



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: February 17, 2009
To: Interested Person
From: Mark Bello, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-109844 LDP

GENERAL INFORMATION

Owner	Surveyor/Applicant
Marco A Garcia 1739 NE 155th Ave Portland, OR 97230-5315	David Foster Foster & Maddux Surveying Inc 708 NE 238th Place Wood Village OR 97060

Site Address: 1739 NE 155TH AVE

Legal Description: LOT 2, PARTITION PLAT 1994-134
Tax Account No.: R649745340
State ID No.: 1N2E25DC 09102
Quarter Section: 2846
Neighborhood: Wilkes Community Group, contact Alice Blatt at 503-253-6247.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Glendoveer
Zoning: R7 Residential 7,000
Case Type: LDP Land Division/Partition
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to partition this 16,500-sq. ft. site and create a flag lot behind the existing house. The existing house will be on proposed Parcel 1 and the flag lot is proposed Parcel 2.

Parcel 1 will be 7,500-sq. ft. in area, not including a five-foot dedication to SE 155th Avenue. The existing house will be 21 feet from the new east/front property line (after

dedication of property to NE 155th Avenue. This is less than the minimum 30 feet required by the Glendoveer Plan District. The City has granted an adjustment to reduce the front setback to 21 feet (LU 08-100853 AD).

Parcel 2 is 8,498-sq. ft. in area. The “pole” or driveway will be 15.8 feet in width and extend 89.09 feet. The “flag” or buildable part of the flag lot is 70.91 ft. deep and 100 feet wide (7,091 sq. ft.).

The entire site slopes gently from southwest to northeast. There are eight trees on site. Three of these trees are located in the area along NE 155th Avenue that will become part of that street. After dedication, there will be only five trees on site.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

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

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

ANALYSIS

Site and Vicinity: The site is approximately 16,500 square-feet in area, developed with a single-story dwelling built in 1955. The house is currently being remodeled with an attached garage and second story on the north side of the existing structure. Three mature fir trees with large trunks extend along the front lot line, within the area to be dedicated to the NE 155th Avenue.

Like the subject house, the area is developed primarily with mid-century single family homes. This particular block in the Glendoveer neighborhood is much more eclectic in its pattern and character of houses. The typical Glendoveer street is characterized by single-story ranch-style houses from the 1950s and early 1960s, set back fairly consistently with large front yards. Along this block north of Halsey Street on 155th Avenue, there are one and two-story houses, some of which are ranch-style, but many from other eras and with different styles.

Zoning: The R7 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The site is in the Glendoveer Plan District, which is bounded by NE 124th Avenue to the west and 160th Avenue to the east, generally south of the I-84 freeway and north of Glisan and Halsey Streets. The Glendoveer plan district is intended to ensure that the development patterns established through Ascot zoning provisions established by Multnomah County are protected and continued under City zoning regulations following annexation.

Land Use History: City records indicate that prior land use reviews include the following:

- **LUR 94-00417 AD** is an Adjustment that approved lot width of 65 feet (the minimum width in Glendoveer is 70 feet), preceding **LUR 94-00541 MP**, a Minor Partition that divided the original lot into two lots, including the subject lot with the existing house, and the new lot to the south, which is 65 feet wide.

- **LU 08-100853 AD** is an adjustment that approved a front yard setback of 21 feet. Notice of the Adjustment Committee approval of the reduced setback was mailed on May 16, 2008.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on March 6, 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: Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. The issues raised are summarized and addressed below.

- All of the respondents objected to flag lot development in the area. The original intentions of the Ascot zoning are not met because development is not oriented towards the street and violates the historic pattern of the neighborhood. It also increases the density of the area, taking away from the spacious feel of the neighborhood. Allowing a new homesite at this location will violate the privacy of adjacent property owners.

Staff Response: *The Zoning Code allows flag lots in limited circumstances. This staff report reviews these circumstances in discussion of approval criterion A, Lots. The Glendoveer Plan District regulations further restrict lot area and width but not flag lot regulations. So, the flag lot regulations of Chapter 33.610.400 apply in Glendoveer.*

Much of Glendoveer is built at less than the maximum density allowed by the Glendoveer density (1 unit per 7,500 sq. ft. of site area. The applicant's site is large enough to divide into two parcels. See findings regarding density, approval criterion A, on page 5 of this report.)

