



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 5, 2010
To: Interested Person
From: Sue Donaldson, Land Use Services
503-823-7618 / pksued@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 St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-102663 LDP

GENERAL INFORMATION

Applicant: Mark Dane,
Everett Custom Homes
735 SW 158th Avenue
Beaverton, OR 97006

Site Address: 4222 N MONTANA AVE

Legal Description: BLOCK 8 LOT 4, MULTNOMAH
Tax Account No.: R591901090
State ID No.: 1N1E22CB 07800
Quarter Section: 2629

Neighborhood: Overlook, contact David Chott at 503-320-1234.
Business District: North Portland Business Assoc, contact Jim Schaller at 503-517-9915.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: North Interstate

Zoning: EXd Central Employment with Design Overlay

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

Proposal:

Applicant proposes to partition a 5000 sq. ft. corner lot into two 2500 sq. ft. parcels, 25 feet wide and 100 feet deep. Garages behind the proposed houses will use a rear alley for access. Drywells are proposed for stormwater treatment on both lots. The applicant has submitted sample plans and elevations for detached single dwelling houses on each lot.

This partition is reviewed through a Type I land use review because: (1) fewer than four lots are proposed; (2) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (3) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.662.110).

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

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are in 33.662.120 Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones.

ANALYSIS

Site and Vicinity: The site is relatively flat and without trees. The house that was on the site was demolished. The surrounding neighborhood is a mix of single family, multi-family, commercial and retail uses. The lots on the east side of N. Montana are primarily detached houses while development on the west side of the street is primarily commercial with buildings set back from the street and parking lots in the front. The I-5 Corridor is immediately to the east of the site, separated from this use by an alley and a sound barrier wall.

Zoning: The site is zoned EXd, Central Employment with a Design overlay. This zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed uses and is intended for areas in the center of the City that have predominantly Industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed but are not intended to predominate or set development standards for other uses in the area.

The Design Overlay Zone is applied to areas where design and neighborhood character are of special concern. This site is not in a Design District so the Community Design Guidelines would apply for design review. In this case the proposed development is subject to either design review or compliance with the Community Design Standards (*see Ch. 33.218*). Community Design Standards are objective standards that provide an alternative process to design review for some proposals (*see 33.218.015 Procedure*). This proposal is eligible to use the standards which must be met as part of an application for a building or development permit.

Land Use History: City records indicate that there are no prior land use reviews on the site.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **February 11, 2010**. Bureaus responses are discussed under the relevant approval criteria later in this report. In addition the Life Safety Plans Examiner has made additional comments not covered in the Findings.

- The Life Safety Plans Examiner has commented that attached garages separated by a property line at the common wall must be constructed to row house standards (see Exhibit E.7). Prior to issuance of building permits for the garages the applicant must submit a Maintenance Agreement meeting the requirements of the Oregon Residential Specialty Code, section R 317.2, as approved by BDS, and the agreement for both properties must be recorded at the County.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 11, 2010**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones

The relevant criteria are found in Section **33.662.120 Approval Criteria for Land Divisions in Commercial, Employment and Industrial 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	Applicable Findings
A	33.614	Lots	Applicable – The Site is in an EX (Central Employment) Zone so the criteria in 33.614 apply. See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site.
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.
G	33.635.100	Clearing and Grading	Applicable - See findings below.
	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 site is not on a corner so all of the proposed parcels are interior lots. These standards express no lot configuration preference in this circumstance.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site outside of environmental zones.
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 33.614 must be met.

Findings: Chapter 33.614.100 C contains lot dimension standards for the EX zone. There is only one requirement for lot size in this zone: each lot must have a front lot line that is at least 10 feet long. The proposed lots are both 25 feet wide. Therefore this standard is met.

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

The approval criteria of Chapter 33.635 are divided into 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 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. These criteria are 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 has been 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. However, the area around the previous house on the property, now demolished, has been filled with non-native material. The applicant proposes to use drywell, which should not be placed closer than 10 feet from the filled area in order to ensure stable soil conditions around the drywells (*see BDS Site Development response, Exhibit E.5*). For this reason a condition of approval will require the 10-foot setback from the fill area. There are no other anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion can be met with a condition of approval requiring a 10-foot setback between drywells and the compacted fill area at the time of development.

