



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: October 22, 2008
To: Interested Person
From: Thomas Carter, Land Use Services
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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 08-131589 LDP

GENERAL INFORMATION

Applicant/Owner: Kelly Mcgrath
11640 NE Siskiyou St
Portland, OR 97220-1635

Site Address: 11640 NE SISKIYOU ST
Legal Description: N 146' OF LOT 13 BLOCK 16, PARKROSE HTS
Tax Account No.: R647905260
State ID No.: 1N2E27AC 00100
Quarter Section: 2742
Neighborhood: EPNO, Parkrose Heights, contact Tim Ortez at 503-252-1118.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Plan District: None
Other Designations: None
Zoning: R7
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 proposes to divide this 15,370 square-foot site into two parcels. Parcel 1 will be approximately 9,461 square feet on the corner of NE Siskiyou Street and NE 117th Avenue and will contain the existing duplex. Parcel 2 will be approximately 5,910 square feet and will front on NE 117th Avenue. The applicant proposes to preserve a portion of the trees on the site, but does not propose any tracts or easements.

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).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

ANALYSIS

Site and Vicinity: This is a neighborhood of one- and two-story detached single dwellings. The ground surface slopes very gently toward the northeast, and there are scattered landscape trees. This site is on the corner of NE 117th Avenue and NE Siskiyou Street. Both streets are paved, but neither one has curbs or sidewalks.

Zoning: R7, Single-dwelling residential 7,000. The R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 12, 2008.**

1. **Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.
2. **Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

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

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards

promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

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

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

Minimum = $(15,370 \text{ square feet} * .80) \div 7,000 \text{ square feet} = 1.76$ (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = $15,370 \text{ square feet} \div 7,000 \text{ square feet} = 2.19$ (which rounds down to a maximum of 2 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1 lot.

The applicant is proposing 2 lots, one of which is already developed with a duplex, resulting in 3 dwelling units on the site. This exceeds the maximum density normally allowed for the site. However, the duplex on Parcel 1 is allowed by Section 33.110.240.E of the Zoning Code, which allows one extra unit in conjunction with a duplex on corner lots. Therefore, an additional lot is allowed provided that Parcel 1 is developed with a duplex and Parcel 2 with a detached single dwelling house. With a condition of approval limiting the development on Parcel 1 to a duplex, the density standards are 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):

	R7 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area	4,200 sq. ft.	9,461 sq. ft.	5,909 sq. ft.
Maximum Lot Area	12,000 sq. ft.		
Minimum Lot Width*	40 ft.	89.34 ft.	56.66 ft.
Minimum Lot Depth	55 ft.	105.27 ft.	105.27 ft.
Minimum Front Lot Line	30 ft.	89.34 ft.	56.66 ft.

* Width is measured at the minimum front building setback line

As this table shows, the proposed parcels satisfy the lot dimension standards for the R7 zone.

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

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, and evaluates their condition (Exhibit C-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:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Pine	28	No	Yes	No	NA
2	Sitka Spruce	26	No	Yes	Optional	NA
3	Sitka Spruce	17	No	No	Optional	NA
4	Sitka Spruce	15	No	No	Optional	NA
5	Sitka Spruce	13	No	No	Optional	NA
6	Douglas-fir	33	Yes	Yes*	Optional	NA
7	Douglas-fir	44	Yes	Yes	Optional	NA

*(The arborist's report identified Tree #6 as non-exempt, and proposed to preserve it. The site plan showed this tree on the street lot line, and a City Forester verified its location. Tree #6 is therefore actually exempt due to its location.)

The total non-exempt tree diameter on the site is 45 inches. The applicant has provided a Tree Preservation Plan showing the existing trees and documenting their condition (Exhibit C-2).

The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options of 33.630.300:

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
 - 1. Minimum density;**

- 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
- 3. Implementation of an adopted street plan;**
- 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
- 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**
- 6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.**

The Office of Transportation has required dedication of right-of-way and improvements to the frontage of the site on NE 117th Avenue. All of the non-exempt trees on the site are located in the area that will be impacted by the required dedication and street improvements. Without these trees available for preservation, the applicant cannot meet any of the tree preservation options in 33.630.100. Therefore, the applicant cannot meet the right-of-way design requirements of 33.654 and still preserve the required number of tree inches. Criterion C.2 above is met.

Because all of the trees remaining on the site are exempt, none can be used to account for the tree preservation requirements. The maximum number of trees that can be preserved is zero, and therefore Criterion A is met.