New development on Parcel 2, the flag lot, will be required to provide a 6-foot high by 5-foot deep landscape buffer around the perimeter of the lot as a screen for adjacent properties. (New development standards in effect as of January 16, 2009 will apply to the building permit.)

- The side setback requirements for the existing house will not be met.

Staff Response: *The site plan submitted shows the existing house to be 10 feet from the "flagpole" of the flag lot. Therefore, new construction on Parcel 2 will meet all side setback requirements of the Zoning Code, including the Glendoveer Plan District.*

- The three large fir trees along the street frontage of NE 155th Avenue will not be protected by the required Tree Preservation Plan because they will no longer be on the subject property after the required dedication for street improvements. The trees may be preserved if future street improvements can avoid their loss.

Staff Response: *NE 155th Avenue does not meet the city's street and sidewalk standards, therefore the Office of Transportation requires a 5-foot dedication in the event the entire street is improved as part of a Local Improvement District. As noted in some of the correspondence received, the street is narrow, lacks sidewalks and is not safe as is for vehicular traffic, pedestrians, and local children. The Office of Transportation has noted that at the time of street improvement, curb-tight sidewalk within a narrower sidewalk corridor can be constructed along this frontage to preserve the trees. (Exhibit E.2)*

- The applicant will be unable to meet the Tree Preservation Standards of Chapter 33.630 if the trees along NE 155th Avenue are removed.

Staff Response: *Although these trees will be located in the right-of-way dedicated to the city, they are included in the calculations used to determine the tree preservation requirements. The applicant's Tree Preservation Plan proposes preserving 43 percent of the non-exempt tree diameter on the site to meet the Tree Preservation Standards.*

- Development on Parcel 2 will endanger neighboring homes if there is a fire. Will the Fire Bureau be able to access a house located on the flag lot?

Staff Response: *The Fire Bureau has addressed these concerns (see Exhibit E-4). The applicant will need to install fire suppression sprinklers for new development in Parcel 2, or receive a Fire Code Appeal.*

- New development will upset drainage patterns. Will stormwater flow onto adjacent properties?

Staff Response: *A soakage trench is proposed for installation on Parcel 2. Stormwater from the new dwelling will be directed to this soakage trench where it will infiltrate into the ground. The Bureau of Development Services has reviewed this proposal and finds the proposal acceptable. (See Criterion L discussion on pages 9 – 10 and Exhibit E-5).*

- The Adjustment to the front setback for the existing dwelling remodel is still on appeal. This review should not proceed until a decision for the appeal has been rendered.

Staff Response: *The adjustment has been approved*

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
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.

Criterion	Code Chapter	Topic	Applicability Findings
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
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. The site is located within the Glendoveer Plan District, which has lot size, dimension and density standards that vary from those typically allowed in the R7 zone, described in Chapter 33.530.

Density Standards

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

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

In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. However, the Glendoveer Plan District maximum density is 1 dwelling unit per 7,500 square feet, which is used to calculate the allowed density. Therefore, the maximum and minimum density for this site is as follows:

Minimum = (15,998 square feet * .80) ÷ 7,500 square feet = 1.70 (which rounds down to a minimum of one parcel, per 33.930.020.A)

Maximum = 15,998 square feet ÷ 7,500 square feet = 2.13 which rounds down to a maximum of 2 lots, per 33.930.020.B)

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

Lot Dimensions

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

The following table lists standards for the Glendoveer Plan District for this site and the approximate dimensions of the proposed parcels. (This information is found in Table 610-2 and Chapter 33.530 of the Zoning Code):

	R7 Zone Glendoveer Lot Area*	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area * **	7,500 sq. ft.	7,500 sq. ft.	8,498 sq. ft.
Maximum Lot Area	12,000 sq. ft.		
Minimum Lot Width* **	70 ft.	84 ft.	--
Minimum Lot Depth	55 ft.	89 ft.	--
Minimum Front Lot Line	30 ft.	84 ft.	--
Minimum Flag Lot Width***	40 ft.	--	100 ft.
Minimum Flag Lot Depth***	40 ft.	--	71 ft.

