1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: March 30, 2010
To: Interested Person
From: Kate Green, Land Use Services
503-823-5868 / kate.green@ci.portland.or.us

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 Street 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 09-174576 LDP

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions
223 NE 56th Avenue
Portland OR 97213

Property Owner: Ruslan M Ozeruga, new owner
PO Box 1807
Oregon City OR 97015

Douglas W McCabe, former owner
PO Box 2907
Portland OR 97208

Site Address: 2623 NE SUMNER STREET

Legal Description: BLOCK 8 LOT 11, INA PK
Tax Account No.: R413903030
State ID No.: 1N1E24BB 12100
Quarter Section: 2533

Neighborhood: Concordia, George Bruender at 503-287-4787
Business District: North-Northeast Business Assoc, Joice Taylor at 503-445-1321
District Coalition: Northeast Coalition of Neighborhoods, Lauren McCartney at 503-823-4135

Zoning: Single Dwelling Residential 2500 (R2.5)
Alternative Design Density overlay (a)
Aircraft Landing overlay (h)

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

Proposal: The applicant proposes to partition (replat) a 4,000 square foot lot into 2 parcels, through the application of an Alternative Development Option provision (33.110.240), which allows corner lots in the R2.5 zone to have one extra dwelling unit up to a maximum of 2 units, provided specific standards for lot dimensions and the subsequent development are met. A Utility Plan showing the proposed building and driveway layout, and utility locations is attached.

Each parcel is proposed to be 2,000 square feet in area. The house and a 12-inch diameter white oak on the lot are proposed to be removed. A TriMet bus shelter located near the corner of NE Sumer and NE 27th Avenue is proposed to be relocated off the subject 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 criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

ANALYSIS

Site and Vicinity: The 4,000 square foot project site is relatively flat and has frontage on both NE Sumner Street (south) and NE 27th Avenue (east); an alley also borders the west lot line. The property is presently developed with at single story house with a basement. A 16-inch diameter white oak tree is located near the north lot line.

The site is situated in an established residential area. Nearly all of the nearby lots are 5,000 square feet in area or smaller, and are developed with detached or attached houses in the R2.5 zone. A mixed commercial area is located along NE Alberta Street approximately 500 feet to the south, and a mix of multi-dwelling and residential development is located along NE Killingsworth Street approximately 750 feet to the north.

Tri-Met provides transit service immediately adjacent to the site on NE 27th Avenue via bus #9, and approximately 480 feet south of the site on NE Alberta Street, via bus line #72.

Zoning: The site is located in a **Single-Dwelling Residential 2,500 (R2.5)** zone. The R2.5 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 allows a mix of housing types with a single dwelling character while allowing attached houses and somewhat higher densities.

The site also has an **Alternative Design Density (a)** overlay designation. The purpose of the a-overlay is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The applicant has not proposed to use any of the a-overlay provisions.

The site is also within an **Aircraft Landing (h) overlay** zone, which limits the height of structures and vegetation within the vicinity of Portland International Airport. The h-overlay height limit at this location is less than the 35 foot building height limit typically allowed in the R2.5 zone, so the applicant will be required to apply for an exception to the h-overlay height limit from the *Federal Aviation Administration*.

Land Use History: City records show the following land use history for this site.
- VZ 233-64 (64-034255): Variance to increase fence height in east yard-approved.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **January 19, 2010**.

1. **Agency Review:** The following agencies have responded:
   - Bureau of Environmental Services
   - Water Bureau

- Fire Bureau
- Site Development Section of BDS
- Bureau of Transportation Engineering
- Bureau of Parks-Forestry Division

The comments are addressed under the appropriate criteria for review of the proposal. Please see Exhibits E for details.

2. **Neighborhood Review:** One written response has been received from the Concordia Neighborhood Association Land Use Committee. The correspondence notes concern about the possible removal or relocation of the TriMet bus shelter on the corner of NE Sumner Street and NE 27th Avenue, and supports the preservation or replacement of street trees, but otherwise raises no objections to the proposal for 2 attached houses.

