



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

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Date: October 8, 2010
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NOTICE OF A TYPE IIx 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 10-106452 LDP AD

GENERAL INFORMATION

Applicant: Blair Agee
21401 NE Shore Drive
Fairview OR 97024-6789

Representative: Lisa Barker, LMB Permit Services
307 NW 16th Avenue
Battleground WA 98604

Site Address: 15650 SE Stark Street

Legal Description: LOT 1 EXC PT IN STS, BRINTON TRACT
Tax Account No.: R103900020
State ID No.: 1S2E01AB 00100
Quarter Section: 3146

Neighborhood: Centennial, Louise Cody at 503-252-4302
Business District: Gateway Area Business Association, Fred Sanchez at 503-256-3910
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550

Zoning: Multi-Dwelling Residential 2,000 (R2)
Alternative Design Density (a)

Case Type: Land Division-Partition (LDP)
Adjustment (AD)

Procedure: Type IIx, administrative decision with appeal to the Hearings Officer

Proposal: The applicant proposes a **Land Division-Partition** to divide a corner property into two parcels. The property was recently developed with two residential structures. One of the new structures will be situated on each of the proposed parcels. Parcel 1 is proposed to be 4,385 square feet in area; and Parcel 2 is proposed to be 4,508 square feet in area. Essentially, the applicant proposes to divide the existing multi-dwelling development into two duplex developments.

In addition, the applicant requests **Adjustments** to two development standards as follows:

- Maximum Building Setback (33.120.220.C.1.b): Buildings along a transit street, in this case SE Division, are required to be oriented toward the street, and at least 50 percent of the ground level façade must be within 20 feet of the transit street. The applicant requests an

Adjustment to allow the structure on Parcel 2 to be set back approximately 24 feet from the transit street lot line.

- **Parking and Loading/Front Yard Restrictions (33.266.120.C.a):** This standard requires that no more than 40 percent of the land area between the front lot line and the front building line be paved or used for vehicle areas. The applicant requests an Adjustment to allow the existing driveway, which is approximately 43 percent of the front yard for proposed Parcel 2, to be used for vehicle parking and maneuvering.

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 Review) 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). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land (parcels). Therefore this land division is considered a partition.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- **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 site is a flat rectangular lot located at the southwest corner of SE Stark Street and SE 157th Avenue. It is approximately 9,800 square feet in size, and is in the process of being developed with two-story residential units.

The site has approximately 140 feet of frontage on SE Stark Street and approximately 70 feet of frontage on SE 157th Avenue. SE Stark is classified a Major City Traffic Street, Transit Access Street, City Bikeway and Walkway, Major Truck and Regional Corridor; SE 157th is local service all modes. The frontages do not include developed sidewalks at this time. Parking is currently allowed on both sides of both streets. Tri-Met provides transit service directly on SE Stark via Line 20.

The site is situated within a band of multi-dwelling residential zoned (R1 and R2) lands along both sides of SE Stark, flanked by two commercially zoned (CS) nodes at SE 148th to the west, and at SE 162nd Avenue to the east. To the south and west of this multi-dwelling corridor, the zoning changes to single-dwelling residential (R5 and R7). Much of the development in this area consists of single dwelling homes, and does not reflect the type or scale of development anticipated by the current zoning designations.

Zoning: The property located in the **Multi-Dwelling Residential 2,000 (R2)** zone with an **Alternative Design Density (a)** overlay.

The R2 zone is a low density multi-dwelling zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The a-overlay allows increased density for development that meets additional design compatibility requirements. In this case, the applicant has not elected to apply the a-overlay provisions.

Land Use History: City records show one prior land use case for this site:

- LU 09-134098 AD: Adjustment Review to allow vehicle area between the building and transit street (SE Stark). Approved with conditions

In the R2 zone, the standards for multi-dwelling development differ from those for single-dwelling or duplex development. At the time the prior Adjustment Review was requested, the proposal was subject to the standards for multi-dwelling development. Now, with the proposal to create 2 parcels and, in effect, change the project to duplex development, the multi-dwelling standards for parking will not apply. Therefore, the above noted case will not be relevant if the pending land division is approved.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **August 6, 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.

