



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

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Date: October 18, 2010
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 10-145755 LDP

GENERAL INFORMATION

Applicant: Ground Breakers Construction
11124 NE Halsey Street, pmb 612
Portland, OR 97220-2021

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

Site Address: 9406 SE Glenwood Street

Legal Description: LOT 30 TL 5900, MAYFIELD
Tax Account No.: R546500380
State ID No.: 1S2E21AB 05900
Quarter Section: 3740
Neighborhood: Lents, contact David Hyde at 503-772-1376.
Business District: Eighty-Second Avenue, contact Ken Turner at 503-484-6225.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: None
Zoning: Residential 2,000 (R2) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is requesting to partition the subject property into two parcels of equal size at approximately 2,208 square feet. A 22.5-inch Cherry tree located in the southeast corner of the site will be preserved for compliance with preservation standards. Stormwater management is proposed via individual drywells.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). 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. 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 found in Section **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

ANALYSIS

Site and Vicinity: The subject property is located on the southeast corner of the intersection of SE Glenwood Street and SE 94th Avenue. Final inspection approval was granted on June 7, 2010 for demolition of the existing house and detached accessory structure (10-127879 RS) on this property. The site is located on two dead end streets and is adjacent to the pedestrian/bike path along I-205. Two trees are located on the site subject to preservation standards. Development in the vicinity is predominantly composed of attached or detached single family dwellings with a Multi-Dwelling zoning designation.

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

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

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on August 12, 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: One written response has been received from notified property owners in response to the proposal (Exhibit F-1). The main concerns expressed in the letter include the perceived fire hazard in the neighborhood and removal of trees within this property.

Staff Response: The Portland Fire Bureau has reviewed the land division proposal for compliance with applicable fire code and is requiring a condition of approval at the time of development of the individual lots regarding aerial Fire Department access roads. This condition limits the height of new structures or requires verification of adequate emergency vehicle access and may result in a requirement to provide residential fire sprinklers. See “Other Technical Requirements” section later in this report and Exhibit E-4.

In regards to the existing trees, the applicant has proposed to preserve the 22.5 inch cherry tree located in the southeast corner of this property for compliance with tree preservation requirements. See findings associated with Criterion B, Trees discussed later in this report.

APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

| Criterion | Code Chapter | Topic | Applicability Findings |
|-----------|-----------------|---|--|
| A | 33.612 | Lots | Applicable - See findings below. |
| B | 33.630 | Trees | Applicable - See findings below. |
| C | 33.631 | Flood Hazard Area | Not applicable - The site is not within the flood hazard area. |
| D | 33.632 | Potential Landslide Hazard Area | Not applicable - The site is not within the potential landslide hazard area. |
| E | 33.633 | Phased Land Division or Staged Final Plat | Not applicable - A phased land division or staged final plat has not been proposed. |
| F | 33.634 | Recreation Area | Not applicable - This is not required where the proposed density is less than 40 units. |
| G | 33.635 .100 | Clearing and Grading | Applicable - See findings below. |
| G | 33.635 .200 | Land Suitability | Applicable - See findings below. |
| H | 33.636 | Tracts and Easements | Not applicable - No tracts or easements have been proposed or will be required. |
| I | 33.639 | Solar Access | Not applicable - 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. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 4,557 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. The applicant will be required to dedicate approximately 140 square feet of site area along the frontage of SE 94th Avenue for right-of-way purposes (as described later in this report). Therefore, the resulting lot size for calculating density is 4,417 square feet.

In this case, Parcels 1 and 2 are proposed for single dwelling development. Therefore, the density requirements for this site are calculated as follows:

Minimum = 4,417 (site area) ÷ 2,500 (minimum density from Table 120-3) = 1.76 (which rounds up to a minimum of 2 units, per 33.930.020.A).

Maximum = 4,417 (site area) ÷ 2,000 (maximum density from Table 120-3) = 2.2 (which rounds down to a maximum of 2 units, per 33.930.020.B).

