



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

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

Date: December 23, 2010
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / sean.williams@portlandoregon.gov

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

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

CASE FILE NUMBER: LU 10-167956 LDP AD

GENERAL INFORMATION

Applicant: Mark & Lorena Connelly
8014 NE Glisan Street
Portland, OR 97213-7042

Representative: Kevin Partain
Urban Visions
223 NE 56th Avenue
Portland, OR 97213-3705

Site Address: 7936 SE Washington Street

Legal Description: BLOCK 17 LOT 1, KINZEL PK
Tax Account No.: R453302620
State ID No.: 1S2E05AA 15000
Quarter Section: 3138
Neighborhood: Montavilla, contact Lewis Scholl at 503-258-0312.
Business District: Montavilla-East Tabor, contact Ty DuPuis at 503-254-2016.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: None
Zoning: Residential 1,000 (R1) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP) w/ Adjustment (AD)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is requesting to partition the subject property into three parcels of approximately 3,232 (Parcel 1), 1,018 (Parcel 2) and 1,000 (Parcel 3) square feet in size. A concurrent adjustment review is necessary for the rear setback of the existing dwelling on Parcel 1 from 5 to 3.37 feet, with the eave within 1 foot of the shared property line with Parcel 2. An adjustment is also requested for the north side setback of Parcel 2, for a future attached dwelling unit, from 5 to 3 feet. A shared stormwater management facility is proposed on Parcel 1 for the benefit of Parcels 2 and 3.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 3 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(s):

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

FACTS

Site and Vicinity: Existing development consists of a single family dwelling that will be retained on Parcel 1. Final inspection approval was recently granted for demolition of the existing detached garage (10-126626 RS). No trees subject to preservation standards are located within the land division site. Development south of SE Washington Street primarily consists of single family homes with a multi-dwelling zoning designation. Commercial zoning and development is present to the north and east of the site along the SE Stark and SE 82nd Avenue corridors.

Note: The property owner was approved for a building permit to construct a duplex (10-126638 RS) in the location of proposed Parcels 2 and 3 prior to application was made for the land division. Due to technical complications associated with building code requirements regarding development on individual lots, this permit has been cancelled. The applicant has indicated that they intend to apply for building permits to construct structures on the site during the review of the Final Plat. See *Other Technical Requirements* section of this report for more information.

Infrastructure:

- **Streets** – The site has approximately 50 feet of frontage on SE Washington Street and 105 feet of frontage on SE 80th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 80th Avenue is classified as a local service street for all modes in the TSP. SE Washington Street is classified as a District Collector, Major Transit Priority, City Bikeway, City Walkway (located within Montavilla Pedestrian District), Major Emergency and Community Main. Tri-Met provides frequent transit service along the sites SE Washington Street frontage via Bus #15. Parking is currently allowed on both sides of SE 80th Avenue and SE Washington Street.

At this location, SE Washington Street is improved with a 36 foot paved roadway surface and pedestrian corridor that consists of a 5 foot planter, 6 foot sidewalk and 1 foot setback to private property (5-6-1) within a 60 foot wide right-of-way. SE 80th Avenue is improved with a 30 foot paved roadway surface and pedestrian corridor that consists of a 3 foot planter, 6 foot sidewalk and 1 foot setback to private property (3-6-1) within a 50 foot wide right-of-way.

- **Water Service** – There is an existing 6-inch CI water main in SE Washington Street and an 8-inch CI water main in SE 80th Avenue. The existing house is served by a 5/8-inch metered service from the main in SE Washington Street.

- **Sanitary Service** - There is an existing 42-inch public combination sewer line in SE 80th Avenue and a 14-inch public combination sewer line in SE Washington Street. The existing house is served by the main in SE 80th Avenue.

Zoning: The R1 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 Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **October 7, 2010**. One written response has been received from a notified property owner in response to the proposal (Exhibit F-1). The primary concerns expressed in the correspondence relate to transportation impacts and open space associated with proposed development.

