



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

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Date: November 6, 2009
To: Interested Person
From: Mark Bello, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 09-143085 LDP

GENERAL INFORMATION

Owner	Applicant
Schumacher Custom Homes Inc PO Box 66207 Portland, OR 97290-6207	Kevin Partain Urban Visions 223 NE 56th Ave Portland OR 97213

Site Address: North of 3814 SE 41st Avenue

Legal Description: LOT 1, PARTITION PLAT 2006-32
Tax Account No.: R649861250
State ID No.: 1S2E07CB 10601
Quarter Section: 3435

Neighborhood: Creston-Kenilworth, contact Nellie Korn at 503-772-0521.
Business District: Foster Area, contact Nancy Chapin at 503-313-1665.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Zoning: R2, Multi-Dwelling Residential

Case Type: LDP, Land Division/Partition
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to partition a vacant 4,902 square foot site into two parcels to be developed with detached single family dwellings. Each parcel will be 2,451 sq. ft. in area, measuring approximately 26.5 by 92.5 feet. Access will be from SE 41st Avenue. Stormwater runoff will be treated and disposed on-site.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no

other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

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

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The site has 53 feet of frontage along SE 41st Avenue. The site extends 92.5 feet to the east. There is a 17-inch deciduous tree that straddles the southern property line. The site is relative flat with the exception of a five-foot dip at the southwest corner. The site is not known to contain any hazards.

SE 41st Avenue is of standard right-of-way width but with a relatively narrow paved surface. It is only 24-feet from curb-to-curb with parking on both sides. There are planter strips and sidewalks on both sides.

The site is located in an area of detached structures. Immediately adjacent is Creston Court Condominium. The Condominium project and the east side of the street are located in the R2 multi-dwelling zone. Properties to the west are still designated and zoned single dwelling (R5 with a Comprehensive Plan designation of R2.5).

Zoning: R2, Multi-Dwelling Residential 2,000

The R2 designation is one of the City's multi-dwelling zones and is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

Land Use History: City records indicate one prior land use reviews for this site:

- LU 05-135033 LDP. In 2005 the City granted administrative approval to partition an 8,963 square foot site into two parcels, including the parcel currently under consideration. A south parcel, not part of the current application, contains a single family residence. The north parcel is subject to this review. As a condition of the 2005 approval, trees number 2, 6, and 8 were required to be preserved. These trees were shown on the southern parcel. No trees were required to be preserved on the northern parcel.

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: A Notice of Proposal in Your Neighborhood was mailed on August 11, 2009. Four written responses have been received from notified property owners, including the Creston Court Condominium Association in response to the proposal. Respondents oppose this proposal. Common concerns include the narrow street width and on-street parking issues. These issues will be addressed under the finding for 33.641 Transportation impacts.

Emergency access to the rear of the structures is also a concern. Fencing and vegetation could impede access. However, the zoning code sets limits to the height of fencing in a front yard and side yard. Minimum landscaping standards of the R2 zone do not apply to houses (section 33.120.235). No agency has responded with concerns about accessing these areas.

Greater residential density and shadowing were also cited. The R2 zoning for the east side of SE 41st Avenue is a multi dwelling zone that also allows detached and attached houses like

the R2.5 Comprehensive Plan designation across the street. On the east side of SE 41st Avenue, the code allows a partition into two parcels for a site this large. On the west side, the R2.5 designation allows a similar site to also be partitioned into two parcels. Height limits are increased from 35 feet in the R2.5 single dwelling zone to 40 feet in the R2, multi dwelling zone. A side yard setback for most houses remains the same, 5 feet.

Respondents are concerned about crime, specifically car break-ins. There are no approval criteria that connect this concern to staff discretion in making an administrative decision.

APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter	Topic	Applicability Findings
A	33.612	Lots	Applicable - See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site. Trees that have been cut down were not subject to tree preservation conditions of LU 05-135033.
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 when the minimum density for the site is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below

Criterion	Code Chapter	Topic	Applicability Findings
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.612 contains the lot standards applicable in the Multi-dwelling 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.

These density standards are based on the zoning of the property, not surrounding development patterns. This property and other properties are zoned multi-dwelling. The multi-dwelling standards apply as stated in Table 120-3.