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

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 Lot 1 | Proposed Lot 2 |
|---------------------------------|----------------------------|-----------------------|-----------------------|
| Lots for Detached Houses | | | |
| Minimum Lot Area | 1,600 sq. ft. | 2,208 sq. ft. ** | 2,208 sq. ft. ** |
| Minimum Lot Width* | 25 ft | 35 ft. | 35 ft. |
| Minimum Lot Depth | none | 65 ft. | 65 ft. |
| Minimum Front Lot Line | 25 ft. | 35 ft. | 35 ft. |

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

** Right-of-way dedication is reflected in lot areas.

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

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). The inventory identifies the following trees on the site:

| Tree # | Species | Diameter (inches) | Significant? (On Table 630-1) | Exempt? (per 33.630.030) | To be retained? | RPZ (Root Protection Zone) |
|---------------|----------------|--------------------------|--------------------------------------|---------------------------------|------------------------|-----------------------------------|
| 1 | Silver Maple | 39 | Yes | No | No | N/A |
| 2 | Cherry | 22.5 | Yes | No | Yes | See Exhibit C-1 |

The total non-exempt tree diameter on the site is 61.5 inches. The applicant proposes to preserve tree number 2 (Cherry), which is 22.5 inches in diameter, or 36 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The preserved tree and required root protection zone is delineated on the Proposed Site Plan (Exhibit C-1).

This criterion is met, subject to the condition that development on Parcel 2 is carried out in conformance with the Proposed Site Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2).

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

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

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**

- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, the location of the existing tree to be preserved and associated protection fencing is not anticipated to interfere with any site grading. This criterion is met.

33.635.200 – Land Suitability

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

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

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

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

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

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

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

The site has approximately 65 feet of frontage on SE Glenwood Street and 70 feet of frontage on SE 94th Avenue. Both SE Glenwood Street and SE 94th Avenue are classified as Local Service Streets for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides frequent transit service adjacent to the site on I-205 via the Max Green Line. Parking is currently allowed on both sides of SE Glenwood Street and SE 94th Avenue. There is one driveway entering the site that provides access to off-street parking for the existing house.

At this location, SE Glenwood Street is improved with a 36 foot paved roadway surface, 6 foot curb tight sidewalk and 8 foot setback to private property (0-6-8) within a 60 foot wide right-of-way. SE 94th Avenue is improved with a 32 foot paved roadway surface, 6 foot curb tight sidewalk and 3 foot setback to private property (0-6-3) within a 50 foot wide right-of-way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The recommended pedestrian corridor design for streets of this classification calls for a .5 foot curb, 4 foot planter, 6 foot sidewalk and .5 foot setback to private property (.5-4-6-.5). In this case, Portland Transportation has determined that the existing sidewalk corridor along SE 94th Avenue must be reconstructed to meet the recommended City standards outlined above with the addition of ADA corner improvements. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. While SE Glenwood Street does not meet the recommended pedestrian corridor design, PBOT has indicated that based on the minimal length of curb, no other adjacent properties on the south side of the Glenwood Street dead-end and no proposed access on this frontage negates the need for improvements. However, curb closure for the existing approach and sidewalk reconstruction will be required along the SE Glenwood frontage as a condition of development.

With those improvements, the proposed development can be safely served by the existing streets 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 4 inch water main is available in SE 94th Avenue. Water is available to serve the proposed development from the water main in SE 94th Avenue. Parcel 1 has an existing water service from that main. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8 inch PVC public sanitary sewer located in SE 94th Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureau of Environmental Services has responded as follows (Exhibits E-1):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the sites SE 94th Avenue frontage to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that 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.
- **Parcels 1 & 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells.

