



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

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**Date:** September 8, 2008  
**To:** Interested Person  
**From:** Mieke Stekelenburg, Land Use Services  
503-823-0669 / [Mieke.Stekelenburg@ci.portland.or.us](mailto:Mieke.Stekelenburg@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 08-139747 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Edmund Tawiah  
Tcc & Associates Inc  
5821 SE 82nd Ave, Ste 111  
Portland, OR  
97266

**Owner:** Tyrone L Lawrence  
3635 NE 6th Ave  
Portland, OR 97212-2108

**Site Address:** 3635 NE 6TH AVE  
**Legal Description:** LOT 16 BLOCK 21, LINCOLN PK  
**Tax Account No.:** R497103510  
**State ID No.:** 1N1E23CC 23200  
**Quarter Section:** 3233  
**Neighborhood:** King, contact Erik Emerick at 503-504-0401.  
**Business District:** North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.  
**Zoning:** R2.5a – Single Family Residential 2,500 with an Alternative Design Density Overlay (a).  
**Case Type:** LDP – Land Division Partition  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**  
The applicant is proposing to divide a 5,000 square foot site into two parcels. There is an existing house on the property that will be retained on Parcel 2 (2,750 square feet). Parcel 1 will be a standard parcel containing approximately 2,250 square feet of site area. This new parcel will provide a vacant building site for single family development. There are no trees on the site.

**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 is a corner lot located at the intersection of NE Beech street and NE 6<sup>th</sup> avenue. There are no trees on the site and the existing house on the property will be retained. The surrounding neighborhood is characterized by single family residences on originally platted 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.

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.

**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 July 17, 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:** Two written response have been received from notified property owners in response to the proposal during the comment period. The comments are summarized below with brief staff response (see Exhibit F.1 for more detail).

- **Property Owner Comments:** A neighboring property owner wrote in opposition to new development on proposed Parcel 1. Specifically, they have concerns regarding the 35-foot height limitation and noise from new development.

**Staff Response:** The City of Portland Zoning Code has development standards for all of the base zones throughout the city. The site of development is situated in the R2.5 base zone so the maximum height for all detached & attached structures is 35-feet. Additionally, the Zoning code criteria for Land Divisions does not address noise control. However neighborhood can issue complaints by calling Noise Control at (503) 823-7350.

The height standards serves several purposes:

They promote a reasonable building scale and relationship of one residence to another;

They promote options for privacy for neighboring properties; and

They reflect the general building scale and placement of houses in the city's neighborhoods.

- **Property Owner Comments:** An email was submitted on the behalf of six property owners in opposition to new development on proposed Parcel 1. Specifically, they have

concerns about the correct information being displayed regarding the listed owner of the property that is being developed.

**Staff Response:** The City of Portland Zoning code criteria for Land Divisions only requires the property owner to provide a mailing address not a place of residence.

## **APPROVAL CRITERIA-**

### **APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES**

**33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.**

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>A</b>	<b>33.611</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone on the site.
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.
<b>G</b>	<b>33.635 .100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635 .200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - 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.
<b>K</b>	<b>33.641</b>	<b>Transportation Impacts</b>	<b>Applicable - See findings below</b>
<b>L</b>	<b>33.651 - 33.654</b>	<b>Services and Utilities</b>	<b>Applicable - See findings below</b>

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.611 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 lots, per 33.930.020.A)

Maximum = 5,000 square feet ÷ 2,500 square feet = 2.00

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):

	<b>R2.5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area	1,600 sq. ft.	2,250 sq. ft.	2,750 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	45 ft.	50 ft.
Minimum Lot Depth	40 ft.	50 ft.	55 ft.
Minimum Front Lot Line	30 ft.	45 ft.	50 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.

**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 on the site. This criteria is met.

### **33.635.200 – Land Suitability**

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

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

- K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**

*The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.*

**33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.**

**33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.**

**Findings:** The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

Parcel 1 has approximately 45-feet of frontage on NE Beech street, and Parcel 2 has approximately 50-feet of frontage on NE 6<sup>th</sup> avenue, and 55-feet of frontage on NE Beech street. NE Beech street and NE 6<sup>th</sup> avenue are classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 341-feet from the site on the corner of NE MLK and NE Beech via bus 6. Parking is currently allowed on NE Beech street and NE 6<sup>th</sup> avenue, on both sides.

NE Beech street and NE 6<sup>th</sup> avenue are 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 dwellings 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. An existing 6-inch water main is available in NE Beech street. Water is available to serve the proposed development from the water main in NE Beech street. Parcel 2 has an existing water service from the main located in NE 6<sup>th</sup> avenue. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 12-inch VSP public sanitary combined sewer located in NE Beech street and an existing 8-inch VSP public sanitary sewer located in NE 6<sup>th</sup> avenue that can serve the sanitary needs of the proposed lots. Parcel 2 has an existing sewer service from the main located in NE Beech street. See Exhibit E-1 for more details.

