



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

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
Telephone: 503-823-7300  
TDD: 503-823-6868  
FAX: 503-823-5630  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** September 17, 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 08-141842 LDP**

#### **GENERAL INFORMATION**

<b>Applicant:</b>	Ivy Chan 4732 SE 108 <sup>th</sup> Place Portland, OR 97266	<b>Owner:</b>	Yan Yun Deng 108 Merlot Dr Prosser, Wa 99350
<b>Site Address:</b>	4732 SE 108TH PL		
<b>Legal Description:</b>	LOT 3 BLOCK 1, VARSITY		
<b>Tax Account No.:</b>	R857400070		
<b>State ID No.:</b>	1S2E15BA 05100		
<b>Quarter Section:</b>	3541		
<b>Neighborhood:</b>	Lents, contact Judy Welch at 503-771-4667, Powellhurst-Gilbert, contact James Chasse at 503-762-0863.		
<b>Business District:</b>	Midway, contact Donna Dionne at 503-252-2017.		
<b>District Coalition:</b>	East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.		
<b>Plan District:</b>	Johnson Creek Basin		
<b>Zoning:</b>	R5a – Single Family Residential 5,000 with an “a” Alternative Design Density.		
<b>Case Type:</b>	LDP – Land Division Partition		
<b>Procedure:</b>	Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).		

**Proposal:**

The applicant is proposing a 2-lot partition on a site that currently contains approximately 10,406 square feet of site area and several trees. The proposed land division will create two standard parcels; Parcel 1 will contain the existing house and about 5,092 square feet of site area, and Parcel 1 will contain about 5,314 square feet of site area. Parcel 1 is proposed for single family detached development. Tree preservation standards apply.

**Relevant Approval Criteria:**

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

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).

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

#### **ANALYSIS**

**Site and Vicinity:** The site is a corner lot located at the intersection of SE 108<sup>th</sup> place and SE Schilling street. The area is relatively flat and the surrounding neighborhood is characterized by single family residences on originally platted lots or on more recently subdivided properties.

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

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 that prior land use reviews include the following: 08-145166 Amendment to MCF 17-60. The amendment allows new lots to be created that are in conformance with the R5 zone. MCF 17-60 does not allow the creation of the lots proposed. Therefore the amendment must be approved and recorded prior to final plat approval. A condition of approval is required.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on July 29, 2008.

**1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

**2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

#### **APPROVAL CRITERIA-**

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

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

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

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>A</b>	<b>33.610</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
<b>B</b>	<b>33.630</b>	<b>Trees</b>	<b>Applicable - See findings below.</b>
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
<b>G</b>	<b>33.635 .100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635 .200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - 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 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

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

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

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

Minimum = (10,406 square feet \* .80) ÷ 5,000 square feet = 1.66 (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = 10,406 square feet ÷ 5,000 square feet = 2.08 (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 Table 610-2 of the Zoning Code):

	<b>R5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area	3,000 sq. ft.	5,092 sq.ft.	5,314 sq.ft.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	70 ft.	72.86 ft.
Minimum Lot Depth	50 ft.	72.5 ft.	73 ft.
Minimum Front Lot Line	30 ft.	70.4 ft.	72.86 ft.

\* Width is measured at the minimum front building setback line

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

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

<b>Tree #</b>	<b>Species</b>	<b>Diameter (inches)</b>	<b>Significant? (On Table 630-1)</b>	<b>Exempt? (per 33.630.030)</b>	<b>To be Preserved</b>	<b>RPZ (Root Protection Zone radius)</b>
<b>1</b>	Japanese Cutleaf Maple	8 inches	No	No	No	N/A
<b>2</b>	Italian Prune	7.5 inches	No	No	No	N/A
<b>3</b>	Apple	19.5 inches	No	Yes. Hazard	No	N/A
<b>4</b>	Apple	12.5 inches	No	Yes. Dead	No	N/A
<b>5</b>	Engleman Spruce	7.5 inches	No	No	Yes	7 feet
<b>6</b>	Bigleaf Maple	30 inches	Yes	No	No	N/A
<b>7</b>	Douglas Fir	23.5 inches	Yes	No	Yes	15 feet

The total non-exempt tree diameter on the site is 76.5-inches. The applicant proposes to preserve trees No. 5 & 7, which comprise of 31-inches of diameter, or 40 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation

standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-1). Tree #7, a Douglas fir will be preserved with a 15' radius root protection zone. The conceptual building footprint provided for Parcel 2 encroaches into the required root protection zone. The applicant will either need to move the building or provide a letter from a certified arborist explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision. Tree #5, the Engleman Spruce will have a 7' radius root protection zone north, west and east of the site. A sidewalk is required to be installed on the south side of tree #5 that will encroach into the 7' root protection zone. The Arborist has recommended modifying the root protection zone to 4' in the area where the sidewalk will be constructed. An Arborist is required to be on site at the time of sidewalk construction to ensure that any root and or tree pruning is done in a way that will ensure the continued viability of the tree in accordance with Exhibit A-3. A signed letter from the arborist is required prior to approval of any building permits.