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

Right of Way Approval Criteria

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

| Code Section | Topic | Applicability Findings |
|---------------------|--|---|
| 33.654.110.B.1 | Through streets and pedestrian connections | Applicable - See findings below. |
| 33.654.110.B.2 | Dead end streets | Not applicable - No dead end streets are proposed. |
| 33.654.110.B.3 | Pedestrian connections in the I zones | Not applicable - The site is not located within an I zone. |
| 33.654.110.B.4 | Alleys in all zones | Not applicable – No alleys are proposed or required. |
| 33.654.120.C.1 | Width of the street right-of-way | Not applicable – No streets are proposed or required. |
| 33.654.120.C.3.c | Turnarounds | Not applicable – No turnarounds are proposed or required. |
| 33.654.120.D | Common Greens | Not applicable – No common greens are proposed or required. |
| 33.654.120.E | Pedestrian Connections | Not applicable – There are no pedestrian connections proposed or required. |
| 33.654.120.F | Alleys | Not applicable – No alleys are proposed or required. |
| 33.654.120.G | Shared Courts | Not applicable – No shared courts are proposed or required. |
| 33.654.130.A | Utilities | Applicable - See findings below. |
| 33.654.130.B | Extension of existing public dead-end streets and pedestrian connections | Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site. |
| 33.654.130.C | Future extension of proposed dead-end streets and pedestrian connections | Not applicable – No street extensions are required to serve abutting sites that are further dividable. |
| 33.654.130.D | Partial rights-of-way | Not applicable – No partial public streets are proposed or required. |
| 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 land division site is a corner lot with approximately 65 feet of frontage on SE Glenwood Street and 70 feet of frontage on SE 94th Avenue. Based on the optimum spacing requirement of 200-530 feet, there is no practical opportunity to provide a through street or pedestrian connection with this land division.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. The only new through pedestrian connections included in the proposal are new sidewalks along the frontage of the site's SE 94th Avenue frontage. This is a straight-line connection on which users will be able to see the ending of the pedestrian route from the entrance.

For the reasons described above, this criterion is met.

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 width of the rights-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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

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

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

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

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

| Bureau | Code Authority | Topic | Contact Information |
|------------------------|---|---|---|
| Water Works | Title 21 | Water availability | 503-823-7404 http://www.water.ci.portland.or.us/ |
| Environmental Services | Title 17; 2008 Stormwater Manual | Sewer availability Stormwater Management | 503-823-7740 http://www.bes.ci.portland.or.us/ |
| Fire Bureau | Title 31 Policy B-1 | Emergency Access | 503-823-3700 http://www.fire.ci.portland.or.us/ |
| Transportation | Title 17, Transportation System Plan | Design of public street | 503-823-5185 http://www.trans.ci.portland.or.us/ |

| Bureau | Code Authority | Topic | Contact Information |
|----------------------|--|---|---|
| Development Services | Titles 24 –27, Admin Rules for Private Rights of Way | Building Code, Erosion Control, Flood plain, Site Development & Private Streets | 503-823-7300 http://www.bds.ci.portland.or.us . |

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

- The applicant must meet the requirements of the Fire Bureau in regards to Aerial Fire Department access roads. This requirement is based on the technical standards of Title 31 and Oregon Fire Code. See Exhibit E-4.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: transportation impacts.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2 parcel partition that will result in two standard lots for attached or detached housing, 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 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 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.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

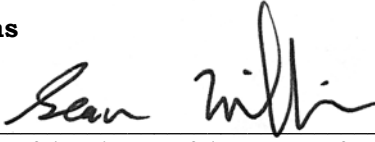
1. The applicant shall meet the street dedication requirements of the City Engineer for SE 94th Avenue. The required right-of-way dedication must be shown on the final plat.

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

1. Development on Parcel shall be in conformance with the Proposed Site Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2). Specifically, tree number 2 (22.5" Cherry) is required to be preserved, with the root protection zone indicated on Exhibit

- C-1. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.
 3. The applicant must meet the requirements of the Portland Bureau of Transportation for closure of the existing curb cut along the sites SE Glenwood Street frontage and reconstruction of the sidewalk.
 4. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE 94th 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.