* Glendoveer Plan District Standards apply (see Chapter 33.530)

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

*** For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

Flag Lots

Parcel 2 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located 14 feet from the south property line and 26 feet from the north property line, which would preclude the creation of a lot that would meet the minimum width standard of the R7 zone in the Glendoveer Plan District of 70 feet. Two lots are proposed. As discussed above, minimum density has been met. The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet. Therefore, Parcel 2 is allowed.

Please note that the final plat application allows any parcel to be reduced by 5%. In the Glendoveer district the minimum lot size is currently 7,500 sq. ft. A condition of this approval will ensure that Parcel 1 remains 7,500 sq. ft.

With this condition of approval, this approval 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-2). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (Table 630-1)	Exempt? (per 33.630.030)	Protected?	RPZ (Root Protection Zone)
100	Black Locust	6	No	Yes	No	
101	Plum	7	No	No	No	
102	Plum	6	No	Yes	No	
2034	Western Red Cedar	16	Yes	No	No	
2035	Western Red Cedar	26	Yes	No	No	
2036	Douglas Fir	30	Yes	No	No	
2068	Douglas Fir	27	Yes	No	Yes	24 ft.
2078	Western Red Cedar	33	Yes	No	Yes	12 – 24 ft

The total non-exempt tree diameter on the site is 139 inches. The applicant proposes to preserve treed 2068 and 2078, which comprises 60 inches of diameter, or 43 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-1).

This criterion is met, subject to the condition that development on Parcels 1 and 2 be carried out in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2).

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

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

33.635.100 – Clearing and Grading

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

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

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criteria is met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

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

- K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 100 feet of frontage on NE 155th Avenue. NE 155th Avenue is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 700 feet from the site on NE Halsey Street via bus 77. Parking is currently allowed on NE 155th Avenue on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

NE 155th Avenue is improved with a paved roadway, and a gravel parking lane on both sides. There are no curbs, planter strips, or sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. A 5-foot right-of-way dedication along the subject property is necessary for future street improvements. The applicant will be required to show this dedication on the final plat and sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

This criterion is met, with the condition that the required waivers are signed prior to final plat approval 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 NE 155th Avenue. Rockwood People's Utility District notes that it can provide service. No conditions of approval are recommended. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in NE 155th Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. See Exhibit E-1 for more details.

The location of the sewer line for the existing house on Parcel 1 shown on this plan is not consistent with City sewer mapping records. Prior to final plat approval, the correct location of the existing building sewer for Parcel 1 should be shown on a supplemental plan. If necessary, the location should be determined using video scoping, metal tracer wire detection, or an equivalent method. Based on available records, there is no indication that the existing sewer line will cross the proposed new property line.

However, if as a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 crosses over Parcel 2 to reach the sewer main in SE 155th Avenue, then the applicant must either obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1, or provide an easement for the sewer line 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. If a new sewer connection is established for the house, all plumbing permits must receive final inspection approval prior to final plat approval.

The proposed sanitary sewer line location for Parcel 2 is acceptable to Site Development.

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

33.653.020 Stormwater Management Approval Criteria

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

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

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

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

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

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

- **Parcel 2:** 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.
- **Parcel 1 (the lot with the existing house):** The existing house is presently being remodeled to add a garage and second story to the structure. Site Development has determined that the extent of the remodel will necessitate the installation of a drywell for the existing house. Prior to final plat approval, the applicant must obtain an approved revision to the plans for permit 07-175095 RS to install rain drains and a drywell.

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

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	Not applicable - No dead end streets are proposed.
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 – No new streets are proposed.
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	Not applicable – No shared courts are proposed or required.
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.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
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 on NE 155th Avenue, a dead end street off of NE Halsey Street is approximately 1,300 feet in length. There are no east-west streets off of this segment of NE 155th Avenue. 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.

The site does not contain sufficient width to allow the creation of a public east-west through street. Additionally, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the Far Northeast District. The Master Street Plan does not indicate that this site requires a new through connection. Therefore, the proposal is consistent with the master street plan.

No new pedestrian connection is proposed at this time. Therefore criterion e. does not apply.

For the reasons described above, 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: All utilities serving this development are located within the NE 155th Avenue right-of-way. This criterion is met.

DEVELOPMENT STANDARDS

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

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

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

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F)
- Glendoveer lot dimensional requirement – Effective January 16, 2009 additional standards for flag lot became effective. These standards will apply to future construction on this site.

