



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

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Date: April 8, 2011
To: Interested Person
From: Sue Donaldson, Land Use Services
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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 10-141266 LDP AD

GENERAL INFORMATION

Applicant: Aspen SO LLC
PO Box 25430
Portland, OR 97298-0430

Joe Ferguson,
Ferguson Land Surveying
646 SE 106th Ave.
Portland, OR 97216

Representative: Randal Sutherlin,
9400 SW Beaverton Hillsdale Hwy #131
Beaverton OR 97005

Site Address: 4816 NE Campaign Street

Legal Description: BLOCK 3 TL 15100, IRVINGTON ACREAGE TR
Tax Account No.: R420701290
State ID No.: 1N2E19CA 15100
Quarter Section: 2635

Neighborhood: Cully, Dustin Micheletti at 503-347-6282.
Business District: Beaumont Business Association, Kate Fischer at 503-549-4011.
District Coalition: Central Northeast Neighbors, Alison Stoll at 503-823-3156.

Plan District: None

Zoning: R5h Residential 5000 with Aircraft Landing Overlay

Case Type: LDP AD Land Division Partition and Adjustment
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide a 10,812-square foot lot into two parcels, one of which will be a flag lot. The existing house will remain on proposed Parcel 1, which will be 4,545 square feet in area. Parcel 2 will have a 5,187 square foot flag and a pole that is 90 feet long and 12 feet wide at NE Campaign Street. The pole provides vehicle access to the flag portion of Parcel 2. There will be a shared access easement over the pole which will allow vehicle access to a parking spaces on both parcels. The applicant proposes to create a three-foot wide grassy swale in the center of the shared driveway (the pole). An Adjustment review is required

because a portion of the west wall of the existing house will be 2.74 feet from the edge of the flag pole, rather than the required 3 feet. The zoning Code allows the side building setback along a flag pole to be 3 feet for lots in front of a flag lot (*33.110.200 Setbacks, D.2 Exceptions to the required setbacks*). In order to be approved, the reduced setback requires an Adjustment review.

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 Adjustment review is required (see *33.660.110*).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The approval relevant criteria are found in:

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

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. This application was submitted on May 26, 2010 and determined to be complete on **January 4, 2011**.

FACTS

Site and Vicinity: The site is relatively flat. There is an existing house, garage and some outbuildings on the site and little vegetation. The surrounding lot pattern is irregular and composed of single dwelling residential development. Many lots are larger than 10,000 square feet, usually longer than wide and smaller lots are generally less deep. nearby the blocks are approximately 300 feet by 600 feet, but the pattern becomes more irregular and the blocks larger further away, with those to the west being approximately 1,200 feet long.

Infrastructure:

Streets – The site has approximately 62.5 feet of frontage on NE Campaign Street. There is one driveway entering the site that serves the existing house. At this location, NE Campaign Street is classified as a local service street for all modes in the TSP. NE Prescott Street, one block north of the site, is designated as a Neighborhood Collector. Tri-Met provides transit service approximately 0.4 miles from the site at NE 42nd Avenue and NE Prescott Street via Bus 75. Parking is currently allowed on both sides of NE Campaign Street.

NE Campaign Street has a 28 foot wide paved roadway surface within a 55-foot right-of-way at this location. The right-of-way side narrows to 50 feet in front of the adjacent lot to the west and in front of the adjacent two properties to the east. Along the 62.5-foot site frontage the pedestrian corridor is 16 feet wide with a 4-foot planter strip (without street trees), 5-foot sidewalk and a 7-foot wide buffer at the back of the sidewalk (4-5-7 configuration).

Water Service – There is an existing 8-inch CI water main in NE Campaign Street. The existing house is served by a 5/8-inch metered service from the main.

Sanitary Service - There is an existing 8-inch PVC public sanitary-only sewer line in NE Campaign Street.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the Comprehensive Plan policies and designations for single-dwelling housing.

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 January 7, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN 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 identifies the criteria that are not applicable.*** Applicable criteria are addressed below the table.