ZONING CODE APPROVAL CRITERIA

This proposal includes a request for a Land Division and an Adjustment. The Land Division approval criteria are addressed in Section 1, and the Adjustment approval criteria are addressed in Section 2, below.

SECTION 1 APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter	Topic	Applicability Findings
A	33.612	Lots	Applicable - See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone 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.
F	33.634	Recreation Area	Not applicable - This is not required when the minimum density for the site is less than 40 units.
G	33.635.100	Clearing and Grading	Applicable - See findings below.
G	33.635.200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not applicable - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site 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 33.605 through 33.612 must be met.

Findings: Chapter 33.612 contains the lot dimension requirements applicable in the Multi-dwelling zones. These density and lot dimension requirements ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards: Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

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

The total site area shown on the applicant’s survey is 8,893 square feet, and Parcels 1 and 2 are proposed for duplex development. Therefore, the density requirements for this site are calculated as follows:

Minimum = 4 units
 8,893 square feet (site area) ÷ 1 unit/2,500 square feet (minimum density from Table 120-3) = 3.55 (which rounds up to a minimum of 4 units, per 33.930.020.A).

Maximum = 4 units
 8,893 square feet (site area) ÷ 1 unit/2,000 square feet (maximum density from Table 120-3) = 4.44(which rounds down to a maximum of 4 units, per 33.930.020.B).

Since the applicant is proposing 2 parcels for duplex development, a total of 4 units will be provided, and the density standards will be met.

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

The dimensions of the proposed lots as compared to the required lot dimension requirements are shown in the following table (this information is found in Chapter 33.612 of the Zoning Code):

	R2 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Lots for Duplexes			
Minimum Lot Area (square feet)	2,000	4,385	4,508
Minimum Lot Width* (feet)	33	64	69
Minimum Lot Depth (feet)	50	68	64
Minimum Front Lot Line (feet)	30	64	69

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

Based on the findings above, this criterion is met.

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

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

33.635.100 – Clearing and Grading

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

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

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. This criterion is met.

33.635.200 – Land Suitability

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

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. The final approval for a Site Development Permit (09-131361 SD) for site improvements, including paving, stormwater disposal, utilities, landscaping, and other improvements associated with the new residential units was recently completed. However, since the property is proposed to change from multi-dwelling development to duplex development and a new lot line is proposed between the new buildings, some additional information is needed to confirm the utilities and buildings are setback sufficiently from the proposed lot line. With a provision that a Supplemental Plan and as-built utility locations are provided, this will ensure the lots are suitable for their intended uses, and this criterion will be met.

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

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

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

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

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

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

As noted in the Site and Vicinity section above, the site has frontage on both SE Stark and SE 157th Avenue. Portland Transportation notes that SE Stark and SE 157th lack sidewalks, and dedications to provide adequate right-of-way width were required and completed as part of the building permit approvals for the recently constructed residences. Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure safe pedestrian travel. Therefore, construction of a 6-foot wide sidewalk separated from the curb by a 4-foot wide planting strip will be required on both frontages prior to final plat approval.

Portland Transportation also notes that driveway access to SE Stark must be designed so vehicles can enter and exit the site in a forward manner (see additional discussion of maneuvering for onsite parking in the Adjustment section of this report). Portland Transportation further notes that any access to SE 157th must be located a minimum of 25 feet from the property corner at the intersection, and a 10-foot wide driveway approach is permitted if maneuvering room to provide head-in head-out access is provided.

Portland Transportation notes no significant impacts on the level of service are expected, since no additional traffic will be generated from the 4 recently constructed units. Additionally, with the conditions described above, safety for all modes should be addressed. As such, this criterion will be met.

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. As shown by the findings below, the Services and Utilities criteria can be met.

Water: The water standards of 33.651 have been verified. The site is within the Rockwood Public Utility District service area, and the existing service locations are acceptable to the District. See Exhibit E-3 for more details.