   Staff comments: The applicant has provided a letter from TriMet, in which TriMet proposes two options regarding the placement of the bus shelter:
   1) compensate the property owner to allow the bus shelter to remain in its current location, or
   2) hire a contractor to remove the bus pad forward to the edge of the sidewalk, so it is no longer on private property.

   The applicant has indicated that the property owner will request that TriMet reposition the bus shelter, so it is located entirely off the private property.

   The applicant provided an update about the status of the bus shelter on March 9, 2010, which notes that TriMet removed the bus shelter from the subject site, and does not intend to replace the shelter due to the level of ridership at this location.

   The removal and/or replacement of street trees is evaluated the City of Portland Urban Forester through a separate permitting process. The Urban Forester has not identified any requirements for the installation of new street trees as part of the pending land division.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635.100	Clearing and Grading	Applicable - See findings below.

Criterion	Code Chapter	Topic	Applicability Findings
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 - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651-33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot standards applicable in the R2.5 zone. 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.

In this case, these lots are being created through the Alternative Development Options provision (33.110.240.E) that allows one extra unit in conjunction with attached houses on corner lots. Where attached houses are proposed, the original lot, before division for the attached house proposal, must be at least 3,000 square feet. There are no minimum lot dimensions standards for the new lots.

Using this provision, the applicant proposes to divide the 4,000 square foot corner lot into 2 lots. Though there are no applicable lot dimension standards, the dimensions of the proposed lots as compared to the lot dimension standards typically required in the R2.5 zone is shown in the following table:

	R2.5 Zone Requirement	Proposed Parcel 1 (front lot line is on NE Sumner	Proposed Parcel 2 (front lot line is on NE 27th Avenue
Minimum Lot Area (square feet)	1,600	2,000	2,000
Maximum Lot Area (square feet)	NA		
Minimum Lot Width* (feet)	36	50	40
Minimum Lot Depth (feet)	40	40	50
Minimum Front Lot Line (feet)	30	50	40

* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. With a condition of approval limiting the development on Lots 1 and 2 to attached houses, 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 submitted an arborist report, which includes an inventory of the trees within the land division site and in the abutting right-of-way, and an evaluation of their condition (Exhibit A.1). In this case, trees noted in the arborist report include:

- Three silver birch trees, which are located along the NE Sumner right-of-way and are subject to the regulations of the City's Urban Forester; and
- One 12-inch diameter* white oak on the subject site, which is subject to these Tree Preservation standards. (* The tree is noted as a 14-inch diameter deciduous tree on the survey).

The applicant's narrative indicates the white oak is to be removed for the proposed development, so the proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options of 33.630.300.

33.630.300 Mitigation Option
As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

A. As many trees as possible are preserved; and
B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.
C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:
  1. Minimum density;
  2. All service requirements of Chapters 33.651 through 33.654, including connectivity;
  3. Implementation of an adopted street plan;
  4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;
  5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or
  6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.

Since the property is currently developed in a manner that allows space for the tree, and since a minimum amount of outdoor area is required for the proposed units, it is feasible that the property could be redeveloped with a housing layout that retains the tree, and utilizes the tree's root protection zone for the required outdoor area. Furthermore, since proposed Parcel 1 is located on an alley, and no building setbacks are required along alleyways, this affords additional flexibility in the site layout to protect the tree. Additionally, a Modification to reduce the front building setback for proposed Parcel 1 could be granted to preserve the tree. The Modification could allow a new house on that parcel to be set back only 5 feet from the new front property line, which would be comparable to the location of the existing house along the NE Sumner frontage. A setback of this size would afford additional space to protect the oak tree, and match the minimum setback required along the NE Sumner frontage of proposed Parcel 2.

However, the applicant states that the oak tree must be removed for the attached houses, and the applicant does not wish to obtain a Modification to reduce the front building setback on proposed Parcel 1 to retain the tree. The applicant proposes to install three 1½-inch caliper trees on the site to mitigate for the removal of the oak. The applicant notes this will provide 4 ½ tree inches and will otherwise be equivalent to the Option 1 Tree Preservation Standard, which requires preservation of 35 percent of the total tree diameter on the site.

