



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

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**Date:** May 26, 2009  
**To:** Interested Person  
**From:** Rachael Hoy, 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 09-111339 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Adrian Schiop  
6423 N Francisco Ave  
Chicago, IL 60645

Mark Perkins  
11471 SE Clover Ln  
Portland, OR 97086

**Planner/Surveyor:** Keith Jones, AICP  
Harper Houf Peterson Righellis Inc.  
205 SE Spokane Street, Suite 200  
Portland, OR 97202

**Site Address:** SE Knight ( R564869)  
**Legal Description:** LOT 1, JOE'S LANDING; LOT 2, JOE'S LANDING; LOT 3, JOE'S LANDING

**Tax Account No.:** R429900050, R429900100, R429900150  
**State ID No.:** 1S2E18DA 09601, 1S2E18DA 09602, 1S2E18DA 09603  
**Quarter Section:** 3636  
**Neighborhood:** Mt. Scott-Arleta, contact Shawna Fuller at 503-771-3104.  
**Business District:** Woodstock Community Business Association, contact Lori Boisen at 503-760-7968.

**District Coalition:** Southeast Uplift, contact Lea Hyman at 503-232-0010.  
**Plan District:** None  
**Zoning:** R2.5a- Residential 2,500 with an 'a' overlay for Alternative Design Density

**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 re-plate lots 1, 2, and 3 of Joe's Landing (LUR 01-00125 SU AD) into 2 lots. Each lot will be 29 feet wide and 3,481 square feet in area. Two

large Douglas Fir trees at the front of the lots will be preserved. Vehicle access will be from the alley at the rear of the lots.

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

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

**Relevant Approval Criteria:**

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

## ANALYSIS

**Site and Vicinity:** The site is located on the south side of SE Knight Street. The area is relatively flat and the surrounding neighborhood is characterized by single family residences on originally platted lots or on more recently subdivided properties. Additionally, there is an existing 20-foot wide gravel alley that is parallel to SE Knight Street and extends (east-west) from SE 54<sup>th</sup> Avenue to SE 69<sup>th</sup> Avenue.

**Zoning:** The site is in the R2.5 zone, and its 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.

Additionally, the site is located in the "a" overlay, which it 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.

**Land Use History:** City records indicate one prior land use review:

- **LUR 01-00125 SU AD:** The applicant divided the 12,002 square ft. site into four lots. Additionally the applicant requested two adjustments. The first adjustment reduced the minimum required lot width on Lot 4 (the lot with the existing house), from 50 feet to 41 feet. The second Adjustment increased the maximum allowed density on Lots 1-3 to one dwelling per 2,320 square feet; the site is located in the R2.5a zone (one dwelling per 2,500 square feet). See exhibit G-3

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on April 7, 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>
<b>A</b>	<b>33.611</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
<b>B</b>	<b>33.630</b>	<b>Trees</b>	<b>Applicable - See findings below.</b>
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>	<b>33.635 .100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635 .200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
<b>H</b>	<b>33.636</b>	<b>Tracts and Easements</b>	<b>Applicable - See findings below.</b>
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site outside of environmental zones.
<b>K</b>	<b>33.641</b>	<b>Transportation Impacts</b>	<b>Applicable - See findings below</b>
<b>L</b>	<b>33.651 - 33.654</b>	<b>Services and Utilities</b>	<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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. These density and lot dimension requirements 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 = (6,962 square feet \* .80) ÷ 5,000 square feet = 1.1 (which rounds down to a minimum of 1 lots, per 33.930.020.A)

Maximum = 6,962 square feet ÷ 2,500 square feet = 2.7 (which rounds down to a maximum of 2 lots, per 33.930.020.B)

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

#### Lot Dimensions

The lot dimension requirements 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 so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (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 lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The dimensions of the proposed lots as compared to the required lot dimension requirements are shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

	<b>R2.5 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>
Minimum Lot Area	1,600 sq. ft.	3,481 sq. ft.	3,481 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	29 ft.	29 ft.
Minimum Lot Depth	40 ft.	120.05 ft	120.05 ft.
Minimum Front Lot Line	30 ft.	29 ft.	29 ft.

