



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

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**Date:** April 7, 2009  
**To:** Interested Person  
**From:** Sean Williams, Land Use Services  
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## **NOTICE OF A TYPE II 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 09-106001 AP AD**

#### **GENERAL INFORMATION**

**Applicant:** Kelly Mcgrath  
11640 NE Siskiyou Street  
Portland, OR 97220-1635

**Site Address:** 11640 NE Siskiyou Street

**Legal Description:** N 146' OF LOT 13 BLOCK 16, PARKROSE HTS  
**Tax Account No.:** R647905260  
**State ID No.:** 1N2E27AC 00100  
**Quarter Section:** 2742  
**Neighborhood:** Parkrose Heights, contact Carol Williams at 503-255-9596.  
**Business District:** Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.  
**Plan District:** None  
**Zoning:** Residential 7,000 (R7)  
**Case Type:** Land Division Partition Amendment (AP) w/ Adjustment (AD)  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is requesting to amend a previously approved land division decision (LU 08-131589 LDP) in conjunction with an adjustment review. The purpose of the amendment is to change a condition of approval of the decision relating to right-of-way improvements for NE 117<sup>th</sup> Avenue. In lieu of improvements to NE 117<sup>th</sup> Avenue the applicant is appealing to the Bureau of Transportation to allow waivers of remonstrance for future street improvements as was allowed for NE Siskiyou Street. The concurrent adjustment review is requested to address another condition of approval requiring compliance with vehicle paving area in the side yard of Parcel 1. The applicant is requesting to allow the existing driveway to remain although it exceeds the maximum allowed vehicle paving area in a side yard of 20 percent.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in sections(s):

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**
- **33.805.040 A.-F., Approval Criteria for Adjustments**

**ANALYSIS**

**Site and Vicinity:** The subject property is located on the corner of NE Siskiyou Street and NE 117<sup>th</sup> Avenue. Existing improvements consist of a two story residence that is currently under inspection for conversion to a duplex (07-172818 RS). Seven coniferous trees are located within the land division site, four of which are significant in either size or species. The surrounding neighborhood consists primarily of detached single family dwellings with an R7 zoning designation.

**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.

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

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on February 27, 2009.

**1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

**2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

**APPROVAL CRITERIA-****APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES**

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

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

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
A	33.610	Lots	<b>Applicable - See findings below.</b>
B	33.630	Trees	<b>Applicable - See findings below.</b>
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
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	<b>Applicable - See findings below.</b>
G	33.635 .200	Land Suitability	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	<b>Applicable - See findings below.</b>
L	33.651 - 33.654	Services and Utilities	<b>Applicable - See findings below.</b>

**Applicable Approval Criteria are:**

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

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

Density Standards

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

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

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

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

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

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

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

#### Lot Dimensions

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

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Table 610-2 of the Zoning Code):

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

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

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

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, and evaluates their condition (Exhibit C-2). Some trees have been exempted by

the arborist because they are either unhealthy, located partially in the right-of-way or on an adjoining site. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Pine	28	Yes	Yes: Unhealthy	No	N/A
2	Sitka Spruce	26	Yes	Yes: Unhealthy	Optional	N/A
3	Sitka Spruce	17	No	No	Yes	17 feet
4	Sitka Spruce	15	No	No	Optional	N/A
5	Sitka Spruce	13	No	No	Optional	N/A
6	Douglas-fir	33	Yes	Yes: Partially in ROW	Optional	N/A
7	Douglas-fir	44	Yes	Yes: Partially in adjacent property	Optional	N/A

The total non-exempt tree diameter on the site is 45 inches. The applicant proposes to preserve tree number 3, which is 17 inches in diameter, or approximately 37 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 tree and the required root protection zone (Exhibit C-1).

This criterion is met, subject to the condition that development on Parcel 1 be carried out in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit C-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, no trees are required to be preserved within the land division site. This criterion is met.

