



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: November 17, 2008
To: Interested Person
From: Nizar Slim, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-146722 LDP AD

GENERAL INFORMATION

Applicant: John Middleton,
Ztec Engineers
3737 SE 8th Av
Portland, OR 97202

Owner: Aaron D Haak,
1002 SE Umatilla St
Portland, OR 97202

Site Address: 3523 SE 13th Ave

Legal Description: LOT 11 BLOCK 14, FEURERS ADD
Tax Account No.: R276901450
State ID No.: 1S1E11CA 01200
Quarter Section: 3431

Neighborhood: Brooklyn Action Corps, contact Lance Lindahl at 503-963-8113.
Business District: Greater Brooklyn, contact David Weislogel at 503-239-9050.
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.

Zoning: R2.5 – Single-Family Residential 2500

Case Type: LDP AD (Land Divison, Partition with an Adjustment)
Procedure: Type Iix, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to divide a 5,000 sq. ft. lot with an existing detached house and garage into two narrow lots, each 2,500 square feet in area. The house will be retained and located on Parcel 1. The detached garage will be removed. There were no on-site trees observed or reported.

Due to the location of the existing house, the new property line between the parcels will be only 3.3 feet away from the existing house. This would not meet the minimum side setback in the R2.5 zone of 5 feet minimum. Therefore, the applicant also proposes the following Adjustment that is necessary to be able to approve the partition proposal:

Reduce the Minimum south Side Setback of proposed Parcel 1 from 5 feet to 3.3 feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria found in section **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones and 33.805.040 Approval Criteria for Adjustments.**

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent Adjustment review, is 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).

ANALYSIS

Site and Vicinity: The site is a rectangular lot that is relatively flat. A 1 ½ -story house is located on the north half of the lot. There are no trees located on the site.

The area surrounding the subject property is an established residential neighborhood with some intertwined light commercial development. The housing is made up of mostly single-family, 1-2 story houses on similarly sized lots. There are some scattered examples of newly constructed, 3-story attached rowhomes within the neighborhood's vicinity. The adjacent street and sidewalk are fully improved.

Zoning: The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **September 15, 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: A total of five written responses have been received from the notified property owners and the Neighborhood Association in response to the proposal. One of those responses included a petition letter signed by 26 people.

In order to simplify staff's responses, duplicate concerns have been consolidated into three major issues:

Issue Noted:

Objection to the owner's alleged illegal use of the property as a place of business, specifically the nuisances noted in Code Compliance case 08-165054 CC (parking of construction equipment and or trucks on unpaved surfaces or in areas that do not allow vehicular parking).

Staff Response:

The letter and photos received reveal a potential problem with parking vehicles on unpaved surfaces and a cracked public sidewalk. During various site visits the planner did not (or was not able to) observe the construction equipment or trucks shown in the pictures. In any case, there is a code compliance case (08-165054 CC) that is under review by the code compliance section of BDS. It is a separate matter that needs to be resolved between the owner and CC case worker. That particular reviewer may request conditions to be placed on the Final Plat approval as a way of ensuring performance of corrective measure, however, no such request has been made and the latest note in the CC case indicates current compliance and ongoing monitoring.

Issue Noted:

Concern over the lack of on-site parking.

Staff Response:

This site is within 500 feet of SE Milwaukie Avenue which is a transit street. As such, the land division site has a parking exemption provided by the code (this is discussed further in the report). Currently, the existing house has one off-street parking space but would lose the garage to the additional unit being added to the site through the land division process. However, the proposed house plan shows an on-site parking space (Exhibit C-1), (although it is not required, the plan does need to demonstrate feasibility of locating an on-site space). Overall, one space is retained even though it is not required by code. In addition, during the site visits made, on-street parking along stretches of uninterrupted curb space was observed.

Issue Noted:

Objection to the adjustment request and overall concern with both side setbacks (north and south) for Parcel 1.

Staff Response:

The applicant is requesting a code Adjustment to the south side setback of Parcel 1. There are several criteria that need to be met in order for the adjustment to be approved. The letters received point out concern over the effect of the reduced setback and how it may conflict with the purpose of the code (33.110.220). A detailed discussion of this issue is found further in the report under the Adjustment Approval Criteria section of this report.