Because the property is being divided and developed for attached houses, using the Alternative Density Option (33.110.240.E), a replacement rate that is more consistent with the

requirements that would otherwise apply to tree removal on the site is appropriate. Generally, Urban Forestry recommends a replacement rate of one inch for each diameter inch removed. Using this rate, mitigation for the entire 12 inches removed is warranted.

Since the proposed parcels will be relatively small, and the applicant will be required to meet the landscaping standard for new houses (known as the T1 tree planting standard, 33.248.020.H), which will require at least 4 inches of new trees to be planted for each of the proposed parcels, it may be impractical to also install the required number of mitigation trees on the site. Instead, if the applicant made a contribution to the City's Tree Fund, this would allow for the installation of trees in the watershed in which the site is located, and those trees will help absorb air pollutants and contamination, and contribute to the City's general beauty.

Therefore, to adequately mitigate for the removal of the oak tree, a contribution equal to 12 tree inches (one inch replacement for each inch removed) should be provided to the City's Tree Fund. The cost to purchase and plant trees is determined each year by the Urban Forester based on current market prices per inch for materials, labor, and maintenance. At this time, the requirement is $300 per inch of tree to be installed.

With a condition that the applicant must contribute funds for 12 inches of trees, prior to final plat, this will provide for the installation of trees in the watershed and serve to equally meet the purpose of the Tree Preservation regulations. With the implementation of this condition, this criterion will be 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 in the areas where new development on the site is anticipated. 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. The applicant has proposed to remove the existing house and garage and redevelop the site. The applicant has a pending demolition permit (09-174562 RS) which notes the basement of the existing house is to be retained; however, the applicant provided a letter (dated March 9, 2010), which states the basement will be removed, as the owner's new plan does not include using the basement. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval.

In addition, although the site is currently connected to the public sanitary sewer, there was an old cesspool on the site. Site Development has reviewed plumbing permit #50644 dated July 30, 1924, and determined that the cesspool that served the existing house was most likely filled at the time the house was connected to the public sewer system in 1924. Therefore, Site Development will not require cesspool decommissioning.

Additionally, Site Development could not find any plumbing records showing existing stormwater facilities and it appears that there are existing pipes at the southwest and southeast corners of the house that may be part of a subsurface rain drain system. Site Development has noted that the failure to properly decommission subsurface facilities may result in a hazard to life and property.

If any cesspools or drywells are found at the time of demolition, the building code requires these structures to be backfilled with compacted fill as part of the demolition permit, thereby mitigating potential hazards from old subsurface facilities, and the new lots can be considered suitable for development.

Based on these factors, and with the implementation of the noted condition regarding the demolition permit, this criterion will be 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).

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

The site has approximately 100 feet of frontage on NE Sumner Street, and approximately 40 feet of frontage on NE 27th Avenue. An unpaved alley is also located along the west property line of the subject site. NE Sumner is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. NE 27th Avenue is classified as a Transit Access Street and a City Walkway, but is otherwise classified as a local service street for all other modes in the Transportation Element of the Comprehensive Plan. Parking is currently allowed on both sides of the abutting streets.

Portland Transportation provided the following: The proposed land division will create a second parcel on the site. The new parcels will be developed with a pair of attached houses (the existing house on the site will be demolished). The proposed land division is expected to generate 10 new daily vehicle trips and 1 new peak hour trip into the surrounding transportation system. The additional peak hour trip can distribute in any direction but is more likely to distribute in a north-south direction along NE 27th to connect to the broader transportation network in the area (NE Killingsworth or NE Alberta [east/west routes]). The transportation system, in this case, is identified as the stop-controlled intersections (signed, not signalized) at NE Sumner/NE 26th, NE Sumner/NE 27th, NE Sumner/NE 28th, NE Killingsworth/NE 27th and NE Alberta/NE 27th. The noted intersections *are not expected to drop below the City's performance standards* with the addition of the 1 peak hour trip in the morning and afternoon. This conclusion is reached given street classifications of the identified streets, the recognized capacity of said stop controlled intersections and given that the street along which the site fronts along serves to disperse localized traffic to the area's broader transportation network.

