



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: February 11, 2009
To: Interested Person
From: Rachael Hoy, Land Use Services
503-823-0646 / RachaelH@ci.portland.or.us

NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD
AND

NOTICE OF POTENTIAL PUBLIC APPEAL HEARING

IF AN APPEAL IS FILED (SEE PAGE 22), AN APPEAL HEARING WITH THE PORTLAND HEARINGS OFFICE WILL BE HELD: March 4, 2009 at 9:00 AM at 1900 SW 4th Avenue Building, Room 2500b, Second Floor, Portland, OR 97210. **IF AN APPEAL IS NOT FILED PER THE APPEAL FILING INSTRUCTIONS (SEE PAGE 22), THEN THE APPEAL HEARING WILL BE CANCELLED.** Please direct any questions to Rachael Hoy, project planner at the email or phone number above.

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 07-170500 LDS

GENERAL INFORMATION

| | | |
|----------------------------|--|---|
| Applicant: | Jeff Fish, Fish Construction NW 1834 SW 58th #102 Portland OR 97221 | Mark Person WB Wells & Associates, Inc 4230 NE Fremont St Portland, OR 97213 |
| Site Address: | 4033 SE 136th Ave | |
| Legal Description: | TL 6200 0.35 ACRES, SECTION 11 1 S 2 E | |
| Tax Account No.: | R992112410 | |
| State ID No.: | 1S2E11DC 06200 | Quarter Section: 3444 |
| Neighborhood: | Powellhurst-Gilbert, contact John McDonald at 503-753-4226. | |
| Business District: | Midway, contact Bill Dayton at 503-252-2017. | |
| District Coalition: | East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550. | |
| Plan District: | Johnson Creek Basin | |
| Zoning: | R2a- Residential 2,000 with an 'a' overlay for Alternative Design Density | |
| Case Type: | LDS – Land Division Subdivision | |

Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a 5-lot subdivision and shared court on this 15,149 square foot site. The new lots will range in size from 1,704 square feet to 2,982 square feet. The existing house will be retained on Lot 1. The remaining lots will provide vacant sites for new homes. The proposed shared court will be approximately 4,626 square feet and will be surfaced with patterned, stamped, concrete. A shared court is an area designed to allow a safe mix of pedestrians and vehicles.

There are several trees on site. The applicant's arborist has declared all of the trees exempt due to poor health or species type, therefore there are no trees on site that are subject to the tree preservation requirements of Chapter 33.630.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110). For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots 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: The site is relatively flat with an existing single family home on site. There is one driveway that enters the site that provides parking for the existing house. The surrounding homes are primarily one and two story single family homes. SE 136th has been improved with curb and sidewalk in some areas, but for the most part the shoulder is an unimproved gravel area.

Zoning: R2a – The R2 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing. The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the "a" overlay.

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on January 9, 2009.

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:** One written response has been received during the public comment period from a notified property owner in response to the proposal (Exhibit F.1). The property owner was glad to see that sidewalk and curbs will be required along the frontage of the site. However, he expressed concern that the stormwater swale for the public improvements does not show any trees. The City Forester has confirmed that street trees will be required to be planted with the street improvements. These trees will be shown on the street plans that will be prepared for the public works permit.

Staff received a letter by e-mail from the PowellHurst-Gilbert Neighborhood Association after the closing of the public comment period. The e-mail is exhibited as Exhibit F.2. The Neighborhood expressed concerns about the lack of ample parking within the proposed development and additional parked vehicles along SE 136th Avenue with the proposed development.

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 | 33.612 | Lots | Applicable - See findings below |
| B | 33.630 | Trees | Not Applicable - All trees have been exempted by the arborist because they are either too small, dead, nuisance species or located partially off the property. (See Exhibit A.2). |
| 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 when the minimum density for the site is less than 40 units. |
| G | 33.635 .100 | Clearing and Grading | Applicable - See findings below. |

| Criterion | Code Chapter | Topic | Applicability Findings |
|------------------|----------------------------|-------------------------------|---|
| G | 33.635 .200 | Land Suitability | Applicable - See findings below. |
| H | 33.636 | Tracts and Easements | Applicable - See findings below. |
| 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 33.612 contains the lot standards applicable in the Multi-dwelling 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.

For Multi Dwelling Zones:

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 15,149 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A new street is proposed in a tract that totals 4,626 square feet and the applicant will be required to dedicate approximately 558 square feet of site area along the frontage of SE 136th for right-of-way purposes (as described later in this report). Therefore the resulting lot size for calculating density is 9,965 square feet.

