



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: May 25, 2012
To: Interested Person
From: Sue Donaldson, Land Use Services
503-823-7618 / sue.donaldson@portlandoregon.gov

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

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

CASE FILE NUMBER: LU 11-153091 LDP

GENERAL INFORMATION

Applicant: Vernon G Mason,
Encore Development
2502 SE Elliott Dr
Gresham, OR 97080-8271

Representative: Mark Dane,
Mark Dane Planning Inc
13005 SW Foothill Dr
Portland, OR 97225

Site Address: 6605 NE 23RD AVE

Legal Description: BLOCK 76 LOT 10, IRVINGTON PK
Tax Account No.: R421324310
State ID No.: 1N1E14AD 11400
Quarter Section: 2332

Neighborhood: Concordia, contact George Bruender at 503-287-4787.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Plan District: None
Zoning: R5ah Single -dwelling Residential 5,000 with Alternative Design Density (a) and Airport Landing (h) overlays

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

Proposal:

The applicant is proposing to divide a 5,000 square foot site into two parcels for attached houses. There is an existing house on the site which will remain on Parcel 1. The proposed house on Parcel 2 will be attached to the existing house. The applicant proposes to use the

Duplexes and attached houses on corners provision in the *Alternative Development Options* section of the *Zoning Code (33.110240.E)*. Units must be designed so that each one is oriented towards a different street in order to create the appearance of one house when viewed from either street. The *Zoning Code* defines an attached house as:

*... a dwelling unit, **located on its own lot**, which shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the length of the side of the building. The shared or abutting walls may be any wall of the buildings, including the walls of attached garages. An attached house does not share common floor/ceilings with other dwelling units. (33.910).*

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (*see ORS 92.010*). *ORS 92.010* defines “*parcel*” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units (parcels) of land. Therefore this land division is considered to be a partition.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant approval criteria are found in **Section 33.660.120 Approval Criteria for Land Divisions in Residential and Open Space Zones**.

FACTS

Site and Vicinity: The site is a corner lot at the intersection of NE Liberty Street and NE 23rd Avenue. There is an existing 1 ½ story house on the site that faces NE 23rd Avenue and a detached garage at the rear of the house. It appears that residents get access to the garage from the alley because there is no curb cut along NE Liberty Street and there is an electrical pole in the planting strip (see Exhibit G.4). The surrounding neighborhood is developed with one- and two-story single-family post-war houses.

Infrastructure:

Streets – At this location, the City’s Transportation System Plan classifies NE Liberty Street and NE 23rd Avenue as Local Service Streets for all modes.

NE 23rd Avenue has 28 feet of paving within a 60-foot right-of-way. This frontage is also improved with a 9-foot planter strip, 6-foot sidewalk and 1-foot buffer strip (9-6-1 configuration).

NE Liberty Street has 30 feet of paving within a 50-foot right-of-way. This frontage is improved with a 3-foot planting strip, 6-foot sidewalk and 1-foot buffer zone (3-6-1 configuration). There is a 14-foot wide unimproved alley on the west side of the site.

Water Service – There is an existing 8-inch CI water main in NE 23rd Avenue. There is no water main in NE Liberty Street at this location.

Sanitary Service - There is an existing 10-inch CSP public combination sewer in NE 23rd Avenue.

Zoning: The site is zoned R5, High-Density Single-Dwelling Residential with an “a” or Alternative Design Density Overlay. The R5 zone allows single-dwelling residential development with a maximum density of one dwelling unit per 5,000 square feet of site area. The “a” overlay zone allows development of additional density for residential projects that comply with specific design criteria. The current proposal is not using the provisions of the “a” overlay zone.

Corner lots can be developed with an extra dwelling unit, either by developing the site with a duplex or two attached houses, using the Alternative Development Options (33.110.240 F). This option requires that each unit have its address and main entrance oriented towards a separate street frontage.

The Aircraft Landing (*h*) overlay zone creates safer operating conditions for aircraft near the Portland International Airport by limiting the height of structures and vegetation. The height limit shown on the Aircraft Landing Zone Map at this location is 180 feet. The ground elevation is considered in calculating the maximum allowed height. When the base zone height limit, (30 feet in R5) is more restrictive than the base zone limit applies. At this location the ground elevation is approximately 114 feet, so the airport landing overlay zone would allow $180 - 114 = 66$ feet in height. The base zone standard of 30 feet is more restrictive and so applies at this site.

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

Neighborhood and Agency Review: A ‘Notice of Proposal in your Neighborhood’ was mailed on **September 15, 2011**.

Neighborhood Review: There have been no written responses to the public notice.

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.

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 in the table below.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
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	The proposed development is for attached houses so this criterion does not apply.
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 new 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 RF through R5 zones.