No significant negative impacts are expected to occur with relation to any of the other evaluation factors.

Given the area in which the site is located, the insignificant level of additional peak trips that will be generated by the proposed partition, and the classification of the street within the transportation system, Transportation expects the transportation system will be able to support the existing development in the area as well as the proposed development.

Based on the foregoing, Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. Therefore, this criterion is met.

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

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

- The water standards of 33.651 have been verified. An existing 8-inch water main is available in NE 27th Avenue, and may be used for development on proposed Parcel 2. A new water service will be required to be purchased to serve development on proposed Parcel 1. The new service will be required to come from the 6-inch water main in NE Sumner Street. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing public combined sewer system comprised of a 6-inch CSP pipe in NE Sumner Street and an 8-inch VSP pipe in NE 27th Avenue (BES project #0635). City connection records indicate that the existing house proposed to be demolished has a connection to the sewer in NE Sumner, not to the sewer in NE 27th as is shown on the site utility plan, though it does not appear the location of the lateral will cross the proposed property line. See the response from Site Development for requirements related to the demolition of the structure and the capping of the sewer lateral. A new service lateral to the main line in 27th will be required to be constructed to serve development on proposed Parcel 2 at the applicant's or owner's expense. 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.2), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

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

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.

Code Section	Topic	Applicability Findings
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	Applicable - See findings below.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

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

Findings: No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. Based on Transportation's assessment of the

connectivity potential in the area, the 200 to 530-ft spacing goal for public through streets is satisfied on the subject block. The City's pedestrian connection goal of generally providing such a connection no more than 330-ft is not met in this area, in a north/south direction. Given the length of the block, existing development, and the lack of any other pedestrian connections through any of the blocks north of the subject site, a pedestrian connection through the subject site or block is not warranted or feasible. Transportation has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

For the reasons described above, this criterion is met.

33.654.120.C.1 Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

Findings: At this location, *according to City records*, Transportation has determined that NE Sumner Street and NE 27th Avenue are currently improved with 30-foot of center-strip paved roadways within 50-foot wide rights-of-ways and 3-6-1 sidewalk corridors. Based on the TSP classifications for NE Sumner and the zoning of the site, the City's Pedestrian Design Guide recommends an 11-foot wide sidewalk corridor comprised of a 0.5-foot curb, 4-foot planter, 6-foot sidewalk and 0.5-foot setback to the property line. For NE 27th, the Pedestrian Design Guide recommends a 12-foot wide sidewalk corridor comprised of a 0.5-foot curb, 4-foot planter, 6-foot sidewalk and 1.5-foot setback to the property line. The existing sidewalk corridors noted above do not satisfy the City's Pedestrian Design Guide pedestrian corridor width (and configuration) recommendation.

However, because the existing sidewalk corridors are improved with the recommended 6-foot wide pedestrian-through zones (sidewalks) and because the 3-6-1 configurations are the prevailing sidewalk corridor configurations found throughout the broader area, Transportation will not require the applicant to provide any property dedication or right-of-way improvements along either of the site's frontages.

Based on these factors, 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. Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the rights-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:

- Attached Houses on Corner Lots—Specific development standards 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 NE Sumner Street and development on Parcel 2 must be oriented toward NE 27th Avenue.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, 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 R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2008 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.

- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access and aerial access, at the time of development. If these requirements cannot be met, an appeal providing an alternative method must be approved. These requirements are based on the technical standards of Title 31, the International Fire Code, and the 2007 Oregon Fire Code. Complete details are included in Exhibit E-4.