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 50 feet of frontage on N Montana which is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. There is a 15-foot wide unimproved alley at the rear of the site. PBOT has commented that the recommended standard for a 2-way alley is 20 feet but are not requesting a dedication because the alley does not serve any properties on the east side.

Tri-Met provides transit service approximately 750 feet from the site at the N Prescott St. Max Station. Parking is currently allowed on N. Montana St. on both sides. There is one driveway entering the site that used to provide access to off-street parking for the house that was demolished. This curb cut will be closed because both lots will have access to rear garages from the alley behind the site. This will be required as a condition of development on the parcels.

N. Montana St. is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

With the conditions of approval described above, 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 CI main in N. Montana which served the house, now demolished, on the site. Water Bureau has responded that the existing service line can serve Parcel 1. A new lateral will be required to serve Parcel 2. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 10-inch VSP combination sewer line in N. Montana St. According to City plumbing records it appears that the existing lateral is within the proposed Parcel 1 frontage. An additional service branch line will be required in order to serve Parcel 2. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below of the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the applicant's stormwater proposal satisfied the technical standards.

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.

Parcels 1 and 2: The applicant has proposed to use drywells for on-site infiltration on both lots (see Exhibit C.4). BDS Site Development and BES have responded that on-site discharge to drywells is acceptable (Exhibits E-1 and E-5). As discussed under Site Suitability earlier in this report, Site Development recommends that the drywells be set back at least 10 feet from the area of compacted fill where the previous house was demolished (Permit 08-171723-RS). As described earlier in this report, due to the possibility of instability close to the fill area, a condition of approval will require a 10-foot setback between drywells and fill area.

With the condition of approval described above the stormwater management 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 Industrial zone.
33.654.110.B.4	Alleys in all zones	Applicable. There is an existing alley behind the site.
33.654.120.C.1	Width of the street right-of-way	Applicable
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.

Code Section	Topic	Applicability Findings
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	Applicable – There is an existing alley to the east of the site.
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.
33.654.130.E	Ownership of Alleys	Not applicable- The existing alley is public right-of-way

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 near the intersection of N Skidmore St. and N. Montana Ave. No additional connectivity is required because connection spacing requirements are met. This criterion is met.

33.654.110.B.4 Approval criterion for alleys in all zones.- Alleys may be required where the provision of an alley is appropriate to mitigate transportation or development impacts. Alleys may be appropriate to move garage access away from busy streets, reduce the number of driveways crossing sidewalks, provide alternative locations on the site for parking, limit the number of garage doors facing the street, and maintain on-street parking. Where alleys are not required, applicants may choose to provide them.

Findings: There is an existing alley behind the site on the east side. The applicant is proposing to use the alley for access to garages at the back of the lots. This will eliminate the need for additional curb cuts on N. Montana St. and eliminate the need for the existing curb-cut that served the demolished house on the property. PBOT has required a condition of approval for the applicant to remove the existing curb cut when the lots are developed. With this condition 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: N Montana Ave has a 36-foot wide curb to curb paved roadway within a 60-foot wide right-of-way. The existing 12-foot wide pedestrian corridor (4-6-2) meets City's recommended standard for local service streets in the EX zone. No dedication or improvements will be required (see Exhibit E. 2). This criterion is met.

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

Findings: The 15 foot wide unimproved alley provides access to the rear of properties with frontage on N. Montana. The east side of the ally is adjacent to the I-5 Highway corridor and separated from it by a sound barrier wall.

PBOT has commented that the recommended standard for a two way alley is 20 feet wide. No additional dedication will be required in this case because the alley does not serve any properties on the east side. In addition PBOT will apply conditions of approval to eliminate encroachments into the alley. Conditions will require that the door of garages opening onto the alley not encroach on or operate into the alley right-of-way. The applicant proposes to construct two attached garages along the alley to serve the two houses on the new parcels and has proposed a 2-foot minimum garage setback from the alley which meets these requirements. A condition of approval will require the 2-foot garage setback as proposed.