Sanitary Sewer: The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary-only sewer located in SE Start Street that can serve the sanitary disposal needs of this project (refer to BES As-built #5117). Residential building permits (#09-131353-RS, #09-131358-RS, #09-131359-RS and #09-131360-RS) for 4 units (2 on each lot) are currently under inspection with 1 individual sanitary connection proposed for each lot. Connection permits for Parcel 1 and Parcel 2 must be finalized via the permit review process. See Exhibit E-1 for more details.

Stormwater Management: 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 Bureau of Environmental Services evaluated the proposed stormwater management facilities, and responded as follows (Exhibits E.1):

Parcel 1 and 2: Residential building permits (#09-131353-RS, #09-131358-RS, #09-131359-RS and #09-131360-RS) for the 4 units (2 on each lot) are currently under inspection with one individual drywell proposed for each lot. Prior to Final Plat approval, the as-built location of all utilities, including drywells, be shown on the plat in order for BES to ensure proper separation from new property lines is maintained.

Public Right-of-Way: Portland Transportation will require construction of a 6-foot wide sidewalk separated from the curb by a 4-foot planting strip on both frontages prior to final plat approval. Where a curb and paved street already exist, the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual. The stormwater management facilities will be evaluated during the public works review.

With the conditions 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 I zone.
33.654.110.B.4	Alleys in all zones	Not applicable - No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Applicable - See findings below.
33.654.120.C.3.c	Turnarounds	Not applicable - No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable - No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable - There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable - No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable - No shared courts are proposed or required.

Code Section	Topic	Applicability Findings
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- No alleys are proposed or required.

Applicable Approval Criteria are:

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

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

Findings: The nearest cross streets are approximately 600 feet away, which exceeds the optimum spacing requirement of 200-530 feet, so new east-west and north-south through streets are warranted in the vicinity of the site. However, Portland Transportation has not identified the need for an additional through street at the subject site; and, given the relatively small size of the site, and its location at the corner of SE Stark Street and SE 157th Avenue, a through street will not be required at the subject site.

The site is within the area for the Far Southeast Portland Master Street Plan, which indicates *the lack of sidewalks results in a street system that is not particularly pedestrian friendly* (Page 11-31). Therefore, with a requirement that new sidewalks must be provided, prior to final plat, this will help to provide more multimodal access, and will ensure the project is consistent with the master street plan. The new sidewalks will provide straight-line connections along each frontage and will be along the most direct route practicable. With the noted conditions, this criterion will be 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: As noted above and in the response from Portland Transportation, additional dedication along SE Stark and SE 157th was provided as part of the building permits for the recently constructed dwellings on the subject site, so the right-of-way is now sufficient to accommodate the

required frontage improvements to serve the expected users. Therefore, with the conditions outlined above, this criterion will 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. Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. In any event, this criterion is met.

SECTION 2 APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.040 Approval Criteria

The adjustment request will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

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

Findings: In order to meet this criterion, the proposal must be consistent with the purpose of the noted regulations, which are as follows:

Maximum Building Setback (33.120.220.C.1.b):

33.120.220 Setbacks

A. Purpose. *The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Parking and Loading/Front Yard Restrictions (33.266.120.C.a):

33.266.120 Development Standards for Houses and Duplexes

- A. Purpose.** *The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

Prior to requesting the pending land division, the applicant obtained approval of building permits to construct two new buildings with two residential units in each building on the property; the applicant also obtained approval of an Adjustment to the parking standards for multi-dwelling development. Now, due to differences in the regulations that apply to multi-dwelling and duplex

structures in the R2 zone, the development on the property will be subject to the regulations that apply to duplex units on individual lots rather than those required for multi-dwelling units.

The requested Adjustments are for the structure and vehicle area that front onto SE Stark, which is designated as a Transit Access Street and City Walkway and City Bikeway. As noted in the purpose statements, along a transit street, these regulations are intended to create an environment that is inviting to pedestrians and transit users, in addition to enhancing the appearance of the area.

