



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

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: April 2, 2010
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / sean.williams@ci.portland.or.us

NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-168410 LDP AD

GENERAL INFORMATION

Applicant: Lydia E Doleman
4629 SE 64th Avenue
Portland, OR 97206

Representative: Joe Ferguson
Ferguson Land Surveying
646 SE 106th Avenue
Portland, OR 97216

Site Address: 4629 SE 64th Avenue

Legal Description: BLOCK 3 N 1/2 OF LOT 17 LOT 18, LAURELWOOD ANX
Tax Account No.: R480501340
State ID No.: 1S2E17BB 05100
Quarter Section: 3537
Neighborhood: Mt. Scott-Arleta, contact Shawna Fuller at 503-771-3104.
Business District: Foster Area, contact Nancy Chapin at 503-313-1665.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: None
Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP) w/ Adjustment (AD)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is requesting to partition the subject property into two parcels of approximately 3,137 (Parcel 1) and 3,184 (Parcel 2) square feet. Proposed Parcel 1 is a standard lot that will retain the existing single family dwelling and Parcel 2 is a flag lot that will retain an existing accessory dwelling unit. A concurrent adjustment review is necessary for flag lot setbacks of the existing accessory dwelling unit that will become the primary residence on Parcel 2. An additional adjustment has been requested by the applicant to the required flag lot landscaped buffer area.

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is 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(s):

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

ANALYSIS

Site and Vicinity: The subject property is located on the west side of SE 64th Avenue approximately 220 feet south of SE Foster Road. Existing improvements consist of a single family dwelling, accessory dwelling unit and detached garage. The single family dwelling will be retained within Parcel 1. The accessory dwelling unit will be retained within Parcel 2, the flag lot, and become the primary structure within this parcel. The detached garage will be removed as a part of this review. No trees subject to preservation standards are present within the land division site. Development south of this site is predominantly comprised of single family dwellings with associated zoning designations. Commercial zoning and development is located north of the site along the SE Foster Road corridor.

Zoning: 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 implements the comprehensive plan policies and designations for single-dwelling housing.

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

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on January 22, 2010.

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.

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.
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 - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	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. The density and lot dimension standards ensure that lots are consistent with the

desired character of the zone while allowing lots to vary in size and shape provided the planned intensity of the 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 = (6,321 square feet * .80) ÷ 5,000 square feet = 1.01 (which rounds down to a minimum of 1 parcel, per 33.930.020.A)

Maximum = 6,321 square feet ÷ 2,500 square feet = 2.52 (which rounds down to a maximum of 2 parcels, per 33.930.020.B)

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

Lot Dimensions

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

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

	R2.5 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area	1,600 sq. ft.	3,137 sq. ft.	3,184 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	48 ft.	
Minimum Lot Depth	40 ft.	65.35 ft.	
Minimum Front Lot Line	30 ft.	48 ft.	12 ft.
Minimum Flag Lot Width**	40 ft.		60 ft.
Minimum Flag Lot Depth**	40 ft.		40 ft.

* Width is measured at the minimum front building setback line

** For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

Flag Lots

Parcel 2 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located approximately 28 feet from the southern property line and 4 feet from the northern property line, which would preclude the creation of a lot that would meet the minimum width standard of 36 feet in the R2.5 zone. Two lots are proposed. As discussed above, minimum density has been met. The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a “pole” at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet. Therefore, Parcel 2 is allowed.

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

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site with an evaluation of their condition (Exhibit A-3). As demonstrated in the table below, all of the trees identified by the arborist are exempt as they are either a nuisance species or located partially off the property.

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained ?	RPZ (Root Protection Zone)
1	European Holly	8, 8, 13	No	Yes: Nuisance	No	N/A
2	Bird Cherry	6	No	Yes: Nuisance	No	N/A
3	Bird Cherry	11	No	Yes: Nuisance	No	N/A
4	Port Orford Cedar	14	No	Yes: On lot line	No	N/A

All of the trees within the land division site are exempt from preservation standards. Therefore this criterion is not applicable.

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 subject to preservation standards within the land division site. This criterion is met.

33.635.200 – Land Suitability

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

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

- 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 60 feet of frontage on SE 64th Avenue. SE 64th Avenue is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides frequent transit service approximately 220 feet north of the site on SE Foster Road via bus #14. Parking is currently allowed on both sides of SE 64th Avenue. There is one driveway entering the site that accesses a detached garage which provides off-street parking for the existing house.