In this case, Lots 1 through 5 are proposed for single dwelling development. Therefore, the density requirements for this site are calculated as follows:

Minimum = $9,965 \div 2,500$ (minimum density from Table 120-3) = 3.98 (which rounds up to a minimum of 4 units, per 33.930.020.A).

Maximum = $9,965 \div 2,000$ (maximum density from Table 120-3) = 4.98 (which rounds up to a maximum of 5 units, per 33.930.020.B).

The applicant is proposing 5 lots. The density standards are therefore met.

Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

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 33.612 of the Zoning Code):

| R2 Zone Requirements | | | | | |
|-----------------------------|-------------------------|-------------------------|---------------------------|-------------------------------|--------------------------|
| | Minimum Lot Area | Maximum Lot Area | Minimum Lot Width* | Minimum Front Lot Line | Minimum Lot Depth |
| Lot | 1,600 sq. ft. | none | none | 10ft | none |
| 1 | 2,982 sq. ft. | | 47 ft | 47 ft | 48 ft |
| 2 | 1,704 sq. ft. | | 33 ft | 33ft | 47 ft |
| 3 | 1,736 sq. ft. | | 39 ft | 41 ft | 41 ft |
| 4 | 2,156 sq ft | | 35 ft | 34 ft | 61 ft |
| 5 | 2,155 sq ft | | 35 ft | 35 ft | 61 ft |

*Width is measured from the midpoints of the side lot lines.

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

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**

- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.2) that depicts the proposed work, including existing and proposed elevation contours and overall limits of disturbance.

The proposed clearing and grading shown on Exhibit C.2 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes should be minimal and should not increase runoff or erosion because of the erosion control measures that will be required to be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by an infiltration planter within Tract A to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street and the preparation of the lots, without being excessive. The limits of disturbance shown on the applicant's plan includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns and limit the disturbance on the adjacent properties.

The clearing and grading plan does not show topsoil storage, or a stockpile area, but there is ample room on the site to locate soil stockpiles. A condition of approval will require that the clearing and grading plan submitted with the Site Development permit indicate the location of stockpile areas.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan with the changes noted above, 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.

Findings: The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

Findings The following tracts are proposed: Tract A for a private shared court and stormwater facility will serve the 5 lots. With a condition that the proposed tract be owned in common by the owners of Lots 1 through 5, this criterion can be met.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easements are proposed and/or required for this land division:

- BES requires a sewer easement to the City of Portland be placed over the proposed manhole in the shared court. The width of the easement area must be at least 15 feet wide.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tract described above and facilities within those areas. The required sewer easement must be acknowledged in the agreement. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance

agreement with a recording block for the agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for Tract A: Private Shared Court has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, 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 69 feet of frontage on SE 136th Avenue. SE 136th Avenue is classified as a Neighborhood Collector, Community Transit street, City Bikeway, City Walkway and a local service street for the street design mode in the City's Transportation System Plan. Tri-Met provides transit service approximately 1,735 feet from the site on SE Powell and approximately 1,468 feet from the site on SE Holgate via bus #9 and #17 respectively. Parking is currently allowed on SE 136th Avenue on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE 136th Avenue is improved with a paved roadway, and a gravel shoulder on both sides. There are no curbs, planter strips, or sidewalks along the frontage of this site. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development.

The proposed land division is expected to generate an additional 40 daily vehicle trips and 4 peak hour trips (morning and afternoon) into the surrounding transportation system. The additional peak hour trips could distribute in either a north or south direction along SE

136th to connect to either SE Powell or SE Holgate, respectively, in order to thereafter travel in an east-west direction. The transportation system, in this case, is identified as SE 136th and the signalized intersection of SE 136th/Powell, as well as the stop controlled intersection of SE 136th/Holgate. These intersections are not expected to drop below the City's performance standards with the addition of the 4 (this is the maximum, and is likely to be dispersed between the two intersections) peak hour trips. PDOT has reached this conclusion given the street classifications of SE 136th Avenue, the inherent capacity of signalized intersections in this area of the City, given existing underutilized development, and the opportunities for disbursement of the proposal's generated vehicle trips. There is also the opportunities for further trip reduction by the proximity to transit along SE 136th and SE Holgate (Tri-met Bus #17) and SE Powell (Tri-met Bus #9).