**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. As discussed above, tree preservation fencing is required around trees #7 and #5 prior to any clearing and grading on Parcel 2. 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. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this

condition, the new lots can be considered suitable for new development, and 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 will remain a corner lot with approximately 72.51-feet of frontage on SE 108<sup>th</sup> place, and 70 feet of frontage on S.E Schiller. Parcel 2 has approximately 72.86-feet of frontage on SE Schiller street. SE 108<sup>th</sup> place and SE Schiller street are classified as local service streets for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 960-feet from the site on the corner of SE 108<sup>th</sup> place & SE Holgate via bus 17. Parking is currently allowed on SE 108<sup>th</sup> place and SE Schiller street, on both sides. There is one driveway entering the site off SE 108<sup>th</sup> Place that provides access to off-street parking for the existing house.

Both 108<sup>th</sup> place and SE Schiller Street are improved with a paved roadway and curbs. There are no planter strips, or sidewalks on either street. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that the pedestrian corridor must be improved for the site along both SE Schiller Street and SE 108<sup>th</sup> Place in order to ensure that safe pedestrian travel is possible within the proposed development. These improvements shall include a 4' wide planter strip behind the curb, a 6' wide sidewalk, and .5-foot buffer zone behind the sidewalk. To accommodate these improvements, additional right-of-way of approximately 2' must be dedicated along SE Schiller Street. With those improvements, 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, with the condition that the pedestrian corridor improvements described above are made, and the required right-of-way dedication is shown on the Final Plat.

**L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.**

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 4-inch water main is available in SE 108<sup>th</sup> place & SE Schiller street. Water is available to serve the proposed development from the water main in SE Schiller street. Parcel 1 may continue to use the existing water service from the main in SE 108<sup>th</sup> place. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8" public sanitary sewer located in SE Schiller Street that currently serves the sanitary needs of proposed Parcel 1. The sewer can also serve the sanitary needs of proposed Parcel 2 via a newly constructed private lateral and service branch to the main line in SE Schiller Street.

The lateral serving the existing house on Parcel 1 appears to be located approximately 12 feet inside the lot line of Parcel 2. Prior to final plat approval, this lateral must be placed in a private sewer easement at least 10' in width or capped and a new lateral established to serve the existing house located entirely on Parcel 1. If a new lateral is established to serve Parcel 1, the existing lateral may be used to serve Parcel 2.

- 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 is a corner lot located at the intersection of SE 108<sup>th</sup> place and SE Schiller street. 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)

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards, with sidewalks (discussed earlier in this report). Stormwater from these new impervious areas will be directed into a 4-foot wide grassy planter strip located between the curb and the new sidewalk. The sidewalk shall be constructed so that it slopes towards a vegetated area.

As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.

- **Parcel 1:** The downspouts of the existing house are directed to splash blocks and to bricks that function as splash blocks. The downspout on the northeast corner of the house is missing and must be replaced and directed to a splash block that discharges to a vegetated area at least 5 feet from property lines and 10 feet from structures on adjacent property. Prior to final plat approval, the applicant must demonstrate that the existing house complies with the Stormwater Management Manual.
- **Parcel 2:** 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.

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 1. 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 R5 zone.

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 10-feet from the new (east) 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.
- **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 2 must be removed prior to final plat. Demolition permits are required for structures over 200 feet in size. The existing shed that will be located on Parcel 2 is less than 100 square feet. Therefore, a demolition permit is not required. The applicant must provide before and after pictures showing the location of the shed before and after removal.

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 Urban Forestry for street tree planting in the planter strip adjacent to Parcel 1 prior to final plat approval, and along the planter strip of Parcel 2 during building permit application. 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-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, improvement along the frontage of SE 108<sup>TH</sup> place, dedication and improvement along the frontage of SE Schiller street, and sanitary sewer documentation.

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 two standard lots in the R5 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 the vacant lot.
- Location of the existing sanitary sewer line for Parcel 1
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Schiller Street. The required right-of-way dedication must be shown on the final plat.
2. A 10' wide private sanitary sewer easement must be shown if existing service is to remain.

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

### Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE 108<sup>th</sup> place and SE Schiller street. The applicant must obtain an approved Right Of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip. The improvements along the frontage of Parcel 1, where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of Parcel 2 may be constructed with new development on each lot.

### Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.

### **Existing Development**

3. The applicant must remove the existing shed that will be located on Parcel 2. The applicant must submit before and after pictures showing the shed before removal and the location after removal.
4. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
5. The applicant must plant street tree(s) in the planter strip on SE 108<sup>th</sup> place adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 4-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.
6. The sewer lateral for the existing house must be placed in a private sewer easement at least 10' in width, or capped and a new lateral established to serve the existing house on Parcel 1. If a new lateral is established to serve Parcel 1, the existing lateral may be used to serve new development on Parcel 2. If a sewer easement is proposed it must be shown on the final plat.

### **Required Legal Documents**

7. A Maintenance Agreement shall be executed for the Private Sewer Easement area described in Condition C6 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.