Although, there is only one adjustment that concerns the south side setback, the northern side setback of 1.6 feet was also mentioned as a reason not to approve the adjustment. It should be noted that the side setback to the north is an existing condition that is associated with the current location of the house on site. It has no relationship to the sought adjustment and is an independent component of existing development.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter	Topic	Applicability Findings
A	33.611	Lots	Applicable - See findings below

Criterion	Code Chapter	Topic	Applicability Findings
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.
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 - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot standards applicable in the R2.5 zone. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

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

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

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

Minimum = (5,000 square feet * .80) ÷ 5,000 square feet = .8 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

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

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

Lot Dimensions

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

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

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

* Width is measured at the minimum front building setback line

Narrow Lots

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

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

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

Alley access:

- The site does not have access from an alley, so this standard does not apply.

Preserves on-street parking

- Exhibit C-1 shows that 30 feet of uninterrupted curb space will be preserved. This total accounts for the required 15 feet for every narrow lot along SE 13th Avenue, after provision of a driveway serving the new lot (including the required 3 foot curb returns on either side of the driveway entrance). It should be noted that the 15-foot span of curb space need not be directly in front of the associated lot but does need to be within the limits of the sites street frontage. A condition of approval is required to assure that this curb space will continue to be preserved when the lots are developed or re-developed.

50 percent garage wall limitation

- The applicant has demonstrated, with Exhibit C-1 that the new lot is not be able to accommodate a garage that will occupy no more than 50 percent of the length of the street-facing building wall because the house would only be 15 feet wide. Instead, the plan proposes an off-street parking pad that is outside the front setback of 10 feet. If a garage was to be proposed, the Narrow Lot standards would not be met and a Planned Development Review would be needed to waive the standards discussed in this section. However, it should be noted that the existing house as well as the new lot is exempt from having to provide parking due to the proximity of Transit service to the site. Thus, only the new parcel need to demonstrate that it could meet the above standards if it were to provide a garage.

60 percent landscaping requirement for attached houses

- Parcel 2 will have a 9-foot driveway that provides access to the public street. This configuration results in approximately 36 percent of the front yard devoted to driveway area when compared with the 25-foot frontage. Therefore, the remaining 64 percentage of area can be landscaped to meet this requirement.

The findings above describe how the applicable lot standards are met and are enforced at time of building permit application.

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. 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).

The site has approximately 50 feet of frontage on SE 13th Avenue which is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 190 feet from the site on SE Milwaukie via bus 19. Parking is currently allowed on SE 13th Avenue, on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE 13th Avenue is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be

safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met.

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

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

- The water standards of 33.651 have been verified. An existing 8-inch water main is available in SE 13th Avenue. Water is available to serve the proposed development from the water main in SE 13th. The existing house (on Parcel 1) has an existing water service from a main located in SE Lafayette. This service may continue to be used for Parcel 1. An additional service will need to be purchased from the Water Bureau to serve Parcel 2. See Exhibit E-3 for more details.

The sanitary sewer standards of 33.652 have been verified. There is an existing 6-inch VSP public combination sewer located in SE 13th Avenue that can serve the sanitary needs of the proposed lots. As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over Parcel 2 to reach the sewer main in SE 13th Avenue. This is an unacceptable situation. The applicant must obtain a plumbing permit to cap the existing sewer connection and establish a new service for the existing house located entirely on Parcel 1, after extending the sewer main so that it reaches a location in front of Parcel 1. A new lateral can then be established for Parcel 2. The new sewer connection for the existing house and main extension, require plumbing permits that must receive final inspection approval prior to Final Plat approval. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. Further, the site meets the through street and pedestrian connectivity requirements of 200-330 feet apart (through streets should not be more than 530 feet apart). Since the proposed land division is within the established transportation grid that meets the standards above, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable. (See Exhibit E-2).

33.653.020 Stormwater Management Approval Criteria

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

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

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order

to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

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

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

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

- **Parcels 1 and 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots 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 drywells (see Exhibit E-5 for more details).