CONCLUSIONS

The applicant has proposed a 2-lot partition to create an additional lot for attached houses, using the Alternative Development Option provision (33.110.240), which allows corner lots in the R2.5 zone to have one extra dwelling unit up to a maximum of 2 units, provided specific standards for lot dimensions and the subsequent development are met. The primary issues identified with this proposal are:

- Implementation of the attached house provisions
- Mitigation for tree removal
- Resolution of land suitability issues
- Neighborhood concerns about the removal of the TriMet bus shelter

As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions that address these requirements. Therefore, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in 2 attached housing lots, as illustrated with Exhibit C.1, subject to the following conditions:

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

Existing Development

1. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. If any cesspools or drywells are found at the time of demolition, the building code requires these structures to be backfilled with compacted fill as part of the demolition permit. Note that Title 24 requires a 35-day demolition delay period for most residential structures.

Other requirements

2. The applicant must pay into the City Tree Fund the amount equivalent to 12-inches of trees. Payment must be made to the Bureau of Development Services, which administers the fund for the Parks Bureau.

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

1. Parcels 1 and 2 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.

2. 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: Kate Green

Decision rendered by: Kimberly Tallant **on March 25, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed March 30, 2010

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 December 1, 2009, and was determined to be complete on January 14, 2010.

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 December 1, 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 requested that the 120-day review period be extended for a period of 18 days, as stated with Exhibit G.4. Unless further extended by the applicant, **the120 days will expire on: June 2, 2010.**

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.

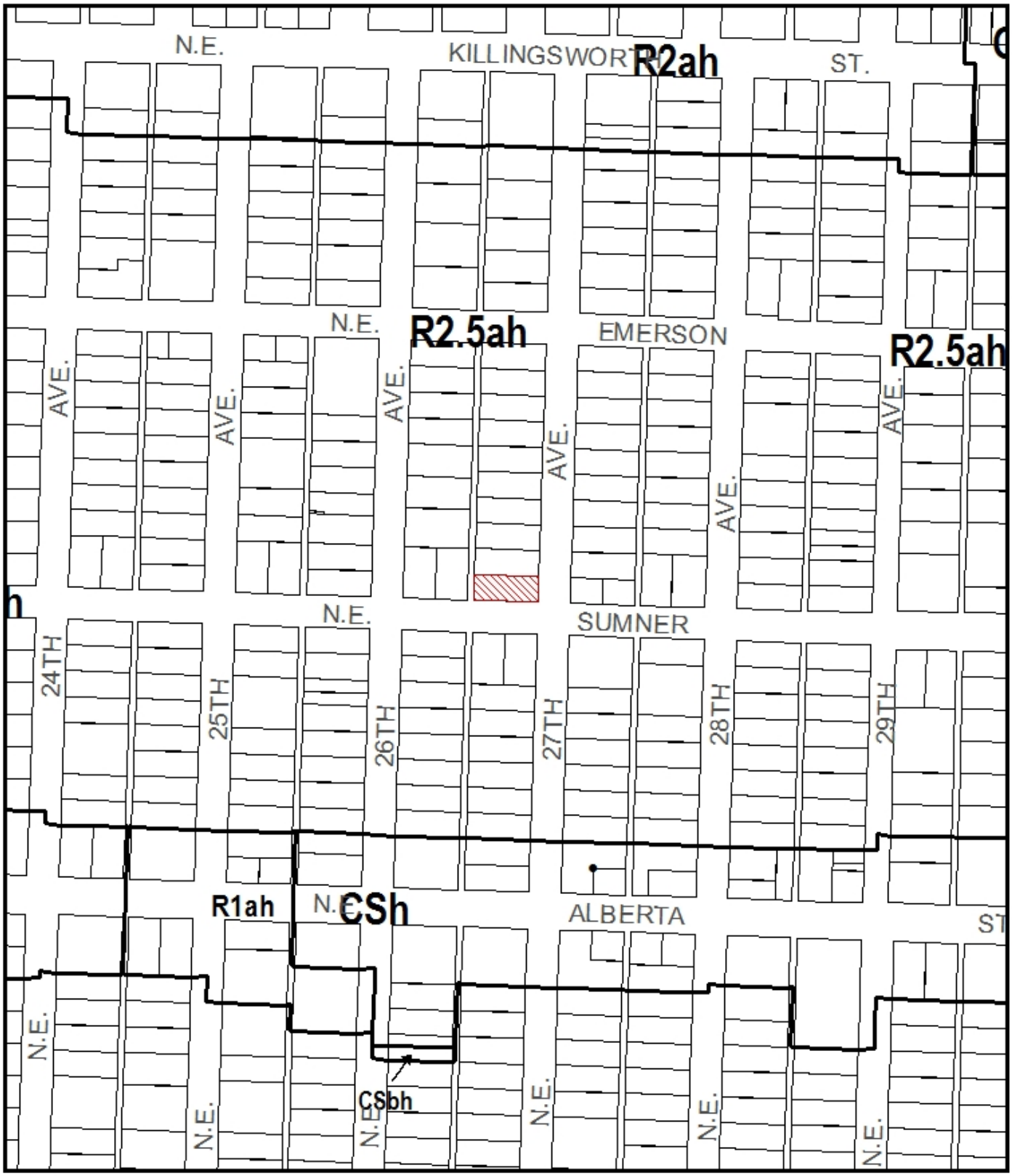
The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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. Supplemental Narrative (Simplified Infiltration Test Results, Arborist Report, TriMet letter)
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Existing Conditions/Lot Plan (attached)
   2. Conceptual Development/Utility Plan
   3. Full size plans
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. Concordia Neighborhood Association Land Use Committee; 2/10/2010; generally supportive of proposal, but concerned about removal of bus shelter
G. Other:
   1. Original LU Application
   2. Site History Research
   3. Letter to applicant re: incomplete application
   4. 120-day extension
   5. Letters/emails to/from applicant re: tree preservation, property ownership, bus shelter