Density Standards

In this case, a street is not proposed or required, and the site is **not** within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is calculated as follows:

Minimum = $(5000 \times .80) \div 5,000$ square feet = 0.8, which rounds up to a minimum of one lot (per 33.930.020.A).

Maximum = 5000 square feet \div $5,000$ square feet = 1 one lot (per 33.930.020.B).

This proposal is for two lots, which can be approved if the lots and development meet the requirements for alternative development options in 33.110.240. This site is a corner lot so the applicant can use the option that allows duplexes and attached houses on corners and providing the proposal meets the requirements of 33.110.240.E, discussed below. As the following findings show, the proposal can meet the applicable requirements and therefore a density of two can be approved.

Attached Houses on Corner Lots (33.110.240.E Duplexes and attached houses on corners)

This provision allows new duplexes and attached houses in locations where their appearance and impact will be compatible with the surrounding houses. The regulations apply to:

- Density - one extra dwelling unit allowed, up to a maximum of two units;
- Lot dimension standards in the R5 zone (for the site as a whole) and for the R2.5 zone (for each of the proposed two parcels).
- Development standards for entrances, height, architectural detailing and side and rear setbacks

As discussed above, under density requirements, the maximum density for the site is one unit. Two units are proposed using the alternative development option. So the density requirement is met. The findings below demonstrate that the applicable lot dimension standards are met. Development standards for attached dwellings on corner lots must be met at the time development is proposed. The applicant has not submitted elevations of the proposed house to be attached to the existing one. It will be important to ensure that the new unit is similar to the existing house, because the small shed that will be the common wall will make it difficult for the new house to appear as if it is part of the old house. The additional lot and proposed building footprint meet the applicable requirements and can be allowed. However, the applicant is advised to submit elevations of the proposed attached house during the final plat stage to ensure that the development standards can be met.

Lot Dimensions

Parcels 1 and 2 are smaller than would normally be allowed in the R5 zone. As described above, smaller lots can be approved through the Alternative Development Option for corner lots. To use this provision in the R5 zone, the original lot before the division must be at least 4,500 square feet. R 2.5 standards apply to the new lots.

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

Attached Houses on corners in R5	Original Lot Requirement	Site prior to land division	R2.5 zone standards	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	4500 sq. ft.	5000 sq. ft.	1600 sq. ft.	3166 sq. ft.	1833 sq. ft.
Maximum Lot Area	NA				
Minimum Lot Width*	NA.	50 feet	36 ft.*	50 ft	37.75 ft
Minimum Lot Depth	NA	100 feet	40 ft	62 ft	50 ft
Minimum Front Lot Line	NA	50 feet	30 ft *	50 ft.	35.5 ft.

- *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.*
- * Minimum lot width may be reduced below 36 feet and minimum front lot width may be reduced if regulations of 33.611.200. C.2 are met

As shown in the table above, the original site (before the division), is larger than 4,500 square feet and so meets the lot dimension requirements for the original lot. The table also shows that Parcels 1 and 2 meet the lot area and dimension requirements for the R2.5 zone.

As discussed above the applicable density and lot dimension standards are met. The applicable development standards for attached houses on corner lots must be met at the time of development on the lots.

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

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

The Arborist Report (Exhibit A.2) and the Tree Preservation Plan (Exhibit c.3) identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Maple	30	no	no	
2,3,4	Maple group	3" – 6"	Info not available	yes	7 feet
3	Holly				

The arborist report does not specify the full species names of the trees on the site. One holly tree is listed and shown on the Tree Preservation Plan. If it is an English holly, the most commonly found species in this area, then it is on the Nuisance Plant list and, therefore, cannot be included in the total tree diameter on the site. The largest tree on the site, a 30-inch maple, will be removed because it will be within the footprint of the new house. A group of maples (*Trees #2, 3 and 4*) in the front yard of the existing house will be retained. The Tree Plan shows that their diameters range from 3 to 6 inches.

The total non-exempt tree diameter on the site cannot be determined, based on the information submitted. At least one of the three trees proposed to be preserved cannot be counted because it is less than 6 inches. Even if two of the small maple trees were 6 inches in diameter, the total diameter to be retained would be 12 inches, 2 inches less than the 14 inches that would be required. The total tree diameter is 42 inches [30 inches + 12 inches], assuming that two of the small trees are 6 inches in diameter. 35% of 42 inches is 14 inches, so Option 1 would not be met if two 6-inch maples were preserved.

Given the lack of specific information about the tree species on the site, their size and condition, it is not possible to approve the tree preservation plan. Therefore, this criterion is not met.

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

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

33.635.100 – Clearing and Grading

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

- D. *Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and*
- E. *Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.*

Findings: The regulations of *Chapter 33.635* ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case, the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new 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.