### **33.635.200 – Land Suitability**

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

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

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

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

At this location, both NE 117<sup>th</sup> Avenue and NE Siskiyou Street are improved with a 28 foot paved roadway surface within a 50 foot right of way. There are no curbs, planter strips, or sidewalks on either frontage. 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.

The recommended City standard for roadway width is met for both NE 117<sup>th</sup> Avenue and NE Siskiyou Street. However, the recommended pedestrian corridor configuration is not met on either frontage. Based on the minimal remaining opportunity for future development that would support continued improvements in the area, Portland Transportation has determined that dedication and improvements will not be required for NE 117<sup>th</sup> Avenue and NE Siskiyou Street. If the streets are to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

As noted above, the existing driveway accesses NE Siskiyou Street at two points. Portland Transportation has identified one of the entrances as being out of compliance with required setback standards in relation to the intersection corner property line. Therefore, this access point is required to be eliminated with a sufficient portion of the driveway necessitating reconfiguration. A revised site plan (Exhibit C-1) submitted by the applicant demonstrates the amount of vehicle paving area that will be eliminated in response to this requirement. To accomplish this work, final approval of a zoning permit must be completed prior to final plat approval. The revised vehicle paving area for Parcel 1 contains sufficient area and dimensions necessary to accommodate the two required on site parking spaces associated with the existing structure being converted to a duplex. Additionally, removal of this portion of the driveway will bring Parcel 1 closer to conformance with maximum vehicle paving area allowed within a side yard, which will be addressed later in this report in an associated adjustment.

With the conditions of approval described above, this criterion is met.

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

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

- The water standards of 33.651 have been verified. An existing 8-inch water main is available in NE 117<sup>th</sup> Avenue. Water is available to serve the proposed development on Parcel 2 from that water main. Parcel 1, which is developed with a duplex, already has two existing water services from a water main in NE Siskiyou Street, and can continue to receive water from these two services. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in NE 117<sup>th</sup> that can serve the sanitary needs of the proposed lots. Parcel 1 already has an existing sewer service from that main. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of

33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

- 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. The site is located on a corner and is approximately 105 feet by 146 feet and therefore meets the through street and pedestrian connectivity requirements. As a result, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable.

### **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 1 (the lot with the existing house):** A drywell was approved for the new addition to the existing house, but the gutters on this house have been removed and the location of the drywell was not evident during a site visit. Site Development has noted this situation, and the gutters must be repaired and re-connected to the permitted drywell to meet City standards prior to final plat approval to ensure that the stormwater from the house can get to the disposal points. In addition, prior to final plat approval,



the applicant must provide a supplemental plan showing the as-built location of all subsurface stormwater disposal facilities on Parcel 1. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks.

- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywell. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval.

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.

#### **APPROVAL CRITERIA FOR ADJUSTMENTS**

##### **33.805.010 Purpose**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, 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 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.

##### **33.805.40 Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

##### **A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Findings:** The applicant is requesting an adjustment to allow the existing paved vehicle area within the side yard of Parcel 1 to exceed the maximum of 20 percent between the side street lot line and the side street building line on a corner lot. The purpose of the parking and loading development standards for houses and duplexes is to regulate the size and placement of vehicle parking areas in order to enhance the appearance of neighborhoods.

The existing driveway on Parcel 1 accesses NE Siskiyou Street at two points. As discussed in the findings associated with the transportation impacts approval criteria, the applicant will be required to eliminate the approach closest to the intersection of NE Siskiyou Street and NE 117<sup>th</sup> Avenue. The submitted site plan (Exhibit C-1) demonstrates the revised driveway configuration in response to this requirement, which contains an area of approximately 1,445 square feet between the side property line and the side building line. The maximum allowance of 20 percent within this area equates to approximately 600 square feet.

