

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

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To: February 12, 2009

To: Interested Person

From: Nizar Slim, Land Use Services

503-823-7848 / nizars@ci.portland.or.us

NOTICE OF A TYPE IIx 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 08-152860 LDP AD

GENERAL INFORMATION

Applicant: Louis K Halvorsen,

& Judith L Halvorsen, 3238 SE Woodward St Portland, OR 97202-1464

Representative: Kevin Partain,

223 NE 56th Ave Portland, OR 97213

Site Address: 3238 SE Woodward St.

Legal Description: E 150' OF N 1/2 OF BLOCK 37, WAVERLY

Tax Account No.: R885802270

State ID No.: 1S1E12BA 18400 Quarter Section: 3333

Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161.

Business District: Division-Clinton Business Association, contact Katherine Cosgrove at

503-234-8585.

District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Zoning: R5 – Single-Family Residential 5000

Case Type: LDP AD (Land Division, Partition with an Adjustment)

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

Proposal:

The applicant is proposing to divide a 15,000 sq, ft. lot with an existing detached house into two lots. Parcel 1 would be 9,000 square feet in area and Parcel 2 would be 6,000 square feet. The house will be retained and located on Parcel 1. Several on-site trees are to be preserved. Details are addressed in the report below.

Parcel 1 being proposed at 9,000 would exceed the maximum lot size of 8,500 square feet in the R5 zone. Therefore, the applicant also proposes the following **Adjustment** that is necessary to approve the partition proposal:

<u>Increase the Maximum Lot Size of proposed Parcel 1 from 8,500 square feet to 9,000 square feet.</u>

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 larger, rectangular corner lot that is relatively flat. A late nineteenth century, two-story Victorian house is located on the eastern half of the lot. A variety of trees are located on the site.

The area surrounding the subject property is an established residential neighborhood with a range of architectural styles. Housing is made up of mostly single-family, 1-2 story houses on smaller lots. The adjacent streets and sidewalks are fully improved.

Zoning: The <u>R5</u> 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 **September 16, 2008**.

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

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	33.610	Lots	Applicable - See findings below.
В	33.630	Trees	Applicable - See findings below.
С	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.
Н	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 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

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

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

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

Minimum = $(15,000 \text{ square feet * .80}) \div 5,000 \text{ square feet = 2.4}$ (which rounds down to a minimum of 2 lot, per 33.930.020.A)

Maximum = 15,000 square feet ÷ 5,000 square feet = 3.

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 33.610 of the Zoning Code):

	R5 Zone	Proposed	Proposed
	Requirement	Parcel 1	Parcel 2
Minimum Lot Area	3,000 sq. ft.	9,000 sq.	6,000 sq.
Maximum Lot Area	8,500 sq. ft.	ft.	ft.
Minimum Lot Width*	36 ft.	90 ft.	60 ft.
Minimum Lot Depth	50 ft.	100 ft.	100 ft.
Minimum Front Lot Line	30 ft.	90 ft.	60 ft.

^{*} Width is measured at the minimum front building setback line

As noted, <u>Parcel 1</u> is larger than the Maximum Lot Area; therefore, an <u>Adjustment</u> to this standard is needed in order to meet this criterion. The approval criteria for Adjustments are addressed later in this report.

Subject to approval of an Adjustment for maximum lot size (addressed later in this decision), this criterion is met.

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-3). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies 23 trees on the site. (Please refer to the TREE TABLE in the Arborist report).

The total non-exempt tree diameter on the site is 90 inches. The applicant proposes to preserve trees 86, 87, 93 and 94, which comprise of 32 inches of diameter, or 35 percent of the total non-exempt tree diameter (tree 105 is optional for preservation but has not been included in the calculation). This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-1).

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 100 feet of frontage on SE 33rd Avenue and 150 feet along SE Woodward. Both are classified as a local service street for all modes in the Transportation System Plan. Parking is currently allowed on both SE 33rd Avenue and Woodward, on both sides. The plans provided do not indicate there is any parking or vehicle access on site. Since this condition exists prior to the Land Division proposal no new parking would be needed for the parcel with the existing house (if retained). However, Parcel 2 which is to be developed at a future date would be required to provide parking that meets zoning code at time of development. Further, it has been determined by PBOT that vehicle access to the new lots is preferred to be made from SE Woodward St. If this isn't feasible, any access off of 33rd Avenue needs to be made in a forward motion onto SE 33rd Avenue. This is a safety consideration due to the higher level of service designated for SE 33rd Avenue.

Both SE 33rd Avenue and SE Woodward are fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that vehicle access be made off of SE Woodward if parking is to be established. If this is not practical, a second choice would be SE 33rd Avenue but only if it is configured so that vehicles enter and exit in a forward motion on to SE 33rd Avenue.

