



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

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**Date:** April 16, 2009  
**To:** Interested Person  
**From:** Nizar Slim, 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 08-100747 LDP**

#### **GENERAL INFORMATION**

**Applicant:** John Mackinnon,  
Northwest Architecture & Design Pc  
515 NW Saltzman Rd, No 722  
Portland OR 97229

**Owner:** Arnold Jr Mechum,  
2240 SE 20th Ave  
Portland, OR 97214-5403

Staci Mecham,  
2240 SE 20th Ave  
Portland, OR 97214-5403

**Site Address:** 6310 SE TENINO ST

**Legal Description:** LOT 2&3 BLOCK 5, HEDRICKS ADD  
**State ID No.:** 1S2E20CC 05701      **Qtr Sect:** 3837      **Tax Acct No.:** R373100540

**Neighborhood:** Brentwood-Darlington, contact Steve White at 503-788-2096.  
**Business District:** Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

**Zoning:** R5a – Single-Family Residential 5000 with an Alternative Design Density overlay

**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 is proposing to divide a corner, vacant lot that was created through a Lot Confirmation and Property Line Adjustment review (08-126494 PR) into two separate parcels to be developed with attached housing. This proposal takes advantage of section

33.110.240.E allowing a corner lot to be split in order to create one extra dwelling unit/lot. There are also two trees on site that will be addressed in the review process.

**Relevant Approval Criteria:**

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

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).

## ANALYSIS

**Site and Vicinity:** The site is a relatively flat, vacant corner lot at the intersecting streets of SE 63<sup>rd</sup> Ave and Tenino St. There are two deciduous trees occupying the lower half of the parcel. The adjacent lots are developed with single family houses. The lot directly to the east has a house which utilizes a sewer connection that crosses the subject site. An easement for the continued maintenance of the sewer line has been established as a part of 08-126494 PR.

The surrounding area has a similar development with mostly single-family housing, 1-2 stories tall. A network of streets and alleys provide circulation and access for the area.

**Zoning:** The R5 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 "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the "a" overlay.

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

08-126494 PR – Lot Confirmation and Property Line Adjustment review (which resulted in a lot that is subject to this land division proposal);  
07-134754 PR (Voided).

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on **July 3, 2008.**

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

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

## ZONING CODE APPROVAL CRITERIA-

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter	Topic	Applicability Findings
<b>A</b>	33.610	Lots	<b>Applicable</b> - See findings below
B	33.630	Trees	Not applicable - The two trees on site are both EXEMPT due to the following: (1) Norway Maple-Nuisance species. (2) Cherry sp_ dying, decay. Per Arborist report (Exhibit A-2) and 33.630.030.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
<b>G</b>	33.635 .100	Clearing and Grading	<b>Applicable</b> - See findings below.
<b>G</b>	33.635 .200	Land Suitability	<b>Applicable</b> - See findings below.
<b>H</b>	33.636	Tracts and Easements	<b>Applicable</b> - See findings below.
I	33.639	Solar Access	Not applicable - The proposed development is for something other than single-dwelling <u>detached</u> homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
<b>K</b>	33.641	Transportation Impacts	<b>Applicable</b> - See findings below
<b>L</b>	33.651 - 33.654	Services and Utilities	<b>Applicable</b> - See findings below

#### Applicable Approval Criteria are:

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

**Findings:** Chapter 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are

consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

#### Density Standards

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

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

In this case, a street is not proposed or required, and the site is 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 =  $(4326 \text{ square feet} * .80) \div 5,000 \text{ square feet} = .69$  (which rounds up to a minimum of 1 lots, per 33.930.020.A)

Maximum =  $4326 \text{ square feet} \div 5,000 \text{ square feet} = .86$  (which rounds down to a maximum of 0 lots, per 33.930.020.B). This calculation would otherwise indicate that the lot has a minimum and maximum density of one unit.