When single-dwelling or duplex development is proposed for some or the entire site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3.

For this site, 4,902 square feet in area, with detached housing proposed on each parcel, the following calculations apply:

Minimum = 4,902 sq. ft. (site area) ÷ 2,500 (minimum density from Table 120-3) = 1.96 (which rounds to a minimum of 2 units, per 33.930.020.A).

Maximum = 4,902 sq. ft. (site area) ÷ 2,000 (maximum density from Table 120-3) = 2.45 (which rounds down to a maximum of 2 units, per 33.930.020.B).

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

R2 Zone Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

The dimensions of the proposed lots as compared to the required lot dimension standards are shown in the following table: (from Table 612-1, detached housing):

	R2 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Lots for Attached or Detached Houses			
Minimum Lot Area	1,600 sq. ft.	2,451	2,451
Minimum Lot Width*	25	26.5	26.5
Minimum Lot Depth	none		
Minimum Front Lot Line	10 ft.	26.5	26.5

*Width is measured from the midpoints of the side lot lines.

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

The site is generally flat, with the exception of a slight dip in the southwest corner of the site. It is not located within the Potential Landslide Hazard Area. No significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees subject to tree protection standards. 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. As indicated above, the site is generally 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 53 feet of street frontage along SE 41st Avenue. The site is vacant.

At this location, SE 41st Avenue is designated a Local Service Street for all modes. It is improved with a 24-ft side roadway with curbs and sidewalks along both sides adjacent to the site. To the north, SE 41st or its extension is only a half-street, about 25-feet wide.

The two new residences would generate approximately 20 daily vehicle trips with 2 of those trips occurring in the AM and PM Peak Hours. Portland Transportation notes that this small amount of additional trips will not have a significant impact on the LOS or capacity of area roads or intersections. The wider section of SE 41st has fully improved 12-ft wide sidewalk corridors along both sides of the street. These sidewalks provide adequate pedestrian facilities.

The site is approximately 600-ft south of frequent transit service on SE Powell Blvd. Off-street parking is required and future development will provide off-street parking.

Some of the neighbors have expressed a concern for access for regular traffic and emergency vehicles due to the narrow width of SE 41st (24-ft from curb to curb). However, Portland Transportation recommends approval with no conditions.

Regarding emergency access, the applicant has successfully obtained permission from the Fire Bureau to develop this project without providing a turnaround. Exhibit E-4 provides information regarding the approval with conditions. Exhibit G-4 is a copy of the successful appeal report, #6612 which eliminated a need for a turn-around and the 600 foot maximum distance from a fire hydrant. Instead, the applicant will provide sprinklers within the dwelling with a 1 inch water line. The rationale for the waiver of the turnaround and hydrant conditions is that the existing street and surrounding development pattern does not provide enough area for the turn-around, that two units can be built without sprinklers outside a land-use review, and that the previous land use review considered these circumstances and decided that sprinklers would be sufficient.

The transportation system can safely support the proposed land division in addition to existing uses in the area. Fire access issues can be resolved with provision of fire sprinklers. With conditions of approval that address fire access, this criterion can be 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. This site will be served from the 6-inch water main in SE 41st Avenue. The static water pressure range at this location is estimated to be 41 to 51 psi.

City Code requires new metered water services to be located within the public right-of-way, adjacent to the properties they are to serve. For this case, there is water available from the 6-inch water main in SE 41st Avenue.

The Water Bureau has no objections to the lot partition. The applicant will be required to purchase the metered services from the Water Bureau. Fees for this will be calculated at the time of Building Permit application, with the fees added directly to the Building Permit. See Exhibit E-3 for more details. This approval criterion is met.