Staff Planner: Sean Williams

Decision rendered by:  **on October 15, 2010.**

By authority of the Director of the Bureau of Development Services

Decision mailed: October 18, 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 June 15, 2010, and was determined to be complete on August 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 June 15, 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: December 7, 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.**

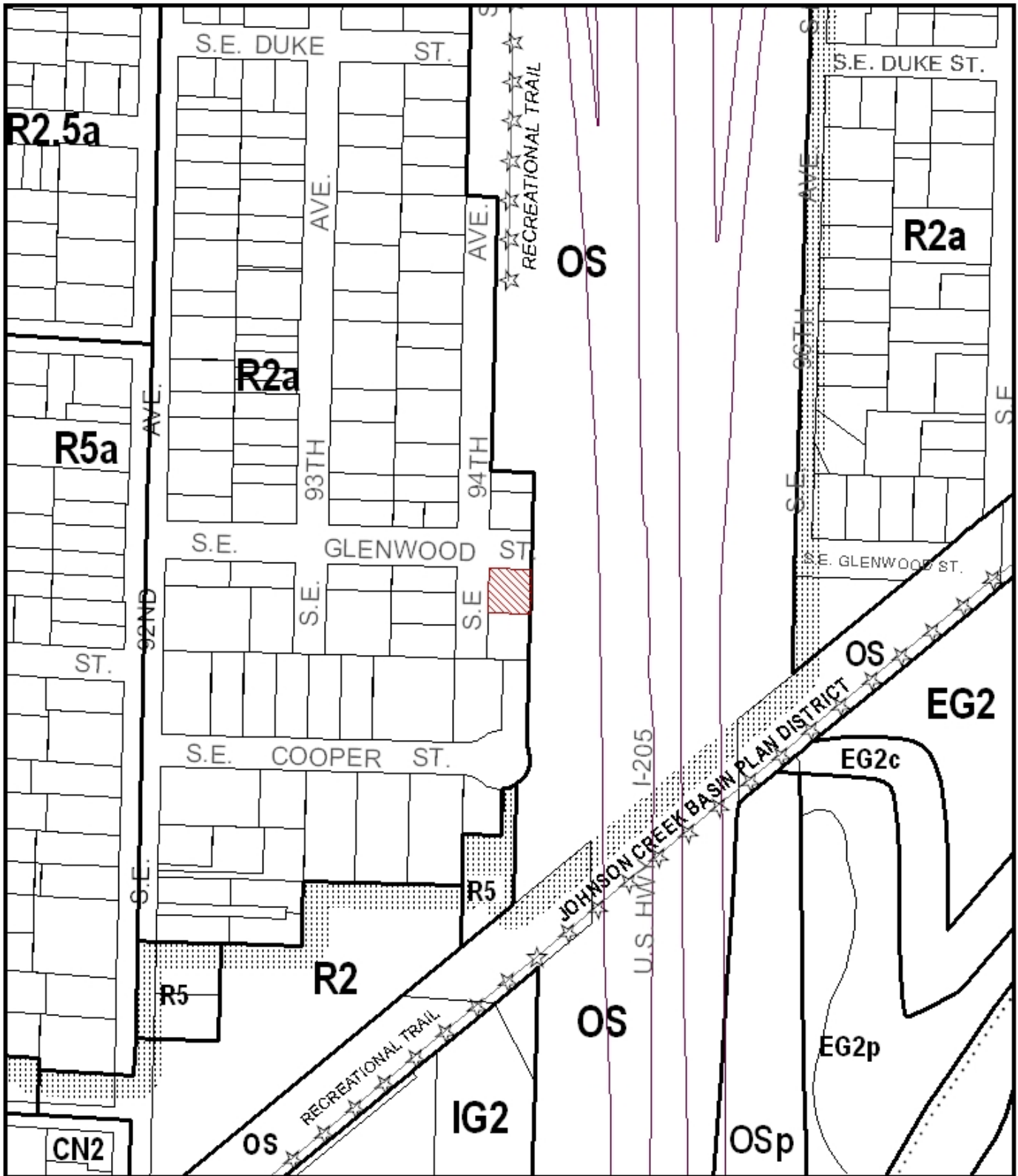
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Land Division Approval Criteria
 - 2. Arborist Report
 - 3. Stormwater infiltration testing
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Site Plan (attached)
 - 2. Existing Site Plan
- 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 Plans Examiner
- F. Correspondence:
1. Marilyn Durant; 6725 SE 94th Avenue (9/3/10)
- G. Other:
1. Original LU Application
 2. Incomplete letter