The applicant is proposing 2 lots (or two units), which exceeds the maximum density normally allowed for the site. However, Parcels 1 and 2 are proposed for attached houses under the provision in 33.110.240.E, which allows one extra unit in conjunction with attached houses on corner lots. Therefore, an additional lot is allowed provided Parcels 1 and 2 are developed with attached houses. With a condition of approval limiting the development on Parcels 1 and 2 to attached houses, 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>R5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area	3,000 sq. ft.	2,133 s.f.	2,193 s.f.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	37.84 feet	48 feet
Minimum Lot Depth	50 ft.	55.86 feet	46 feet
Minimum Front Lot Line	30 ft.	37.84 feet	48 feet

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

#### Attached Houses on Corner Lots

Parcels 1 and 2 are smaller than would normally be allowed in the R5 zone. As described above, these lots are being created through a provision that allows attached houses on corner lots. To use this provision, the original corner lot, before division must meet the minimum lot size standard of the R5 zone. Taken together (before the division), Parcels 1 and 2 combined are 4,326 square feet in area, which exceeds the minimum requirement of 3,000 square feet in the R5 zone. Therefore, the corner lot may be divided to create Parcels 1 and 2 as proposed, provided they are developed with attached housing.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, this criterion is therefore met.

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

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

**33.635.100 – Clearing and Grading**

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

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

**Findings:** The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

**33.636.100 Requirements for Tracts and Easements**

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

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

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply.

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

**Findings:** The following easement is required for this land division:

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve the existing house on the adjacent tract of land resulting from the previous land use case 08-126494 PR.

The above easement was recorded as a condition of the previous Lot Confirmation and Property Line adjustment, 08-126494 PR. Due to the constraints of the site, the new proposal for land division locates the drywell used for the stormwater management of Parcel 1 within the above easement. The previous Maintenance Agreement did not account for this additional facility; and therefore, needs to be amended to incorporate and manage all utilities within the easement.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that an amended maintenance agreement which includes the drywell in addition to the sanitary sewer is recorded prior to preliminary approval. The amended maintenance agreement, as described, has been recorded as document number 2009-042234 with the county recorders office (see Exhibit A-3). In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

*"An Amended Declaration Private Sewer Maintenance Agreement has been recorded as document no. 2009-042234, Multnomah County Deed Records."*

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

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

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

**33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-**

**street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.**

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

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

The site has approximately 37 feet of frontage on SE Tenino Street and 104 feet on SE 63<sup>rd</sup> Avenue. Both streets are classified as local service streets for all modes in the Transportation System Plan. Tri-Met provides transit service approximately ½ mile from the site on SE 72<sup>nd</sup> Avenue via bus number 71. Parking is currently allowed on both adjacent streets, on both sides. The site is vacant, and there are no existing off-street parking spaces on the site.

Both SE Tenino and SE 63<sup>rd</sup> Avenue are improved with a paved roadway, sidewalk and curbs on both sides. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided..

This criterion is therefore, met. As a side note, Portland Transportation indicated a potential need to relocate an existing curb-cut/driveway approach. This work would necessitate sidewalk re-construction to ensure that safe pedestrian travel is possible to the proposed development. If necessary, these improvements could occur at time of building permits.

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

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

- The water standards of 33.651 have been verified. An existing 6-inch water main is available in SE 63<sup>rd</sup> Avenue and an 8-inch in SE Tenino, per Water Bureau. Water is available to serve the proposed development from either water main. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch public sanitary sewer located in SE 63<sup>rd</sup> that can serve the sanitary needs of the proposed lots. Currently, the sewer lateral for the existing house located to the east at 6310 SE Tenino St. is accessed off of SE 63<sup>rd</sup> Avenue from a point across the middle of proposed Parcel 1. An approved review 08-126494 PR required the applicant to establish an easement that would be utilized for sewer service from SE 63<sup>rd</sup> Avenue but along the northern most portion of Parcel 1, away from the proposed structure. In order to approve the proposed lot configuration, a new service that will utilize the required easement on Parcel 1 must be established. The applicant must obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house via a