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 standard of 33.651 have been verified. An existing 8-inch water main is available in SE Wooward Street. Water is available to serve the proposed development (on Parcel 2) from the water main in SE Woodward. The existing house (on Parcel 1) has an existing water service from a main located in SE Woodward. 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 8-inch VSP public combination sewer located in SE Woodward Street that can serve the sanitary needs of the proposed lots. According to the plans provided by the applicant, the existing sewer

connection that serves the house on Parcel 1 is located in front of Parcel 1 and does not cross over Parcel 2; therefore, no further action is needed for Parcel 1. However, the asbuilt location for this sewer connection (installed under permit 07-105768- PT) needs to be shown on a supplemental plan in order to be verified.

The sanitary needs of Parcel 2 can be met through a new lateral off of the main in SE Woodward. The new lateral needs to be established in accordance to City code and at owner's expense. 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). This particular site is a corner lot with two adjacent, intersecting, and improved streets. 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 <u>Stormwater Management Manual</u>. 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 <u>Stormwater Management Manual</u> 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 <u>Stormwater Management Manual</u>, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

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

Parcel 1 (the lot with the existing house): The existing house has no functioning stormwater management facilities. Site Development requires proper installation of downspouts and gutters that lead to an approved stormwater disposal point on site. Prior to Final Plat approval, the applicant is required to obtain a permit to install gutters, downspouts, rain drains and soakage trenches substantially consistent with the plan approved by Site Development on January 8, 2009 (see Exhibit C-2). Additional repairs to the existing house that may be needed in order to support the rain collection apparatus, such as gutters, shall be made as necessary to complete the work for the required permit as noted above, at the owner's expense.

Parcels 1: Stormwater from this lot will be directed to an individual soakage trench that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the soakage trench (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 being requested for proposed Parcel 1 in order to preserve the yard space for the existing house. If approved, the proposed Land Division would create one standard lot and one corner lot that would exceed the maximum lot area limit by 500 square feet. Therefore, the following adjustment to 33.610.200 Lot Dimension Standards, is requested for Parcel 1:

• Increase the Maximum Allowable Lot Area form 8,500 square feet to 9,000 square 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 lot dimension standards ensure that:

- Each lot has enough room for a reasonably-sized house and garage;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with existing lots;
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street;

- Each lot has adequate access from the street;
- Each lot has access for utilities and services; and
- Lots are not landlocked.

Prior to the land division proposal, the existing Victorian house resided on a larger than maximum corner lot, surrounded by ample yard space. The proposal with adjustment would yield two lots; one standard interior lot and one adjusted, larger corner lot. This adjusted lot would better retain its original character of size and presence in relation the surrounding neighborhood.

All of the above purpose "bullets" have been adequately addressed through the approval criteria for Land Divisions with the exception of the third point: "Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future". Since, the current site has a maximum density of 3, it is possible for Parcel 1 to be further divided. If Parcel 1 were 8,500 square feet instead of 9,000; it would still yield two lots meeting the minimum lot dimensions required by code. So, the increased (adjusted) size of the lot does not allow any additional density beyond what is allowed by code (an additional bonus density may also be allowed for corner lots).

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, this lot has an existing house and residential zoning. The use and development is consistent in every way with the immediate area as well as the zoning code except for lot size. Since the adjusted lot is only over by 500 square feet, this additional area is easily utilized as yard space which *increases* the outdoor amenity and the livability of the 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.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one Zoning Code standard that relate to existing development on the site:

• <u>Minimum Setbacks</u> – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed <u>new</u> 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 approximately 21 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

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	Topic	Contact Information
	Authority		
Water Works	Title 21	Water	503-823-7404
		availability	http://www.water.ci.portland.or.us/
Environmental	Title 17; 2002	Sewer	503-823-7740
Services	Stormwater	availability	http://www.bes.ci.portland.or.us/
	Manual	Stormwater	
		Management	
Fire Bureau	Title 31	Emergency	503-823-3700
	Policy B-1	Access	http://www.fire.ci.portland.or.us/

Bureau Code		Topic	Contact Information
	Authority		
Transportation	Title 17,	Design of public	503-823-5185
	Transportation	street	http://www.trans.ci.portland.or.us/
	System Plan		
Development Titles 24 –27,		Building Code,	503-823-7300
Services	Services Admin Rules for		http://www.bds.ci.portland.or.us.
	Private Rights	Flood plain, Site	
	of Way	Development &	
		Private Streets	

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

• The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strips (SE Woodward and SE 33rd Ave) 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 Maximum Lot Size, Street Tree plantings and Stormwater Disposal.