Some of the factors, such as parking and safety for other modes, will be enhanced by the project due to the required on-site private parking spaces on the new parcels and frontage sidewalk improvements. The applicant has provided an on-site traffic analysis (Exhibit A.3) which indicates that there is adequate space for vehicle access and loading for the new proposed lots and vehicle maneuvering within the proposed shared court is feasible with the proposed design. The applicant is proposing replacement parking for lot 1, with the existing house, and the new lots will be required to have on site parking spaces as well. Public on-street parking will remain with the potential for 2-3 parking spaces along the frontage of the site.

To accommodate the improvements discussed above, as well as an associated stormwater facility discussed later in this report, additional right-of-way (approximately 8 feet) must be dedicated along the frontage of the site. With those improvements, four additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. PDOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development. (See Exhibits E. 1 & E.2).

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

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

- The water standards of 33.651 have been verified. An existing 6 inch water main is available in SE 136th Avenue. Water is available to serve the proposed development from the water main in SE 136th Avenue. Lot 1 has an existing water service from that main. However, as a result of this land division the water service for the existing house will need to be relocated because its current location would interfere with the proposed stormwater facility along the frontage of lot 1. Therefore, prior to final plat, the applicant shall meet the requirements of the Water Bureau and Site Development concerning the relocation of the water service connection to the existing house. See Exhibit E-3 & E-5 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8 inch public sanitary sewer located in SE 136th Avenue that can serve the sanitary needs of the proposed lots. Lot 1 has an existing sewer service from that main. See Exhibit E-1 for more details.

As a result of the proposed land division, the existing sewer connection that serves the house on lot 1 may cross over the proposed, private stormwater facility along the frontage of lot 1. Site Development requires that all utilities serving lot 1 be relocated if they cross the private stormwater facility. Prior to final plat approval, Site Development must approve a plan for relocation of the utilities for the existing house, and permits must be issued to cap and relocate the existing utilities based on the approved plan to ensure that no utilities are located under the private stormwater facility in tract A.

In addition, a sewer extension from the main line in SE 136th Avenue to the proposed public manhole is required as part of the proposed development. A public works permit must be opened and BES must receive an approvable engineered design, financial guarantee and engineering fees prior to final plat approval.

- 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: A private stormwater facility within Tract A is proposed. The method used to determine the size and location of the stormwater facility is discussed below under criterion B.

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 (Exhibits A.4-A-6 & C.2), and the Bureaus have responded as follows (Exhibits E-1 and E-5)

- **Private Shared Court:** The applicant is proposing to use stamped concrete for the shared court. Stormwater from the shared court will be directed to an infiltration planter within the Private shared court, Tract A, which is located along the frontage of lot 1. The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed planter can accommodate the volume of stormwater runoff from the impervious areas of the street and roof run off from the new lots (Exhibit A.4-6). The applicant's Utility Plan (Exhibit C.2) shows an infiltration planter that captures stormwater from the shared court as well as from the new proposed lots 2-5. The Site Development Section has indicated conceptual approval of the proposed infiltration planter location and size.

It is important to note that the applicant would prefer to drain the roof run off from the new homes to drywells and only use the infiltration planter to drain the shared court. In order to determine the feasibility of this option, Site Development requires a depth to ground water analysis prepared by a professional engineer, registered geologist or certified engineering geologist. The applicant chose not to submit a depth to ground water analysis prior to preliminary plan approval. Instead, the aforementioned stormwater disposal plan has been proposed and received conceptual approval by Site Development. If, prior to final plat approval, the applicant completes the depth to groundwater analysis as per Site Development's specifications and it is approved, the applicant may reduce the size of the infiltration planter to drain only the shared court. A condition of approval is needed to allow for the change in size of the stormwater facility and lot 1 should this option be feasible. In addition, approval of this option would be contingent upon the receipt of revised plans that demonstrate that drywell setback requirements can be met.

- **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 a 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.

- **Lots 2-5:** Stormwater from these lots will be directed to the stormwater facility in Tract A. The applicant proposes a private storm sewer line to convey stormwater from the individual lots to the infiltration planter adjacent to Tract A (Exhibit C.2). Site Development has indicated conceptual approval of this disposal method for the roof run off. As discussed earlier, if the applicant chooses to proceed with the depth to ground water analysis and the results show that drywells on the individual lots is approvable, then the applicant would need to submit revised plans to Site Development that demonstrate that drywell setback requirements can be met.

- Lot 1 (the lot with the existing house):** The existing house has downspouts that drain variously onto the ground and into underground pipes. Site Development has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development. If the stormwater disposal system for the existing house will not be fully located on the lot it serves after the land division, then appropriate easements must be provided on the final plat. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of Site Development and obtain finalized plumbing permits for the modifications prior to final plat approval.