Staff Response: As addressed in findings associated with Transportation Impacts (33.641), the applicant has chosen to not provide parking with the new development. This is permissible as the proposed lots are located within 500 feet of frequent transportation. The Portland Bureau of Transportation has not identified any concerns relating to the addition of 2 parcels at this location. At the time of development each lot must meet the applicable Required Outdoor Area (33.120.240) standards. In addition, the lack of vehicle areas associated with on site parking will allow for greater outdoor areas on each parcel.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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 criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes. Maintaining existing development on the site limits new parcel

		configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required

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 density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing one detached single family parcel and two attached housing parcels.

Single-dwelling or duplex development is proposed for some or the entire site, therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3.

Minimum density in the R1 zone is one unit per 2,000 square feet when the land division site is less than 10,000 square feet in area (33.120.205.C.2) and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is 5,250 square feet. Therefore, the site has a minimum required density of 3 units and a maximum density of 5 units.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

The lot dimensions required and proposed are shown in the following table:

R1	Minimum lot area (square feet)	Minimum lot width (square feet)	Minimum lot depth (square feet)	Minimum front lot line (square feet)
Multi Dwelling	10,000	70	70	70
Attached Houses	none	15	none	15
Detached Houses	none	25	none	25
Duplexes	2,000	none	none	10
Parcel 1	3,232 sq. ft.	50 ft.	64.63 ft.	50 ft.

Parcel 2	1,018 sq. ft.	20.37 ft.	50 ft.	20.37 ft.
Parcel 3	1,000 sq. ft.	20 ft.	50 ft.	20 ft.

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

The findings above show that the applicable density and lot dimension standards are met. Therefore 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.

Findings:

Clearing and Grading

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved as a part of this land division review that would conflict with future development. This criterion is met.

Land Suitability

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.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easements are proposed and/or required for this land division:

- A Private Storm Sewer Easement is required across the relevant portions of Parcel 1 for a shared drywell that will provide stormwater disposal for Parcels 2 and 3.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and facilities within this area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, this criterion is met.

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

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

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. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards,

stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.</p>
<p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in SE 80th Avenue. Parcel 1 has an existing water service from the main in SE Washington Street.</p>
<p>33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.</p>
<p>The sanitary sewer standards of 33.652 have been verified. There is an existing 42-inch public combination sewer line located in SE 80th Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards- See Exhibits E.1 & E.5</p>
<p>BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Parcel 1 (the parcel with the existing house): The existing house has downspouts that are connected to existing standpipes that run to the combined sewer in SE 80th Avenue. However, the existing downspouts are currently disconnected due to remodel of the house. Therefore, the Bureau of Environmental Services has indicated that the existing downspouts must be repaired to meet City standards prior to final plat approval to ensure that the stormwater from the house can get to the approved disposal points. • Parcels 2 & 3: Stormwater from these lots will be directed to a shared drywell located on Parcel 1 that will treat the water and slowly infiltrate it into the ground. Parcel 1 has sufficient area for a shared stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from future development on Parcels 2 and 3. The Bureau of Environmental Services has indicated conceptual approval of the shared drywell.
<p>33.654.110.B.1 -Through streets and pedestrian connections 33.654.130.B - Extension of existing public dead-end streets & pedestrian connections 33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections</p>
<p>The land division site is a corner lot with approximately 50 feet of frontage on SE Washington Street and 105 feet of frontage on SE 80th 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 block on which the subject property is located contains dimensions of approximately 225 feet by 400 feet and therefore meets the noted spacing requirements. Also, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.</p> <p>For the reasons described above, this criterion is met.</p>
<p>33.641 – Transportation Impacts – 33.641.020 and 33.641.030 33.654.120.C Width and Design of the street right-of-way 33.654.130.D Partial Rights of way</p>
<p>Based on the available information, the additional parcels have already been approved for full build-out development with the addition of a duplex located on the proposed Parcels 2 and 3 through the permit process (RS 10-126638). No additional development is proposed which would cause further impact on the transportation system. Based on the above mentioned duplex construction, full build-out for this location has occurred with the exception of future demolition and reconstruction. Therefore, no additional increase in daily trip generation is anticipated as a result of this partition at this time. This general area supports an improved pedestrian corridor which should encourage an alternative mode of transportation to driving</p>