Criterion	Code Ch/Section & 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 or outside of the environmental zone 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	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	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 Industrial 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 33.610 contains the density and lot dimension requirements applicable in the R5 zone. The applicant is proposing to develop each parcel with a single dwelling unit.

Maximum density in the R5 zone is one unit per 5,000 square feet. The site is not in a hazard zone and no street is being created so the minimum density is calculated by multiplying the site area by 0.8, which amounts to 1. The maximum allowed density is 2, derived by dividing the site area by 5,000. The applicant is proposing a development with 2 parcels which meets the density standards.

The lot dimensions, required and proposed, are shown in the following table. Dimensional requirements for flag lots are noted below the table.

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	4,545		50	90	50
Parcel 2	5,187 (flag only)*		66.5	83	n/a

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

* For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed

Parcel 2 is a flag lot. In the RF through R5 zones a flag lot is allowed only when one of the following are met:

- 1.a An existing dwelling unit or attached garage on the site is located so that it precludes a land division that meets the minimum lot width standards. The dwelling unit and attached garage must have been on the site for at least five years or
- 1.b The site has dimensions that preclude a land division that meets the minimum lot width standard of *Paragraph 33.610.200.D.1*;

In this case, the applicant is proposing 2 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5 years and is located so that it precludes dividing the site into two parcels that meet the minimum lot width standard of 36 feet. The minimum density standards are met. Therefore, a flag lot is allowed to be created.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in *33.610.400* because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the flag portion of Parcel 2 will provide off street parking access for both parcels. The shared vehicle access minimizes the impervious area resulting from two paved driveways and the need for additional curb-cuts along the street. A reciprocal access easement will be placed over the entirety of the pole to allow shared access. Therefore, Parcel 2 is allowed. 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. The existing house will remain on the site so new development will occur only on the rear of the site. Therefore, no significant clearing or grading will be required on the site to make the new lot developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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. Although the site is currently connected to the public sanitary sewer, City records do not show that the septic system on the site was decommissioned at the time the house was connected to the public sewer in 1994. Prior to final plat approval, the applicant must obtain final approval of a decommissioning permit for the old system.

The applicant has proposed to remove the existing garage which will be within the pole portion of Parcel 2. In order to ensure that the new lots are suitable for development, prior to final plat approval a permit to demolish structures that will encroach onto Parcel 2 must be finalized. With this condition, the new lots can be considered suitable for development, and 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.

Easements: The following easement is proposed and required for this land division:

An Access Easement for the benefit of Parcel 1 is proposed to allow shared use of the driveway within the pole portion of Parcel 2.

As stated in *Section 33.636.100 of the Zoning Code*, a maintenance agreement will be required describing maintenance responsibilities for the tracts and easements described above and facilities within those areas. 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 for each agreement, 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:

33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.

The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in NE Campaign Street. Parcel 1 has an existing water service from that main. Parcel 2 will be required to get water service and meter installed within the property frontage on the public right-of-way. Water Bureau has responded that the water pressure range in this area is high (over 80 psi), which will require a Pressure Regulating Valve to be installed on the private property side of the water meter, per State of Oregon and City of Portland plumbing code (21.12.010).

33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.

The sanitary sewer standards of 33.652 have been verified. The existing 8-inch public sanitary sewer located in NE Campaign Street can serve the sanitary needs of the proposed

lots. The existing house has sewer service from that main. BES has responded that the main connection is approximately 19 feet west of the manhole in front of the site, which will be located in front of Parcel 2. The applicant has proposed establish a new connection for Parcel 1. Prior to final plat approval the existing house will need to establish a new sanitary sewer connection to the main in NE Campaign Street that is entirely within Parcel 1.

The location of sewer lines must be shown on a supplement plan.

33.653.020 & .030 Stormwater Management criteria and standards- See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will have adequate capacity for the expected amount of stormwater.

- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. The lot 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 drywell location.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. BES will require that storm discharge from the downspout west of the house to be modified to meet current SWMM requirements. The proposed drywell must be installed prior to final plat approval

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

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. This property's location meets the above criteria for adequate connectivity. North-South connectivity is provided at NE 49th Ave, located approximately 150 feet from the subject property. No additional connectivity is required. This criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030

33.654.120.B & C Width and elements of the street right-of-way

33.654.130.D Partial Rights of way

Based on the available information, the estimated increase in daily trips is less than 10 total trips per day with the majority of trips occurring during non peak hours, as provided by the *Institute of Transportation Engineers – Trip Generation Manual (8th Edition)*. Also considered was the likely division of trips into the surrounding street system because there are two possible route directions from this location. This general area supports an improved pedestrian corridor which should encourage an alternative mode of transportation to driving. Considering the anticipated limited increase in traffic generated from this proposal and the availability of alternative routes for vehicle and pedestrian access to and from the site, PBOT staff (including registered traffic engineers) assumes that this minimal increase to the existing transportation system capacity will not create a significant impact. A Transportation Study is not required at this time.

NE Campaign Street has a 28-foot wide paved roadway surface within a 55-foot wide right-of-way at this frontage location. The right-of-way width narrows to 50-feet along the adjacent property frontage to the west, as well as the frontage located two properties to the east. The recommended City Standard for overall public right-of-way width is met along the subject property frontage. The recommended roadway width supporting parking in both directions for R5h zoning (as classified above) is 26-feet and is met along this ~50-foot long frontage. The existing 16-foot wide pedestrian corridor improvements include a 4-foot wide planting strip, 5-foot wide sidewalk and 7-foot buffer strip (4-5-7 configuration). The *Pedestrian Design Guide* recommends a 6-foot wide sidewalk as the standard width for the classifications provided above. This standard is not met at this location.

Dedication: The existing right-of-way width meets the recommended standard. Dedication is not required along the NE Campaign Street frontage at this location.

Improvements: The existing sidewalk corridor along NE Campaign Street is consistent with development on both sides of the street and in the general neighborhood. The existing historic level of service is sufficient to support this proposal. Improvements are not required along the subject NE Campaign Street frontage.

On site-parking and access: The applicant is advised *that 33.610.400 (f) of the City Zoning Code provides the following requirement:*

- **Vehicle access.** *Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.*

Based on the above code requirement, the existing conditions and the proposed lot configuration, Transportation supports a shared access located along the pole of parcel 2 (as outlined above). Additionally; the applicant is advised that a “Private Access Easement” for the benefit of Parcel 1 and located over the relevant portion of the pole for Parcel 2 (in lieu of the proposed parking pad) should be anticipated.

Portland Transportation/Development Review comments and requirements are listed below:

- No dedication or improvements are required at this time.
- A private Access Easement and accompanying Maintenance Agreement (as outlined above) is a requirement of BDS and is recommended by PBOT to help minimize ROW access points, as well as to maximize on street parking. The 12-foot wide private access easement proposed is acceptable.
- As a condition of development, if the sidewalk and/or curb are damaged repairs must be remedied by the applicant to the City Engineer’s satisfaction, as outlined above.
- Transportation has no objection to the side setback adjustment portion of this proposal.

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.

Adjustment Review

Section 110.220.D.2 Exceptions to the required setbacks allows for flag lots allows lots in front of flag lots to reduce the side building setback along the flag pole lot line to 3 feet. The applicant has requested an adjustment review in order to reduce the west side setback on Parcel 1 along the flag pole lot line from 3 feet to 2.74 feet.

33.805.040 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.

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

Findings: The setback regulations for buildings and garage entrances serve several purposes. The ones relevant to the requested side setback adjustment are:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;

- 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,

The proposed adjustment would result in a setback that is 4 inches narrower than the required 3 feet along a 9-foot long projection on the west side of the house. This is a minor amount that will not be readily apparent. The rest of the house building wall is approximately 20 feet long and is 4.5 feet from the pole lot line, which exceeds the minimum setback. Fire Bureau has reviewed the proposal and found the proposal to be acceptable subject to fire access requirements. The adjustment will have a minimal effect on light, air and degree of privacy because the length of the house requiring the adjustment is only 9 feet along the 90 foot long pole. Allowing the reduced setback will allow the existing house to remain on the property and will provide enough space for the required outdoor area.