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. | LU 10-145755 LDP |
| 1/4 Section | 3740 |
| Scale | 1 inch = 200 feet |
| State_Id | 1S2E21AB 5900 |
| Exhibit | B (Jun 17, 2010) |

PROPOSED SITE PLAN

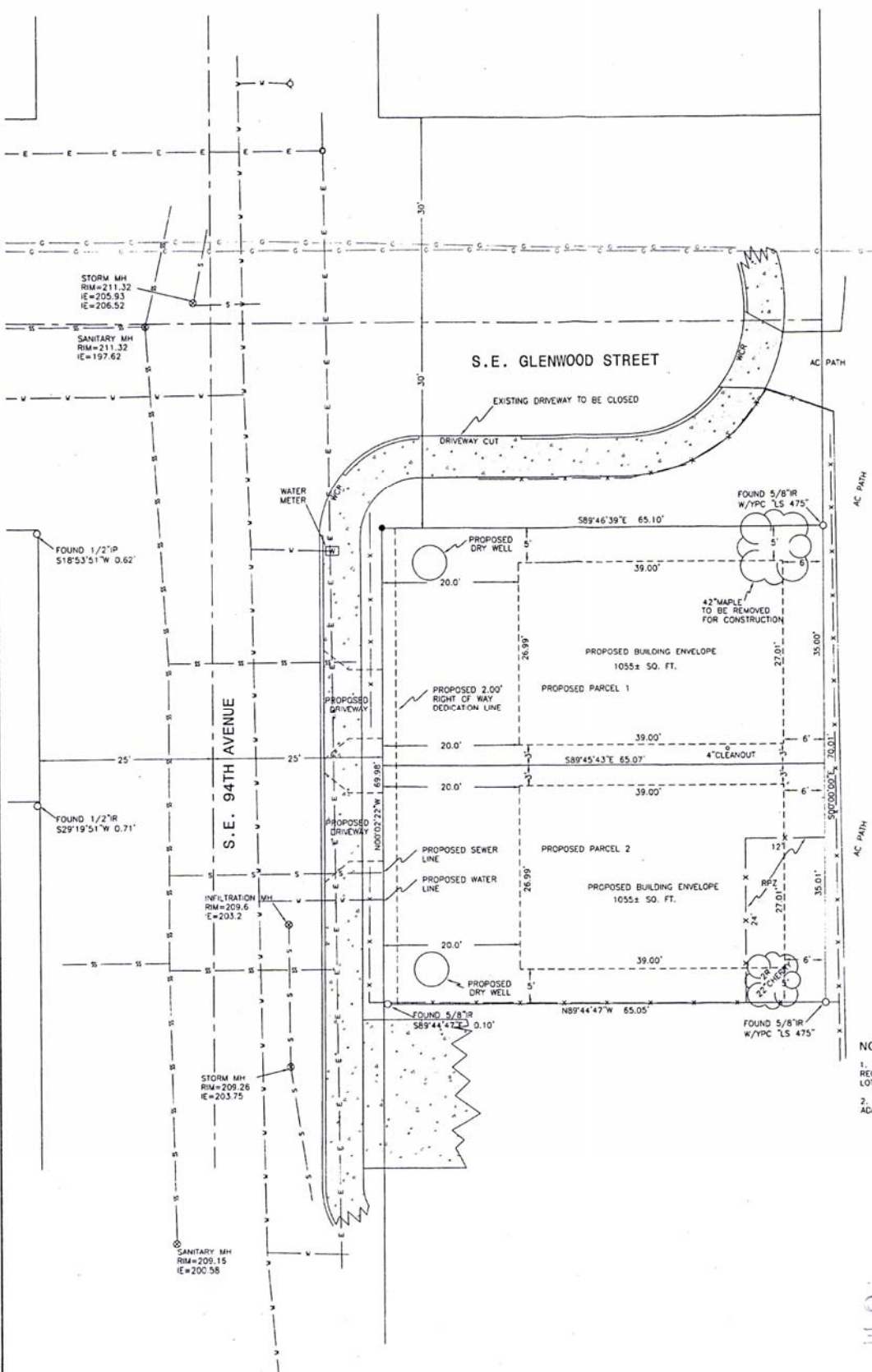
FOR GROUNDBREAKERS DEVELOPMENT & CONSTRUCTION
 IN A PORTION OF LOT 30 "MAYFIELD" AND
 A PORTION OF LOT 19 "MT. SCOTT ACRES"
 IN THE NE 1/4 OF SECTION 21, T. 1S, R. 2E, W.M.
 IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 SCALE: 1"=10' JULY 14, 2010