33.635.200 – Land Suitability

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

Findings: As indicated above, the site is relatively flat and contains no known geological hazards. The site is currently in residential use, and there is no record of any other use in the past. BES and Site Development (Exhibits E.1 and E.5) have responded that there is an area of fill on the site where the basement of the demolished house was located. As discussed later in this report, under Stormwater Management, new drywells for both parcels must be located at least 10 feet away from the filled area. The location of the drywells meeting this and other setback requirements must be shown on the Supplemental Plan. However, BES has responded that the applicant has not submitted information about the location of the existing drywell on the site (*see Findings under Stormwater Management, below*). Without the locate information, it is not possible to determine that the lots are suitable for new development. Therefore, this criterion is not 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 easement is required for this land division:

- A Private Sanitary Sewer Easement is required and proposed across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2.

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 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 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 findings are included under each topic heading.

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

The water standards of 33.651 have been verified. The existing house, to be on Parcel 1, has service from the main in NE 23rd Avenue. In order for the existing service to continue, the Water Bureau must review for fixture count prior to final plat approval. There is no water service available to Parcel 2. Therefore, Water Bureau will require an extension of the water main in NE Liberty Street. The cost of water main extension must be paid in full prior to final plat approval. With a condition of approval requiring payment in full for the water main extension, this criterion can be met.

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

The sanitary sewer standards of 33.652 have been verified. City plumbing records indicate that there is an existing lateral serving the existing house that is approximately 52 feet from a manhole in NE Liberty Street. There is no sanitary sewer line in front of proposed Parcel 2. The applicant has proposed a new lateral to be connected to the main in NE 23rd Avenue via a sanitary sewer easement across Parcel 1. BES will not require a main extension in NE Liberty Street and has responded that the applicant's proposal is acceptable. The private sanitary sewer easement across Parcel 1 for the benefit of Parcel 2 must be shown on the final plat. The easement must be no less than 10 feet wide (see BDS *Private Sewer Easements Code Guide*). A narrower easement would require approval through a plumbing code appeal. The applicant may call John Sisk, BDS Senior Plumbing Inspector, at 503-823-7394 for further information.

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

No stormwater tract is proposed or required. Therefore, criterion A does not apply.

There is no public storm-only sewer available to serve this property.

The applicant has submitted infiltration testing results that are acceptable. BES has verified that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

The applicant has proposed the following stormwater management method:

- Stormwater from Parcel 2 will be directed to a drywell that will treat the water and slowly infiltrate it into the ground. The plan submitted shows a drywell at the northwest corner of the lot, which appears to meet setback requirements.
- The applicant has not submitted enough information about the stormwater system for the existing house to determine whether it meets current requirements. Preliminary approval cannot be given unless the applicant submits additional information about the existing system, including discharge points prior to preliminary approval. This requirement is not met.
- According to City records there is an existing drywell on the property, approximately 7 feet south of the existing garage. It appears that it will be within the footprint of the proposed house on Parcel 2. A locate report and an approved plumbing permit showing its location must be submitted prior to preliminary approval. The drywell must be decommissioned and final permits obtained prior to final plat approval. However, the applicant has not submitted either the locate report or the approved plumbing permit, so this requirement is not met.

The applicant is reminded that drywells, as underground injection control facilities (UIC) must be registered with Oregon Department of Environmental Quality (DEQ).

The applicant has not submitted the required information about the existing stormwater systems on the site, including a locate report and plumbing permit. Therefore this criterion is not met.

33.654.110.B.1 - Through streets and pedestrian connections – See Exhibit E.2.b
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

This section requires street and pedestrian connections where appropriate and practical, taking a number of factors into consideration. Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Pedestrian connections should be no more than 330 feet apart.

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The 530-foot spacing goal for public through streets and for pedestrian connections is generally satisfied on the subject block. However, the 330-foot spacing goal for pedestrians is not met. Given that the site is a corner lot, an additional connection is not possible. Portland Transportation has no concerns relative to connectivity or location of rights-of-way associated with the proposed partition.

There are no partial rights of way nor are there any configurations that allow for future extensions of streets or pedestrian connections in the area.

For the reasons described above, these criteria are 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

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 following discussion is based on Portland Transportation’s assessment of the transportation impacts for this proposal:

The proposed land division will create one additional parcel to accommodate a new house that will be attached to the existing house. The proposed land division is expected to generate 20 additional daily vehicle trips and two new trips into the surrounding transportation system during the morning and afternoon peak hours of travel. The proposed development is not expected to alter the current site trip distribution in the surrounding transportation system. The transportation system, in this case, is identified as the free-flowing intersections at NE Dekum and NE 23rd Avenue and at NE Liberty and NE 22nd Avenue, as well as the two-way stop-controlled intersection at NE Dekum and NE 23rd Avenue. These intersections *are not expected to drop below the City’s performance standards* as a result of the proposed partition, given that there will be minimal new vehicle trips generated and these will be dispersed throughout the surrounding robust grid system.