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 R7 zone and the Glendoveer Plan District (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 10 feet from the new side lot line and 33 feet from the new rear property line. Therefore, the required setbacks for the Glendoveer Plan District 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 Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportati on System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements for flag lots, installing a new hydrant, ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement, and recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: 1) street dedication to NE 155th Avenue and the tree preservation requirement have altered the configuration of the flag lot from what was proposed, 2) NE 155th Avenue is a dead-end to the north and additional Fire Bureau requirements apply, and 3) stormwater and sanitary service to the existing parcel has to be clarified. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in one standard lot and one flag lot as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. That plan must portray how the conditions of

approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. Parcel 1 shall be at least 7,500 sq. ft. in area.
2. The applicant shall meet the street dedication requirements of the City Engineer for NE 115th Avenue. The required right-of-way dedication must be shown on the final plat.
3. If the sanitary sewer connection for the existing house is not entirely located on Parcel 1, a private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2. Alternately, the existing sewer line can be capped and a new connection installed entirely on Parcel 1.
4. If a private easement is necessary for the sanitary sewer lateral that serves Parcel 1, 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-7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Private Sanitary Sewer Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.
3. The applicant shall meet the requirements for fire hydrant spacing and location to the satisfaction of the Fire Bureau. Information on existing fire hydrants that will serve this site must be provided. This information can be obtained from the Rockwood Water District. If the spacing requirements are not met, the applicant will be required to install a fire hydrant to serve this location prior to final plat approval.
4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant or obtain an approved Fire Bureau appeal to this requirement.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Parcel 2. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be

referenced on and recorded with the final plat. Any requirements that result from approval of the applicant's Fire Code Appeal shall be met prior to final plat approval.

Existing Development

- 6. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 2. Prior to final plat approval, the applicant must obtain an approved revision to the plans for permit 07-175095 RS to install rain drains and a drywell.

Required Legal Documents

- 7. If a private easement is necessary for the sanitary sewer connection that serves Parcel 1, a Maintenance Agreement shall be executed for the Private Sanitary Sewer area described in Condition B.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Other requirements

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

- 1. Development on Parcel 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2). Specifically, trees number 2068 and 2078 are required to be preserved, with the root protection zones indicated on Exhibit C-2. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
- 2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot.

Decision rendered by:  on February 13, 2009

By authority of the Director of the Bureau of Development Services

Decision mailed February 17, 2009

Staff Planner: Mark Bello

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 February 19, 2008, and was determined to be complete on March 3, 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 February 19, 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.