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

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

| Code Section | Topic | Applicability Findings |
|-----------------------|--|---|
| 33.654.110.B.1 | Through streets and pedestrian connections | Applicable - See findings below |
| 33.654.110.B.2 | Dead end streets | Applicable - See findings below. |
| 33.654.110.B.3 | Pedestrian connections in the I zones | Not applicable - The site is not located within an I zone. |
| 33.654.110.B.4 | Alleys in all zones | Not applicable – No alleys are proposed or required. |
| 33.654.120.C.1 | Width of the street right-of-way | Not applicable – The proposal includes a common green/shared court/pedestrian connection instead of a traditional street. |
| 33.654.120.C.3.c | Turnarounds | Not applicable – No turnarounds are proposed or required. |
| 33.654.120.D | Common Greens | Not applicable – No common greens are proposed or required. |
| 33.654.120.E | Pedestrian Connections | Not applicable – There are no pedestrian connections proposed or required. |
| 33.654.120.F | Alleys | Not applicable – No alleys are proposed or required. |
| 33.654.120.G | Shared Courts | Applicable - See findings below. |
| 33.654.130.A | Utilities | Applicable - See findings below. |
| 33.654.130.B | Extension of existing public dead-end streets and pedestrian connections | Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site. |

| Code Section | Topic | Applicability Findings |
|---------------------|---|--|
| 33.654.130.C | Future extension of proposed dead-end streets and pedestrian connections | Applicable - See findings below |
| 33.654.130.D | Partial rights-of-way | Not applicable – No partial public streets are proposed or required. |

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. **Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. **Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. **Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
- d. **Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
- e. **Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: The site is located between SE Powell and SE Holgate, which have a distance between them of approximately 3,260 feet. There are no other east/west through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be an east-west through street provided in the vicinity of the site.

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The spacing requirements for public through streets are not met in this area. However, given the pre-existing block and lot pattern as well as locations of existing development on the adjacent lots and those in the subdivision to the west, it would not make a public through street feasible at this location. PDOT also noted the location of Center Street to the north of this property would make a public street on this

property too close. A through street may be more appropriate to the north aligning more closely with Center Street. Further, an approximate 39-ft wide dedication for a partial public street through the subject site would leave only 30-ft lot depths.

The City's pedestrian connection goal of generally providing such a connection no more than 330-ft is also not met within the subject block. However, for the same reasons noted above, a pedestrian connection would not be feasible at this location for an east/west or a north/south connection. The only new through pedestrian connections included in the proposal are new sidewalks along the frontage of the site along SE 136th Avenue Street. This is a straight-line connection on which users will be able to see the ending of the pedestrian route from the entrance.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones. In OS, R, C, and E zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than 18 dwelling units. Public dead-end streets should generally be at least 200 feet apart.

Findings: The proposal includes a private dead-end street and pedestrian connection, which will be located in the new street tract. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 5 dwelling units and it is approximately 147 feet in length from the frontage along SE 136th Street to the property line of lot 5. This criterion is met.

33.654.120.G. Approval criterion for the width of shared courts. The size of the shared court right-of-way must be sufficient to accommodate the expected users and uses. The size must take into consideration the characteristics of the site and vicinity, such as the pedestrian systems, structures, traffic safety, natural features, and the community activities that may occur within the shared court.

Findings: The area for the shared court tract will be 22 feet wide by 147 feet long, and constructed of stamped concrete. The applicant will be required to provide an updated site plan at the time of final plat which details at least two different stamped concrete surface treatments within the court. This will break up the expanse of paving and add more texture to the court.

The shared court is configured to allow access to the proposed garages on Lots 2-5, as well as access to the parking pad proposed for the existing house on lot 1. The applicant has provided sufficient information on vehicle turning and maneuvering movements to demonstrate that the configuration of the shared court will allow vehicles to enter and exit the shared court from the adjacent public street in a forward motion. The applicant has also demonstrated sufficient turning radius area for vehicles backing out of each driveway into the shared court (Exhibit A.3). The Fire Bureau has indicated that the shared court will meet their access road requirements.