The applicant proposes to plant enough trees on Parcel 2 to mitigate for the loss of the non-exempt trees. Option 1 would require that 35% or 16 inches of the existing tree diameter on site be preserved. Planting of 16 caliper inches of trees on Parcel 2 alone would be roughly equivalent to the preservation of 16 inches of existing tree (i.e., one of the Sitka Spruces).

Section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted on new lots as part of the approval of future building permits. The T1 tree standard requires the planting of at least 2 inches of tree caliper per 1,000 square feet of site area, which would result in 12 inches of new trees planted on Parcel 2. Because of the size of this parcel, it is not practical for 16 caliper inches of trees to be planted on Parcel 2 in addition to the T1 standard without jeopardizing the overall health of all of the trees on the site. Therefore, the mitigation trees may be counted toward meeting the T1 requirement on the new lots.

Criteria B is met with a condition of approval requiring 16 caliper inches of tree to be planted on Parcel 1 prior to final building permit approval for the new house on this lot.

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, the root protection zones established by the tree preservation plan are outside the portions of the site where new development is anticipated. This criterion 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 cesspool 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,**

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation

impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 146 feet of frontage on NE 117th Avenue and approximately 105 feet of frontage on NE Siskiyou Street. NE 117th Avenue is classified as a Local Collector for car traffic and as a local service street for pedestrians and bicycles. NE Siskiyou Street is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 250 feet from the site on NE Morris Street via bus #23; this bus line does not qualify as “frequent service” under the Zoning Code definition in Chapter 33.910. Parking is currently allowed on both sides of NE 117th Avenue and NE Siskiyou Street. The existing driveway accesses NE Siskiyou Street at two points. It provides both off-street parking and access to the garage belonging to the existing house on proposed Parcel 1. The proposed Parcel 2 is vacant and faces NE 117th Avenue.

Both NE 117th Avenue and NE Siskiyou Street are improved with paved roadways and gravel shoulders on both sides. There are no curbs, planter strips, or 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.

For the frontage facing NE 117th Avenue, Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

NE Siskiyou Street is improved with a paved roadway, and a gravel parking lane on one/both sides. There are no curbs, planter strips, or sidewalks. Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

With the conditions of approval described above, 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 8-inch water main is available in NE 117th Avenue. Water is available to serve the proposed development on Parcel 2 from that water main. Parcel 1, which is developed with a duplex, already has two existing water services from a water main in NE Siskiyou Street, and can continue to receive water from these two services. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in NE 117th that can serve the sanitary needs of the

proposed lots. Parcel 1 already has an existing sewer service from that main. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

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 to infiltrate all stormwater runoff on-site employing 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 curbs and sidewalks (discussed earlier in this report). Stormwater from these new impervious areas will be directed into an 8-foot wide infiltration swale located between the curb and the new sidewalk. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the proposed swale is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site must be provided on the final plat.

BES requires a Public Works Permit for the construction of such a swale. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval.

- **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. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval by BES.
- **Parcel 1 (the lot with the existing house):** A drywell was approved for the new addition to the existing house, but the gutters on this house have been removed and the location of the drywell was not evident during a site visit. Site Development has noted this situation, and the gutters must be repaired and re-connected to the permitted drywell to meet City standards prior to final plat approval to ensure that the stormwater from the house can get to the disposal points. In addition, prior to final plat approval, the applicant must provide a supplemental plan showing the as-built location of all subsurface stormwater disposal facilities on Parcel 1. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. No right-of-way is proposed or required as part of this land division, and the surrounding street system meets applicable connectivity requirements. Therefore, none of the remaining right-of-way approval criteria are applicable. This criterion is 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 duplex 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 R7 zone (Please see section on Other Technical Standards for Building Code standards.) The existing duplex meets the requirements of Section 33.110.240.E of the Zoning Code, which allows a duplex on a corner lot in this 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 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Parking Area Location – In this zone, no more than 20 percent of the land area between the building line and the side street lot line may be paved or used for vehicle areas. With this land division, the lot line on NE Siskiyou Street will become the side street lot line, and the street lot line on NE 117th will become the front lot line for Parcel 1. The existing curved driveway on the north side of the duplex covers more than 20 percent of the land area between the building line and the street lot line. In order to ensure that the paving limitation continues to be met, a this driveway must be reduced in size to meet the standard prior to final plat approval. Permits must be obtained to alter this vehicle area. Documentation of final inspection of the reduced vehicle area will be required prior to final plat approval.
- Required Off-Street Parking. One off-street parking space must be provided for each dwelling unit in the duplex, and this parking space must meet the requirements of Section 33.266.120 of the Zoning Code. The required parking spaces may be in the garage or on parking pads entirely outside the building setback (5 feet from NE Siskiyou Street or 10 feet from NE 117th Avenue). When reducing the amount of vehicle area as described in the paragraph on Parking Area Location, be sure to provide the required off-street parking spaces.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). The existing duplex will be on Parcel 1 (as allowed by Section 33.110.240.E of the Zoning Code), and Parcel 2 will be vacant. All existing trees on the site are exempt, and therefore none of trees must be preserved. 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:

- The need for dedication of right-of-way and street improvements on the NE 117th Avenue frontage.
- The need for waivers of remonstrance for street improvements on the NE Siskiyou Street frontage.
- The amount of paving north of the existing duplex in what will become the side yard.
- The need to decommission an existing cesspool.
- The need to improve the stormwater management facilities for the existing duplex.
- The need to mitigate for loss of existing trees on the site.

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. Parcel 1 will be a corner lot developed with a duplex, and Parcel 2 will be a vacant interior lot available for a detached single dwelling, 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 for Land Use Review, BES, and Site Development review and approval. 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 and the setback of the existing duplex from the lot line between Parcels 1 and 2;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE 117th Avenue. The required right-of-way dedication must be shown on the final plat.

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

Streets and Alleys

1. The applicant shall sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements on NE Siskiyou Street) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.
2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of NE 117th Avenue. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review and the Bureau of Environmental Services for required street frontage improvements.

Utilities

3. 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

4. The vehicle area on Parcel 1 between the duplex and NE Siskiyou Street must be reduced in area, in conformance with the applicable requirements of the Portland Zoning Code. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the vehicle area has been reduced to meet the code requirements. The new vehicle area configuration must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify the vehicle area requirements may be submitted at the Development Services Center. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.
5. 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. The applicant must obtain finalized plumbing permits for all required and outstanding work prior to final plat approval in order to document compliance with the provisions of 33.110.240.E.

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

1. Sixteen caliper inches of trees must be planted on Parcel 1 before final approval of the building permit for this lot. The trees may be any mixture of 1.5 inch or 2.0 inch caliper size and must meet the requirements of Chapter 33.248. These trees may be applied to meeting the requirements of the T1 tree-planting standard of Chapter 33.248.

Decision rendered by:  **on October 20, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed October 22, 2008

Staff Planner: Thomas Carter

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

Procedural Information. The application for this land use review was submitted on May 23, 2008, and was determined to be complete on September 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 May 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.