CASWELL/HERTEL
 SURVEYORS INC.
 6150 S.W. 124TH AVE.
 BEAVERTON, OREGON 97008
 (503) 644-3179

REGISTERED PROFESSIONAL LAND SURVEYOR
Albert Hertel 7-15/10
 OREGON
 MAY 18, 1988
 ALBERT HERTEL
 1896
 EXPIRES 6/30/2011

LIGHT RAIL
 I - 205



LEGEND

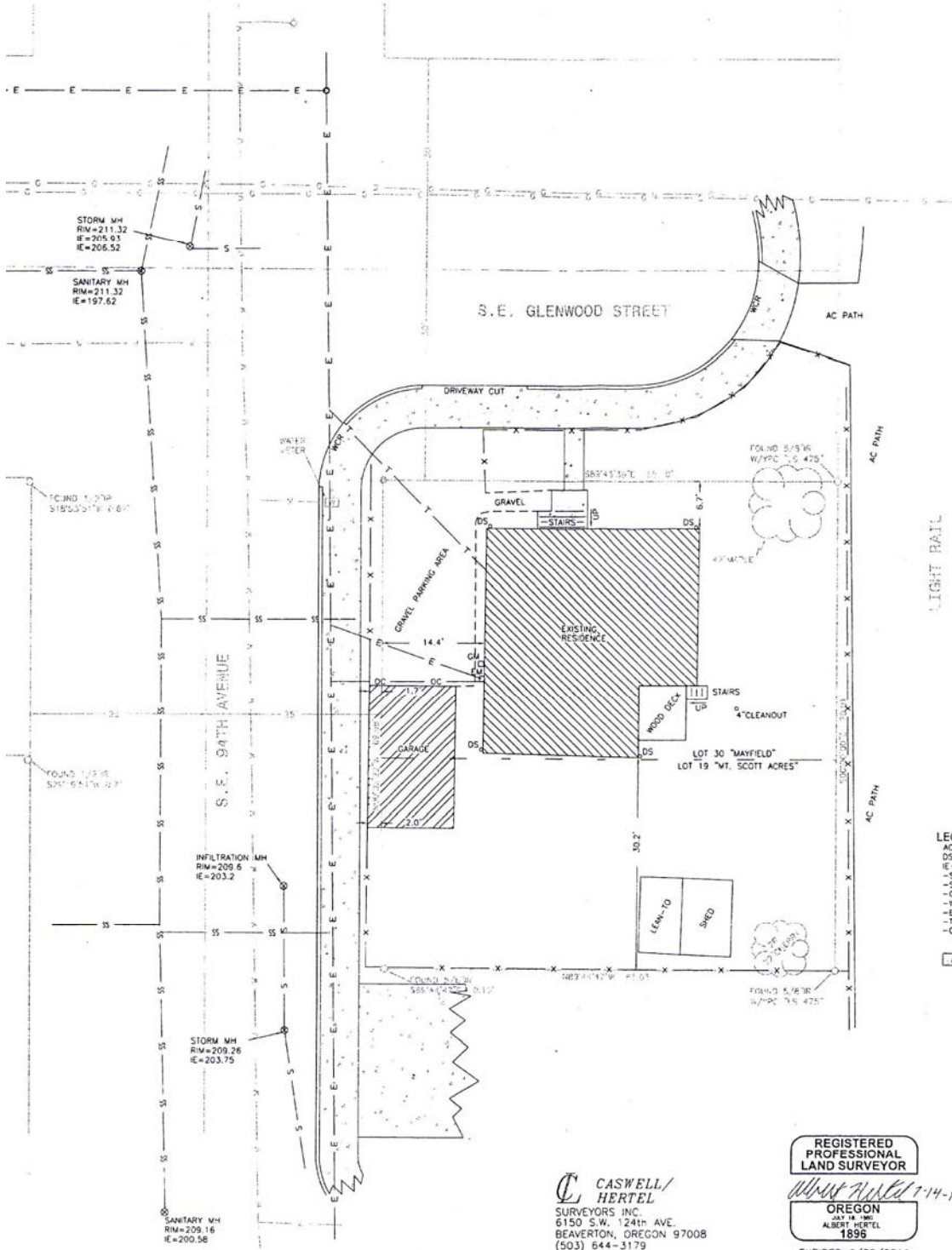
- AC — ASPHALT CONCRETE
- DS — DOWN SPOUT TO GROUND
- IE — INVERT ELEVATION
- SS- — SANITARY SEWER
- ST- — STORM SEWER
- C- — GAS LINE
- W- — WATER LINE
- E- — ELECTRICAL LINE (OVERHEAD)
- T- — TELEPHONE LINE (OVERHEAD)
- OC- — OVERHEAD COMMUNICATION LINE
- RPZ- — ROOT PROTECTION ZONE
- [Symbol] — CONCRETE

- NOTES**
- RECONSTRUCTION OF PEDESTRIAN CORRIDOR FRONTAGES REQUIRED AT THE TIME OF DEVELOPMENT OF THE INDIVIDUAL LOTS.
 - EXISTING SIDEWALK CORNER TO BE RECONSTRUCTED TO MEET ADA STANDARDS.

CASE NO. 10-145755
 EXHIBIT C-1

EXISTING SITE PLAN

FOR GROUNDBREAKERS DEVELOPMENT & CONSTRUCTION
 IN A PORTION OF LOT 30 "MAYFIELD" AND
 A PORTION OF LOT 19 "MT. SCOTT ACRES"
 IN THE NE 1/4 OF SECTION 21, T. 1S, R. 2E, W.M.
 IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 SCALE: 1"=10' JULY 14, 2010



LIGHT RAIL
 I-205

- LEGEND**
- ASPHALT CONCRETE
 - AC — DOWN SPOUT TO GROUND
 - DS — INVERT ELEVATION
 - IE — SANITARY SEWER
 - SS — STORM SEWER
 - ST — GAS LINE
 - G — WATER LINE
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REGISTERED PROFESSIONAL LAND SURVEYOR

Albert Hertel 7-14-10

OREGON
 JULY 18 1896
 ALBERT HERTEL
 1896

EXPIRES 6/30/2011

CASE NO. 10-145795
 EXHIBIT C-2