The shared court provides pedestrian access from the adjacent sidewalk on SE 136th Avenue to the main entrances of the buildings proposed for Lots 1-5. The applicant received an approved building code appeal #5914, (Exhibit A.7) to allow for the use of a shared court for use by autos, pedestrians, and bicycles. Because the shared court will provide access to fewer than 16 lots in this manner, the opportunities for conflict between residential vehicles and pedestrians will be limited. The applicant has included traffic

calming measures to ensure safe co-existence of vehicles, pedestrians and bicycles in the same space. These traffic calming measures consist of two small landscaped planters that result in reducing the driving surface and in turn that will slow vehicles. The shared court design and amenity planters described above must be in substantial conformance with Exhibit C.2. Prior to final plat approval, the applicant shall detail on the Site Development permit the species of trees and shrubs to be planted in the landscape planters. The applicant must also show on this plan that the placement of utilities within the tract will not conflict with landscape plantings. For the reasons described above, the size and configuration of the shared court is sufficient to accommodate the expected users. This criterion is met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the proposed 22-foot width of the private shared court tract can be provided on the final plat. At this time no specific utility easements adjacent to the street tract have been identified as being necessary. Therefore, this criterion is met.

C. Future extension of proposed dead-end streets and pedestrian connections. Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:

- 1. The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan;**
or
- 2. The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.**

Findings: The properties to the north and west of the site appear to have potential to further divide under current zoning. The property to the north is developed in a way that would preclude the extension of a street from the site. In addition, the subdivision to the west would preclude a through connection of a street to SE 134th Avenue. The property directly west of the subject site has access from Gladstone Street. For this reason, there is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed street to the western boundary of the site.

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.

Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

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

- Minimum Setbacks on a Shared Court: The front and side minimum building setbacks from shared courts can be reduced to 3 feet.
- Garage Entrances for Shared Courts – The setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line, or 18 feet or further from the shared court property line. If the garage

Existing development that will remain after the land division. The existing development on the site will remain and be located on Lot 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 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 applicant's survey shows the existing house 10 feet from the new property line along SE 136th and 4 feet along the shared court. Staff concluded upon a site visit that the site plan is not depicting a bump out along the north side of the house. Prior to final plat approval, the applicant will need to provide a supplemental plan that reflects the accurate measurement from the north side of the house to the property line and to the proposed shared court. The front and side minimum building setbacks from shared courts can be reduced to 3 feet. If the applicant does not meet the setback requirements an Adjustment review can be requested or a building permit to modify the existing house can be applied for and approved prior to final plat approval.

- Street-Facing Facades in the Multi-Dwelling Zones -- In this zone, street-facing facades of buildings that contain any residential floor area are required to have windows and/or main entrance doors that comprise at least 15 percent of the façade area. The existing house that will remain on Lot 1 currently meets this standard on the front of the house, which is oriented toward the street. After the land division, new street frontage for this house will be provided by the new private street/common green/shared court. Prior to final plat approval, the applicant must finalize a building permit to make modifications to the house that will remain on Lot 1 to demonstrate continued compliance with 33.120.232.B after the land division is recorded. Alternately, an Adjustment to this standard must be approved.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. As a result of this land division, the required parking space for the existing house will be located in the shared court. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Lot 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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 Fire Code | 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 is required to make improvements to the proposed private shared court. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards posting of "No Parking" signs on the shared court, providing an Emergency Vehicle Access Easement over the shared court, confirming turning radius of 25 ft inside and 45 ft outside can be met, approved fire apparatus access road, and meeting aerial fire department access requirements. These requirements are based on the technical standards of Title 31 and the Fire Code.

CONCLUSIONS

The applicant has proposed a 5-lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: PDOT frontage improvements, Shared court development and utility relocation and installation, and fire bureau requirements.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 5-lot subdivision, that will result in 5 lots for single dwelling, detached housing with a shared court in this R2 multidwelling zone as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES and Site Development for 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;
- Accurate depicted of the foundation of the existing house and setbacks to shared court and front property line;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed interior side setbacks for all of the lots if the reduced setback provisions of Section 33.120.270.D.1 are intended to be used.
- Stormwater facilities for the existing house and location of drywells (meeting setback requirements) for all other lots, if approved by Site Development. (As-built location after permit for the existing house will be required.); and
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 136th Avenue. The required right-of-way dedication must be shown on the final plat.
2. A sanitary sewer easement, granted to the City of Portland, shall be shown over the relevant portions of the shared court, to the satisfaction of the Bureau of Environmental Services.
3. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the shared court to the satisfaction of the Fire Bureau.
4. The shared court tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Shared Court *name of street*".
5. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.2 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Tract A: Private Shared Court has been recorded as document no. _____, Multnomah County Deed Records."
6. The stormwater facility within Tract A and Lot 1 may vary in size beyond the 5% threshold indicated in 33.663.200A provided all lots continue to meet minimum dimensional requirements.