Minimal alley improvements will be required because the alley serves properties on only one side. PBOT will require substandard clearing and grading improvements for the full width of the alley right-of-way, starting at N Skidmore St., extending to at least 20 feet past the site's south property boundary as a condition of approval. Future standard alley improvements may be necessary but it would be more appropriate to complete them as one LID project. Therefore, the applicant will be required to sign waivers of remonstrance (for participation in future alley improvements) prior to final plat approval. See Exhibit E.2 for details. With these conditions, this criterion can be met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

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

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

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Due to the Design overlay on the site, the proposed houses will have to meet either Community Design Guidelines through design review or meet the Community Design Standards at the time building permits are submitted. The applicant has decided to meet the Standards. The standards were not checked during the partition process but will have to be met at the building permit stage.

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.

- Fire Bureau requirements for aerial access roads must be met at the time of development (see Exhibit E.4).

CONCLUSIONS

The main issues on the site are related to stormwater management, alley improvements and timing of building permits. The applicant asked to submit building permits for the first house prior to the land use decision. While this is not a common practice because of the likelihood that issues arise during the land division process that can affect lot lines or building location. However, in this case construction of one house on the property was allowed outright. The applicant was alerted to the risks of proceeding and was granted the building permit. Stormwater can be accommodated as proposed behind the proposed houses. Connected garages will be constructed behind the house because access is available off the rear alley. Conditions of approval are required to ensure that the buildings or opening doors do not encroach into the alley right-of way. The recommended standard alley width is 20 feet but no additional dedication will be required to increase the existing width from 15 feet to 20 feet because the alley serves properties on only one side. Substandard clearing and grading of the alley will be required up to N. Skidmore St. and to a point 20 feet south of the south property line of the site.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition as illustrated with Exhibit C.4, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review 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 proposed interior side setbacks for all of the lots if the reduced setback provisions of Section 33.120.270.D.1 are intended to be used.
- A 2 foot garage setback from the rear alley
- Any other information specifically noted in the conditions listed below.

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

Streets and Alleys

1. The applicant shall submit Waivers of Remonstrance for alley improvements to meet City Engineer requirements.

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

1. The applicant shall meet the requirements for the City Engineer for substandard clearing and grading improvements for the full width of the alley right-of-way, starting at N Skidmore St. extending to at least 20 feet past the site's south property boundary. Public Works design and permit regulations may be required.
2. Development along the alley shall meet 2-foot garage setbacks and encroachment standards to the satisfaction of the City Engineer
3. The applicant shall meet City Engineer requirements for reconstruction of damaged sidewalks and curb closures along the N. Montana St. frontage.
4. Drywells must be set back at least 10 feet the compacted fill area where the previous house was demolished. Building permit plans must show the area of fill in order to demonstrate that the setback is met.
5. The applicant must provide an aerial access way to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measure to the gutter line.

Staff Planner: Sue Donaldson

Decision rendered by: Kimberly Tallant **on (April 1, 2010)**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) April 5, 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 January 13, 2010, and was determined to be complete on February 9, 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 January 13, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 10, 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.