connection to 63<sup>rd</sup> Avenue within the noted easement. This configuration will utilize an easement to be shown on the Final Plat. All plumbing permits must receive final inspection approval prior to Final Plat approval. In addition, Site Development requires an accurate as-built utility plan to demonstrate the location of the new sanitary sewer line and feasibility of installing the storm-water disposal facility within the same easement. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. Further, the site meets the through street and pedestrian connectivity requirement since it is a corner lot that is adjacent to an intersection of a north/south and east/west street. As 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-2), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcels 1 and 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has



sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells, based on the conceptual site plan (Exhibit C-2) and the Maintenance Agreement allowing the drywell to be located within the sewer easement (Exhibit A-3).

As shown by the findings above, the Services and Utilities criteria are 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 a discretionary review. 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.

- Attached Houses on Corner Lots-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E. The address and main entrance of each house must be oriented to a separate street frontage. Development on Parcel 1 must be oriented toward SE Tenino Street and development on Parcel 2 must be oriented toward SE 63<sup>rd</sup> Avenue.

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 <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>

Bureau	Code Authority	Topic	Contact Information
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 a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1 and C-2). 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: Sanitary Sewer connection and Maintenance agreement, on-site Stormwater disposal and Attached Houses on a corner lot.

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 two lots for Attached Rowhouses as illustrated with Exhibit C-1 & C-2, subject to the following conditions:

### A. The final plat must show the following:

1. A Private Sanitary Sewer Easement, for the benefit of 6310 SE Tenino (adjacent property to the east), shall be shown and labeled over the relevant portions of proposed Parcel 1.
2. A recording block for the legal maintenance agreement. The recording block shall, at a minimum, include language substantially similar to the following example: *“An Amended Declaration of Private Sewer Maintenance Agreement has been recorded as document no. 2009-042234, Multnomah County Deed Records.”*

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

#### Utilities

1. The applicant must obtain a plumbing permit to cap the existing sewer connection to the house on the adjacent eastern lot (6310 SE Tenino) and establish a new service for the house via a connection to 63<sup>rd</sup> Ave. This configuration needs to utilize an easement to be shown on the Final Plat. All plumbing permits must receive final inspection approval prior to Final Plat approval. In addition, an as-built plan of the installed sewer lines shall be provided prior to final plat approval.

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

1. Parcels 1 and 2 must be developed with Attached Houses and meet the requirements for attached houses on a corner lots (section 33.1110.240.E).

Decision rendered by: NJS on April 13, 2009  
By authority of the Director of the Bureau of Development Services

**Decision mailed (within 5 days of dec.) April 16, 2009**

**Staff Planner: Nizar Slim**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on January 4, 2008, and was determined to be complete on June 30, 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 January 4, 2008.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit A-4.