in the immediate area. Other considerations in determining potential Transportation related impacts include this location's proximity to public transit access which also provides on-going availability to alternative transportation. TriMet is located <500-feet from the subject property. A Transportation Study is not anticipated at this time (see Exhibit E-2 for a detailed analysis).

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 configuration of existing pedestrian corridors of SE Washington Street and SE 80th Avenue, described in the Facts section of this report, do not meet the recommended standards of the Pedestrian Design Guide. However, given that no additional impact (due to existing build-out as described above) to the Transportation System is anticipated as a result of the proposed partition, as well as the existing improvements are consistent with development in the general area and appear to provide a sufficient level of service at this time, dedication and additional improvements are not required along the SE 80th Avenue and SE Washington Street frontages.

The applicant has chosen not to provide on-site parking for the new development on Parcels 2 and 3, which is permissible based on the sites proximity to frequent service transportation. Therefore, the existing curb cut on SE 80th Avenue that once served a garage must be closed and PBOT will require the applicant to reconstruct the pedestrian corridor. In addition, the installation of "no parking" sign(s) along the adjacent public alley frontage will be required prior to final plat approval.

Portland Transportation has not identified or been made aware of any other factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing streets without having any significant impact on the level of service provided. With the conditions of approval described above, this criterion is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

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

33.805.40 Approval Criteria

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

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

Findings: A rear setback adjustment is required for the existing house located on Parcel 1 from 5 to 3.37 feet with the eave within 1 foot of the proposed property line. An adjustment is also requested for the north side setback of Parcel 2, for a future attached dwelling unit, from 5 to 3 feet. The purpose of setback regulations in Multi Dwelling Zones (33.120.220) is as follows:

- **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; and**
- **Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.**
- **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.**

As previously stated, a building permit (10-126638 RS) was approved for a duplex on the southern half of the land division site. This structure was permitted as multi-dwelling development with the existing house (7936 SE Washington Street) on a single lot. Approval of this development demonstrates compliance with applicable standards which ensure compatibility with this multi-dwelling zone. The permit was additionally reviewed against applicable building code standards for fire separation. Once the lots are platted each dwelling unit will be located on a separate lot and must meet fire separation requirements for attached and detached single family development. Prior to final plat approval, final inspection approval of a building permit must be obtained for modifications to the eave of the existing house adjacent to the shared property line with Parcel 2. With this improvement, adequate separation for fire protection and access for fire fighting will be ensured for the existing development.

The lot lines from which the setback adjustments are requested are internal to the land division site. Therefore, the proposal will not negatively impact adjacent property owners. In addition, an alternative development option in the multi dwelling zones allows 3 foot internal side setbacks without an adjustment for detached homes. However, this option is not available in this circumstance as the setback adjustment for the existing dwelling is from a rear property line of this corner lot. Also, the requested setback for the future unit on Parcel 2 is for an attached unit and therefore does not qualify. The proposed setback adjustments similarly allow the same minor setback reductions where the least impact would occur.

The land division site is located within 500 feet of frequent transportation and is therefore exempt from on-site parking requirements. The applicant has chosen to not provide parking with the new development. The lack of vehicle areas associated with on-site parking will promote more visually pleasing front yards. Based on the above findings, the requested setback adjustments for existing and future development are consistent with the purpose of setback regulations in multi-dwelling zones.