The applicant asserts that the requested Adjustments will result in only minor variations to the required standards with no appreciable detriment or negative impact to the surrounding area. However, staff finds that locating the building farther from the transit street and placing a larger vehicle maneuvering area between the building and the transit street does not create an environment that is inviting to pedestrians and transit users; nor does it enhance the appearance of the surrounding neighborhood, since pedestrians will be required to navigate a more expansive vehicle area along the site frontage, and there is greater potential for conflicts between vehicles traveling to and from the site and pedestrian using SE Stark.

Based on the classification of SE Stark, Portland Transportation has mandated that the proposal must show that vehicles can exit the site in a forward motion. This will prohibit vehicles from backing onto SE Stark, which should help to moderate potential impacts between vehicles and pedestrians, in addition to helping with street operations. The applicant has provided a plan, Exhibit C.2, to show how vehicles are able to maneuver to accomplish this within the proposed vehicle area. The plan shows that vehicles backing out the garage of either unit on Parcel 2 will need to cross into the vehicle area in front of the adjoining unit to maneuver and exit in a forward motion. The applicant notes that “No Parking” signs have been installed at the foot of the “hammerheads” to ensure this area remains open for maneuvering. However, if vehicles park in front of either garage, or within any portion of the proposed vehicle area, there will not be sufficient space to allow autos to maneuver and exit in a forward motion. As such, a condition must be imposed that parking on Parcel 2 is prohibited outside the garages. Additionally, to ensure this parking limitation is clear to residents and future property owners, this provision must be included in all rental agreements and property transfer documents for Parcel 2.

To temper the expansive vehicle maneuvering area, pavers have been installed within in the turnaround (“hammerhead”) areas that flank the driveways, and between and down the center of each driveway. The pavers visually reduce the expanse of paving and contribute to a more pleasing front yard. To ensure this design attribute continues over time, a condition is needed, which requires a minimum of two different and distinct materials, such as concrete and bricks or pavers, must be used for any paving between the building and the street lot line; and no more than 75 percent of the paving may be any one material.

With the application of these conditions, the proposal can equally meet the purpose of the noted regulations, and this criterion will be met.

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

Findings: To meet this criterion, the requested Adjustments must not detract from the livability or appearance of the residential area. The residential area is defined as the area shown on the zoning map, Exhibit B, and described on page 2 of this report.

As note in the findings for Criterion A, maintaining the location of the recently built building and vehicle area will not in and of itself contribute to an attractive or inviting environment for pedestrians or transit users. However, with the requirement for vehicles to enter and exit the site in a forward motion and the prohibition on parking outside the garages on Parcel 2, this should help to ameliorate conflicts with those using the pedestrian environment, and minimize detrimental impacts to the livability of the area. Likewise, with the provision requiring a minimum

variety of paving materials in any paved areas between the building and the street lot line, this should help to enhance the appearance of the residential area.

Given these considerations, and with the noted conditions, this criterion will be 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: Two adjustments are requested. In order to meet this criterion, the proposal must continue to be consistent with the overall purpose of the R2 zone, a medium density multi-dwelling zone. The multi-dwelling zones are intended to preserve land for urban housing. The proposed lots meet the lot area and dimensional standards required for duplex development in the R2 zone, so the proposal will allow for a project that remains consistent with the overall purpose of the R2 zone. As such, this criterion is met.

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

Findings: There are no city-designated scenic or historic resources present on the site. Therefore, this criterion is not applicable.

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

Findings: As noted previously, with measures to limit detrimental impacts to the pedestrian environment by requiring forward entering and exiting on SE Stark, prohibiting parking outside the garages, and specifying a mix of paving materials, the visual and livability impacts to the residential neighborhood will be mitigated. As such, this criterion will be 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 zone; therefore, 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 processes, which 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.