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE 136th 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.
2. The applicant shall submit an application for a Site Development Permit for construction of the private shared court and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. Plans must be in substantial conformance with Exhibit C.2, with the allowed variations as indicated in Condition B.6, and include the following other requirements:
 - The applicant shall detail the species of trees and shrubs to be planted in the landscape, amenity planters.
 - The applicant must show that the placement of utilities within the tract will not conflict with landscape plantings.
 - The applicant will be required to show at least two different stamped concrete surface treatments within the shared court.
 - All fire access lanes shall have a turning radius of 25ft inside and 45 ft outside. This must be shown on the permit for the shared court and the supplemental plan.

- The applicant must provide an approved fire apparatus access road per Fire Bureau requirements.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private shared court and all required site development, including relocation of the utilities for the existing house. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
 4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private shared court described in Condition C.2. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.2) with the following additions:
 - It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.

Utilities

1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main line to a proposed public manhole in the private shared court tract. The public sewer extension and manhole requires a Public Works Permit, which must be initiated 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.
2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing septic system on the site.
3. The applicant shall meet the requirements of the Water Bureau and Site Development concerning relocation of the water service connection to the existing home.

Existing Development

1. If the applicant does not meet the setback requirements for the existing house adjacent to the new proposed shared court, the applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Lot 1 that demonstrate compliance with the following standards in relation to the proposed new lot lines:
 - 33.120.270E. (Setbacks--specifically, the permit must show removal of sufficient portions of the house to meet the front/side setback requirement in the R2 zone along a shared court;
 - 33.120.232.B (standards for Street-Facing Facades in the Multi-Dwelling zones);

Alternately, the applicant must obtain an approved Adjustment to these standards prior to final plat approval.

2. A parking space shall be installed on Lot 1. The parking space must be a minimum of 9' x 18' and located out of the new side setback for the lot with the existing house. In addition, it must be in a location that can be accessed from the new street. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. A connecting driveway can be provided after the new street has been constructed. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Lot 1. The new parking space must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify parking 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.
3. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Site Development Section of the Bureau of Development Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Lot 1 (the lot with the existing home), then the applicant must meet one of the following:
 - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
4. Prior to final plat approval, Site Development must approve a plan for relocation of the utilities (water, gas and sewer) for the existing house, and permits must be issued to cap and relocate the existing utilities based on the approved plan to ensure that no utilities are located under the private stormwater facility.

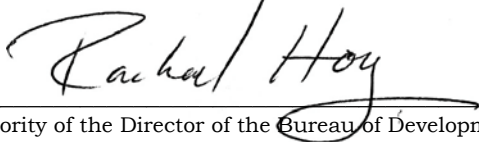
Required Legal Documents

1. The applicant shall execute a Maintenance Agreement for the private shared court tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-5 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must note responsibility of the owners to maintain the different surface, paving treatments on the shared court. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. The first lift of paving for the private shared court shall be installed prior to issuance of any permits for residential construction.
2. Prior to finalizing the Site Development permit for the private shared court, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.

3. Final approval of required permits to cap and relocate the existing utilities (water, gas, and sanitary sewer) for the existing house on Lot 1 will be required prior to issuance of residential construction permits on any of the individual lots so that no utilities are located under the private stormwater facility.
4. The applicant must post the private shared court with "No Parking" signs to the satisfaction of the Fire Bureau.
5. 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 eave.

Decision rendered by:  on February 9, 2009
By authority of the Director of the Bureau of Development Services

Decision mailed February 11, 2009

Staff Planner: Rachael Hoy

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 October 18, 2007, and was determined to be complete on April 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 October 18, 2007.

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.8.

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 February 25, 2009** 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.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