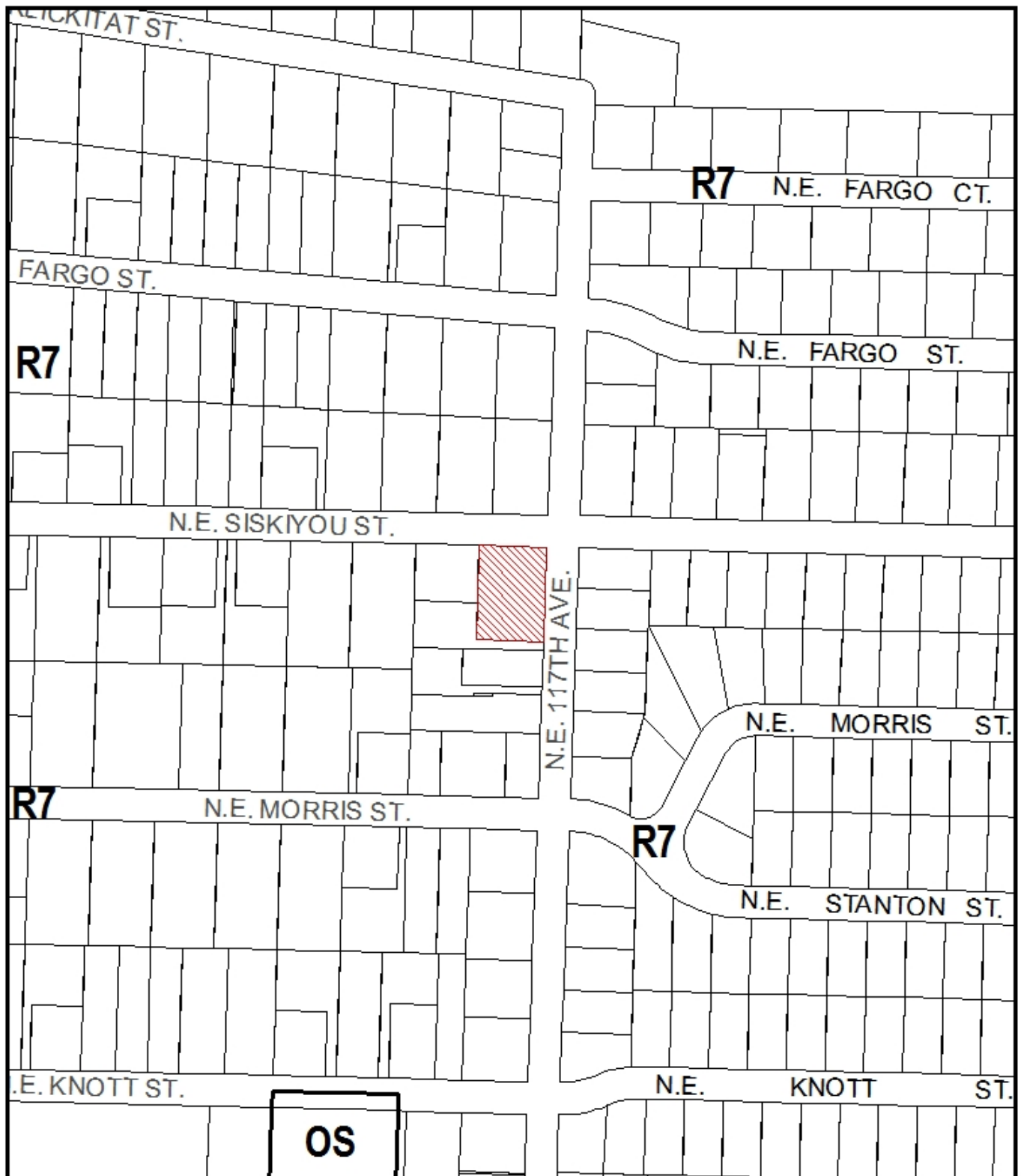
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Tree Inventory and Preservation Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - None.
- 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

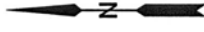


File No. LU 08-131589 LDP
 1/4 Section 2742
 Scale 1 inch = 200 feet
 State_Id 1N2E27AC 100
 Exhibit B (May 28, 2008)