At this location, SE 64th Avenue is improved with a 28 foot paved roadway and pedestrian corridor that consists of 4 foot planter, 6 foot sidewalk and 1 foot setback to private property (4-6-1) within a 50 foot wide right-of-way. 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 one additional dwelling 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 64th Avenue. The existing house on Parcel 1 has a 5/8 inch metered water service from this main. The existing accessory dwelling unit on Parcel 2 has a 5/8 inch metered water service from this main that is adequately located within the flag lot. The connections from the main in SE 64th Avenue may continue to serve existing development within the proposed parcels. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 12 inch VSP combination public sewer located in SE 64th Avenue. The existing dwelling located on Parcel 1 and the accessory dwelling unit within Parcel 2 both contain laterals from this main. However, as a result of the land division, it is unclear if the existing sewer connections cross over proposed property lines. Therefore, prior to final plat approval, the applicant must accurately determine the location of both sewer lines using sewer scoping video locates, metal tracer wire detection, or an equivalent acceptable method and show the locations on a supplemental plan.

If the sewer line(s) cross the new property lines, then private sewer easements would be required, or final approval of plumbing permits to cap and relocate the sewer line(s) would be required prior to final plat approval and the as-built locations would need to be shown on a supplemental plan. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. If a new sewer connection is established for the house, all plumbing permits must receive final inspection approval prior to Final Plat approval. 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):

- **Parcel 1 (the parcel with the existing house):** There are two rain barrels near the northeast corner of the house on Parcel 1. The downspouts on the house and porch in this area have been removed, and the rain barrels do not have a functioning overflow system. The downspout on the south side of the house is bent and discharges to the ground via a flex pipe. In order to determine if the existing system meets applicable City standards, the applicant shall demonstrate to the satisfaction of Site Development that the stormwater collection system for the existing house on Parcel 1 is in compliance with the Stormwater Management Manual. Permits deemed necessary to evaluate, inspect, and retrofit the existing systems shall be finalized prior to final plat approval, and supplemental plans showing the location of stormwater facilities shall be provided (if required) prior to final plat approval.
- **Parcel 2 (the flag lot with the existing ADU):** A revision for the ADU permit (09-109205 RS) is currently under inspection to change the location of the drywell associated with this structure. The rain drain inspection has not been approved, and the downspouts on the ADU discharge to the ground, which is not acceptable. Additionally, there is no gutter or downspout for the porch of the ADU that may contain an eco roof in the future which necessitates overflow to a drywell. Prior to final plat

approval, a gutter and downspout or approved eco-roof overflow connection must be provided for the ADU porch roof, and a rain drain/storm sewer inspection must be approved for permit 09-109205-RS, unless other acceptable information is provided to Site Development to confirm that all downspouts and roof areas discharge to the new drywell system.

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.
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 streets are proposed or required as a part of this proposal.
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: The site is located between SE Foster Road and SE Schiller Street, which have a distance between them of approximately 420 feet. There is no other east/west through streets between these two streets. Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The 530 feet spacing goal for public through streets is satisfied on the subject block. The spacing goal for pedestrian connections is not met within this block. However, existing development on this site and adjacent properties would obstruct the expected path of a through pedestrian connection. In addition, no street connections have been identified in the vicinity of this property in the Portland Master Street Plan document, so criterion d. does not apply.

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. Any easements that may be needed for private utilities

that cannot be accommodated within the proposed 50-foot width of SE 64th Avenue right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Approval Criteria

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

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

Findings: The applicant is requesting an adjustment to the flag lot setbacks for the existing accessory dwelling unit and the landscaped buffer area requirement for proposed Parcel 2. The alternative development options allow for variety in development standards while maintaining the overall character of a single-dwelling neighborhood. These options have several public benefits:

- **They allow for development which is more sensitive to the environment, especially in hilly areas and areas with water features and natural drainageways;**
- **They allow for the preservation of open and natural areas;**
- **They promote better site layout and opportunities for private recreational areas;**
- **They promote opportunities for affordable housing;**
- **They promote energy-efficient development; and**
- **They allow for the provision of alternative structure types where density standards are met.**
- **They reduce the impact that new development may have on surrounding residential development.**

The existing accessory dwelling unit (ADU) will remain within the flag lot and become the primary structure for this parcel. At the time of development of the ADU the applicable side and rear building setbacks of 5 feet in the R2.5 zone were required. The existing ADU will be located approximately 7.17 feet from the east, 8.47 feet from the north and 7.07 feet from the west property lines of the proposed flag lot. The required building setbacks for flag lots in the R2.5 zone is 10 feet along all lot lines. Because the property this structure will

now be located in is a flag lot, which requires increased setbacks, an adjustment is required to facilitate the land division.