**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](http://www.portlandonline.com).

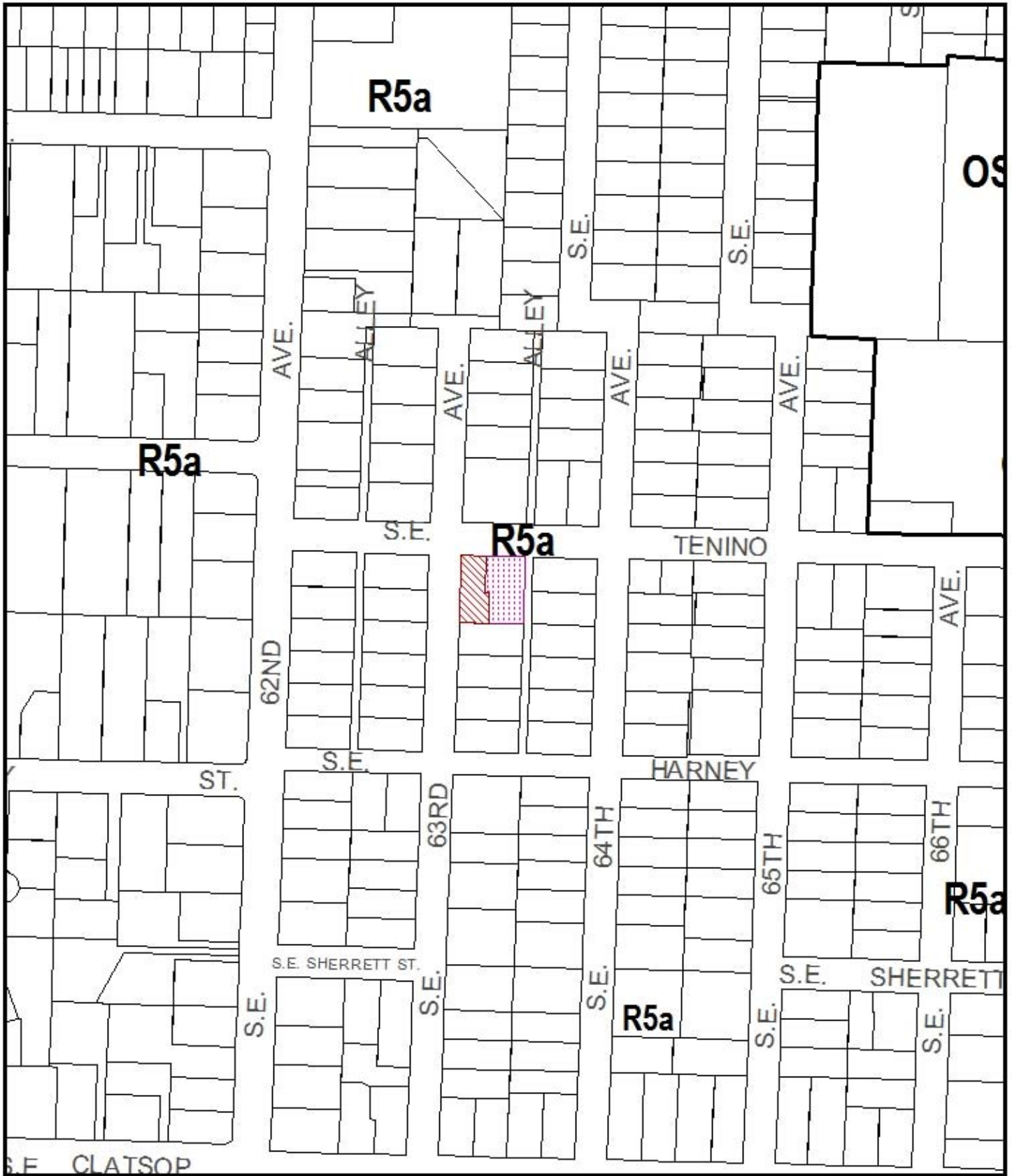
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Statement
  - 1. Narrative
  - 2. Arborist Report
  - 3. Amended Declaration of Private Sewer Maintenance Agreement
  - 4. 120-day Waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Proposed Plat (attached)
  - 2. Site Plan with proposed development (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Site Development Review Section of BDS
  - 5. BDS, Life Safety section
  - 6. Bureau of Parks, Forestry Division and Fire Bureau
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter

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



# ZONING

-  Site
-  Also Owned



File No. LU 08-100747 LDP  
 1/4 Section 3837  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E20CC 5701  
 Exhibit B (Apr 15,2009)

JUN 23 2008

**SURVEYOR'S CERTIFICATE**

I, MICHAEL A. MADGACHER, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH SMOKE AND LAMP BEAMS THE POINTS OF THE ATTACHED PARTITION MAP, AND THAT THE BEARINGS AND DISTANCES THEREON ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

A TRACT OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 34, T.15S., R.2E., W.1M., MULTNOMAH COUNTY, OREGON, WAS SUBMITTED TO ME BY THE CITY OF PORTLAND, OREGON, FOR THE PURPOSE OF BEING PARTITIONED INTO PARCELS AS SHOWN IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 312 OF THE OREGON REVISED STATUTES. THE PROPERTY PLATTED HEREON IS SUBJECT TO THE PLAT RESTRICTIONS AS NOTED ELSEWHERE ON THIS PLAT.