Existing development that will remain after the land division. The recently constructed residential development on the site will remain, with one building on Parcel 1 and the other building on Parcel 2. The division of the property may not cause the existing development to move out of conformance or further out of conformance to any development standard applicable in the R2 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 Building Setbacks – The existing residential structures 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 structures are shown to be 5 to 6 feet from the new property line. Therefore, the required setbacks are being met. 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.

Also, as noted in Section 2 of this report, Adjustments have been requested to the following R2 development standards for duplexes: Maximum Building Setback (33.120.220.C.1.b), and Parking and Loading/Front Yard Restrictions (33.266.120.C.a). These Adjustments have been reviewed concurrently with the land division request as required by 33.730.015.

With the conditions noted above, this land division proposal will 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.

CONCLUSIONS

The applicant has proposed a 2 lot partition, as shown on the attached preliminary plan (Exhibit C.1). In addition, the applicant has requested Adjustments to two developments standards for duplex units. 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:

- As-built utility locations and Supplemental Plans
- Concurrent review for Adjustments to duplex development standards

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

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum front building setback (33.120.220.C.1.b) on Parcel 2 to 24 feet; and

Approval of an Adjustment to increase the percentage of paving for the vehicle area (33.266.120.C.a) on Parcel 2 to 43 percent; subject to the following conditions:

- A. Parking on Parcel 2 is prohibited outside the garages, and vehicles must enter and exit the site in a forward manner; this provision must be included in all rental agreements and all property sales or transfers for Parcel 2.
- B. A minimum of two different and distinct materials, such as concrete and bricks, must be used for any paving between the building and the street lot line on Parcel 2; and no more than 75 percent of the paving may be any one material.

Approval of a Preliminary Plan for a 2-lot partition, that will result in two lots for duplexes 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 Land Use Review, BES, Transportation 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 location of all utilities, including drywells.
- Any other information specifically noted in the conditions listed below.

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

Streets

- 1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontages of SE Stark Street and SE 157th Avenue. The applicant must obtain an approved Right-of-Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip.

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

- 1. Driveway access to SE Stark must be designed so vehicles can enter and exit the site in a forward manner. Driveway access to SE 157th must be located a minimum of 25 feet from the property corner at the intersection.

Staff Planner: Kate Green

Decision rendered by: Michael Nayak on **October 5, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed October 8, 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 26, 2010, and the applicant requested the application be deemed complete on July 26, 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 26, 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 requested that the 120-day review period be extended by a total of 17 days, as stated with Exhibit C.3. Unless further extended by the applicant, **the 120 days will expire on December 10, 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 October 22, 2010**, at 1900 SW Fourth Avenue. 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 two Adjustment reviews. 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 two Adjustment reviews. 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: two Adjustments. These approvals expires if:

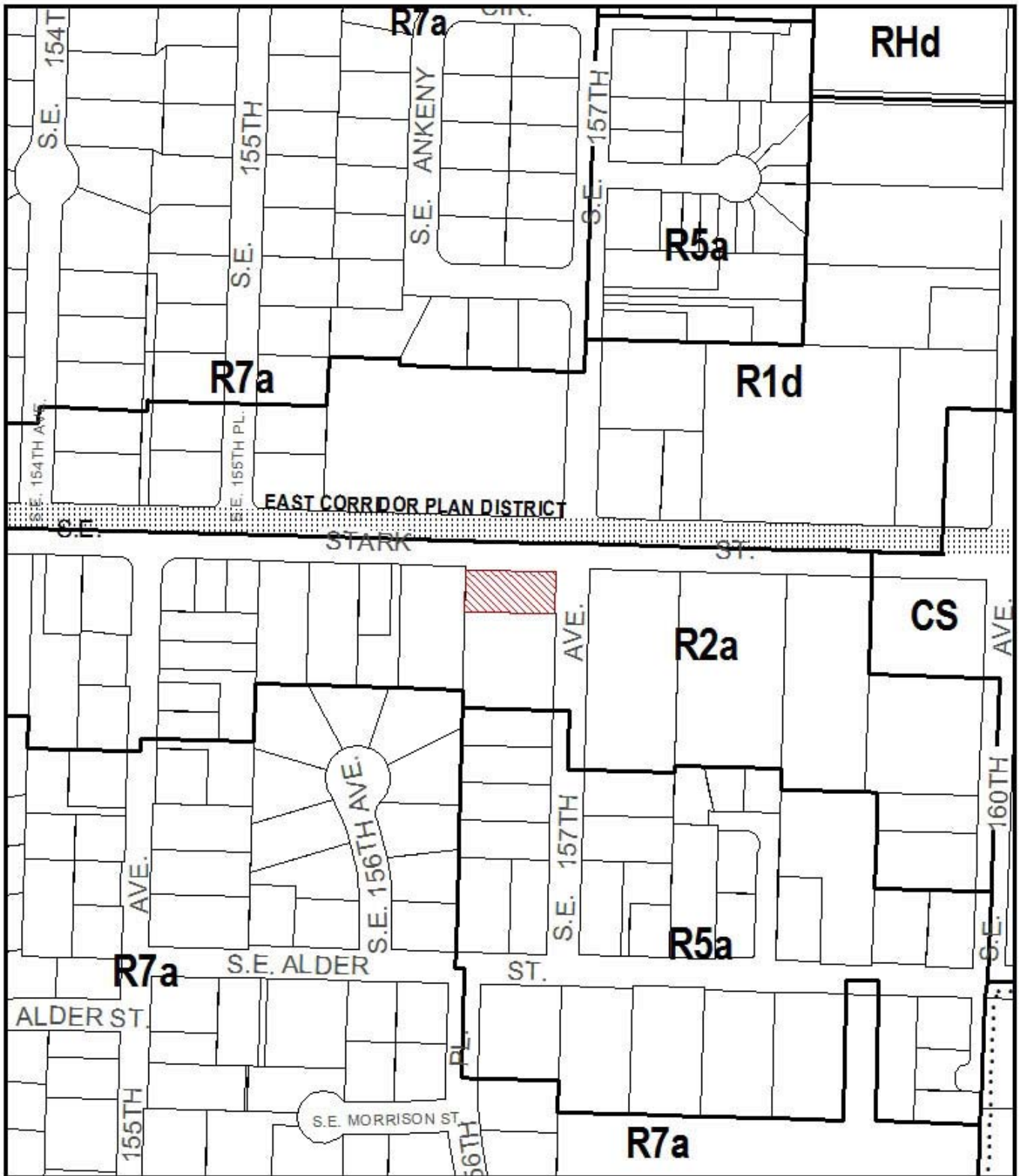
- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Front Building Elevation-Parcel 1
 - 2. Revised Narrative
 - 3. Review Timeline Extensions-total extensions 17 days
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (reduced copy attached-full size in file)
 - 2. Maneuvering/Paving Plan (reduced copy attached-full size in file)
 - 3. Landscape/Erosion Control Plan-reference only
- 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. Rockwood PUD
 - 5. Site Development-BDS
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Revised LU Application
 - 3. Site History Research
 - 4. Letter to applicant re: incomplete application
 - 5. Emails to/from applicant
 - 6. Site Photos

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

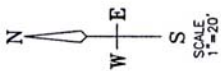
 Site



File No.	<u>LU 10-106452 LDP AD</u>
1/4 Section	<u>3146</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E01AB 100</u>
Exhibit	<u>B (June 9, 2010)</u>