### **Other requirements**

8. Land Use Decision 08-145166 must be recorded with the County.

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

1. Development on Parcels 1 & 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit C-2). Specifically, trees numbered 5, and 7 are required to be preserved, with the root protection zones indicated on Exhibit C-1. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The root protection zone for tree #5 shall be modified from 7' to 4' on the south side in order to provide room for the 6' sidewalk. The back of the sidewalk shall be located no closer than 4' from the base of tree at this location. The applicant shall provide a signed letter from a certified arborist stating that he was present at the time of sidewalk

construction and that the tree was not harmed in any way that would threaten its continued viability (Exhibit A-3). This letter shall be required prior to finalizing any building permits for Parcel 2.

**Decision rendered by:**  **on September 11, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed September 17, 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 30, 2008, and was determined to be complete on July 23, 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 30, 2008.

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

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

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

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

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

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

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all

information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at [www.portlandonline.com](http://www.portlandonline.com).

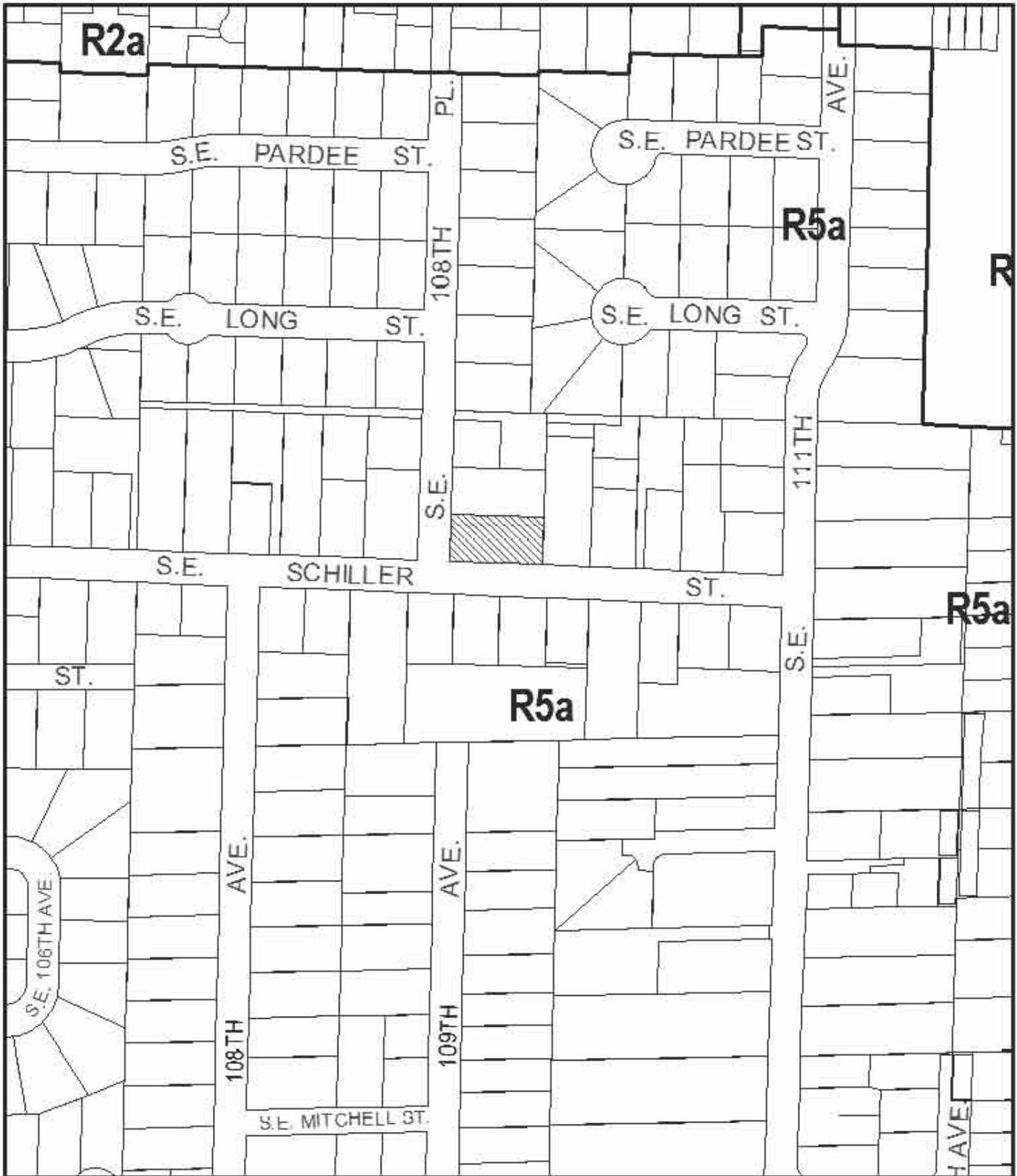
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Arborist Report
  - 3. Arborist Addendum
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site and Tree Preservation Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life & Safety
- F. Correspondence: None Submitted
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Land Use History

**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



NORTH

This site lies within the:  
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 08-141842 LDP
1/4 Section	3541
Scale	1 inch = 200 feet
State_Id	1S2E15BA 5100
Exhibit	B (Jul 01,2008)

Preliminary Land Division +  
Tree Preservation Plan