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

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

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

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

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

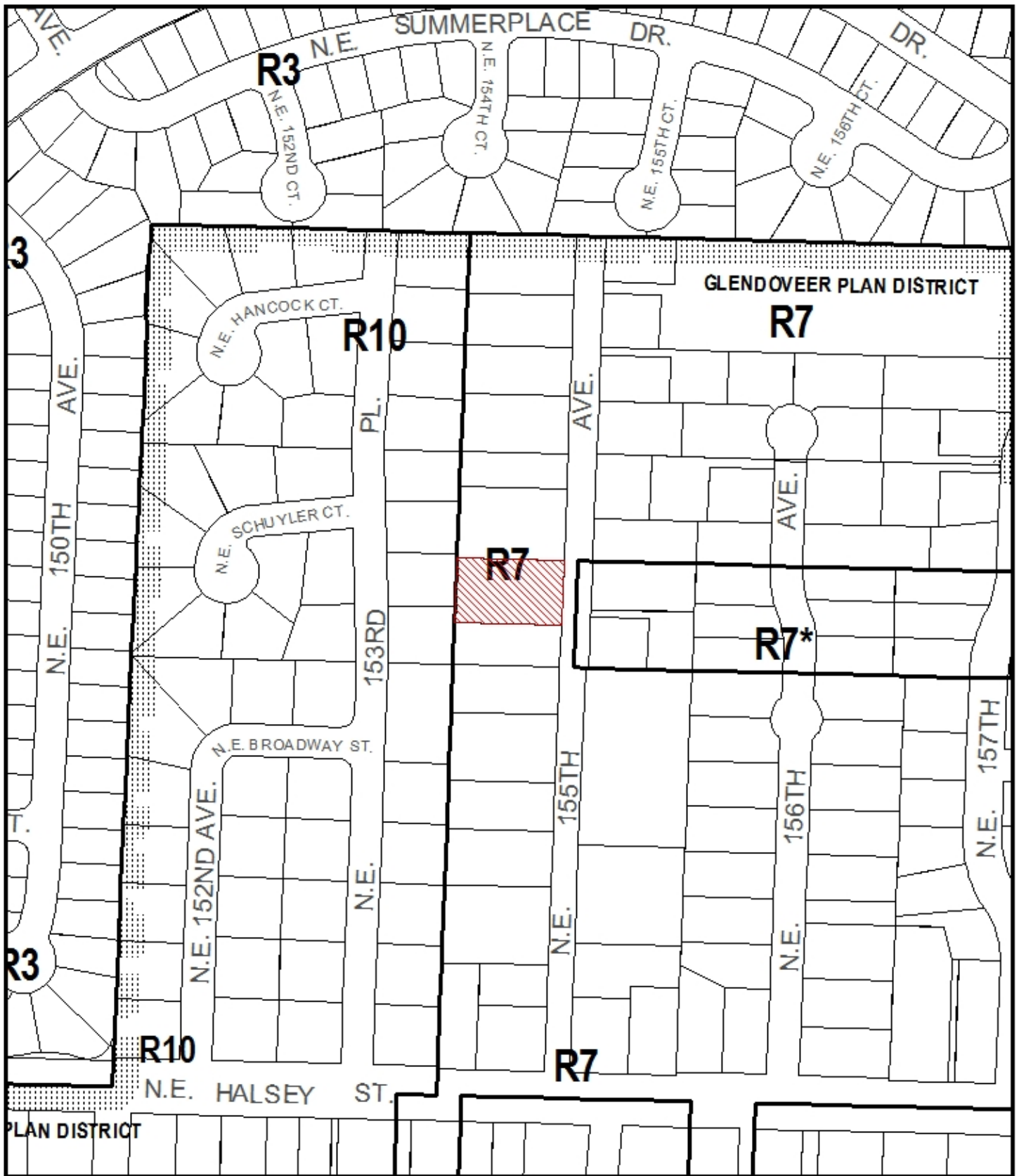
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at www.portlandonline.com.

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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittal
 - 1. Applicant's Statement
 - 2. Arborist Report
 - 3. Email to place case on "hold" and extend 120 day review period dated 4/23/08
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Tree Preservation Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Rockwood People's Water District
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS, 5.1 and 5.2
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence:
 - 1. Bonny McKnight and Ross Monn, 4/7/08, Russell Neighborhood Association Land Use Chair and Wilkes Community Group Land Use Chair objected to flag lot development and expressed concerns over tree preservation, street dedication, ability to meet Glendoveer Plan District development standards, and the previously approved Adjustment appeal's relationship to this review.
 - 2. Kathleen E. Jensen, 4/1/08, objected to flaglot development and was concerned about drainage and the ability of the new development to meet the Glendoveer Plan District development standards.
 - 3. Holly Jank, 4/4/08, objected to flag lot development, was concerned about privacy and increased density.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Approved Adjustment decision report

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:
GLEDOVEER PLAN DISTRICT

File No.	<u>LU 08-109844 LDP</u>
1/4 Section	<u>2846</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E25DC 9102</u>
Exhibit	<u>B (Feb 25, 2008)</u>