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.

ADJUSTMENT APPROVAL CRITERIA

33.805.010 Purpose of Adjustments

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

An adjustment is necessary for proposed Parcel 1 due to the location of the new property line resulting from the land division. The new property line dividing the two parcels would be only 3.3 feet from the south side of the existing house which is to remain on parcel 1. The R2.5 zone requires a 5-foot side setback from structures to property lines. Therefore the following adjustment is requested:

- Reduce the side setback to the south property line for the existing house on Parcel 1 from 5 feet to 3.3 feet.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to

be modified; and

Findings: The purpose of setback regulations include:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards; and
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

The requested adjustment is for a minimal reduction of 1.7 feet or 19 inches to the typical 5-foot setback. This is a relatively small loss of separation when considering the following conditions: Only 24 feet of the house's south façade (or 66%) would encroach into the 5-foot standard. The remaining 12 feet would be setback 5.6 feet exceeding the requirement by ½ a foot. In addition, the existing house is only 1 ½ stories tall with a steeper pitched roof which would allow ambient light access to the setback and in between the two structures, one existing and one proposed.

Further, the requested 3.3 foot setback meets the Building Code's minimum 3-foot "exterior wall to property line separation". Three feet is the minimum standard deemed acceptable for fire containment/access without requiring additional fire rated construction or measures (see Exhibit E-7). The current position of the existing house limits the location of new construction. However, the proposed house will have setbacks meeting the base zone standard. Therefore, in combination the two adjacent side setbacks would yield approximately 8.3 feet of separation. This criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area

Findings: As discussed above, though the side setback for the existing house on Parcel 1 to the side lot line will be reduced from 5 feet to 3.3 feet, it is 66 percent of the required setback. Since the majority of the setback standard is retained, the proposal in general will not detract from the livability or appearance of the surrounding residential zone. It should be noted that there are other rowhouse developments (houses with "zero" side setbacks) and narrow lots within blocks of this site. Therefore, this criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone

Findings: Only one adjustment is requested. Therefore, this criterion is not applicable.

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

Findings: There are no city-designated scenic or historic resources at the site. Therefore, this criterion is not applicable.

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

Findings: No impacts are created as a result of the adjustment therefore, no mitigation is necessary.

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

Findings: The site is not in an environmental zone. Therefore, this criterion is not applicable.

As shown above the proposed adjustment can meet the applicable approval criteria

DEVELOPMENT STANDARDS

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

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

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

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

- Narrow Lots-- development on Parcels 1 and 2 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.2

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 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 3.3 feet from the new property line. Therefore, a code Adjustment approving the altered setback is required. An Adjustment has been approved as part of this Land Division (please see decision below). To ensure this adjusted 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. 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.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to “fire access roads”, more specifically to ensure that the maximum height of the proposed development will be accessible to fire fighting equipment. This standard will be enforced at time of development review. 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 adjacent to Parcel 1 prior to final plat approval. 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 include an Adjustment for Side Setback, Demolition of the Existing Detached Garage and Fire Safety Access.

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the side building setback for the existing house in Parcel 1, from the required 5 feet to 3.3 feet, and;

Approval of a Preliminary Plan for a 2-lot partition, that will result in two narrow lots to be developed with a new detached house while retaining the existing house 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;
- 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 and existing building footprints (including those within 5 feet of a shared property line with the subject property) and stormwater facilities for each of the vacant lots;
- Detailed utility location and type (to include water, sewer and storm);
- Any other information specifically noted in the conditions listed below.

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

Utilities

1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE 13th Avenue and modifying the existing lateral connection so that it serves the future development on Parcel 2. The modification of the existing lateral and public sewer extension requires a Public Works Permit, which must be FINALED prior to final plat approval. In addition, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.

Existing Development

2. The applicant must obtain a finalized demolition permit for removing the detached garage structure on Parcel 2. 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.

3. 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 drywell or soakage trench 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. **I**
4. The applicant must plant one street tree in the planter strip on SE 13th Avenue adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 3 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.