- The sanitary sewer standards of 33.652 have been verified. There is an existing public 8-inch CSP combination sewer line in SE 41st (BES as-built #0632). 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 on-site drywells or soakage trenches (Exhibit A). Site Development, Bureau of Development Services has responded that on-site stormwater treatment and disposal is acceptable. Additional infiltration testing may be required at the time of building permit review. Drywells and soakage trenches may not be located any closer than 10 feet to any structures (including structures on adjacent property) and 5 feet to any property lines, as measured from the middle of the facility. (Exhibits E-5):

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

Right of Way Approval Criteria

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

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

Applicable Approval Criteria are:

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

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

Findings: The site is located approximately 300 feet north of SE Francis Street, a distance closer than the optimum spacing requirement of 530 feet for cars but farther than 330 feet for pedestrians. However, the existing development pattern prevents a new pedestrian connection. Such a connection requires 15 foot width and the houses along SE 42nd Avenue are built close to each other. There is no room for a pedestrian connection (See Ch. 33.654.110, Connectivity and Location of Rights-of-Way).

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

Any damage to existing sidewalk will be required to be repaired as a condition of building permit approval.

For the reasons described above, this criterion is met.

33.654.120.C.3.c. Approval criterion for turnarounds. The turnaround must:

- **Be of a size to accommodate expected users, taking into consideration the characteristics of the site such as existing structures, natural features, the length of the street, and the number of housing units served by the street;**
- **Minimize paved area;**
- **Provide adequate area for safe vehicular movement; and**
- **Provide adequate area for safe and convenient movement by bicyclists and pedestrians traveling on the street or traveling from the street to a pedestrian connection.**

Findings: The Fire Bureau has approved an appeal by the applicant to sprinkle new construction in lieu of a turnaround (Exhibit G-4). This criterion is applicable and met by approval of the appeal.

DEVELOPMENT STANDARDS

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

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

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

Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- Fire suppression/sprinklers are required to be a condition of this approval per Fire Bureau appeal summary #6612.

CONCLUSIONS

The applicant has proposed a two-parcel 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 access issues associated with the site’s location along SE 41st Avenue. SE 41st dead-ends at the condominium project immediately adjacent to the north. However, Portland Transportation has reviewed this project and recommends approval with no conditions. The Fire Bureau has review emergency access issues and recommends approval, and has granted an appeal with conditions that are incorporated into this administrative decision.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition as illustrated with Exhibit C-1, subject to the following conditions:

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition 2 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”
2. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcels 1 and 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 6612. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
3. The applicant will be required to install residential sprinklers in the new houses on Parcels 1 and 2 to the satisfaction of the Fire Bureau.
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.

Staff Planner: Mark Bello



Decision rendered by: _____ **on (November 4, 2009)**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) November 6, 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 July 13, 2009, and was determined to be complete on August 6, 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 July 13, 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 application was deemed complete on August 7, 2009 and the 120-day review period extends until December 4, 2009.