PRELIMINARY PARTITION PLAN EXISTING CONDITIONS PLAN

PARCEL 2, PARTITION PLAT 1994-134

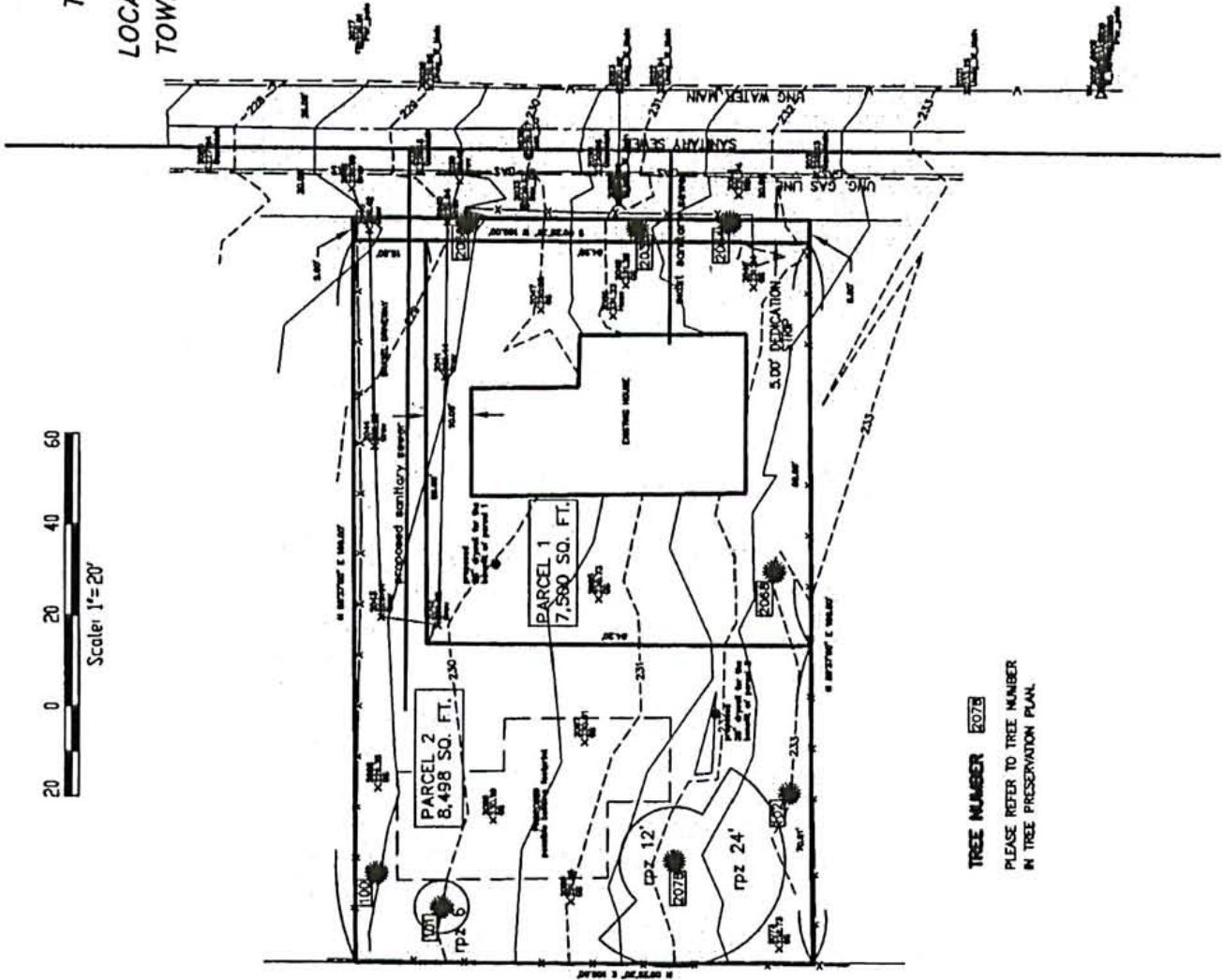
TAX LOT 9102, 1739 N.E. 155TH AVENUE

LOCATED IN THE SOUTHEAST 1/4 OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 2 EAST, WILLAMETTE
MERIDIAN, MULTNOMAH COUNTY, OREGON

DATE: JANUARY, 2008

REVISED: DECEMBER, 2008

CITY OF PORTLAND FILE NO.: LU 08-109844 LDP



VERTICAL CONTROL

CITY OF PORTLAND BENCH MARK
NO. 4513 - LOCATED AT THE NE CORNER OF
N. E. HALSEY STREET AND N.E. 152ND AVENUE
NORTHEAST CORNER - ELEVATION = 248.24

SURVEYED FOR:

MARCO ANTONIO GARCIA

& ARMONDO GARCIA

5415 N. COLUMBIA BLVD
PORTLAND, OREGON 97203
503-309-2069

SURVEYED BY:

Foster & Maddux Surveying Inc.

708 NE 238TH PLACE
WOOD VILLAGE, OREGON 97060
503-667-8307; 503-997-1100



TREE NUMBER [E071]

PLEASE REFER TO TREE NUMBER
IN TREE PRESERVATION PLAN.