By definition, the front lot line on a corner lot is the shortest of the lot lines that abut a street. As a result of the land division the area in which the existing driveway is located is now considered a side yard for Parcel 1 whereas this area once was considered a front yard for the entire site. The maximum allowance for vehicle paving area within a front yard is twice that allowed in a side yard at 40 percent. Although the revised vehicle paving area will exceed the front yard limitations, if the length of the lot line adjacent to NE 117<sup>th</sup> Avenue slightly increased then the area in which the existing vehicle paving area is located would maintain the definition of a front yard. If the front yard definition were to remain, no action would be necessary as the vehicle paving area would be considered an existing non-conforming situation.

The existing vehicle paving area within Parcel 1 will be reduced by approximately 290 square feet in order to satisfy Portland Bureau of Transportation requirements which will enhance the appearance of the lot. In order to better meet the purpose of the side yard vehicle paving restriction, the applicant will be required to replace any removed paving material with similar surrounding ground cover and provide landscaping between the vehicle paving area and street. With the provision of landscaping (described further below) to screen the vehicle paving area the appearance of the neighborhood will be enhanced thereby equally or better meeting the purpose of the parking and loading development standards for houses and duplexes. Therefore, 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; and**

**Findings:** The existing driveway configuration does not appear to be out of context with the character of the neighborhood. Additionally, the requirement to provide landscaping to screen the driveway will visually improve the existing situation. Therefore, allowing the existing vehicle paving area to remain will not detract from the livability or appearance of the residential area. 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; and**

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** The site does not contain any scenic or historic resource designations. This criterion is not applicable.

**E. Any impacts resulting from the adjustments are mitigated to the extent practical;**

**Findings:** To mitigate for the presence of excess vehicle paving area within the side yard of Parcel 1, the applicant will be required to landscape the area between NE Siskiyou Street and the vehicle paving area prior to final plat approval. The required landscaping shall be in substantial conformance with the L2, low screen (33.248.020.B) landscaping and screening standard and may be incorporated into the zoning permit for removal of portion of the vehicle paving area. It is recognized that some existing trees are located within this area

and may count towards meeting this requirement. With the condition of approval described above, this criterion is met.

**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 within an environmental overlay zone. This criterion is not applicable.

## **DEVELOPMENT STANDARDS**

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

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

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

**Existing development that will remain after the land division.** The existing duplex on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R7 zone (Please see section on Other Technical Standards for Building Code standards.) The existing duplex meets the requirements of Section 33.110.240.E of the Zoning Code, which allows a duplex on a corner lot in this zone.

In this case, there 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 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

With the condition 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.

<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
Water Works	Title 21	Water availability	503-823-7404 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
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 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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

## **CONCLUSIONS**

The applicant has proposed an amendment to LU 08-131589 LDP for a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C-1), in conjunction with an adjustment to maximum vehicle paving area allowed within the side yard of a corner lot. 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: transportation impacts, tree preservation and adjustment to parking and loading development standards.

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

## **ADMINISTRATIVE DECISION**

**Approval** of a Preliminary Plan for a 2-parcel partition that will result in one corner lot that will retain the existing structure currently being converted to a duplex (Parcel 1) and one standard parcel that will be made available for development consistent with the R7 zone standards (Parcel 2) 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 & 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 as-built location of all subsurface stormwater disposal facilities on Parcel 1.
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

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

**Streets**

1. The applicant shall sign street and storm sewer waivers of remonstrance for NE Siskiyou Street and NE 117<sup>th</sup> Avenue (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.