**DECLARATION**

KNOW ALL PEOPLE BY THESE PRESENTS THAT MICHAEL MADGACHER, JR. AND STACY MADGACHER, OWNERS OF THE LAND DESCRIBED IN THE ATTACHED SURVEYOR'S CERTIFICATE AND SHOW UPON THE PARTITION MAP, DO HEREBY DECLARE THE ATTACHED MAP TO BE A CORRECT MAP OF THE LAND DESCRIBED THEREON, AND THAT THE PROPERTY PLATTED HEREON IS ACCORDANCE WITH THE PROVISIONS OF CHAPTER 312 OF THE OREGON REVISED STATUTES. THE PROPERTY PLATTED HEREON IS SUBJECT TO THE PLAT RESTRICTIONS AS NOTED ELSEWHERE ON THIS PLAT.

MICHAEL MADGACHER, JR. STACY MADGACHER  
ACKNOWLEDGMENT  
STATE OF OREGON }  
COUNTY OF MULTNOMAH }  
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON \_\_\_\_\_, 2008 BY  
MICHAEL MADGACHER, JR. AND STACY MADGACHER.

MICHAEL MADGACHER, JR. STACY MADGACHER  
BY COMMISSION EXPIRES \_\_\_\_\_  
COMMISSION NO. \_\_\_\_\_

**PARTITION PLAT NO.**

A REPLAT OF PORTIONS OF LOTS 2 AND 3, BLOCK 5, "HEDRICKS ADDITION TO EAST PORTLAND" LOCATED IN THE S.W. 1/4 SECTION 20, T.15S., R.2E., W.1M., CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
CITY OF PORTLAND CASE FILE NO. \_\_\_\_\_  
DATE: JUNE 1, 2008 SCALE: 1" = 20'



**LEGEND**

- INDICATES FOUND SMOKE AND LAMP BEAMS YELLOW PLATTED CAP STAMPED "COMPASS ENGINEERING" FOR ALL UNLESS NOTED OTHERWISE.
- INDICATES SMOKE AND LAMP BEAMS WITH YELLOW PLATTED CAP STAMPED "COMPASS ENGINEERING" SET ON.
- REFERS TO RECORD NUMBER, SEE REFERENCE SURVEYS.
- INDICATES RECORDED INSTRUMENT.
- INDICATES PLAT NUMBER, SEE REFERENCE SURVEYS.
- INDICATES PLAT NUMBER, MULTNOMAH COUNTY SURVEY RECORDS.