- 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: Reducing the side setback by four inches will not detract significantly from the livability or appearance of the residential area because there is an existing driveway where the flag pole is and the relationship of the house to that open area will not change. Approving the adjustment is consistent with the purpose of the R5 zone which allows for single dwelling development as well as attached housing. As discussed above, a 9-foot long wall is the only part of the house requiring the adjustment. Therefore this criterion is met.

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

Findings: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. The impact of reducing the side setback by four inches will not be readily apparent and will not be out of keeping with the surrounding development. Therefore, this criterion is met.

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

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

DEVELOPMENT STANDARDS

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

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

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 R5 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. This decision meets this requirement because this decision includes a side setback adjustment for the existing house along the pole portion of the flag lot boundary.

Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Lot 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Prior to final plat approval the site development permit for the new parking space must be finalized.

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 must meet the requirements of the Fire Bureau for: addressing for flag lots; recording an Acknowledgement of Special Land Use Conditions, if needed, that requires internal fire suppression sprinklers on Parcel 2; Fire Department access roads and verification of adequate fire flow and pressure. These requirements are based on the technical standards of *Title 31* and *Fire Bureau Policy B-1*.
- Prior to final plat approval the applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 on NE Campaign Street. Two 2-inch caliper trees are required, to be chosen from the City's approved street tree list for the 4-foot foot planting strip without overhead power lines. Tree placement

locations are marked with white paint at the curb. This requirement is based on the standards of Title 20.

- Life Safety: Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction ORSC R302.1.
- Alternative methods and materials may be approved by the Administrative Building Code Appeal Board. For information about the building code appeal process, please call (503) 823-1456, visit the Development Services Center, or view our web site at <http://www.portlandonline.com/bds/index.cfm?c=34196>. OSSC 104.10 and 104.11

CONCLUSIONS

The applicant has proposed a 2-parcel partition, one standard lot and one flag lot, as shown on the attached preliminary plan, Exhibit C. 1. This decision includes approval of an Adjustment to reduce the side setback from 3 feet to 2.74 feet along the flag pole property line for the existing house to remain on Parcel 1. As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the west side setback on Parcel 1 for the existing house from 3 feet to 2.74 feet along the flag lot pole property line, as shown on Exhibit C.1.

Approval of a Preliminary Plan for a 2-lot partition that will result in one standard lot and one flag lot, as illustrated in 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 Services and Bureau of Environmental Services. The 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 general location of future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A Private Access Easement over the “*flag pole*” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A recording block for each of the legal documents such as maintenance agreement(s) and acknowledgement of special land use conditions the Private Access Easement over the flag pole portion of Parcel 2 as required by Condition C.3 and C.8, below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “*A Declaration of Maintenance Agreement for a Private Access Easement has been recorded as document no. __ Multnomah County Deed Records.*”

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

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the on-site sewage disposal system for the existing house on the site.
2. A new sanitary connection to the main in NE Campaign is required for the existing house and must be entirely on Parcel 1. Plumbing and connection permits for the new connection and the sewer cap must be finalized prior to final plat approval.
3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in *Chapter 5* of the *Oregon Fire Code*. Alternately, if applying for an exception to this requirement, the applicant will be required to install residential sprinklers in the new house on Lot 2. In this case an *Acknowledgement of Special Land Use Conditions* describing the sprinkler requirement must be referenced on, and recorded with, the final plat.
4. The applicant shall meet the requirements of the Fire Bureau of ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that *Appendix B* of the *Fire Code* is met or the exception is used. If Fire Code requirements cannot be met, the applicant must submit an approved Fire Code Appeal prior to final plat approval.

Existing Development

5. The applicant must obtain a finalized demolition permit for removing the existing structures that will be on Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
6. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan.
7. 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 supplemental plan must show existing and proposed stormwater management systems.
8. The applicant must plant 2 street tree(s) in the planter strip on NE Campaign Street adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 4-foot planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

Required Legal Documents

9. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition C.8 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.