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

1. Two, 15' segments of uninterrupted curb space (may be 30 feet continuous) must be preserved along the frontage of Parcels 1 and 2, collectively.
2. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

Decision rendered by: NJS on November 12, 2008.
 By authority of the Director of the Bureau of Development Services

Decision mailed November 17, 2008.

Staff Planner: Nizar Slim

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 July 17, 2008, and was determined to be complete on September 11, 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 July 17, 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 waived the 120-day review period, as stated with Exhibit (A-4).

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 1, 2008** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us .

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an Adjustment. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an Adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment for side setback of Parcel 1. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

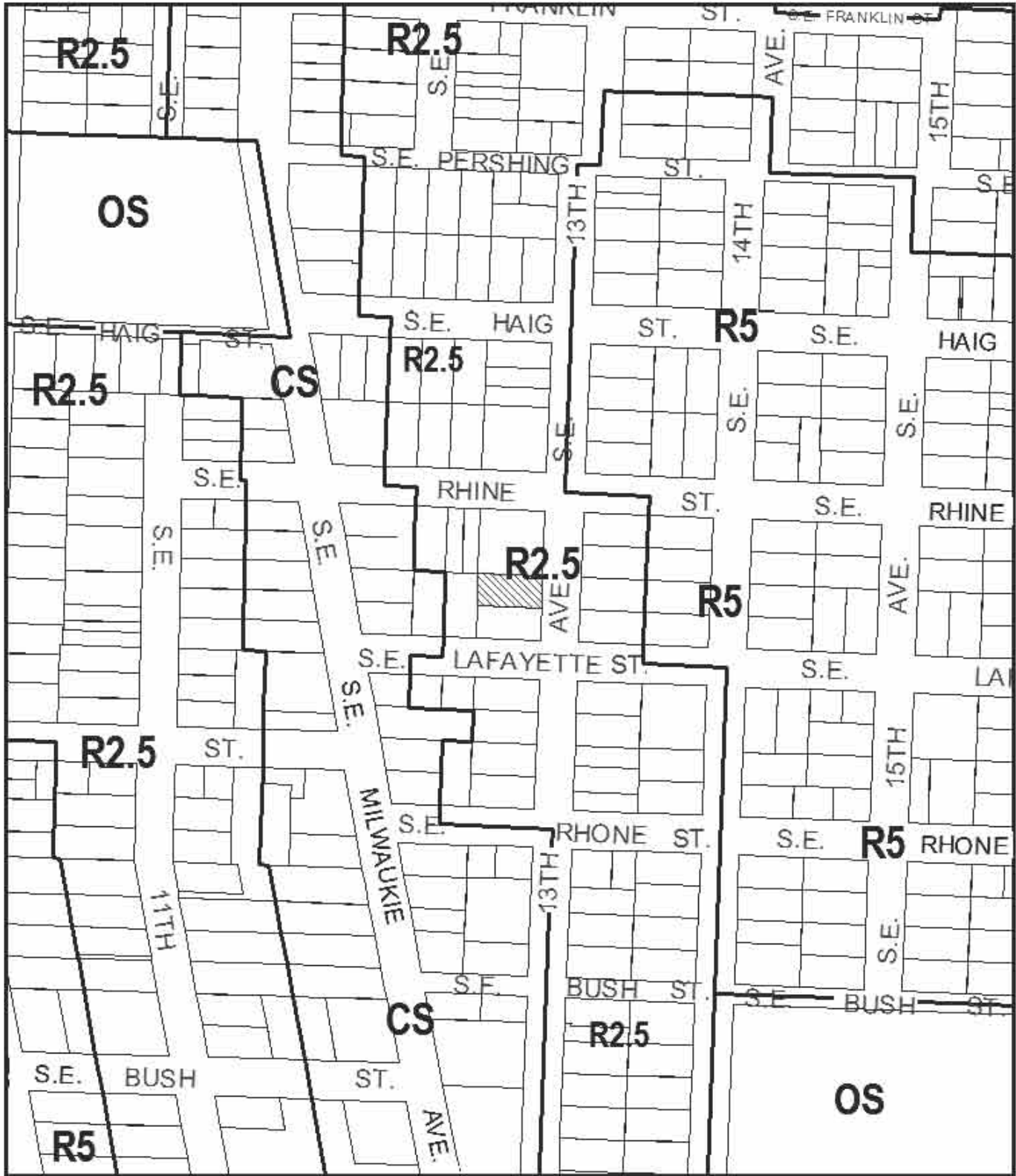
- A. 1. Applicant's Narrative for LD
- 2. Applicant's Narrative for AD
- 3. Neighborhood contact
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (2 pgs) (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental 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 section of BDS
- F. Correspondence:

1. Brooklyn Action Corps, Lance, Lindahl, 10-13-08, Opposition
2. Brooklyn Action Corps, Lance, Lindahl, 10-13-08, Opposition
3. David Schmunk, 10-11-08, Opposition
4. Christie Wheeler, Rhonda S. Nelson-Wheeler, 10-13-08 Opposition
5. Leah Koss, 10-13-08, Opposition
6. Petition Letter (with some duplicate names), 10-15-08 Opposition
 - Gladys and Michael White
 - Amy Gannon and Ezra Mounsey
 - James Hilsenteger and April O'Connor
 - Rachel Oberson
 - Charlene Bruih
 - Herbert Schmunk
 - William and Annette Garrick
 - Linda C. Wheeler
 - Kim Poppe
 - Bill Kelner
 - Candice Reynolds
 - Hale D. Faris
 - Troy E. Jobs
 - Stacy Kell
 - Gerald and Todie McGravey
 - Mark and Kim Junker

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete Letter

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

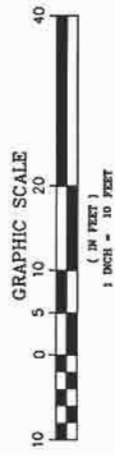
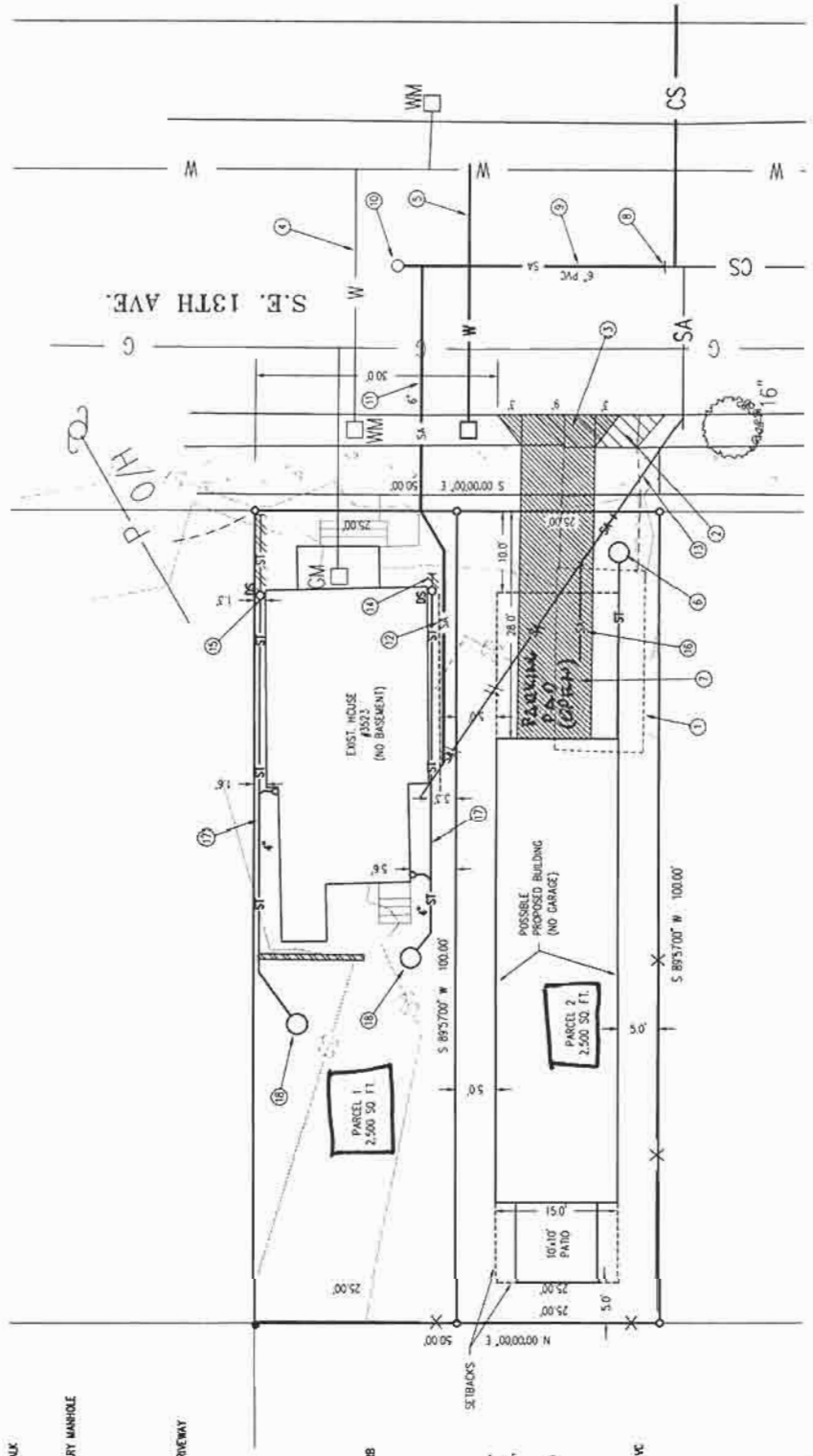