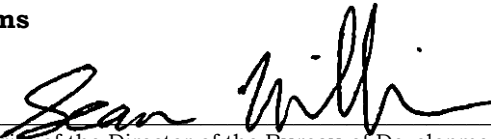
**Existing Development**

3. A portion of the vehicle paving area, as delineated on the attached site plan (Exhibit C-1), shall be removed and replaced with similar surrounding ground cover. Additionally, landscaping shall be planted between the vehicle paving area and NE Siskiyou Street substantially in conformance with the L2, low screen (33.248.020.B) landscaping and screening standards. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the vehicle area has been reduced and the required landscaping has been planted.
4. The applicant must meet the requirements of Site Development for the stormwater systems on the existing duplex to remain on Parcel 1. Specifically, the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. The applicant must obtain finalized plumbing permits for all required and outstanding work prior to final plat approval in order to document compliance with the provisions of 33.110.240.E.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit C-2). Specifically, tree number 17 is required to be preserved, with the root protection zone indicated on Exhibit C-1. Encroachment into the specified root protection zone may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zone 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. The report from an arborist and any revisions to permit plans reflecting a new root protection zone must be submitted and approved by Planning and Zoning prior to any working occurring in the root protection zone. If work is conducted in the RPZ and Planning & Zoning approval is not obtained before the work begins and the tree subsequently falls, it may result in a violation.

**Staff Planner: Sean Williams**

**Decision rendered by:**  **on April 2, 2009.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 7, 2009**

**About this Decision.** This land use decision is **not a permit** for development. 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 2, 2009, and was determined to be complete on February 25, 2009.

*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 2, 2009.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

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

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

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

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

**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 April 21, 2009** at 1900 SW Fourth Ave. Appeals can 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 503-823-7967 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.portlandonline.com](http://www.portlandonline.com).

**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 final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **April 22, 2009 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision 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  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

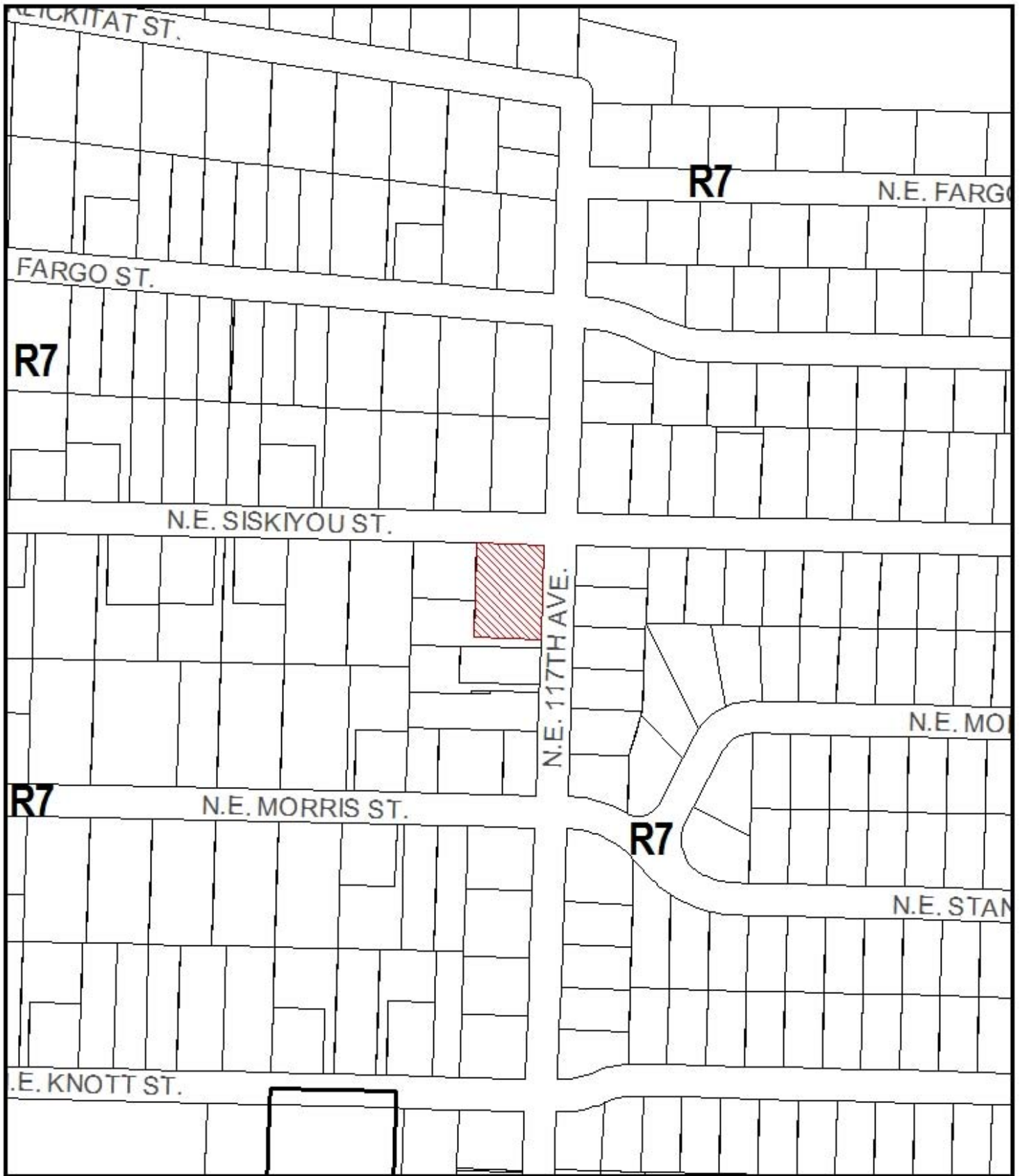
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Arborist Report/Tree Preservation Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau & Life Safety Plans Examiner
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**





