PLAT DISTANCE OF 117.50 FEET FROM SAID WEST LINE.

NORTH LINE: DEED (1) CALLS FOR ALL OF LOT 5 (PRORATED DISTANCE OF 40.04 FEET) PLUS THE NORTH 3 FEET OF LOT 6, PLUS THE SOUTH 20 FEET OF LOT 4, FOR A TOTAL DISTANCE OF 90.04 FEET FROM THE SOUTH PROPERTY LINE OF THE NORTH PROPERTY. THIS LINE WAS ALSO HELD AS PARALLEL WITH THE SOUTH PROPERTY LINE, AS PER DEED (1).

LU 08-140270 AD

ZTEC ENGINEERS INC.

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

LOCATED IN THE N.W. 1/4 OF SECTION 16,
T.15S., R.2E., W.M., IN THE CITY OF PORTLAND,
MULTNOMAH COUNTY, OREGON

JOB#:	R3753-1
DATE:	4-4-08
SCALE:	1"=30'
DRAWN:	JHH
CHECKED:	CCF
FILE#:	R3753-1
PLLOT:	6-12-08

REGISTERED PROFESSIONAL LAND SURVEYOR
JULY 15, 1988
CHRIS J. SCHUBERT
OREGON LICENSE # 9944
EXPIRES DATE: 12/2009

RYAN VAN GORDON

PROPERTY LINE ADJUSTMENT