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

#### Narrow Lots

Parcel 1 & 2 are 29 feet wide — narrower than the minimum width for the R2.5 zone, as shown in the table above. Section 33.611.200.C for R2.5 of the Zoning Code, however, allows narrower lots if the future development can meet certain regulations:

- a. **On balance the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.**
- b. **The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet.**
- c. **If the lot abuts an alley, then vehicle access is allowed only from the alley. This requirement will be imposed as a condition of approval of the land division.**
- d. **Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development**
- e. **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- f. **In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of code section 33.611.200.C, subparagraph 2.c and 2.d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:**
  - (1) **State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;**
  - (2) **Meet the requirements of Section 33.700.060, Covenants with the City; and**
  - (3) **Be attached to and recorded with the deed for the new lot.**

#### **Consistent with the Purpose of Lot Dimension Regulations**

The purpose of Lot dimension regulations are as follows:

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant has demonstrated that the proposed Parcels 1 & 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore they have demonstrated that the proposed lot(s) can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- The proposed lots are compatible with existing lots because majority of the housing stock in the surrounding neighborhood is characterized by single family residential units and detached garages.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street

**Alley access:**

- The site abuts an alley, and the applicant has proposed and will be required to provide vehicle access to all the lots from the alley.

**Garage Wall Limitation**

- The proposed parcels will have access to detached garages from the existing alley. This criterion is not applicable.

**60 percent landscaping requirement for attached houses**

- The subject property will be developed with detached houses. This criterion is not applicable.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, 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, evaluates their condition and specifies root protection zones (Exhibit C-1). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
466	Douglas-Fir	23	Yes		Yes	16 feet
467	Douglas-Fir	21	Yes		Yes	16 feet
443	Douglas-Fir	19			No	None
499	Bird Cherry	24			No	None
484	Plum	10			No	None
519	Plum	7			No	None
518	Plum	8			No	None

The total non-exempt tree diameter on the site is 88 inches. The applicant proposes to preserve trees 466, and 467, which comprise of 44 inches of diameter, or 50 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 (exhibit A-2) showing the preserved trees and the required root protection zones (Exhibit C-1). Per city code (33.630.200 Tree Preservation Methods) tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground.

The Arborist has stated that each of these trees requires a 16-foot root protection zone. However, the Arborist acknowledges that the applicant desires to put the homes as close as possible to SE Knight Street to maintain communication between the dwelling and street. In order to accommodate the front porches at approximately 19 feet from the street, encroachments into the root protection zones of the preserved trees were considered by the

Arborist. The Arborist has recommended that, on the side where the porches will be built, the minimum root protection zone (RPZ) can be reduced to 10 feet, so long as the recommended construction methods are followed and the area is also demarked by an orange construction fence at the 16-foot boundary for additional care within this area. In addition, the sanitary sewer and water lines for Parcel 1 are proposed to come across the RPZs of both trees.

To limit impacts to the trees, the Arborist has specified hand digging and pier pad footings for the two front porches, as noted in Exhibit A-2. The Arborist has also specified that the sewer and water lines serving Parcel 1 should be bored. Therefore, conditions of approval are necessary to assure that the Arborist requirements are followed.

Reflecting the necessary encroachments reviewed by the Arborist, the site plan (exhibit C-1) shows intrusions into the recommended 16-foot RPZ for trees #466 & 467 and the permanent modified root protection zone around the proposed porches, with a minimum separation of 10 feet from the trees in that area. These encroachment areas should suffer foot traffic only. An orange construction fence must also be installed at the 16-foot RPZ boundary, but may be opened and closed at the discretion of the contractor, acknowledging the need for limited activities in this area.

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

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

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

**33.635.100 – Clearing and Grading**

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

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. However, there are two trees (#466 & 467) that are required to be preserved in the areas where new development on the site is anticipated. A condition of approval regarding the clearing and grading and the preservation of these two trees has already been specified under approval criteria 33.630. This criteria is met.

**33.635.200 – Land Suitability**

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

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

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

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

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

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

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

The site has approximately 58 feet of frontage on SE Knight Street. SE Knight 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 1,100 feet from the site on SE Harold Street via bus [number 10]. Parking is currently allowed on SE Knight Street, on both sides. The site is vacant, and there are no existing off-street parking spaces on the site. A 20-foot wide gravel alley to the south also serves the site. The applicant has shown on their site plan that vehicle access will be taken from the alley. The new lots will be required to use the alley for vehicle access.