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

Historic Landmark

NORTH

File No.	LU 09-174576 LDP
1/4 Section	2533
Scale	1 inch = 200 feet
State_Id	1N1E24BB 12100
Exhibit	B (Dec 03,2009)

LU 09-174576 LDP

JAN 13 '10 PM02:44

EXISTING CONDITIONS

BOUNDARY SURVEY FOR A PROPOSED PARTITION PLAT
A REPLAT OF LOT 11, BLOCK 7, "INA PARK"

SITUATED IN THE NW 1/4 OF SECTION 24, T.1N., R.1E. W.M.
CITY OF PORTLAND MULTNOMAH CO., OREGON

~~CITY OF PORTLAND BUREAU OF DEVELOPMENT REVIEW FILE NO. LU 09-117517 LDP~~

MARX ASSOCIATES
18615 E. BURNSIDE STREET
PORTLAND, OR 97233
TEL: 503-667-5550
FAX: 503-666-8666
EMAIL: DALEMARX@INTEGRAONLINE.COM

DATE DRAWN: NOVEMBER 17, 2009
DRAWING NO. 09063EXC
ACCOUNT NO. 09063
REVISED: DECEMBER 23, 2009

LEGEND:

1. "W" DENOTES EXISTING WATER LINE.
2. "WM" DENOTES WATER METER.
3. "S" DENOTES EXISTING SANITARY SEWER LINE.
4. "SS" DENOTES EXISTING STORM SEWER LINE.
5. "MH" DENOTES EXISTING MANHOLE.
6. "⊗" DENOTES DOWNSPOUT TO GROUND.

"212.12" DENOTES ELEVATION OF OBJECT - ELEVATION AT DECIMAL POINT.
(212.12) DENOTES GUTTER ELEVATION

ZONING:

R2.5 a,h

PARCEL DATA:

TAX LOT 1N1E24BB 12100
LOT 11, BLOCK 8, "INA PARK"
DEED BOOK 2369, PAGE 058, RECORDED DECEMBER 11, 1998
MULTNOMAH COUNTY DEED RECORDS.
SITE ADDRESS: 2623 N.E. SUMNER STREET
PORTLAND, OREGON
97208

BENCH MARK:

CITY OF PORTLAND, 2-1/2" BRASS DISC IN TOP OF CURB SE CORNER, N.E. 24TH AVENUE AND N.E. EMERSON STREET. ELEVATION = 208.34, CITY OF PORTLAND DATUM