As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 2 will cross over Parcel 1 to reach the sewer main in NE Beech street. The applicant has proposed to cap the existing sewer connection and provide a new lateral for the existing house on Parcel 2. BES has approved the proposed sewer connection.

- 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 because it's a corner lot. As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable.

**33.653.020 Stormwater Management Approval Criteria**

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

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

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

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

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

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

- **Parcel 1:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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 drywell. Drywells and soakage trenches may not be located any closer than 10-feet to any structures (including structures on adjacent property) and 5-feet to any property lines, as measured from the middle of the facility.
- **Parcel 2:** The down spout on the west side of the house is connected to the rain drain system. The downspouts on the east side of the house are directed to splash blocks via downspout extensions and there are BES Downspout Disconnect program "lockout" tags on the adjacent rain drains. Site Development has no objection to continued use of these stormwater facilities. However, prior to final plat approval, the existing rain drain system must be modified to connect to the new sewer line so that all stormwater facilities for the existing house will be located entirely on Lot 2; the as-built location of the rain drain and storm sewer system should be documented on a supplemental plan. Alternately, the applicant's proposal for a new drywell to serve the existing house would also be acceptable, provided that the drywell is installed deep enough to prevent adverse effects to the basement; final approval of a plumbing permit to modify the existing rain drain system and install the new drywell would also be required 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.

## **DEVELOPMENT STANDARDS**

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

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

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

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone (Please see section on Other Technical Standards for Building Code standards.)

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

- **Minimum Setbacks** – The existing 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 6.91 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. The applicant provided a conceptual building footprint for Parcel 1. Although building plans are not reviewed as part of the land division it is noted that the conceptual building footprint is not meeting base zone and garage building setbacks.
- **Accessory Structures** – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 1 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- **Required Off-Street Parking** - A paved garage provides parking for the existing house on Parcel 2. As a result of this land division, the parking space for the existing house will be located on Parcel 1, and will no longer be available to Parcel 2. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 341 feet from the site on the corner of NE MLK and NE Beech via bus number 6. Bus number 6 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 2.



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

## OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to limiting the height of new construction to 30 feet to ensure aerial fire department access. These requirements are based on the technical standards of Title 31 and the Fire Code.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip for both Parcels prior to final plat approval. One street tree shall be planted on NE Beech street and one street tree on NE 6<sup>th</sup> avenue. The trees shall be 2-inch caliper & chosen from the city's approved street tree list. This requirement is based on the standards of Title 20.

## CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-2). 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 include:

- Stormwater Management
- Sanitary Sewer Access

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 that will result in two standard lots in the R2.5 zone as illustrated with Exhibit C-1, subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- 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.

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

### Existing Development

1. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 1. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
2. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 2. The downspout on the west side of the house is connected to the rain drain system. The downspouts on the east side of the house are directed to splash blocks via downspout extensions and there are BES Downspout Disconnect program “lockout” tags on the adjacent rain drains. Site Development has no objection to continued use of these stormwater facilities. However, prior to final plat approval, the existing rain drain system must be modified to connect to the new sewer line so that all stormwater facilities for the existing house will be located entirely on Lot 2; the as-built location of the rain drain and storm sewer system should be documented on a supplemental plan. Alternately, the applicant’s proposal for a new drywell to serve the existing house would also be acceptable, provided that the drywell is installed deep enough to prevent adverse effects to the basement; final approval of a plumbing permit to modify the existing rain drain system and install the new drywell would also be required prior to final plat approval. **Note that the installation of any drywell must be deep enough to prevent adverse impacts to the basement.**
3. The applicant must plant 2 street tree(s) in the planter strip. One on NE Beech street and one NE 6<sup>th</sup> avenue. Street trees will be chosen from the City’s approved street tree list for the 2 ½-foot-planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.
4. The applicant must either obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 2.

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

1. 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:** Mieke Stekelenburg **on September 3, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed September 8, 2008**

**Staff Planner: Mieke Stekelenburg**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on June 23, 2008, and was determined to be complete on July 14, 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 23, 2008.

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

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

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

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

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

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

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a

digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at [www.portlandonline.com](http://www.portlandonline.com).

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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Large Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence:
  - 1. Shannon & David Ludeman (3623 NE 6<sup>th</sup>avenue, Portland, Oregon 97212), received via mail August 7, 2008.
  - 2. Robert Brown, received via email August 20, 2008.
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

**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

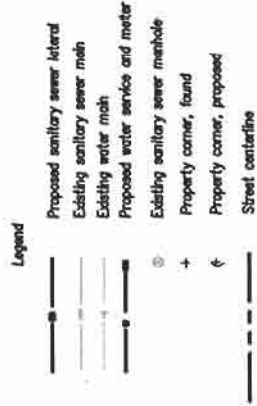
 Site



File No.	<u>LU 08-139747 LDP</u>
1/4 Section	<u>2631</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E23CC 23200</u>
Exhibit	<u>B (Jun 24, 2008)</u>