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

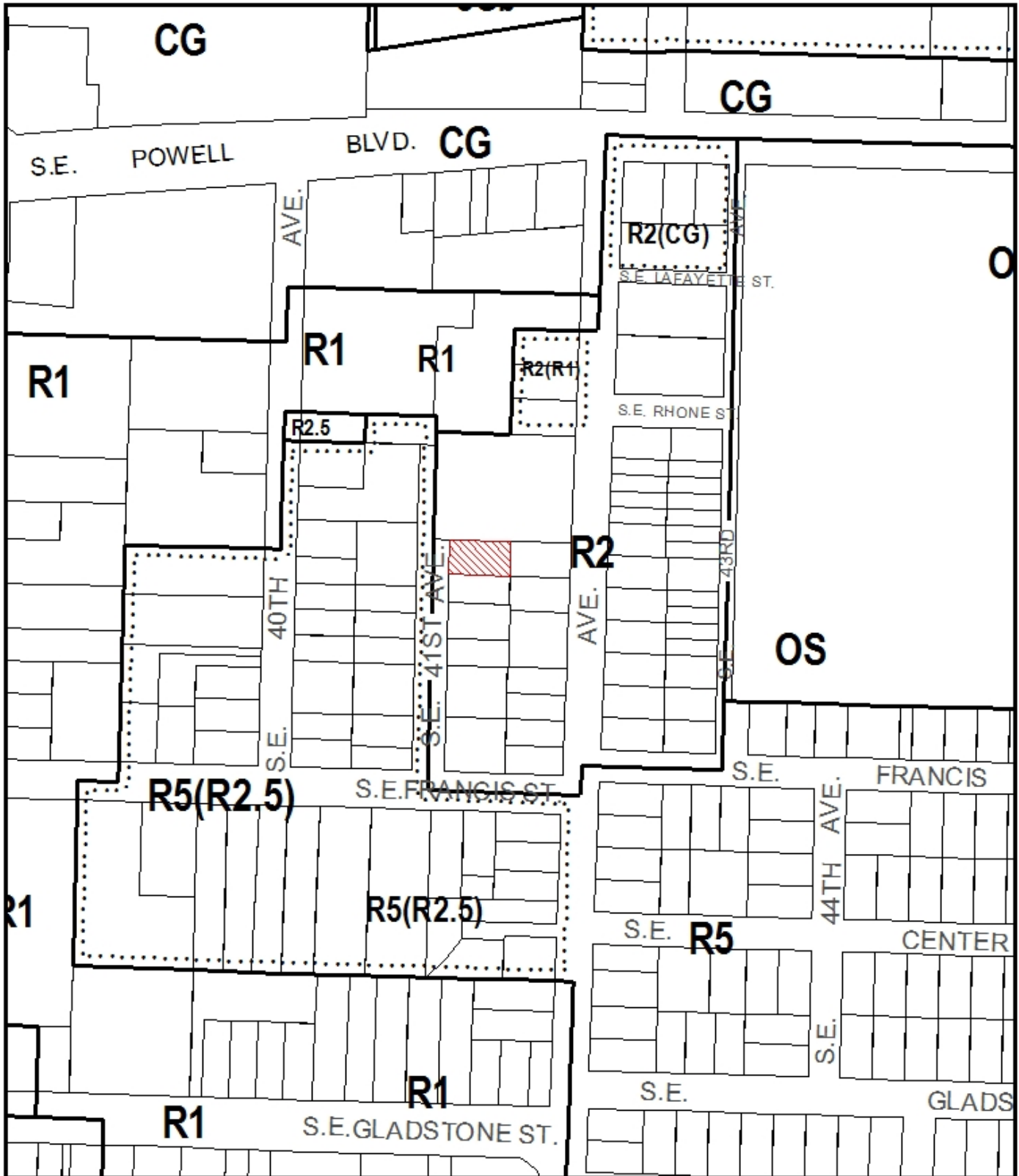
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Topographic Survey/Preliminary 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
- F. Correspondence:
 - 1. Mark S. Schroeder and Maryann Fielder, August 17, 2009, opposed
 - 2. Andy McKelvey, August 25, 2009, opposed
 - 3. Dorothy and Roger Colby, August 19, 2009
 - 4. Creston Court Homeowners Association, received September 8, 2009
- G. Other:
 - Original LU Application
 - 1. Original LU
 - 2. Site History Research
 - 3. Incomplete Application Letter to Applicant, July 28, 2009
 - 4. Fire Bureau Appeal Approval
 - 5. Applicant Request for Extension, September 21, 2009