File No. LU 08-146722 LDPAD
 1/4 Section 3431
 Scale 1 inch = 200 feet
 State Id 1S1E11CA 1200
 Exhibit B (Jul 18, 2008)

RECEIVED
 NOV 12 2008
 By _____

LEGEND:

- CS — EXISTING COMBINED SEWER
- ST — EXISTING STORM
- W — EXISTING WATER
- F — EXISTING FENCE
- (XXXX) — EXISTING SPOT ELEVATION
- (XXXX) — EXISTING CONCRETE SIDEWALK
- (XXXX) — EXISTING CONTOUR
- ⊙ EXISTING COMBINED SANITARY MANHOLE
- ⊙ EXISTING POWER POLE
- ⊙ EXISTING WATER METER
- ⊙ EXISTING CABLE
- DENOTES CABLE
- ▨ NEW CONCRETE WALK & DRIVEWAY



- 1 REMOVE EXISTING GARAGE.
- 2 REMOVE EXISTING DRIVEWAY. INSTALL STD CURB AND PLANTER.
- 3 INSTALL NEW 5' WIDE DRIVEWAY.
- 4 EXISTING WATER SERVICE TO REMAIN.
- 5 PROPOSED NEW WATER SERVICE.
- 6 INSTALL 20" DIA. x 5' DEEP DRYPWELL FOR ROOF DRAINAGE. LOCATE 10' MIN. FROM FOUNDATION, 5' MIN. FROM PROPERTY LINE.
- 7 POSSIBLE 96" WIDE ON-SITE PARKING AREA BEHIND FRONT YARD SETBACK.
- 8 LOCATE EXISTING 6" VSP SEWER. CONNECT 6" PVC WITH COUPLING.
- 9 INSTALL 33' L.F. PUBLIC SEWER EXTENSION 6" PVC MATCH SLOPE TO EXISTING 6" VSP.
- 10 INSTALL PUBLIC SEWER CLEANOUT.
- 11 INSTALL PUBLIC SEWER SERVICE.
- 12 CONNECT EXISTING BUILDING SEWER TO NEW SEWER SERVICE.
- 13 RE-USE EXISTING SEWER SERVICE FOR NEW BUILDING ON PARCEL 2.
- 14 EXISTING DOWNSPOUT TO SURFACE DISCHARGE. DISCONNECT DOWNSPOUT AND CONNECT TO NEW STORM DRAIN PIPE.
- 15 EXISTING DOWNSPOUT TO EXISTING PIPE. DISCHARGES TO DITCH IN CUT BANK. DISCONNECT DOWNSPOUT AND CONNECT TO NEW STORM DRAIN PIPE.
- 16 NEW SEWER SERVICE TO NEW HOME ON PARCEL 2. DOWNSPOUTS TO NEW PIPE.
- 17 NEW STORM DRAIN PIPE. CONNECT ALL DOWNSPOUTS TO NEW PIPE.
- 18 INSTALL 7" DIAMETER, 7' DEEP MINI-DRYPWELL WITH MINIMUM 17" THICK GRAVEL SURROUND AND BASE. LOCATE MIN. 5' FROM PROPERTY LINE AND 8' FROM FOUNDATION. (ALTERNATIVELY INSTALL ONE 20" DIA., 5' DEEP DRYPWELL AND CONNECT BOTH STORM DRAINS).