# Supplemental Plan for NE 6th Avenue and Beech Street Partition

Located in SW 1/4 Section 23 T1N R1E W.M. Tax Lot 16  
3635 NE 6th Avenue  
06/02/08

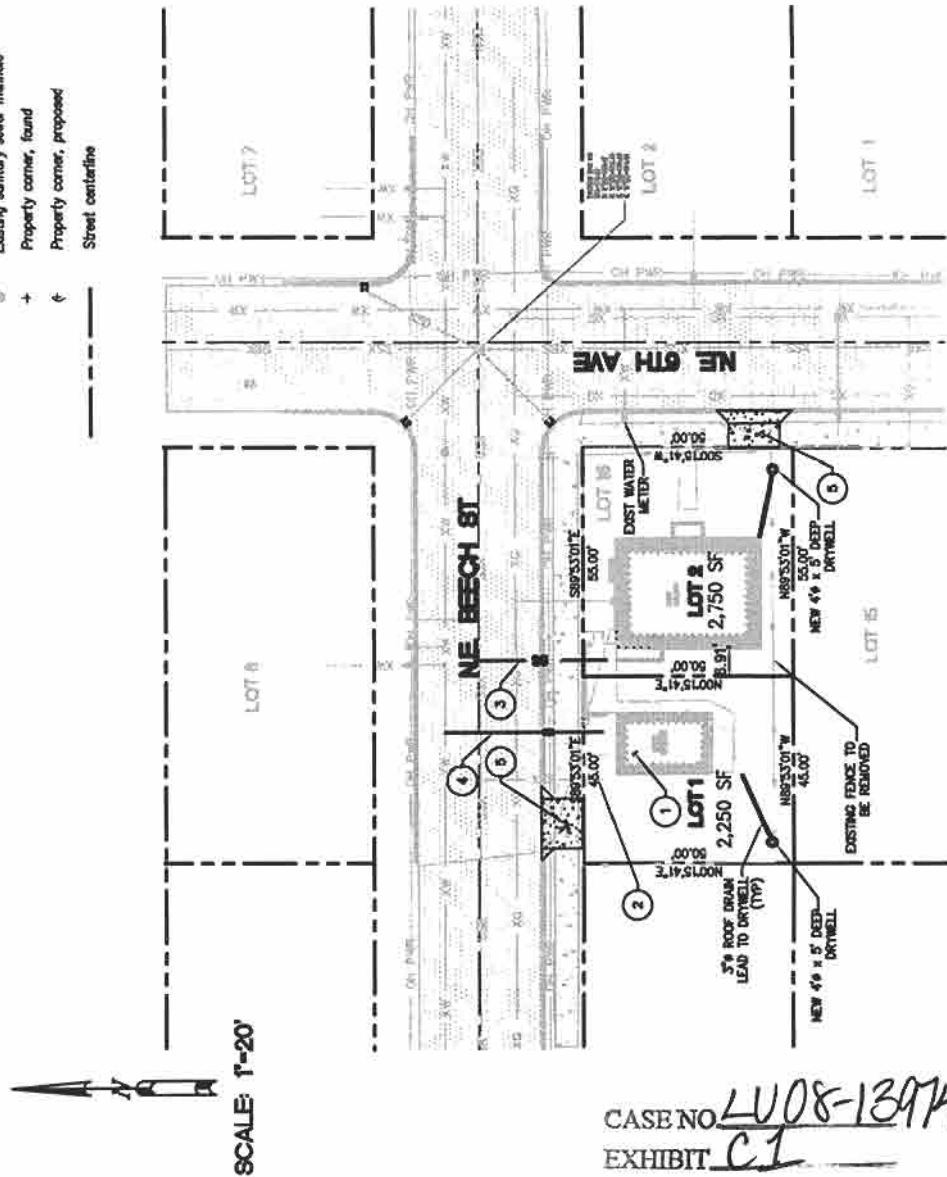


**Utility Notes**

1. New 3/4" water meters to be installed by City of Portland Water Bureau to Lot 1
2. Existing sanitary lateral to be capped for Future Lot 1 sewer service.
3. New 4" sanitary lateral to be installed during building permit stage to Lot 2
4. Roof drains from lots 1 & 2 shall be directed to private drywells for stormwater disposal. Drywells are located 5' from property lines, 10' from buildings. Drywells may be located underneath new driveways at the time of new permit.

**Demolition Notes**

1. Existing garage to be demolished.
  2. Existing fence to be removed.
1. EXISTING GARAGE TO BE DEMOLISHED
  2. EXISTING SANITARY SEWER SERVING LOT 2 TO BE REDISPOSED AND CAPPED TO SERVE LOT 1
  3. INSTALL NEW 4" SANITARY SEWER TO SERVE LOT 2
  4. PROPOSED 3/4" WATER SERVICE AND METER TO LOT 1
  5. PROPOSED DRIVEWAY



Drawn By: Edmund Tawiah, P.E.