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

Findings: The subject property is in a residential zone and is located within the Montavilla Neighborhood. The residential structure to be located within Parcels 2 and 3 has been approved as multi-dwelling development on the land division site. Approval of the setback adjustments will allow this development to be located on individual lots to be sold separately. The livability or appearance of the development will remain the same regardless of the presence

of lot lines. Therefore, the proposal will not significantly detract from these factors. This criterion is met.

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

Findings: As addressed in the preceding findings, there is no evidence to determine the proposed setback adjustments are inconsistent with the overall purpose of the setback regulations. This criterion is met.

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

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

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

Findings: There are no discernable impacts that will result from the proposed adjustment. As previously mentioned, the applicant will be required to modify an eave of the existing house to comply with fire separation requirements. This criterion is met.

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

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

DEVELOPMENT STANDARDS

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 existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R1 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards).

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. As previously addressed, this land use decision includes approval of setback adjustments for existing and future development in relation to new property lines. Therefore, this land division proposal can meet the requirements of 33.700.015.
- Required Off-Street Parking – A detached garage previously provided parking for the existing house on Parcel 1. Final inspection approval was recently granted for demolition of the existing detached garage (10-126626 RS) as it would have been located on a different lot. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour

bus, streetcar, or light rail service. Tri-Met provides transit service along the sites SE Washington Street frontage via Bus #15. Bus number 15 provides peak-hour service meeting this requirement. As a result, no replacement parking was required for Parcel 1.

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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 has indicated that they intend to apply for building permits to construct structures on the site during the review of the Final Plat. The applicant will be required to apply for these units as “townhouses” which is a multi-family development with common walls between units intended for one lot. However, when the plat is recorded and the new lot lines are created the development will be converted to “rowhouses” which is a development intended for units on individual lots with common property lines along common walls. Rowhouses require an Operations & Maintenance Agreement for all of the common building elements that will be shared between the units. This Agreement must be recorded with the Final Plat to facilitate the division of the units. The Operations and Maintenance Agreement must be submitted and approved by BDS prior to final plat. In addition the Final Plat must reference the agreement with a recording block substantially similar to the following example:

“A Operations and Maintenance Agreement for Common Building Elements has been recorded as document no. _____, Multnomah County Deed Records.”

- The applicant must meet the requirements of the Fire Bureau in regards to aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code. See Exhibit E-4 for more details.
- The Life Safety Plans Examiner has indicated that modifications will be required for the eave of the existing house based on proximity to the shared property line with proposed

Parcel 2. This requirement is based on the Oregon Residential Specialty Code. See Exhibit E-7 for more details.

CONCLUSIONS

The applicant has proposed a 3 parcel partition in conjunction with setback adjustments for existing and future development in relation to new property lines, 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: setback adjustments and transportation impacts.

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

ADMINISTRATIVE DECISION

Approval of an adjustment to the rear setback of the existing house to remain on Parcel 1 from 5 to 3.37 feet with the eave within 1 foot of the proposed property line.

Approval of an adjustment to the north side setback of Parcel 2, for a future attached dwelling unit, from 5 to 3 feet.

Approval of a Preliminary Plan for a 3 parcel partition that will result in one parcel that will retain the existing single family dwelling (Parcel 1) and two parcels for attached housing (Parcels 2 and 3), as illustrated with Exhibit C-1, subject to the following conditions:

A. The final plat must show the following:

1. A private storm sewer easement, for the benefit of Parcels 2 and 3, shall be shown and labeled over the relevant portions of Parcel 1.
2. If the applicant applies for and receives building permits for townhouses prior to final plat approval, a recording block must be included on the plat in substantial conformance with: *“An Operations and Maintenance Agreement for Common Building Elements has been recorded as document no. _____, Multnomah County Deed Records.”*
3. A recording block for the Maintenance Agreement associated with the Private Storm Sewer Easement as required by Condition B-5 below. The recording block shall, at a minimum, include language substantially similar to the following example: *“A Declaration of Maintenance Agreement for Private Storm Sewer Easement has been recorded as document no. _____, Multnomah County Deed Records.”*

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

Streets

1. The applicant must post the public alley with "No Parking" signs. Payment and installation shall be to the satisfaction of Bureau of Transportation Parking Enforcement requirements.
2. The applicant shall meet the requirements of the Bureau of Transportation for closure of the existing curb cut on the sites SE 80th Avenue frontage.