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

ADMINISTRATIVE DECISION

Approval of an Adjustment to the Maximum Lot Area for Parcel 1 (lot with the existing house), from the maximum limit of 8,500 square feet to 9,000 square feet, and;

Approval of a Preliminary Plan for a 2-lot partition, that will result in one adjusted (oversized) corner lot to retain the existing house and an interior standard lot to be developed with a new detached 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;
 - All Utilities, existing and proposed including Sanitary Sewer, Water and Storm Water disposal;
 - Any other information specifically noted in the conditions listed below.

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

Existing Development

- 1. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 1. Specifically, Site Development requires proper installation of downspouts and gutters that lead to an approved stormwater disposal point on site. The applicant is required to obtain a permit to install gutters, downspouts, rain drains and soakage trenches substantially consistent with the plan approved by Site Development on January 8, 2009 (see Exhibit C-2). Additional repairs to the existing house that may be needed in order to support the rain collection apparatus, such as gutters, shall be made as necessary to complete the work for the required permit as noted above, at the owner's expense.
 - If modifications to the system are required by Site Development, the applicant must obtain approval for this work prior to final plat approval.
- 2. The applicant must plant FIVE street trees (2 on SE Woodward St. and 3 on SE 33rd Avenue) in the planter strips adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 6-8- foot planting strip (SE Woodward St.) and the 3.5 foot strip (SE 33rd Ave). 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. Re-Development on Parcel 1 (the lot with the existing house) shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2). Specifically, trees numbered 86, 87, 93 and 94 are required to be preserved, with the root protection zones indicated on Exhibit C-1. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
- 2. If parking is to be established, vehicle access is to be made off of SE Woodward. If this is not practical, a second choice would be SE 33rd Avenue but only if it is configured so that vehicles enter and exit in a forward motion on to SE 33rd Avenue.

Decision rendered by:

By authority of the Director of the Bureau of Development Services

on February 4, 2009.

Decision mailed February 12, 2009.

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 August 6, 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 August 6, 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-3).

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 26, 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.**

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 Maximum lot size for 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.

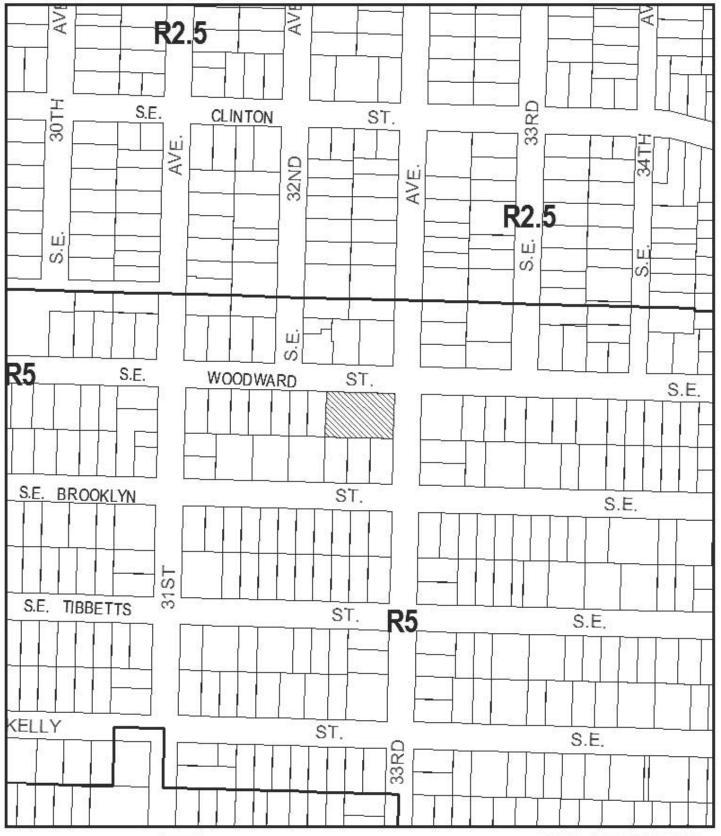
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Infiltration Test
 - 3. Arborist Report
 - 4. 120-Day Waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan/Tree Preservation Plan (attached)
 - 2. Storm Water Disposal 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. Bureau of Parks, Forestry Division
 - 5. Site Development Review Section of BDS
 - 6. BDS, Life Safety
- F. Correspondence:

None.

- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

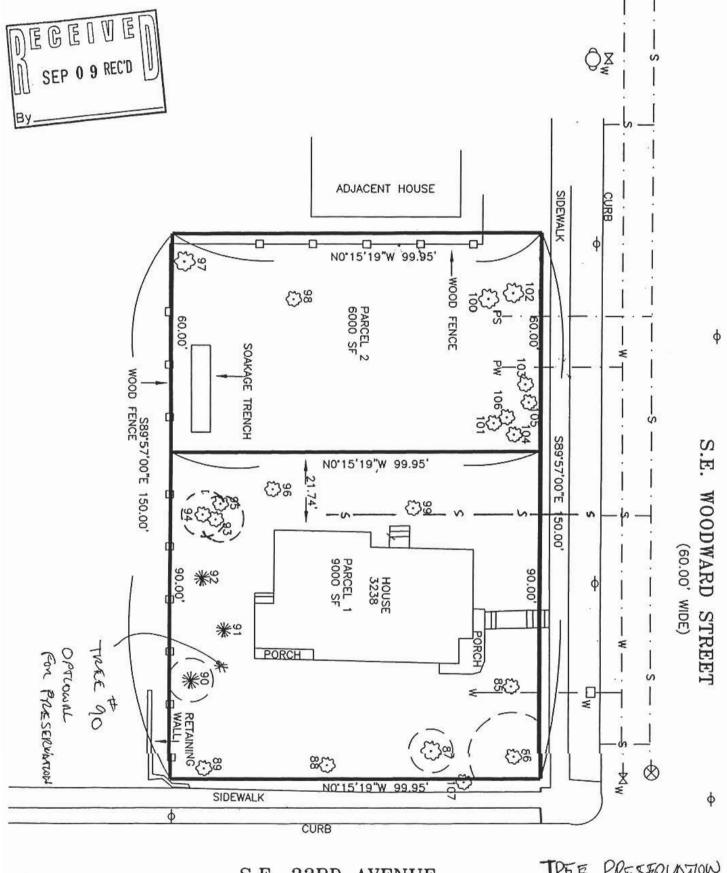


ZONING Site



LU 08-152860 LDP,AD File No. 3333 1/4 Section 1 inch = 200 feet Scale. 1S1E12BA 18400 State_Id В Exhibit. (Aug 14,2008)





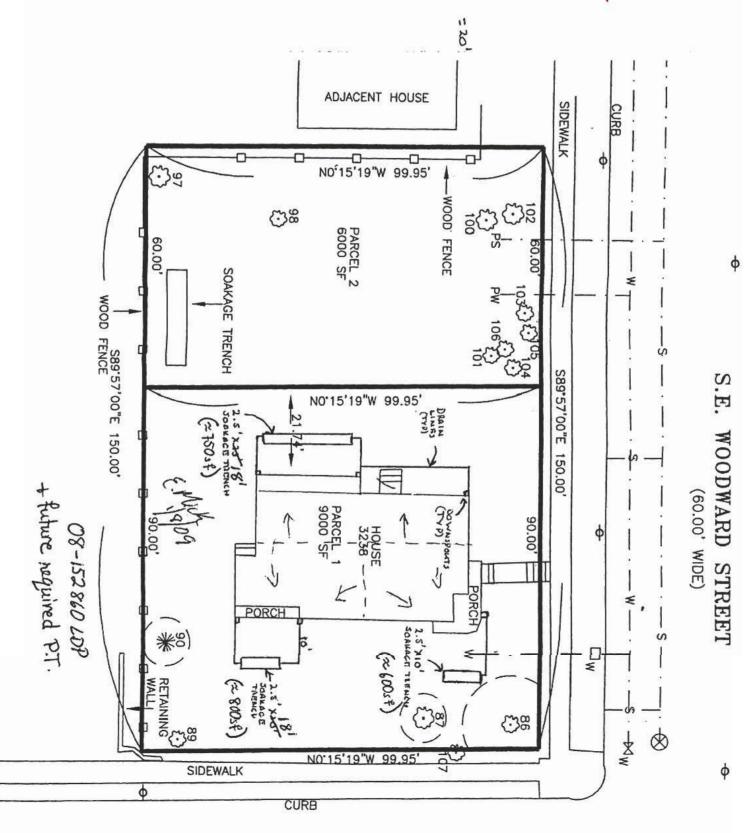
LEGEND S.E. 33RD AVENUE (60.00' WIDE)

TREE PRESTRUCTION PLAN & SITE PLAN

ROST PROTECTION ZUNE I RADIOL FLOT PER PLAMERER FOOT

EXHIBIT C-I

Storn WATER DISPOSAL PLAN FOR EXISTING HOUSE.



S.E. 33RD AVENUE (60.00' WIDE)

CASE NO. 08-152360 WI EXHIBIT ______