SE Knight Street is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that 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 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 SE Knight Street. Water is available to serve the proposed development from the water main in SE Knight Street. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch CSP combined gravity sewer located in SE Knight Street that can serve the sanitary needs of the proposed parcels. 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.

### **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)

- **Existing Private Stormwater System:** A prior land use review (LUR 01-00125 SU AD) established a 25-foot private stormwater disposal easement for the benefit of Lots 1-3 per Joe's Landing. The existing private stormwater easement is no longer necessary and must be extinguished prior to final plat approval.
- **Parcels 1 & 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. The parcels have 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.

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

### **Right of Way Approval Criteria**

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

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>33.654.110.B.1</b>	<b>Through streets and pedestrian connections</b>	<b>Applicable - See findings below</b>
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable - No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable - No street, common green, shared court or pedestrian connection is proposed.
33.654.120.C.3.c	Turnarounds	Not applicable - No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable - No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable - There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable - No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable - No shared courts are proposed or required.
<b>33.654.130.A</b>	<b>Utilities</b>	<b>Applicable - See findings below.</b>
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable - There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable - No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable - No partial public streets are proposed or required.
33.654.130.E	Ownership of Alleys	Not applicable- No alleys are proposed or required.

**Applicable Approval Criteria are:**

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

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

**Findings:** The site is located between SE 60<sup>th</sup> Avenue (to west) and SE 62<sup>nd</sup> Avenue (to east), the closest north-south through streets in the area which have a distance between them of approximately 605 feet. The subject property is located approximately 145 feet east of SE 62<sup>nd</sup> Avenue. If the distance between these two street is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there could potentially be a north-south through street provided in the vicinity, although not at the location of this site since its located only 145 ft. from SE 62<sup>nd</sup> Ave, which is less than the 200 feet minimum separation prescribed by subsection a. above.

The site is also located between SE Knight St. (to north) and SE Woodstock blvd. (to south), the closest east-west through streets in the vicinity which have a distance between them of approximately 265 feet. There are no other or east/west through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 200-530 feet, one can conclude that there should not be an east-west through street provided in the vicinity of the site.

The site is within the Portland Master Street Plan for the Southeast District, no through streets are shown at this location. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

**Utility Location, Extension of Streets, Partial Rights of Way**

**33.654.130 Additional Approval Criteria for Rights-of-Way**

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

**Findings:** Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. At this time no specific utility easements adjacent to the street tract or right-of-way have been identified as being necessary. Therefore, this criterion is met.

## DEVELOPMENT STANDARDS

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

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

**Development Standards:** Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and 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.

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

- Narrow Lots-- development on Lots 1 and 2 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and

**Existing development that will remain after the land division.** The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R 2.5 zone. Therefore, 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>

<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
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.

- The applicant must meet the requirements of the Fire Bureau in regards to limiting the height of the new structures to 30 feet, measured to the gutter line. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## **CONCLUSIONS**

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Stormwater management and tree preservation

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 Narrow lots as illustrated with Exhibit C-1, subject to the following conditions:

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

The Final Plat must show the following:

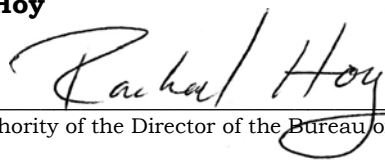
1. The applicant shall remove the existing 25-foot private stormwater easement that currently crosses over the property.

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

1. Development on Parcels 1 & 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's Arborist report (Exhibit A-2). Specifically, trees numbered 466 and 467 are required to be preserved, with the root protection zones indicated on Exhibit C-1. Tree protection fencing is required along the root protection zone of each tree to be preserved, as noted on the Plan. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Approved encroachments into the RPZ are reflected on the Tree Preservation Plan, any additional encroachment into the specified root protection zones are subject to receipt, by Planning and Zoning, of a report from an Arborist explaining that the Arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.

2. The footings for the front porches, if they are to be within 16 feet of trees # 466 and 467, must be hand dug and supported by pier pads.
3. The sewer and water lines serving Parcel 1 must be bored.
4. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.
5. Vehicular access to lots 1 & 2 must be from the abutting public alley. Curb cuts are not permitted from SE Knight Street.