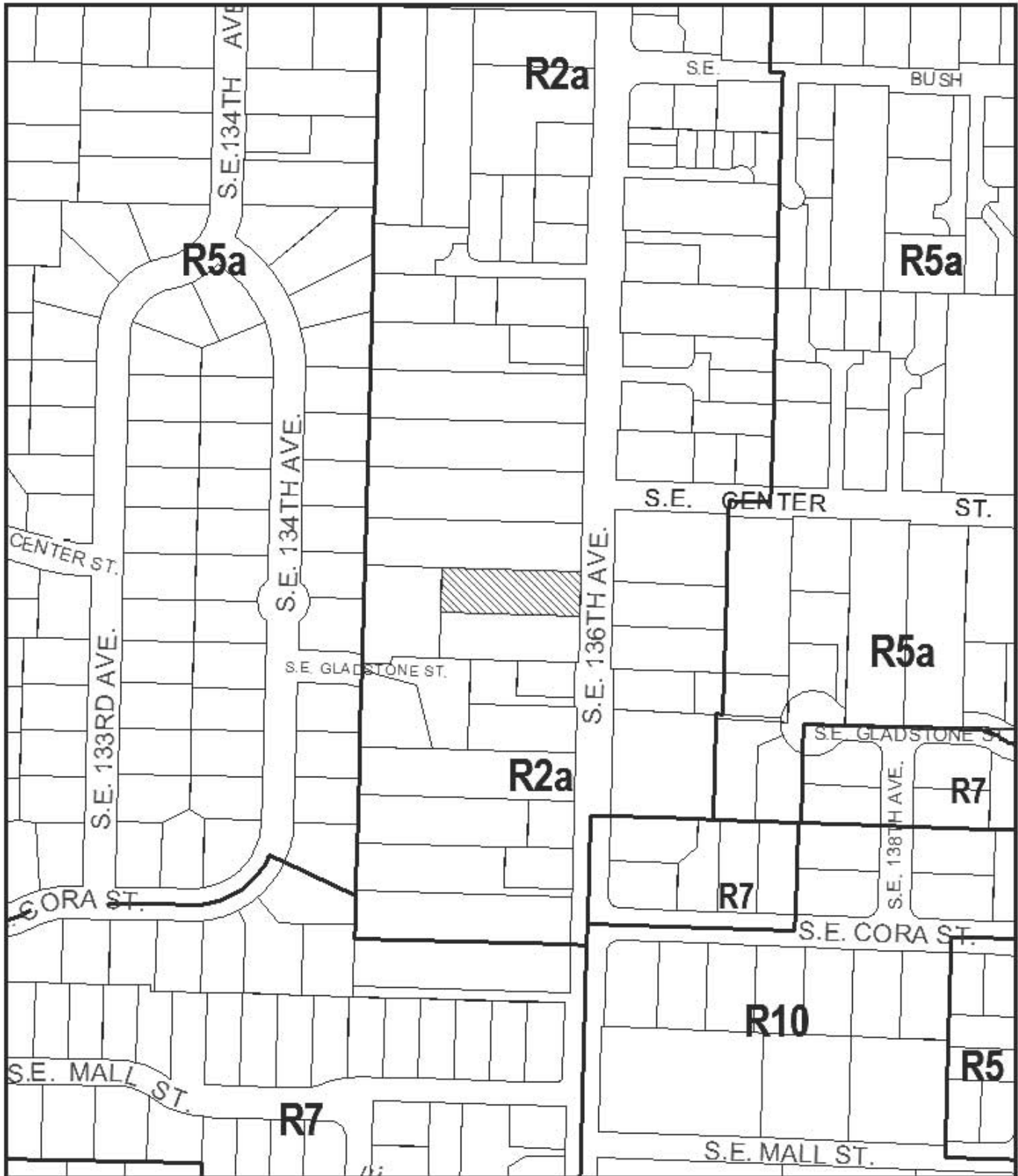
- A. Applicant’s Statement
 1. Narrative
 2. Arborist Report
 3. Traffic Analysis for Shared Court
 4. Stormwater report and Site plan- June 2007

5. Stormwater report and Site plan- June 2008
6. Updated Stormwater report – January 2009
7. Building Code Appeal
8. 120 day waiver
9. Updated utiility plan- Jan 21, 2009
10. Updated Utility plan 0 Jan 28, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Clearing and Grading and Utility plan (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety
- F. Correspondence:

Use this format.

 1. Doug Klotz, 1/26/09, wanted information on street trees for the site
 2. John McDonald, 2/9/09 (after comment period ended), concerned about on site and on street parking
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Neighborhood contact