# ZONING

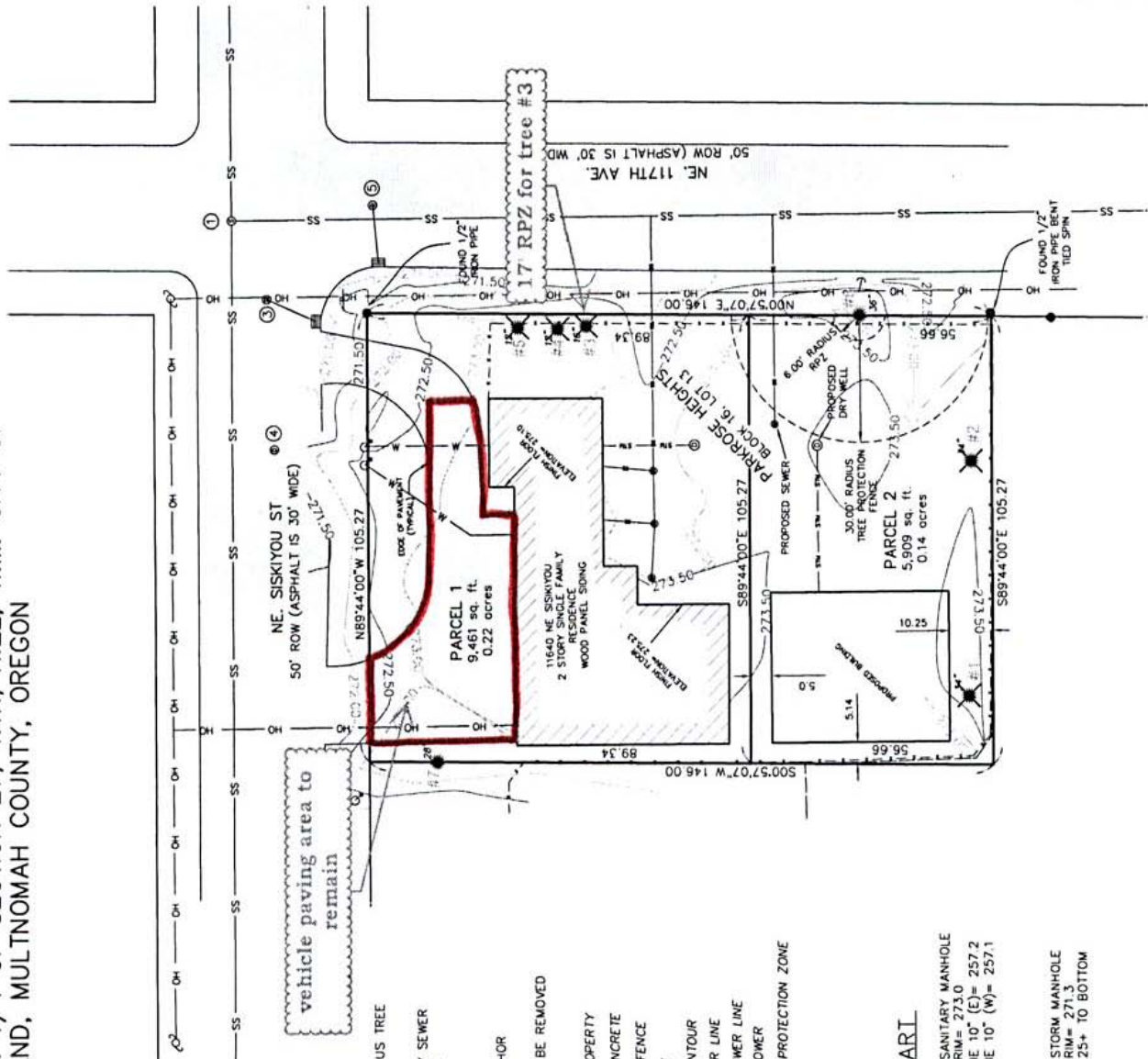
 Site



File No. LU 09-106001 AP  
 1/4 Section 2742  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E27AC 100  
 Exhibit B (Feb 06,2009)

# SUPPLEMENTAL PLAN

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



SCALE: 1" = 20'

## NOTES

- BOUNDARY AND BASIS OF BEARINGS ARE HELD PER ORDINANCE AND REGULATIONS OF THE CITY OF PORTLAND, OREGON.
- NO MEASUREMENTS OR BEARINGS WERE FOUND ON THE GROUND ON MAY 08, 2008.
- THE DATE THE FIELD WORK WAS DONE.
- THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM READILY IDENTIFIABLE FIELD INDICATORS AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE.
- ELEVATIONS ARE BASED ON PORTLAND CITY BENCHMARK NO. 5276. A 2" BRASS DISK LOCATED AT THE SE CORNER ON THE SOUTHWEST CORNER OF 11640 NE SISKIYOU ST. ELEVATION IS 283.516 CITY OF PORTLAND DATUM.