10. If Fire Bureau requires, the applicant shall execute an Acknowledgement of Special Land Use Conditions (ASLU), requiring residential development on Parcel 2 to contain internal fire suppression sprinklers, per *Fire Bureau Appeal no ____*. A signed and notarized copy of the ASLU must be submitted prior to final plat approval. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

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

1. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot. The location of the sign must be shown on the building permit.
2. The applicant must meet the Fire Bureau requirements related to aerial fire department access and sprinkler requirements.

Staff Planner: Sue Donaldson



Decision rendered by: _____ **on April 6, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed April 8, 2011

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 May 26, 2010, and was determined to be complete on **January 4, 2011**.

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 May 26, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case the applicant requested that the 120-day review period be extended for 90 days as stated with Exhibit A.4. Unless further extended by the applicant, **the 120 days will expire on: August 3, 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 April 22, 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. Assistance in filing the appeal is available from BDS in the Development Services Center. 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 an Adjustment to side setback requirements. This other concurrent approval must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

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

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

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

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

The following approvals were necessary for the land division to be approved:

Adjustment to reduce the side setback from 3 feet to 2.74 feet on the east side of the existing house to remain on Parcel 1.

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. Narrative – Land Division criteria
2. Narrative – Adjustment approval criteria
3. Neighborhood contact verification
4. 120-day waiver
5. Additional information re: stormwater – received December 27, 2010

B. Zoning Map (attached)

C. Plans/Drawings:

1. Site Plan (attached)
2. Site Plan – original submission
3. Site Plan, revised, received December 27, 2010
4. Site Plan, revised, received February 25, 2011
5. Proposed stormwater containment system

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

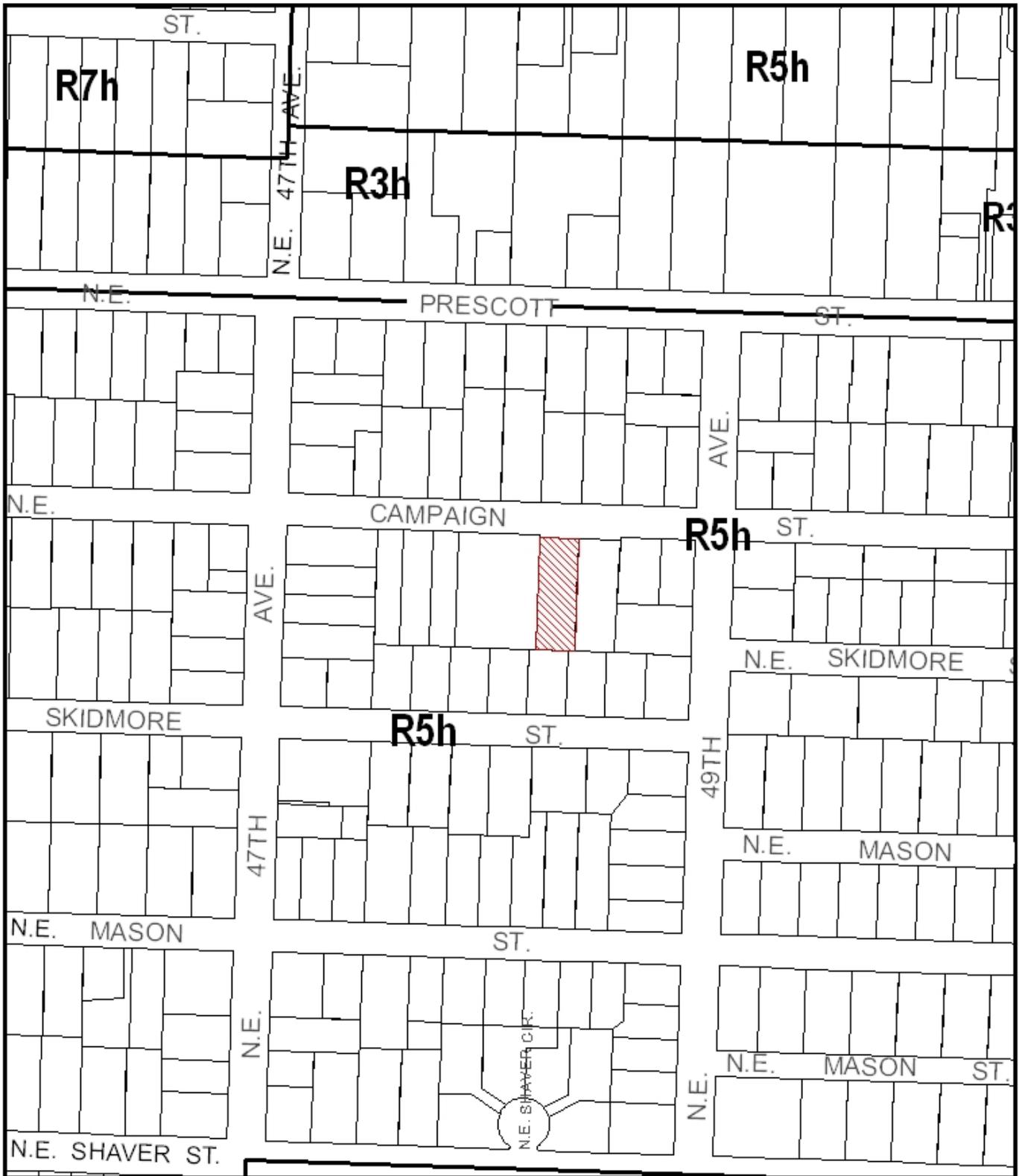
1. Bureau of Environmental Services
 - a. Response, January 27, 2010
 - b. Response, February 15, 2011
 - c. Addendum, March 9, 2011
2. Bureau of Transportation
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of Bureau of Development Services
6. Bureau of Parks, Forestry Division
7. Life Safety Section of the Bureau of Development Services