**Staff Planner: Rachael Hoy**

**Decision rendered by:**  **on (May 21, 2009.)**

By authority of the Director of the Bureau of Development Services

**Decision mailed May 26, 2009**

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

**Procedural Information.** The application for this land use review was submitted on February 27, 2009, and was determined to be complete on March 30, 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 27, 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.

**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).

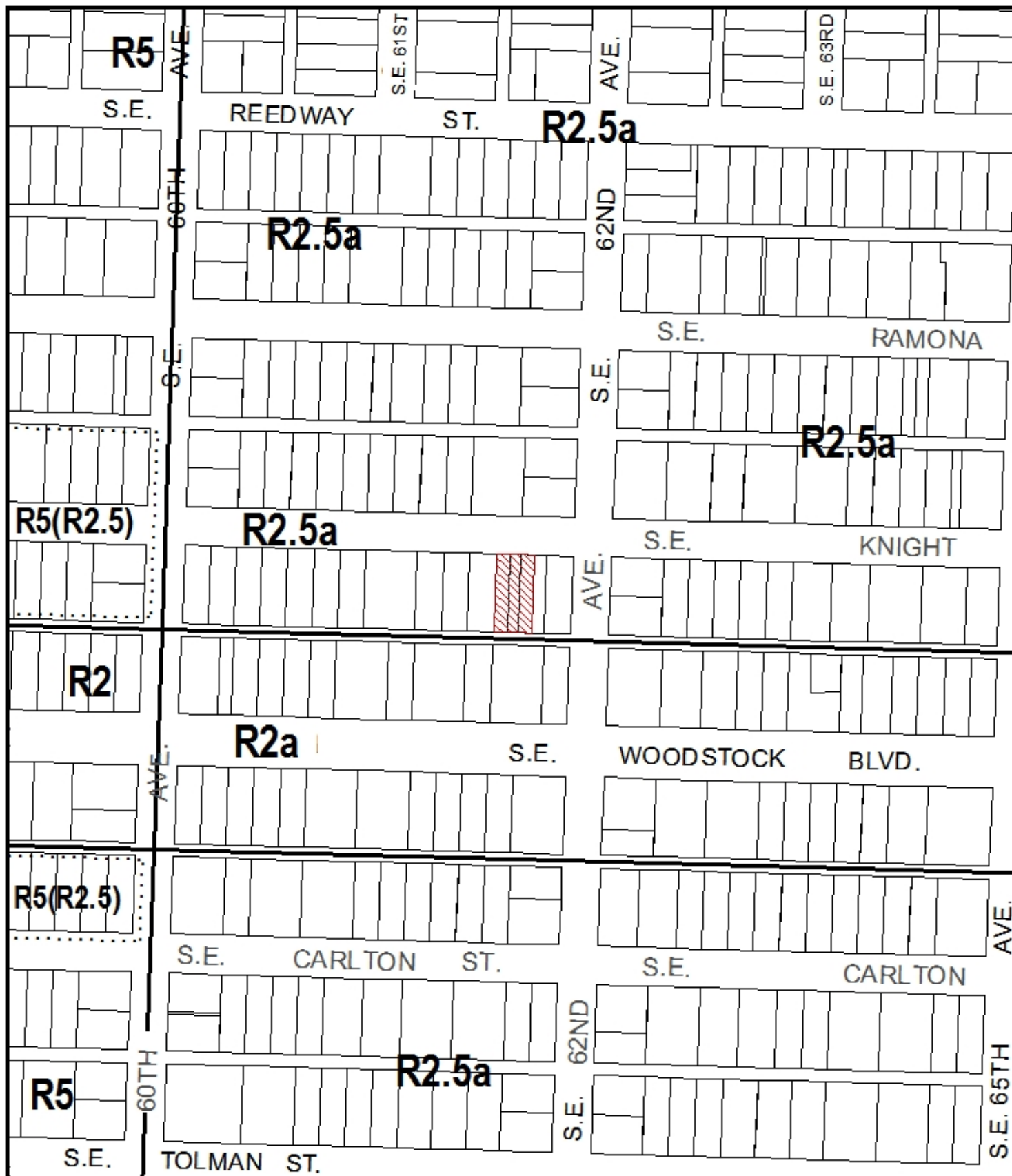
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence: None Submitted
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. LUR-01-00125 SU AD