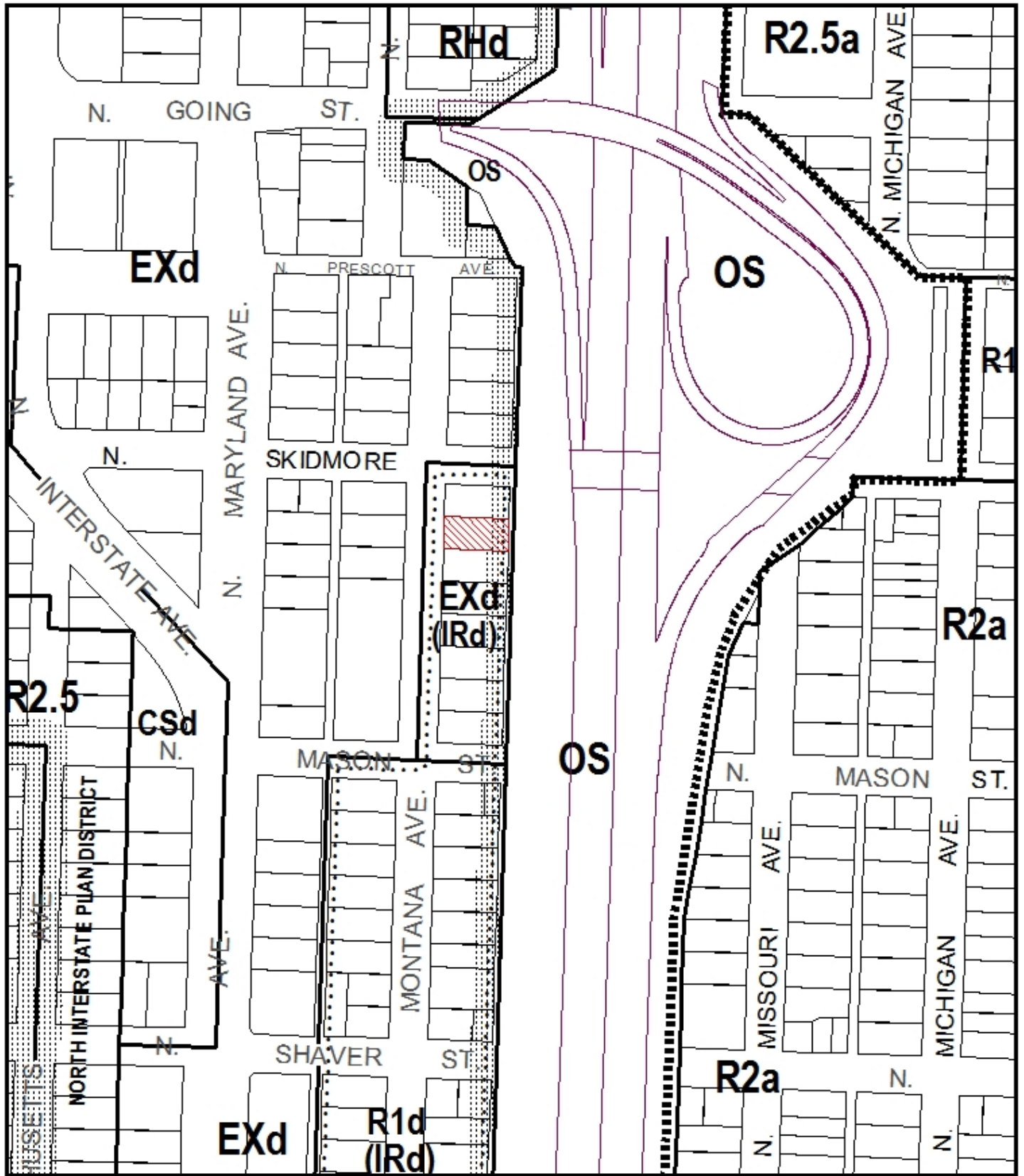
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Response to approval criteria
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan
 - 2. Existing Conditions
 - 3. House and Garage, Elevations and Plans
 - 4. Revised Plan with drywells (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter, dated 2/2/10

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



This site lies within the:
NORTH INTERSTATE PLAN DISTRICT

File No.	<u>LU 10-102663 LDP</u>
1/4 Section	<u>2629</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E22CB 7800</u>
Exhibit	<u>B</u> (Jan 15,2010)