F. Correspondence: none

G. Other:

1. Original LU Application
2. Incomplete letter
3. Additional fees for Adjustment Review, received October 11, 2010

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

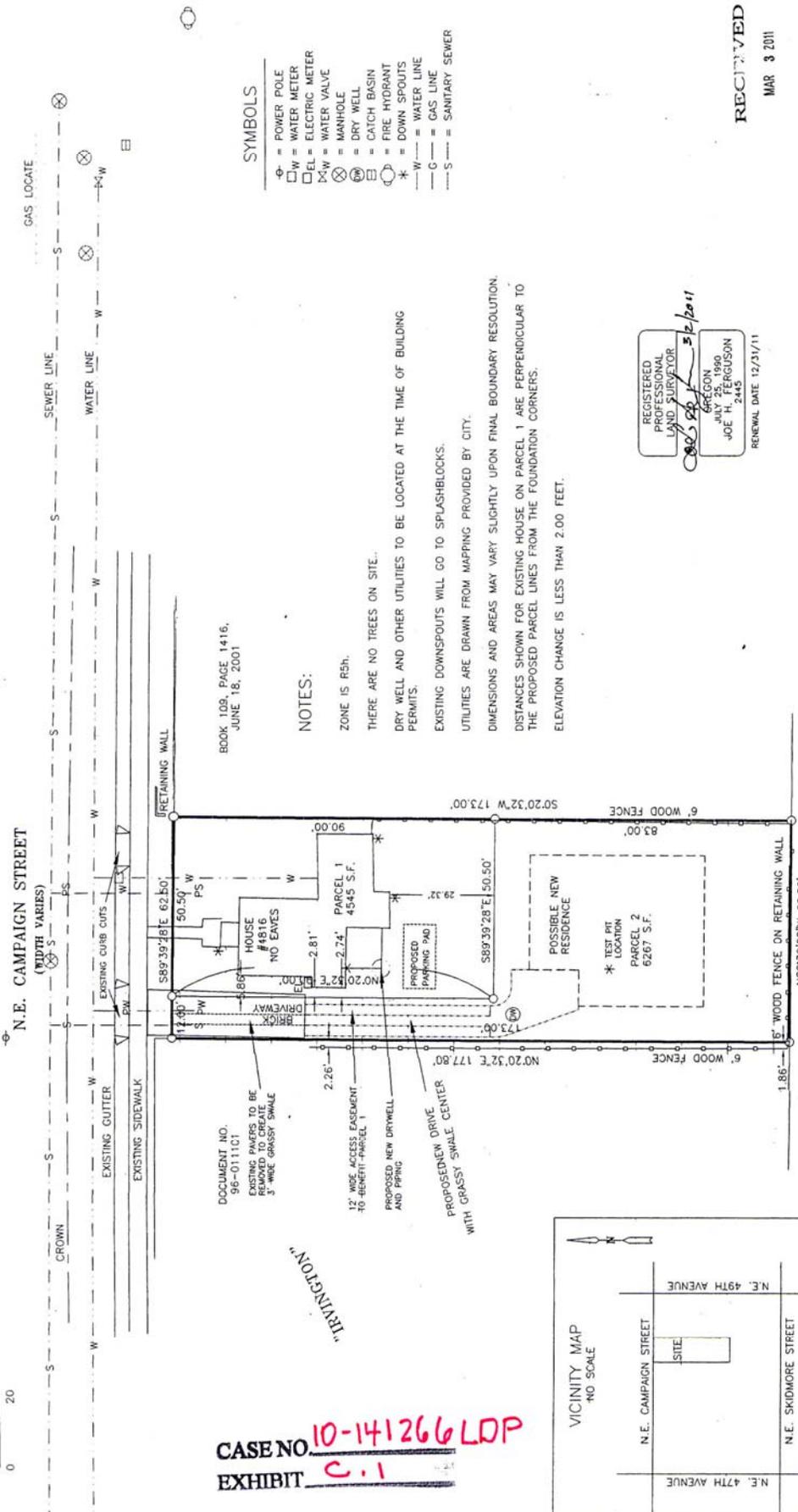
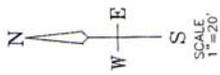
 Site