The applicant has additionally requested an adjustment to the landscaped buffer requirement for flag lots. In this case, a 5 foot landscaped buffer meeting at least the L3 standard (33.248.020.C) would be required along the perimeter of the north and south property lines of the flag portion of Parcel 2. The stated purpose for requesting this adjustment is to allow unimpeded circulation between the properties to the north and south of the land division site as shared facilities including a garden, chicken coop and open space are utilized by the residents of these properties. The L3 standard requires enough high shrubs to form a screen 6 feet high which would prevent access to these shared facilities that are used in a co-housing manner.

The existing structure within the flag lot was built to the accessory dwelling unit design standards which ensure that compatibility and building scale are respected within Portland's residential zones. The modest reduction in flag lot setback requirements will not create any adverse environmental impacts and will allow for a greater amount of open space. Accessory dwelling units are smaller in size than houses which would generally allow for a more affordable housing opportunity. Smaller homes tend to be more energy efficient as fewer resources are required to operate and maintain. The ADU is already present within the land division site and was built in compliance with standards which intend to reduce impacts to surrounding properties. The allowance for the ADU to remain within the newly created flag lot and become the primary residence, despite not conforming to flag lot setback requirements, will equally or better meet the purpose of the Alternative Development Options based on the structures creation in accordance with accessory dwelling unit requirements.

The applicant's intent to waive the required flag lot landscaped buffer area is to retain the current co-housing situation with adjacent properties. Without the required landscaping screen it will be possible to retain the existing shared open space which includes a garden, chicken coop and shed. The intent of the landscaped buffer area is to reduce adverse impacts of new development on flag lots. As described in preceding findings, the structures creation as an accessory dwelling unit inherently reduces negative impacts to surrounding development. Therefore, the allowance to waive the landscaped buffer requirement will equally or better meet the purpose of this regulation.

This criterion is satisfied.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The subject property is zoned for residential use and is located within the Mt. Scott/Arleta Neighborhood. The minor reduction in flag lot setbacks allows the accessory dwelling unit within Parcel 2 to be located directly behind the dwelling within Parcel 1 which creates a lack of visual appearance from the street. The livability or appearance of the area will not be altered as a result of the requested adjustment to setbacks and landscape buffer area for flag lots as the structure that will be retained within Parcel 2 is already present. Therefore, this criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The R2.5 zone 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 existing accessory dwelling unit that will become the primary residence within the flag lot is providing an additional housing opportunity within the neighborhood. The cumulative effect of the requested adjustments will not detract from this opportunity as discussed in the findings above. Therefore, this criterion is met.

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

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

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

Findings: While the requested adjustments do not appear to create any detrimental impacts, waiver of the landscaped buffer area will preclude the ability for additional planting of shrubs and trees within the site which provide significant environmental benefits. Additionally, the ability to implement the T1 (33.248.020.H) tree planting requirement for new residential development is lost as the structure is already present within proposed Parcel 2. The T1 tree planting standard requires at least 2 inches of trees to be planted per 1,000 square feet of site area. The proposed lot size of Parcel 2 is 3,184 square feet which would require at least 7 inches of trees to be planted. Therefore, to mitigate for the loss of vegetation that would have been required, the applicant shall plant 7 inches of trees within Parcel 2 prior to final plat approval. Therefore, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental overlay zone. This criterion is not applicable.

DEVELOPMENT STANDARDS

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

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

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

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards were subject to the adjustment review noted above.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1 and 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing development identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house to be retained within Parcel 1 is 8.13 feet from the west property line and 16 feet from the south property line. Therefore, the required setbacks are being met. The existing structure to be retained within Parcel 2 has been approved for setback adjustments to the new flag lot property lines with this review. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Required Off-Street Parking - A detached garage provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on Parcel 2, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 220 feet from the site on SE Foster Street via bus number 14. Bus number 14 provides peak-hour service meeting this requirement. As a result, no replacement parking is required and parking is not required for Parcel 2. However, the driveway that accesses the garage on Parcel 2 is located on Parcel 1. The applicant has no desire to provide an easement over Parcel 1 and instead would like to remove the garage and driveway. Therefore, the applicant shall receive final approval of a demo permit to remove the garage and driveway prior to final plat approval. Additionally, a right-of-way permit shall be acquired for closure of the existing curb cut.