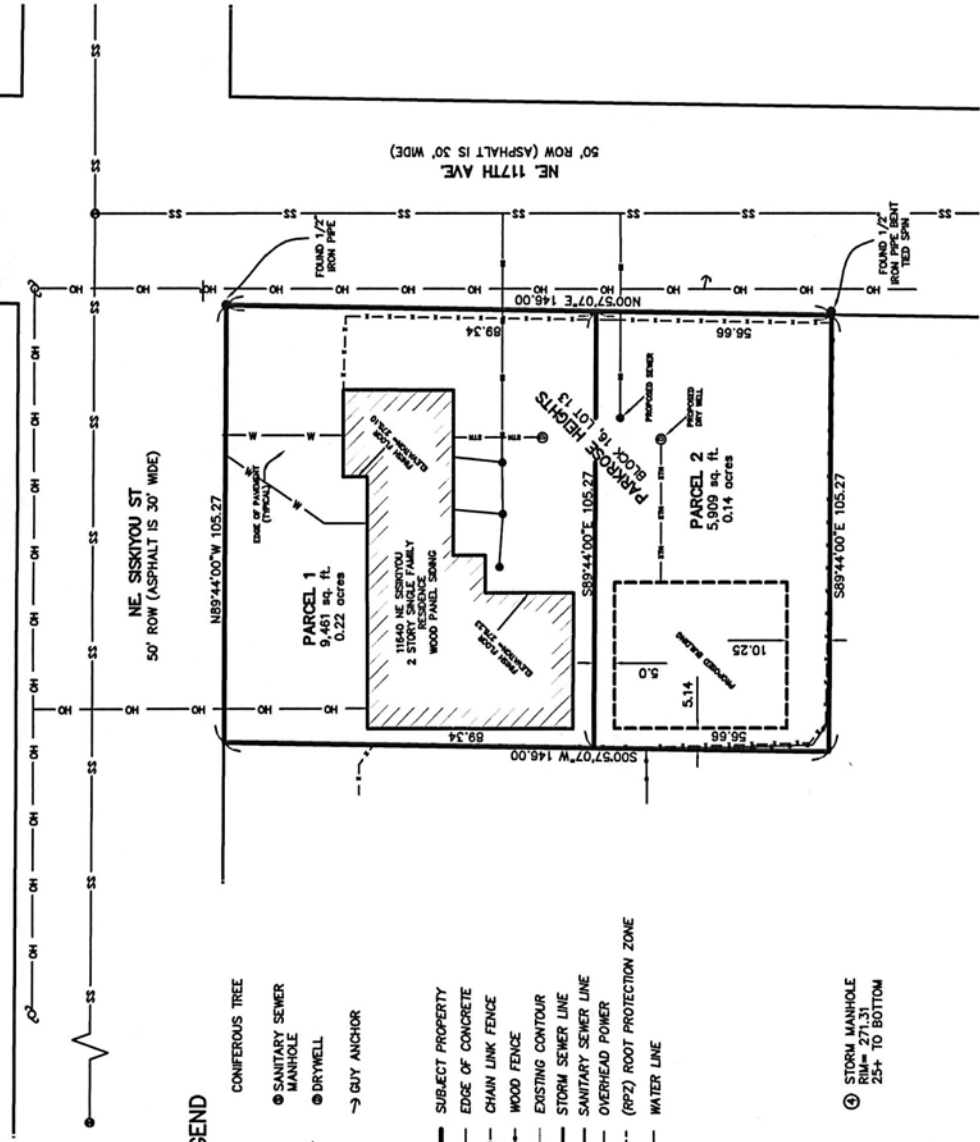
08-131589 LOP

SUPPLEMENTAL PLAN

EXISTING CONDITIONS, PROPOSED PARTITION PLAT
SITUATED IN THE N.E. 1/4 OF SECTION 27, T.1N, R.2E, W.M. CITY OF
PORTLAND, MULTNOMAH COUNTY, OREGON



SCALE: 1" = 20'



NOTES

- BOUNDARY AND BASIS OF BEARINGS ARE HELD PER MONUMENTS FOUND IN PARTITION PLAT NO. 2004-72 M.C.S.R. THE MAP AND SURVEY IS BASED ON OUR REPRESENTATIVE OF THE COUNTY RECORDS FOUND ON MAY 08, 2006.
- THE DATE THE FIELD WORK WAS DONE.
- THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM READILY IDENTIFIABLE FIELD INDICATORS AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA. THE SURVEYOR DOES NOT WARRANT THAT THE LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE.
- ELEVATIONS ARE BASED ON PORTLAND CITY BENCHMARK NO. 2926 A 2" BRASS DISK LOCATED AT THE SE CORNER ON THE SOUTH TOP FACE CURB ON 117TH AND KNOTT ST. ELEVATION IS 283.516, PORTLAND CITY DATUM.

I HEREBY CERTIFY THAT
THIS IS AN EXACT COPY OF
THE ORIGINAL PLAT.



SURVEYED FOR:
Kelly McGrath
11640 NE SISKIYOU ST.
Portland, OR 97220



Tom Nelson & Associates, L.L.C.
1001 SE WATER AVE, SUITE 390
PORTLAND, OREGON 97214
PHONE: (503) 230-1932
FAX: (503) 230-1962

DATE: OCTOBER 17, 2008
DRAWN BY: SN
FILE: 8024/8024.dwg
SHEET: 1 OF 1

Exhibit C-1

LEGEND

- FOUND MONUMENT
- ⊙ POWER POLE
- ⊙ SANITARY CLEANOUT
- ⊙ CONFEROUS TREE
- ⊙ SANITARY SEWER MANHOLE
- ⊙ DRYWELL
- GUY ANCHOR
- SUBJECT PROPERTY
- EDGE OF CONCRETE
- CHAIN LINK FENCE
- WOOD FENCE
- EXISTING CONTOUR
- STORM SEWER LINE
- SANITARY SEWER LINE
- OVERHEAD POWER (RPZ) ROOT PROTECTION ZONE
- WATER LINE

- ③ STORM MANHOLE
RIM= 271.12
9.10 TO BOTTOM
- ④ STORM MANHOLE
RIM= 271.31
25+ TO BOTTOM
- ⑤ STORM MANHOLE
RIM= 271.41
E 8' (S)= 268.11
E 8' (N)= 268.11
15' TO BOTTOM