- MANHOLE LOCATIONS ARE TO CENTER OF LID, NOT CENTER OF STRUCTURE.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON  
THOMAS G. NELSON  
#2351

RENEWAL 12/31/10

SURVEYED FOR:  
Kelly McGrath  
11640 NE Siskiyou St.  
Portland, OR 97220



Tom Nelson & Associates, L.L.C.

1001 SE WATER AVE, SUITE 390  
PORTLAND, OREGON 97214  
PHONE: (503) 230-1932  
FAX: (503) 230-1962

DATE: JANUARY 9, 2009

DRAWN BY: SZ

FILE: 8024/8024.dwg

SHEET: 1 OF 1

## LEGEND

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

## MANHOLE CHART

- ① SANITARY MANHOLE  
RIM= 271.2  
IE 10" (S)= 259.9  
IE 10" (S)= 255.3  
IE 10" (E)= 255.2  
IE 10" (W)= 255.2
- ② SANITARY MANHOLE  
RIM= 273.0  
IE 10" (E)= 257.2  
IE 10" (W)= 257.1
- ③ STORM MANHOLE  
RIM= 271.1  
9' TO BOTTOM
- ④ STORM MANHOLE  
RIM= 271.3  
25+ TO BOTTOM
- ⑤ STORM MANHOLE  
RIM= 271.4  
IE 8" (W)= 268.1  
IE 8" (E)= 266.1  
15' TO BOTTOM

CASH NO. 09-106001  
EXHIBIT C-1