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 addressing requirements for flag lots. These requirements are based on the technical standards of Title 31 and Oregon Fire Code.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C-1) in conjunction with an adjustment to the flag lot setbacks for the existing accessory dwelling unit and the landscaped buffer area requirement for proposed Parcel 2. As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: stormwater management, utilities and adjustments to flag lot development standards.

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

ADMINISTRATIVE DECISION

Approval of an adjustment to waive the flag lot landscaped buffer area requirement (33.110.240.F.2) for Parcel 2.

Approval of an adjustment to flag lot setbacks (33.110.240.F.1), for the existing structure within Parcel 2, from 10 feet to approximately 7.17 feet from the east, 8.47 feet from the north and 7.07 feet from the west property lines.

Approval of a Preliminary Plan for a 2 parcel partition that will result in one standard lot that will retain the existing single family dwelling (Parcel 1) and one flag lot that will retain the existing accessory dwelling unit (to now become a primary residence) as illustrated with

Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Site Development and Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The as-built locations of the sanitary sewer lines for both parcels.
- If required, the location of stormwater facilities for the existing structures shall be shown.
- Any other information specifically noted in the conditions listed below.

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

1. The applicant shall provide satisfactory documentation to confirm the locations of the sanitary sewer lines for existing development on both parcels, and to provide private sewer easements and maintenance agreements, if necessary. If any permits are required to cap and/or relocate the sewer lines, then the permits shall be finalized prior to final plat approval and the as-built locations shall be shown on a supplemental plan.

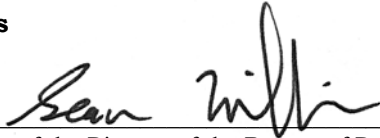
Existing Development

2. The applicant must obtain a finalized demolition permit for removing the detached garage and driveway. Final approval of a right-of-way permit shall be obtained for closure of the existing curb cut.
3. The applicant shall demonstrate to the satisfaction of Site Development that the stormwater collection system for the existing house on Parcel 1 and the ADU on Parcel 2 comply with the Stormwater Management Manual. Permits deemed necessary to evaluate, inspect, and retrofit the existing systems shall be finalized prior to final plat approval, and supplemental plans showing the location of stormwater facilities shall be provided (if required) prior to final plat approval.

Other requirements

4. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot.
5. The applicant must receive final inspection approval of a zoning permit to plant 7 inches of trees within Parcel 2.

Staff Planner: Sean Williams

Decision rendered by:  **on March 31, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 2, 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 October 30, 2009, and was determined to be complete on January 20, 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 October 30, 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 waived the 120-day review period, as stated with Exhibit (Exhibit G-5). Unless further extended by the applicant, **the 120 days will expire on: June 3, 2010.**

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 16, 2010** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 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.ci.portland.or.us.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the 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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of adjustment(s). These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of adjustments(s). For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: adjustment to flag lot setback requirements. These approval(s) expires if:

- The final plat is not approved and recorded within the time specified above, or

- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

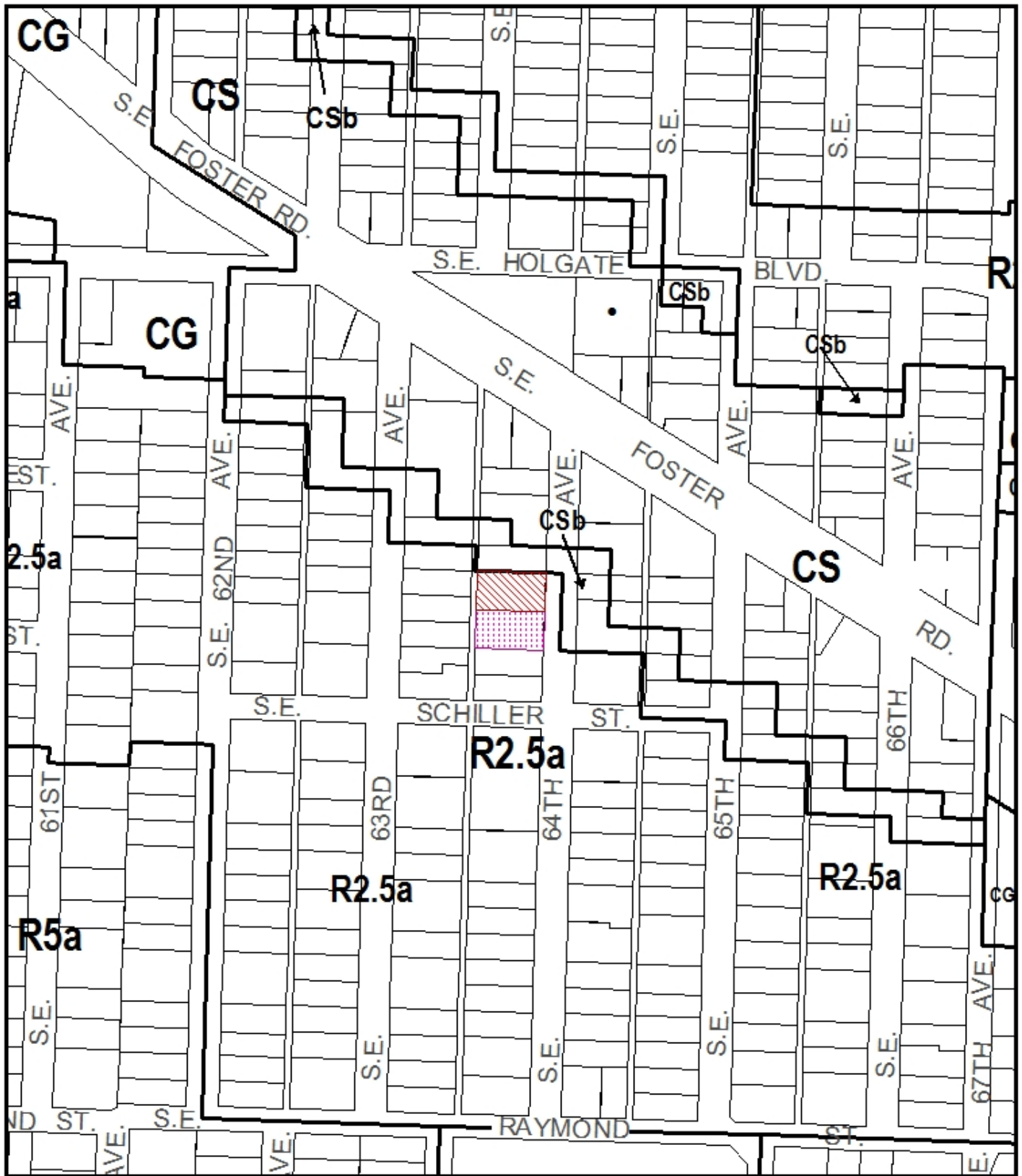
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Land division approval criteria
 - 2. Adjustment approval criteria
 - 3. 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. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division; Fire Bureau; Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete letter
 - 4. Neighborhood contact
 - 5. Extension of 120-day review period