File No. LU 10-141266 LDP
 1/4 Section 2635
 Scale 1 inch = 200 feet
 State_Id 1N2E19CA 15100
 Exhibit B (May 27, 2010)

SITE PLAN

TAX LOT 15100, BLOCK 3, "IRVINGTON ACREAGE TRACT",
SITUATED IN THE SOUTHWEST 1/4 OF SECTION 19, T.1N., R.2E., W.M.,
IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
DATE: DECEMBER 1, 2009



CASE NO. 10-141266 LDP
EXHIBIT C.1

- SYMBOLS**
- ⊕ = POWER POLE
 - ⊖ = WATER METER
 - ⊠ = ELECTRIC METER
 - ⊗ = WATER VALVE
 - ⊙ = MANHOLE
 - ⊚ = DRY WELL
 - ⊛ = CATCH BASIN
 - ⊜ = FIRE HYDRANT
 - ⊝ = DOWN SPOUTS
 - ⊞ = WATER LINE
 - ⊟ = GAS LINE
 - ⊠ = SANITARY SEWER

BOOK 100, PAGE 1416,
JUNE 18, 2001

NOTES:

ZONE IS RSH.

THERE ARE NO TREES ON SITE.

DRY WELL AND OTHER UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.

EXISTING DOWNSPOUTS WILL GO TO SPLASHBLOCKS.

UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.

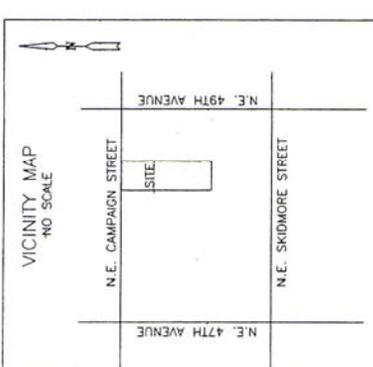
DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.

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

ELEVATION CHANGE IS LESS THAN 2.00 FEET.

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

RECEIVED
MAR 3 2011



CLIENT: ASPEN TO LLC
4816 N.E. CAMPAIGN ST.
PORTLAND, OR 97218

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

SHEET NO. 1 OF 1
JOB NO. 09-144 SITE A
REVISED 3/2/11 JF