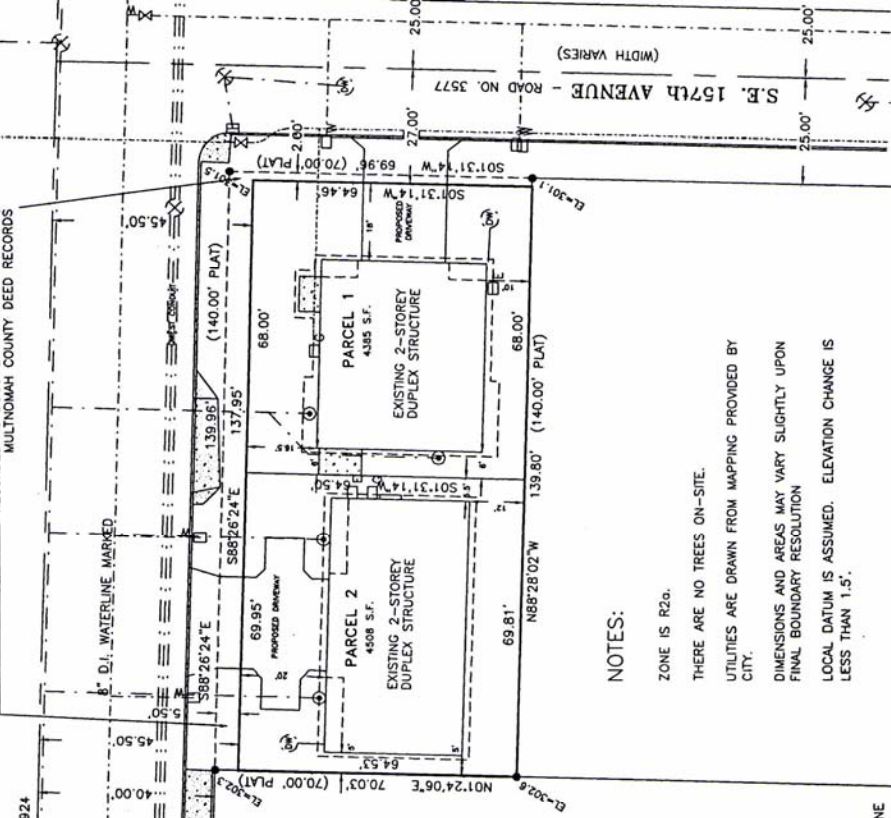
SITE PLAN

FOR PARTITION OF LOT 1, "BRINTON TRACT",
SITUATED IN THE NORTHEAST 1/4 OF SECTION 1, T.1S., R.2E., W.M.,
IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
DATE: DECEMBER 28, 2009



STARK STREET - ROAD NO. 924
(WIDTH VARIES)

EASEMENT FOR RIGHT OF WAY PURPOSES PER DEED
RECORDED AS DOCUMENT NO. 2009-116890,
MULTNOMAH COUNTY DEED RECORDS

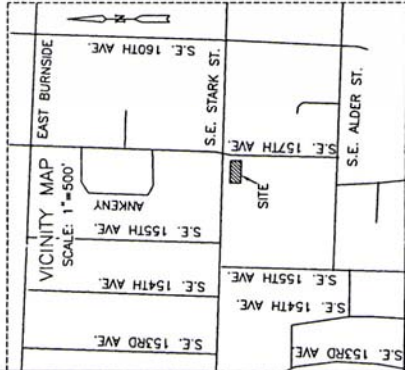


SYMBOLS

- E = ELECTRIC METER
- G = GAS METER
- C = GAS VALVE
- W = WATER METER
- W = WATER VALVE
- W = SANITARY CLEANOUT
- ⊗ = MANHOLE
- ⊗ = DRY WELL
- ⊗ = FIRE HYDRANT
- = WATER LINE
- = SANITARY SEWER
- = GAS LINE
- = RIGHT OF WAY CENTERLINE

NOTES:

- ZONE IS R2a.
- THERE ARE NO TREES ON-SITE.
- UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.
- DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.
- LOCAL DATUM IS ASSUMED. ELEVATION CHANGE IS LESS THAN 1.5'.



CASE NO. _____
EXHIBIT C.1
Reduced copy

REGISTERED
PROFESSIONAL
LAND SURVEYOR
[Signature]
JULY 25, 1990
JOE H. FERGUSON
2445
RENEWAL DATE 12/31/11

SHEET NO. 1 OF 1
JOB NO. 09-186 SM
REVISED: 01/05/10 JS

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

CLIENT: BLAIR AGEE

Lu 10-106452 LDP