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

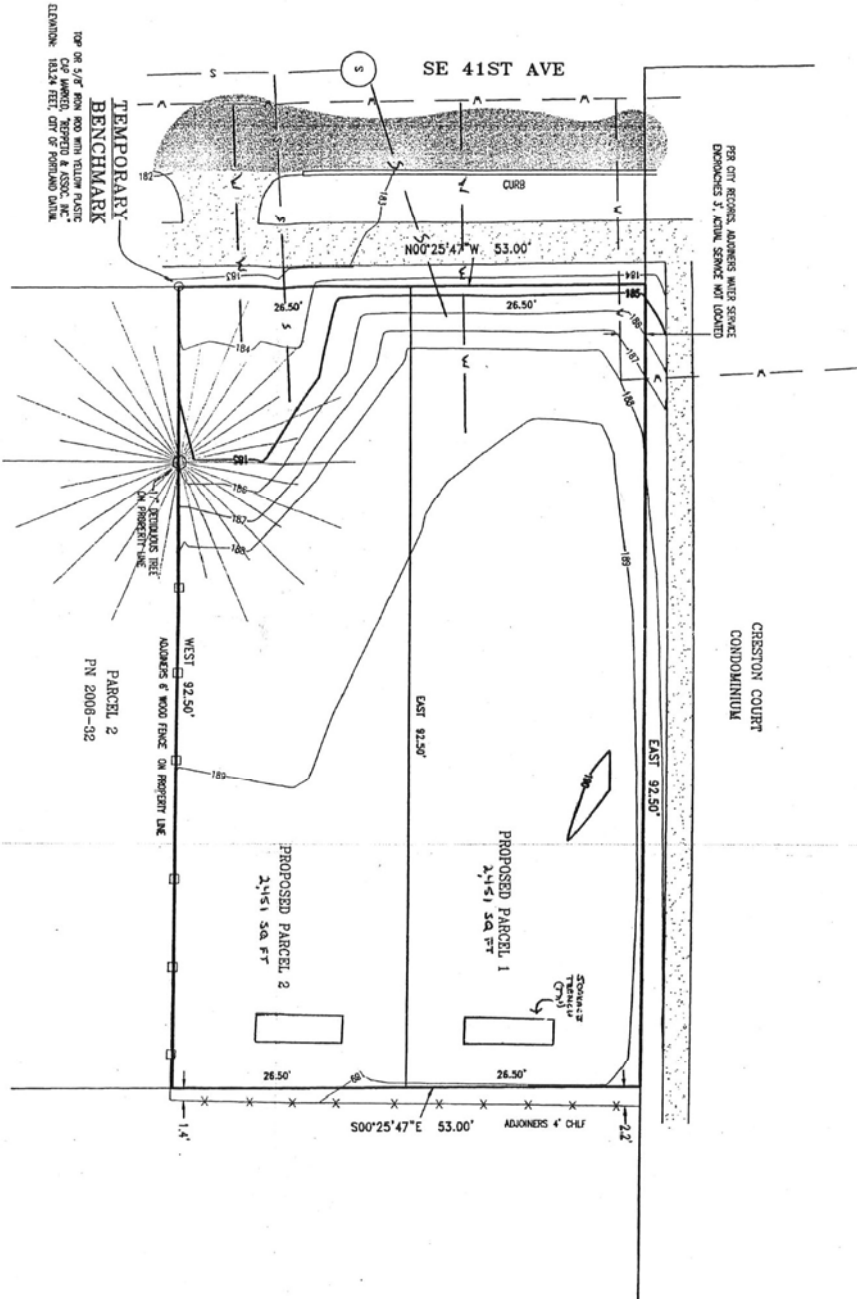


NORTH

File No.	<u>LU 09-143085 LDP</u>
1/4 Section	<u>3435</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E07CB 10601</u>
Exhibit	<u>B (Jul 14, 2009)</u>

END
 MADE FOR CITY RECORDS
 SHEET FOR CITY RECORDS
 CONCRETE
 ASPHALT

BENCHMARK
 CITY OF PORTLAND BENCHMARK NO. 4716, AT N.W. CORNER OF SE 4TH AND CLATSOP ST. ELEVATION 124.09 FEET, CITY OF PORTLAND DATA.



THE UNDERGROUND UTILITY LINES SHOWN HEREON ARE FROM A COMPARISON OF FIELD VERIFICATIONS AND VARIOUS UTILITY, PRIVATE AND GOVERNMENT SUPPLIED "AS-BUILT" MAPS AND ARE APPROXIMATE ONLY. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPREHENSIVE 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 STATE THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

PROFESSIONAL LAND SURVEYOR
 JANI O'CONNOR
 JANET O'CONNOR
 BRETT O'CONNOR
 888839
 EXPIRES 12-31-09

09143065
 CASE NO. CI
 EXHIBIT

W.B. WELLS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 4230 NE FREMONT STREET
 PORTLAND, OREGON 97213
 PHONE: (503) 241-8888 FAX: (503) 241-8028
 E-MAIL: info@wells-wb.com

TOPOGRAPHIC SURVEY
 FOR
SCHUMACHER HOMES
 PARCEL 1, P12006-32, LOCATED IN THE SW 1/4 OF SECTION 7, T15, R2E, W4E, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

REVISIONS:	
DRAWN BY: BB	CHECKED BY: TPB
DATE: 7-7-09	SCALE: 1"=10'
PLOT DATE: 7-8-09	JOB NO: 09-056
FILE: P:\09-056\09056TS.DWG	