CASE NO. 18-146722 LDP AD
EXHIBIT C-1

1

AARON HAAK



ZTEC ENGINEERS INC.

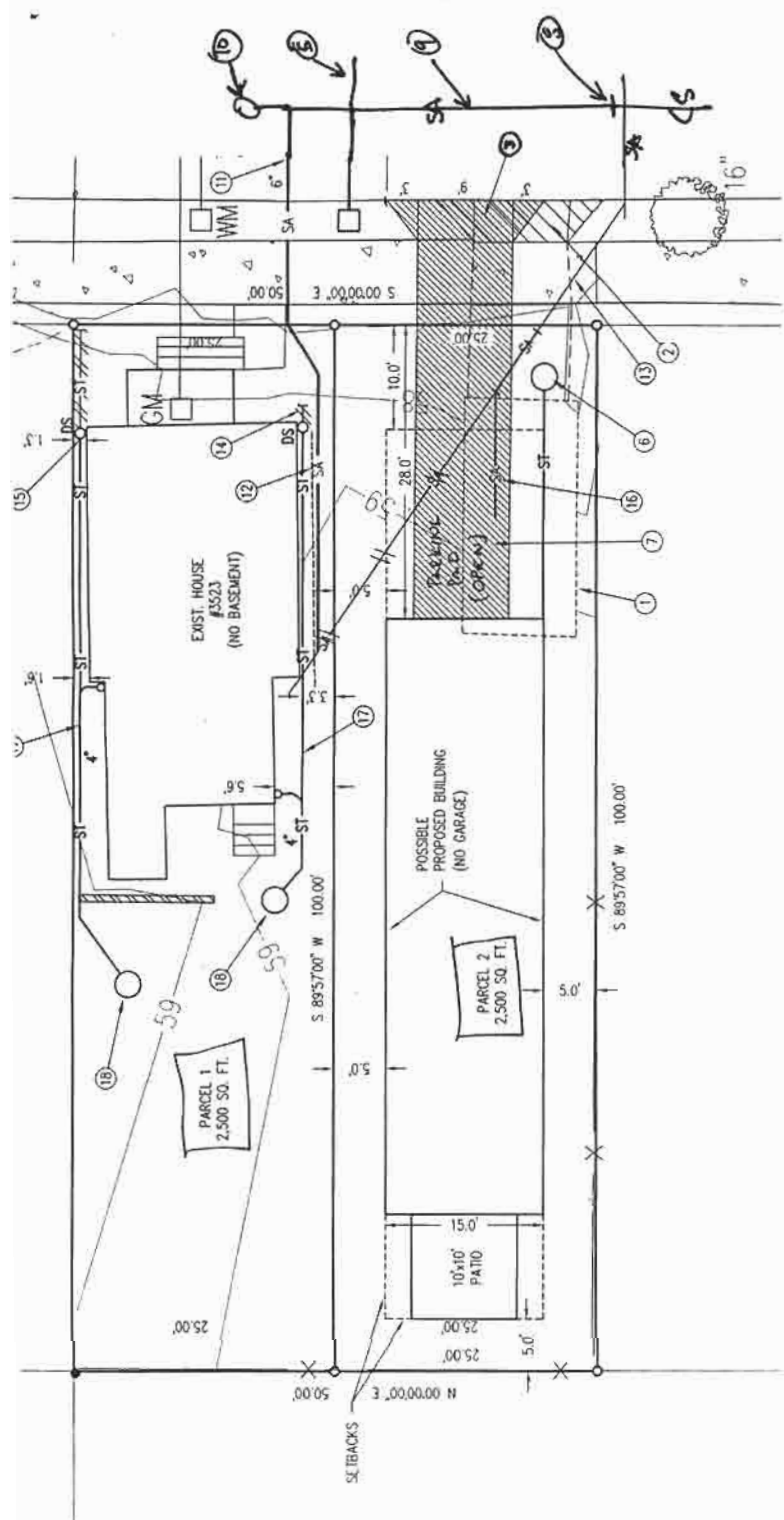
3737 S.E. 8TH AVE., PORTLAND, OREGON 97202
 PH: (503) 235-8795 FAX: (503) 233-7889