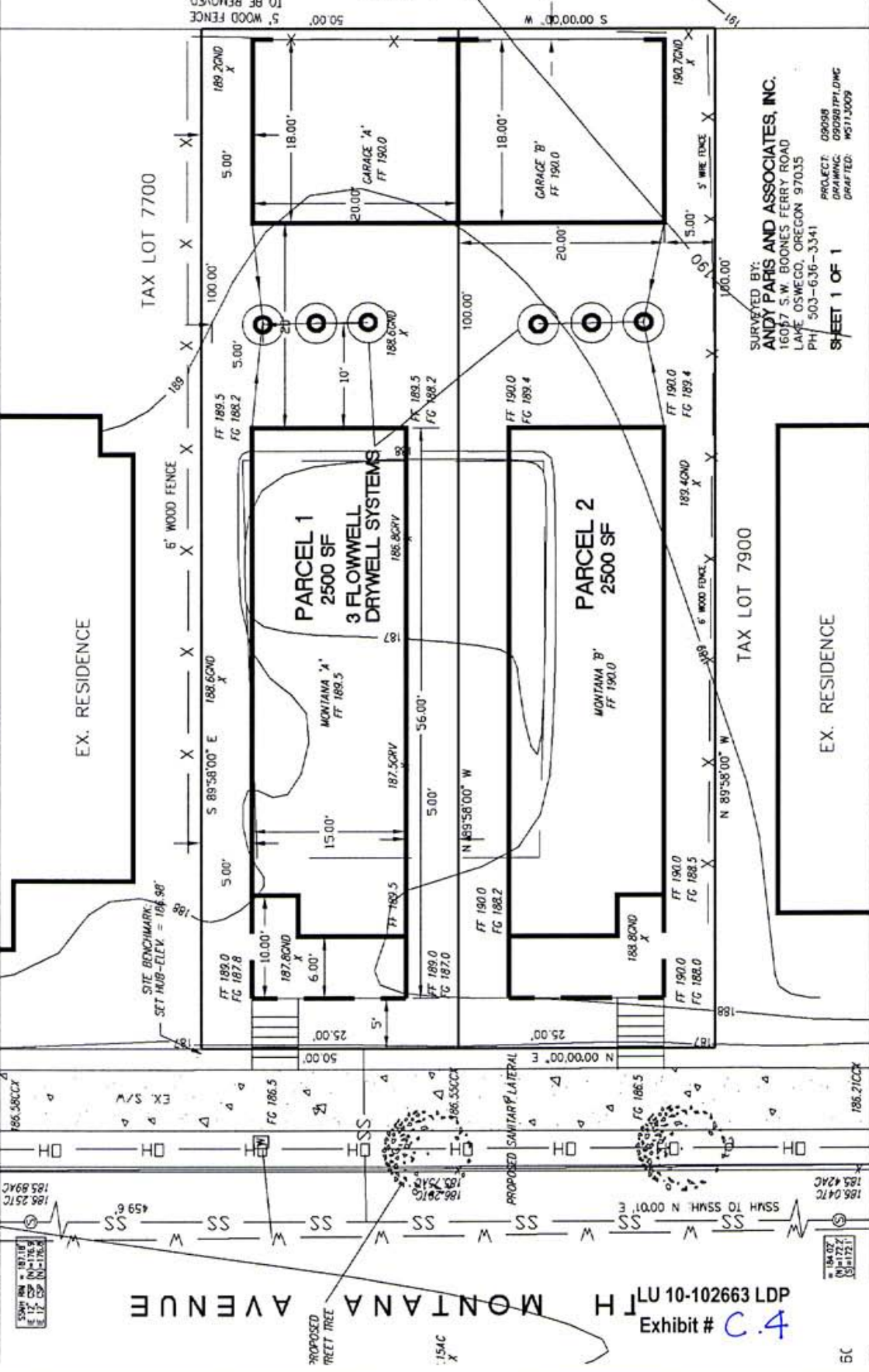
TOPOGRAPHIC/SITE SURVEY
EVERETT CUSTOM HOMES INC.
BEING LOT 4, BLOCK 8, "MULTNOMAH"
IN THE SW 1/4 SEC. 22, T.1N., R.1E., W.M.
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
NOVEMBER 19, 2009
MAP IN 1E 22CB

FOR:
POWER POLE
MAIL BOX
CENTRIFUGAL PUMP
RIGHT OF WAY PROPERTY LINE
WATER MAIN
FIRE HYDRANT
GAS METER
GRAVEL CONSTRUCTION ENTRANCE

LEGEND
SANITARY SEWER MANHOLE
SANITARY SEWER LINE
STORM DRAIN MANHOLE
STORM DRAIN LINE
STORM DRAIN CATCH BASIN
WATER MAIN
WATER METER
WATER LINE

PROJECT NO. ZONING
EVE-006 R1
FILE: N. MONTANA
LAND/OREGON
DATE: 12/15/09
SHEET TITLE
SITE PLAN
DESIGNED: MD
DRAWN: MD
MONTANA PARTITION
TAX LOTS 5001
TOWNSHIP/RANGE/SECTION 1N1E22CB TL 7800

'M DRAINAGE
N. MONTANA
LAND/OREGON
VTANA LLC



SURVEYED BY:
ANDY PARIS AND ASSOCIATES, INC.
16057 S.W. BOONES FERRY ROAD
LAKE OSWEGO, OREGON 97035
PH: 503-636-3341
PROJECT: 09098
DRAWING: 09098TPL.DWG
DRAFTED: WS11J009
SHEET 1 OF 1

MONTANA AVENUE
LU 10-102663 LDP
Exhibit # **C.4**