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
FEBRUARY 14, 1985
DANIEL R. BAUER
2173
EXPIRATION DATE: 12/31/09

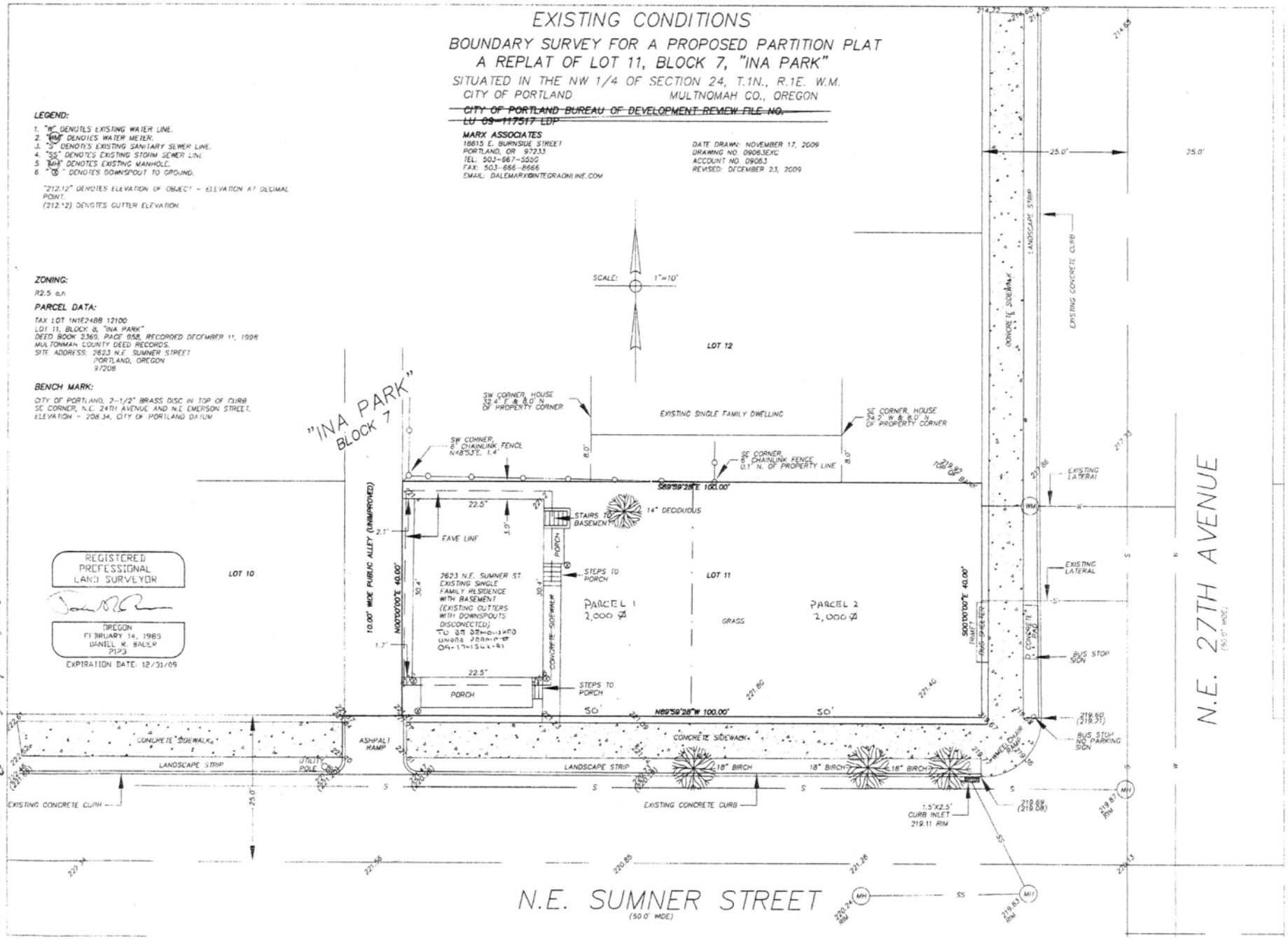


Exhibit C.1