Existing Development

3. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot

lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

- The applicant must obtain a finalized building permit for modifications to the eave of the existing house that will remain on proposed Parcel 1, adjacent to the shared property line with proposed Parcel 2 that demonstrates compliance with applicable building code standards.

Required Legal Documents

- A Maintenance Agreement shall be executed for the Private Storm Sewer Easement described in Condition A-1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
- If the applicant applies for and receives building permits for townhouses prior to final plat approval, an Operations and Maintenance Agreement for common building elements shall be provided for review and approval by BDS prior to final plat. The agreement must be recorded with the final plat.

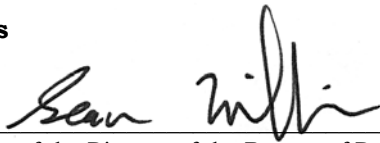
C. The following conditions are applicable to site preparation and the development of individual lots:

- The minimum and maximum density for the lots in this land division are as follows:

Lot	Minimum Density	Maximum Density
1	1	2
2	1	1
3	1	2

- The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Sean Williams

Decision rendered by:  **on December 20, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 23, 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 August 19, 2010, and was determined to be complete on October 4, 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 August 19, 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: February 1, 2011.**

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 January 6, 2011** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us.

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

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

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of setback adjustments for existing and future development in relation to new property lines. The 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 the concurrent land use review. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

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

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

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of adjustments. 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 approval was necessary for the land division to be approved: an adjustment to the rear setback of the existing house to remain on Parcel 1 from 5 to 3.37 feet with the eave within 1 foot of the proposed property line. This approval expires if:

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

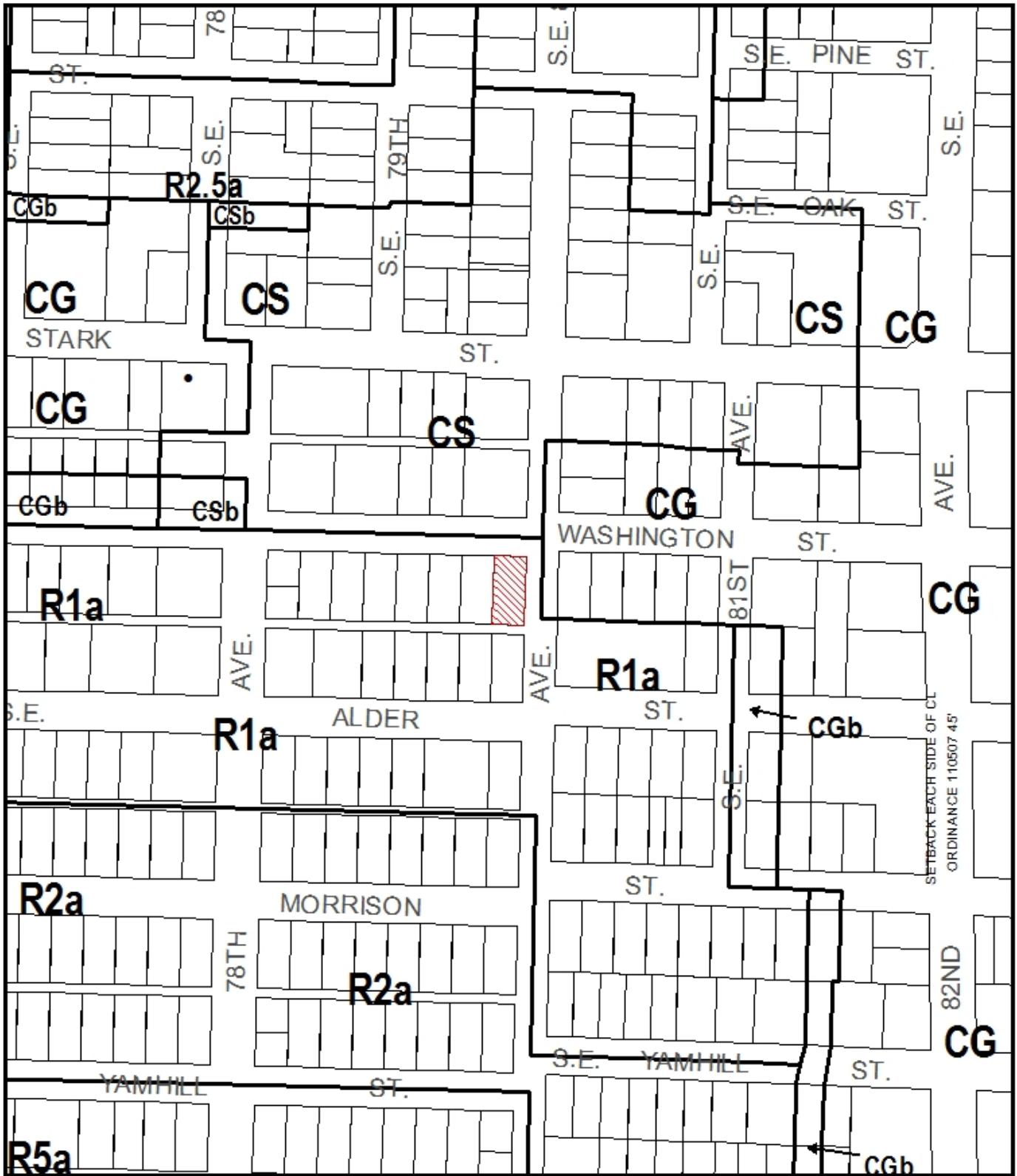
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED


- A. Applicant's Statement
 - 1. Land Division Approval Criteria
 - 2. Stormwater Narrative/Testing
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Susan Walters; 7925 SE Alder Street (10/26/10)
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Neighborhood Contact

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

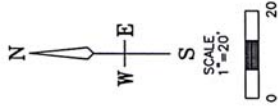
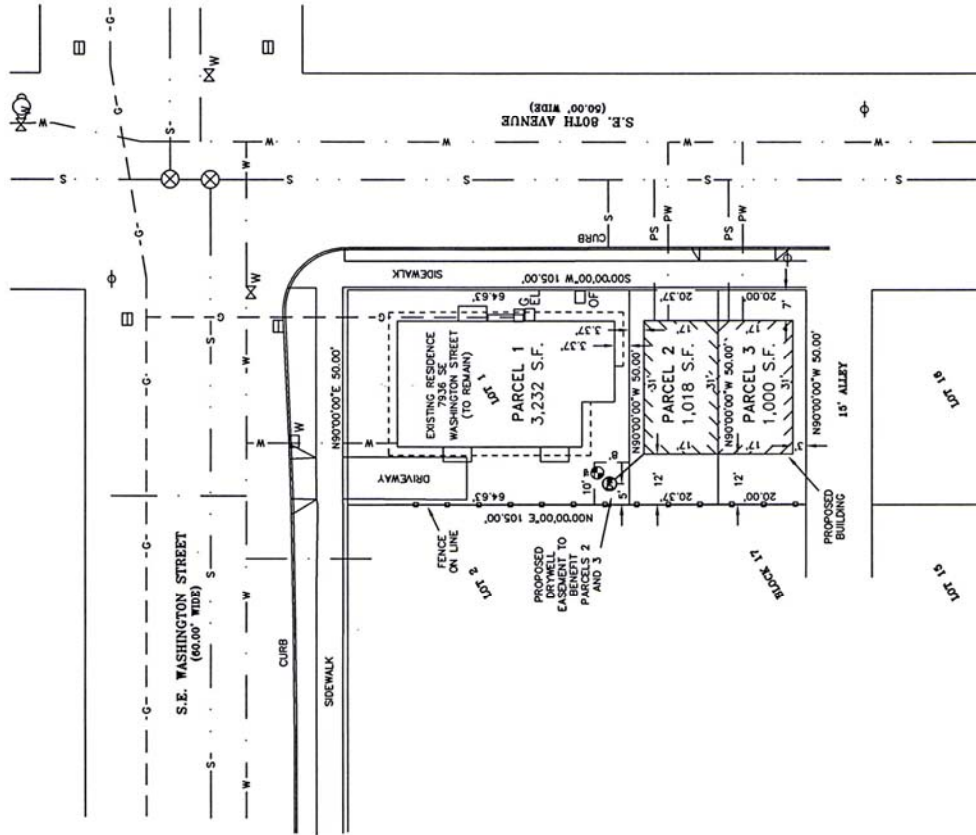
 Historic Landmark