**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 09-111339 LDP

1/4 Section 3636

Scale 1 inch = 200 feet

State\_Id 1S2E18DA 9602

Exhibit B (Mar 12, 2009)

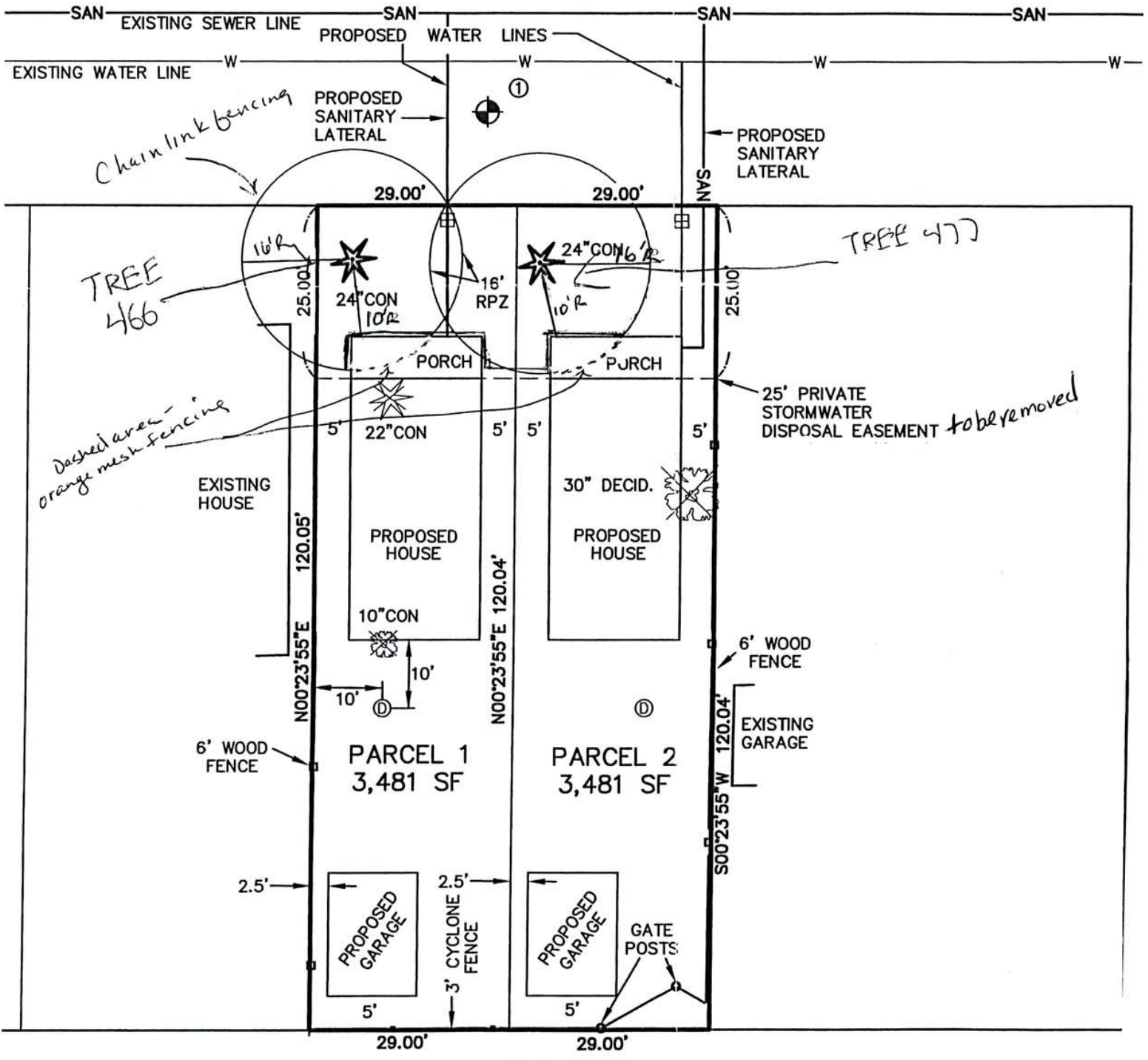


NORTH



Site Plan

SE KNIGHT STREET  
(60' WIDE)



Plan is to scale  
1 inch = 20 ft.



S89°59'31"W

ALLEY  
(20' WIDE)

CASE NO. 09-111339  
EXHIBIT C.1