JOB#:	P3381-1
DATE:	5-25-07
SCALE:	1"=10'
DRAWN:	JPH
CHECK:	CCF
FILE:	P3381-1
PLOT:	11-12-08

LOCATED IN THE S.W. 1/4 OF SECTION 11,
 T.15S., R.1E., W.M., IN THE CITY OF PORTLAND,
 MULTNOMAH COUNTY, OREGON

DETAIL

EXPIRES 12/31/2008



- 1 REMOVE EXISTING GARAGE.
- 2 REMOVE EXISTING DRIVEWAY. INSTALL STD. CURB AND PLANTER.
- 3 INSTALL NEW 9' WIDE DRIVEWAY.
- 4 EXISTING WATER SERVICE TO REMAIN.
- 5 PROPOSED NEW WATER SERVICE.
- 6 INSTALL 28" DIA. x 5' DEEP DRYWELL FOR ROOF DRAINAGE. LOCATE 10' MIN. FROM FOUNDATION, 5' MIN. FROM PROPERTY LINE.
- 7 POSSIBLE 9'x18' ON-SITE PARKING AREA BEHIND FRONT YARD SUTBACK.
- 8 LOCATE EXISTING 6" VSP SEWER. CONNECT 6" PVC WITH COUPLING.
- 9 INSTALL 33' L.F. PUBLIC SEWER EXTENSION 6" PVC MATCH SLOPE TO EXISTING 6" VSP.
- 10 INSTALL PUBLIC SEWER CLEANOUT.
- 11 INSTALL PUBLIC SEWER SERVICE.
- 12 CONNECT EXISTING BUILDING SEWER TO NEW SEWER SERVICE.
- 13 RE-USE EXISTING SEWER SERVICE FOR NEW BUILDING ON PARCEL 2.
- 14 EXISTING DOWNSPOUT TO SURFACE DISCHARGE. DISCONNECT DOWNSPOUT AND CONNECT TO NEW STORM DRAIN PIPE.
- 15 EXISTING DOWNSPOUT TO EXISTING PIPE. DISCHARGES TO DAYLIGHT IN CUT BANK. DISCONNECT DOWNSPOUT AND CONNECT TO NEW STORM DRAIN PIPE.
- 16 NEW SEWER SERVICE TO NEW HOME ON PARCEL 2.
- 17 NEW STORM DRAIN PIPE. CONNECT ALL DOWNSPOUTS TO NEW PIPE.
- 18 INSTALL 2' DIAMETER, 2' DEEP MINI-DRYWELL WITH MINIMUM 12" THICK GRAVEL SURROUND AND BASE. LOCATE MIN. 5' FROM PROPERTY LINE AND 8' FROM FOUNDATION. (ALTERNATIVELY INSTALL ONE 28" DIA., 5' DEEP DRYWELL AND CONNECT BOTH STORM DRAINS)



SITE PLAN (DETAIL)

ZTEC ENGINEERS INC.

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

JOB#:	P3361-1
DATE:	5-25-07
SCALE:	1"=10'
DRAWN:	JHH
CHKD:	CCF



INDICATED IN THE C.W. 1/4 OF CENTRAL 11