**REFERENCE SURVEYS**

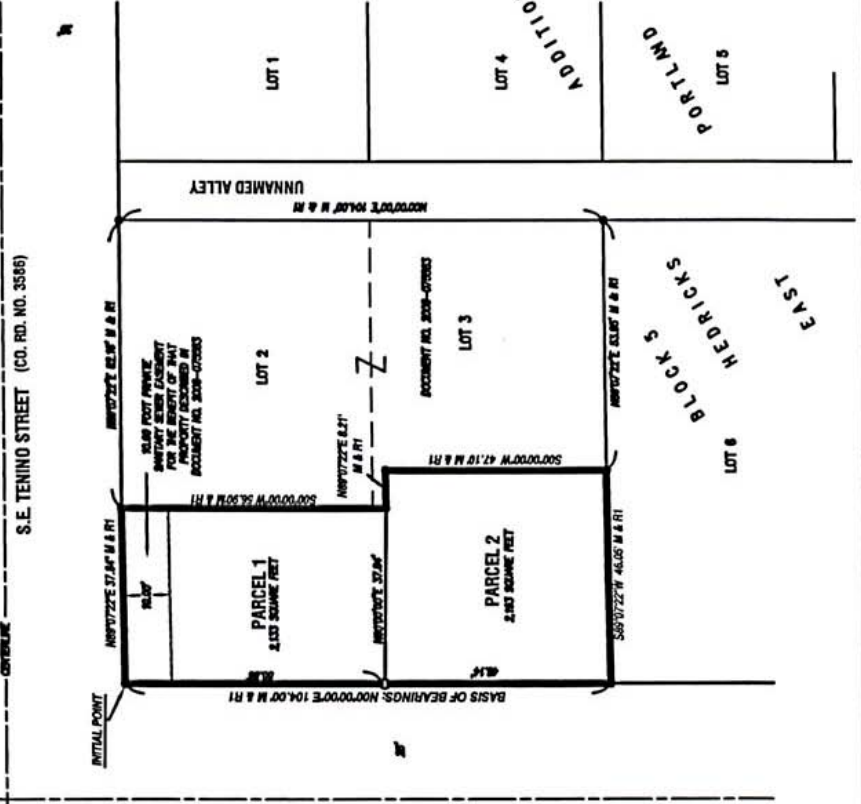
BY S.A. 8778

**NARRATIVE**

- CLIENT: CITY OF PORTLAND
- THE PURPOSE OF THIS SURVEY IS TO PARTITION THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2008-07063, MULTNOMAH COUNTY SURVEY RECORDS, FOR THE CITY OF PORTLAND, OREGON, INTO PARCELS AS SHOWN ON THIS PLAT AND CONTROL, SEE S.A. 8778, MULTNOMAH COUNTY SURVEY RECORDS.
- BASELINES: THE EAST-NORTH-WEST LINE OF THE KING ARCADE WAS FIELD AS "ALTERNATE" FOR S.A. 8778 AS SHOWN, FOR THE PURPOSE OF THIS SURVEY AND CONTROL, SEE S.A. 8778, MULTNOMAH COUNTY SURVEY RECORDS.
- THE PARTITION LINES WERE ESTABLISHED FOR THE CITY APPROVED COMMISSION.

**PLAT RESTRICTIONS AND NOTES**

- THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE FILE NO. \_\_\_\_\_



**APPROVALS**

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008  
CITY OF PORTLAND PLANNING DIRECTOR

BY: \_\_\_\_\_  
DEPUTY

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008

BY: \_\_\_\_\_  
CITY OF PORTLAND CITY ENGINEER'S DEPUTY

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008  
COUNTY CLERK  
MULTNOMAH COUNTY, OREGON

BY: \_\_\_\_\_

ALL TAXES, THE ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY  
OREGON LAWS SHALL BE PAID BY THE CITY OF PORTLAND TO THE  
DIRECTOR, DIVISION OF ASSESSMENT AND TAXATION  
MULTNOMAH COUNTY, OREGON

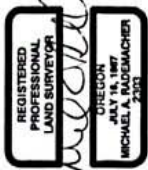
BY: \_\_\_\_\_

STATE OF OREGON  
COUNTY OF MULTNOMAH

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECORDED  
FOR RECORD AND RECORDED \_\_\_\_\_, 2008, AT \_\_\_\_\_, AS  
PARTITION PLAT NO. \_\_\_\_\_, MULTNOMAH COUNTY RECORDING OFFICE.

BY: \_\_\_\_\_

RECORDING NO. \_\_\_\_\_



Survey prepared by:  
Compass Engineering  
4105 International Way, Suite 501  
Milwaukie, Oregon 97222  
Phone: 503-653-8083  
6358 Pearl Ave  
Job No. 07-6358 (Partition)

CASE NO. 08-100747 LDP  
EXHIBIT C-1



3-25-09  
P&C W

# S.E. TENINO STREET

# S.E. 63RD AVENUE

## Proposed Preliminary Land Division Plat No Scale

CASE NO. 08-100747 LDP  
EXHIBIT C-2