File No. LU 10-167956 LDP AD
 1/4 Section 3138
 Scale 1 inch = 200 feet
 State Id 1S2E05AA 15000
 Exhibit B (Oct 06, 2010)

SITE PLAN

LOT 1, BLOCK 17, "KINZEL PARK",
 LOCATED IN THE NE1/4 OF SECTION 5, T.1S., R.2E., W.M.,
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 DATE: AUGUST 12, 2010

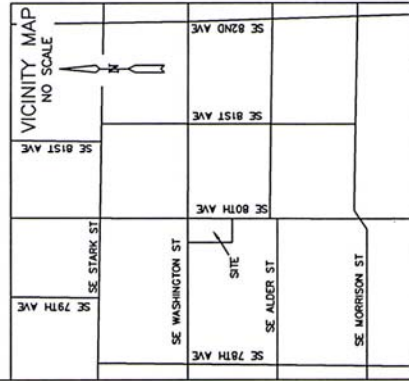


- SYMBOLS**
- ⊕ POWER POLE
 - ⊕ WATER VALVE
 - ⊗ MANHOLE
 - ⊙ HYDRANT
 - ⊞ CATCH BASIN
 - WATER METER
 - GAS METER
 - EL ELECTRIC METER
 - OF OIL FILL
 - G GAS LINE
 - W WATER LINE
 - S SANITARY SEWER
 - PM PROPOSED WATER LINE
 - PS PROPOSED SANITARY SEWER
 - ⊕ PROPOSED DRYWELL
 - ⊕ INFILTRATION TEST PIT (APPROXIMATE LOCATION)

NOTES:

- ZONE IS R1g
- NO TREES OF SIGNIFICANT SIZE EXIST ON THE SUBJECT PROPERTY.
- DRYWELL AND OTHER UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.
- UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.
- DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.
- TOTAL SITE AREA IS 5,250 SQUARE FEET.
- VERTICAL DATUM IS CITY OF PORTLAND BENCHMARK 720. ELEVATION = 263.117. VERTICAL CHANGE IS LESS THAN 1 FOOT ACROSS PROPERTY.
- ROOF DRAINAGE SYSTEM FOR PROPOSED NEW HOMES SHALL BE DIRECTLY ROUTED TO DRYWELLS.

REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON
 JULY 13, 1996
 JOHN L. MCCOY
 LICENSE #5887
 8/13/2010
 EXPIRES 12/31/10



CASE NO. 10-167956
 EXHIBIT C-1

CLIENT: CONNELLY REALTY
 8014 NE GLISAN STREET
 PORTLAND, OR 97213

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

SHEET NO. 1 OF 1
 JOB NO. 10-020-SP
 DRAFTED: 8/12/10 JM