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



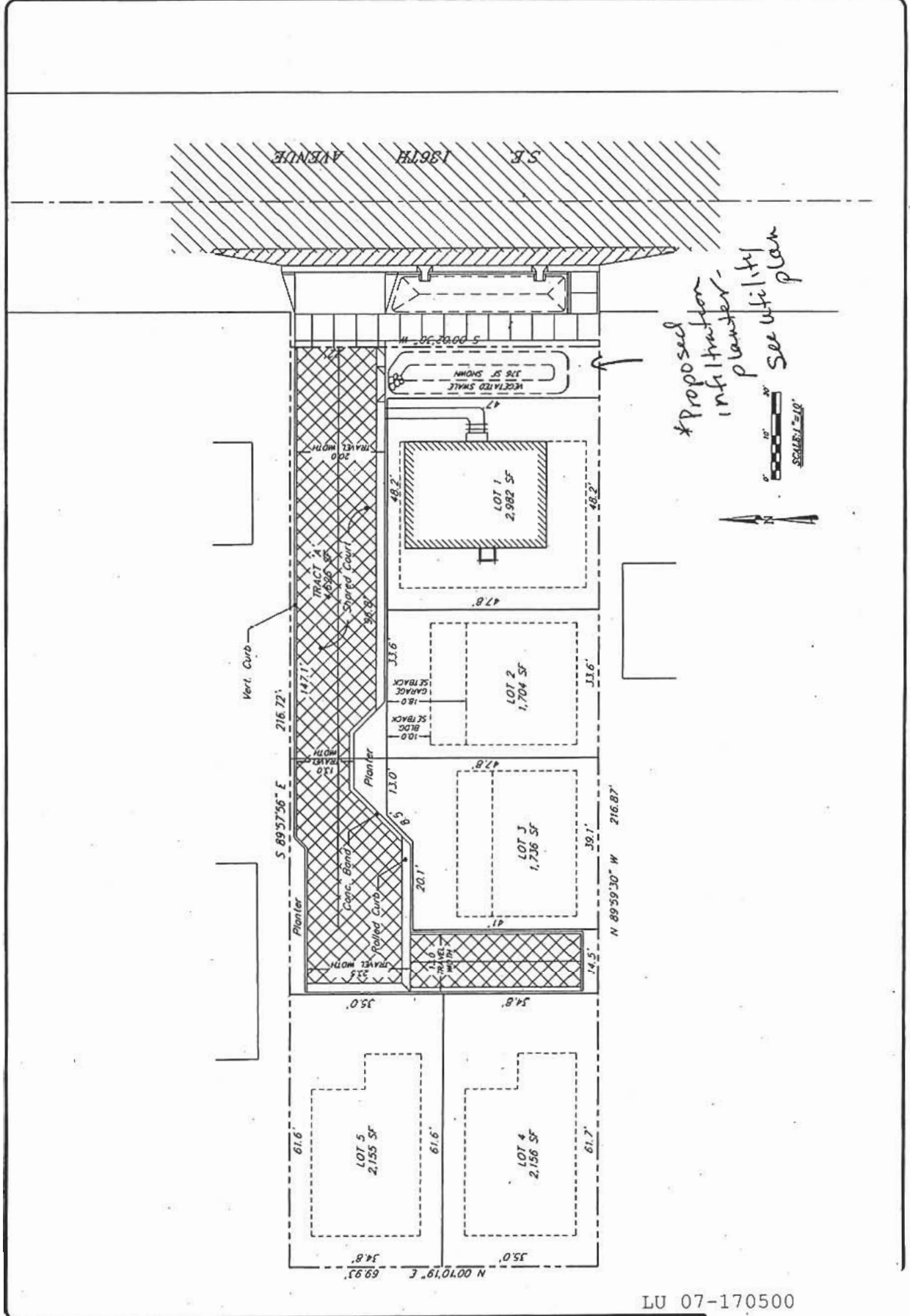
This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

| | |
|-------------|--------------------------|
| File No. | <u>LU 07-170500 LDS</u> |
| 1/4 Section | <u>3444</u> |
| Scale | <u>1 inch = 200 feet</u> |
| State Id | <u>1S2E11DC 6200</u> |
| Exhibit | <u>B (Oct 22, 2007)</u> |

RECORDED
 PROFESSIONAL
 LAND SURVEY
 DATE: 06-11-2018
 MAP NO. 130000000000
 COUNTY: CLATSOP

LEFT PAGE
 FISH CONSTRUCTION
 PROJECT: 130000000000
 DATE: 06-11-2018

| NO. | DATE | BY | DESCRIPTION |
|-----|------|----|-------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |



*Proposed
 infiltration-
 planter-
 See utility plan





PRELIMINARY UTILITY OPTION 2
 5 LOT SUBDIVISION
 4033 SE 136th AVENUE
 PORTLAND, OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON
 BRADLEY M. BROWN
 LICENSE NO. 12345
 EXPIRES 04-30-10

JEFF FISH
 FISH CONSTRUCTION
 1824 SE 84th AVENUE
 PORTLAND, OR
 97216

| | |
|---------------|----------|
| DESIGNED BY: | BES |
| DRAWN BY: | DCA |
| CHECKED BY: | BES |
| FILE NO.: | |
| PLOT DATE: | 05/17/08 |
| JOB NO.: | 07-003 |
| DATE PRINTED: | |

REVISIONS

SHEET 3 OF 4