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

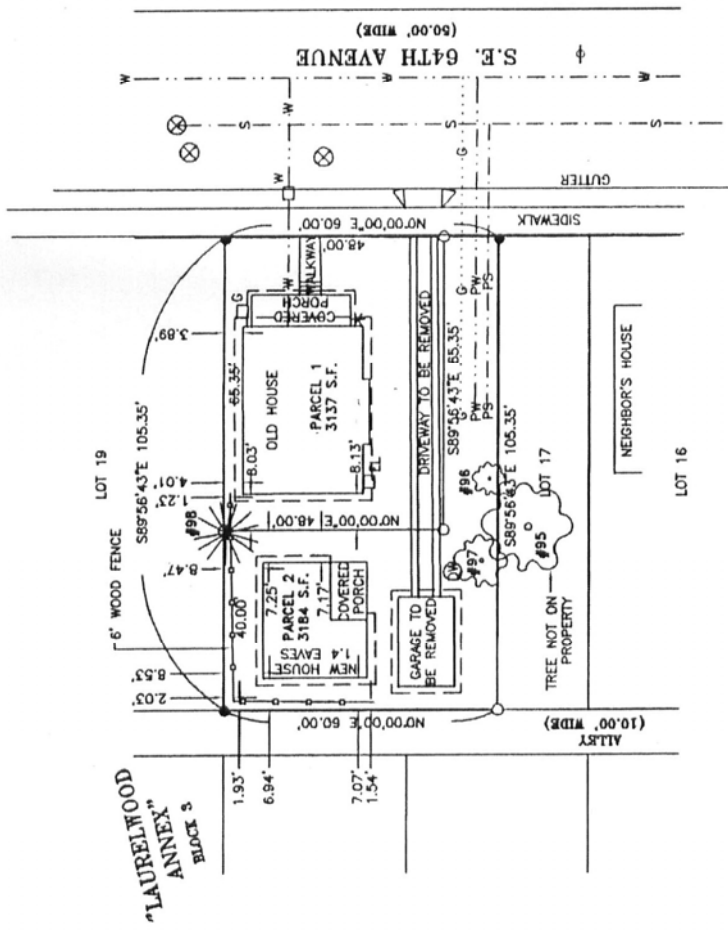
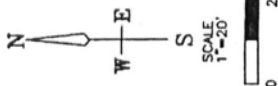
-  Site
-  Also Owned
-  Historic Landmark



File No. LU 09-168410 LDPAD
 1/4 Section 3537
 Scale 1 inch = 200 feet
 State_Id 1S2E17BB 5100
 Exhibit B (Nov 02,2009)

SITE PLAN

THE NORTH HALF OF LOT 17 AND LOT 18, BLOCK 3, "LAURELWOOD ANNEX",
 SITUATED IN THE NORTHWEST 1/4 OF SECTION 17, T.1S., R.2E., W.M.,
 IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 DATE: NOVEMBER 16, 2009



NOTES:

ZONE IS R2.5.

FOR TREE INFORMATION SEE TREE REPORT BY MULTNOMAH TREE EXPERTS.

DOWNSPROUTS ON EXISTING HOUSES WILL GO TO SPLASH BLOCKS.

UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.

DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.

DISTANCES SHOWN FOR EXISTING HOUSE ON PARCEL 1 ARE PERPENDICULAR TO THE PROPOSED PARCEL LINES FROM THE FOUNDATION CORNERS.

ELEVATION CHANGE IS LESS THAN 1.00 FOOT.

SYMBOLS

- ⊕ = POWER POLE
- ⊙ = GUY ANCHOR
- W = WATER METER
- G = GAS METER
- E = ELECTRIC METER
- ⊕W = WATER VALVE
- ⊕G = GAS VALVE
- ⊗ = MANHOLE
- ⊙ = CLEAN OUT
- ⊕ = CATCH BASIN
- ⊕ = FIRE HYDRANT
- * = DOWN SPOUTS
- W = WATER LINE
- G = GAS LINE
- E = ELECTRIC LINE
- S = SANITARY SEWER
- ⊙ = DECIDUOUS
- ⊙ = CONIFEROUS
- ⊙ = PROPOSED DRYWELL

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON

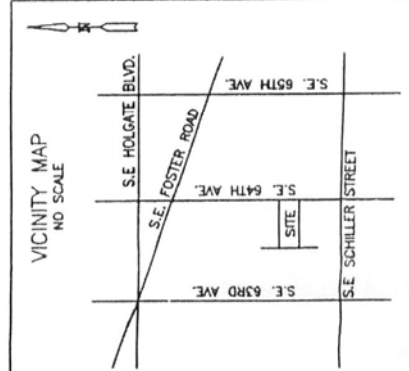
JOE H. FERGUSON

2445

RENEWAL DATE 12/31/09

LEGEND

- - INDICATES MONUMENT FOUND AS NOTED
- - INDICATES 5/8" X 30" IRON ROD W/ RED PLASTIC CAP STAMPED "FERGUSON LS 2445" SET ON



CASE NO. 09-168410

EXHIBIT C-1

CLIENT: LYDIA DOLEMAN
 4629 S.E. 64TH AVENUE
 PORTLAND, OR 97206

Ferguson Land Surveying, Inc.
 646 S.E. 106TH AVENUE, PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0602

SHEET NO. 1 OF 1
 JOB NO. 09-108 SITE
 REVISED: 11/16/09 M