No significant negative impacts are expected to occur with relation to any of the other evaluation factors.

Given the area in which the site is located, the minimal number of additional peak trips that will be generated by the proposed partition, and the classification of the streets within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

Street improvements will not be required along the site’s frontages. For a site zoned R5 and located along a Local Service Street, the City’s Pedestrian Design Guide recommends an 11-foot wide pedestrian corridor comprised of a 0.5-foot curb, 4-foot planter area, 6-foot sidewalk and a 0.5-foot setback from the property line. The NE 23rd Avenue frontage meets this standard but the NE Liberty Street frontage does not and PBOT would normally require a 1-foot street dedication and reconstruction of the existing sidewalk as a condition of Final Plat approval. However, the applicant filed a Design Exception (11-185409 TR, Exhibit E.2.b), which was approved, so no dedication or improvements will be required.

There is an alley along the west boundary of Parcel 2 which could provide vehicle access for the new house. The applicant has not proposed this, but the alley is currently used for access to the garage because there is an electrical pole in the planting strip which blocks access. In the event that future development does propose alley access, at the time of

development, the applicant will be required to pave it from the back of the sidewalk northward approximately 35 feet (approximately 500 square feet) per PBOT requirements.

Based on the current development proposal, 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.

DEVELOPMENT STANDARDS

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

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

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2008 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us/

As authorized in *Section 33.800.070 of the Zoning Code* conditions of approval related to these technical standards can be included in the Administrative Decision for this proposal. However, because the proposal has been denied, these conditions are not included in this decision.

CONCLUSIONS

This proposal cannot be approved because the applicant has not submitted the information needed to determine that the following criteria are met:

Chapter 33.630 - Tree Preservation

Chapter 33.635.200 – Land Suitability


Chapter 33.653 - Stormwater Management

Staff requested additional information but it was not submitted. Therefore, this proposal is denied.

ADMINISTRATIVE DECISION

Denial of a two-parcel land division for attached houses.

Staff Planner: Sue Donaldson

Decision rendered by:  **on May 23, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed May 25, 2012

About this Decision. This land use decision is **not a permit** for development. For approved preliminary plans, 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 July 7, 2011, and was determined to be complete on **October 6, 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 July 7, 2011.

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. **The 120 days expired on: February 3, 2012**

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services.

Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Demolition Plan
 - 3. Tree Protection Plan
 - 4. Existing Conditions
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. PBOT Development Review
 - a. Dated 11/9/11
 - b. Design Exception dated 10/20/11
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter
 - 4. Photo – alley at rear of property
 - 5. Photo – existing house on site

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



NORTH

File No. LU 11-153091 LDP
 1/4 Section 2332
 Scale 1 inch = 200 feet
 State_Id 1N1E14AD 11400
 Exhibit B (Sep 13,2011)

TWO PARCEL PARTITION

FOR: ENCORE DEVELOPMENT
 BEING LOT 10, BLOCK 76 OF "IRVINGTON PARK"
 IN THE NE 1/4 SEC. 14, T.1N., R.1E., W.M.
 CITY OF PORTLAND MULTNOMAH COUNTY, OREGON
 JUNE 27, 2011 MAP 1N 1E 14AD

APPLICANT/OWNER
 ENCORE DEVELOPMENT LLC
 105 W CLARENDON STREET
 GLADSTONE OR 97207

PLANNER
 MARK DANE PLANNING INC.
 13005 SW FOOTHILL DRIVE
 PORTLAND OR 97225

SURVEYED BY:
 ANDY PARIS AND ASSOCIATES, INC.
 16057 BOONES FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 PH: 503-636-3341 PROJECT: 11032
 DRAWING: 11032PTL.DWG

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
 JANUARY 15, 1987
 HAROLD P. SALO
 2264
 EXPIRES: JUNE 30, 2012

MARK DANE PLANNING
 INCORPORATED
 13005 SW FOOTHILL DRIVE
 PORTLAND, OR 97225
 503-332-7167
 mark@markdaneplanning.com
 markdaneplanning@gmail.com

LEGEND:

- WATER VALVE
- WATER TAP
- FOG STANDPIPE
- EX. WATER METER
- NEW WATER METER
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- SANITARY SEWER MANHOLE
- CATCH BASIN
- GAS VALVE
- MAIL BOX
- 1/2" SUNSET MAPLE (TO BE PLANTED)
- FLU-CELL STORM SYSTEM
- WATER LINE
- NATURAL GAS LINE
- SANITARY SEWER LINE
- STORM DRAINAGE LINE
- OVERHEAD UTILITY LINES
- GAS METER
- UTILITY POLE
- ELECTRIC METER
- TRAFFIC SIGN
- ET FENCING

NOTES
 ZONING R2.5
 PROPERTY ID: R269342
 STATE ID: 152E05DC 1200
 ADDRESS: 2135 SE 77TH



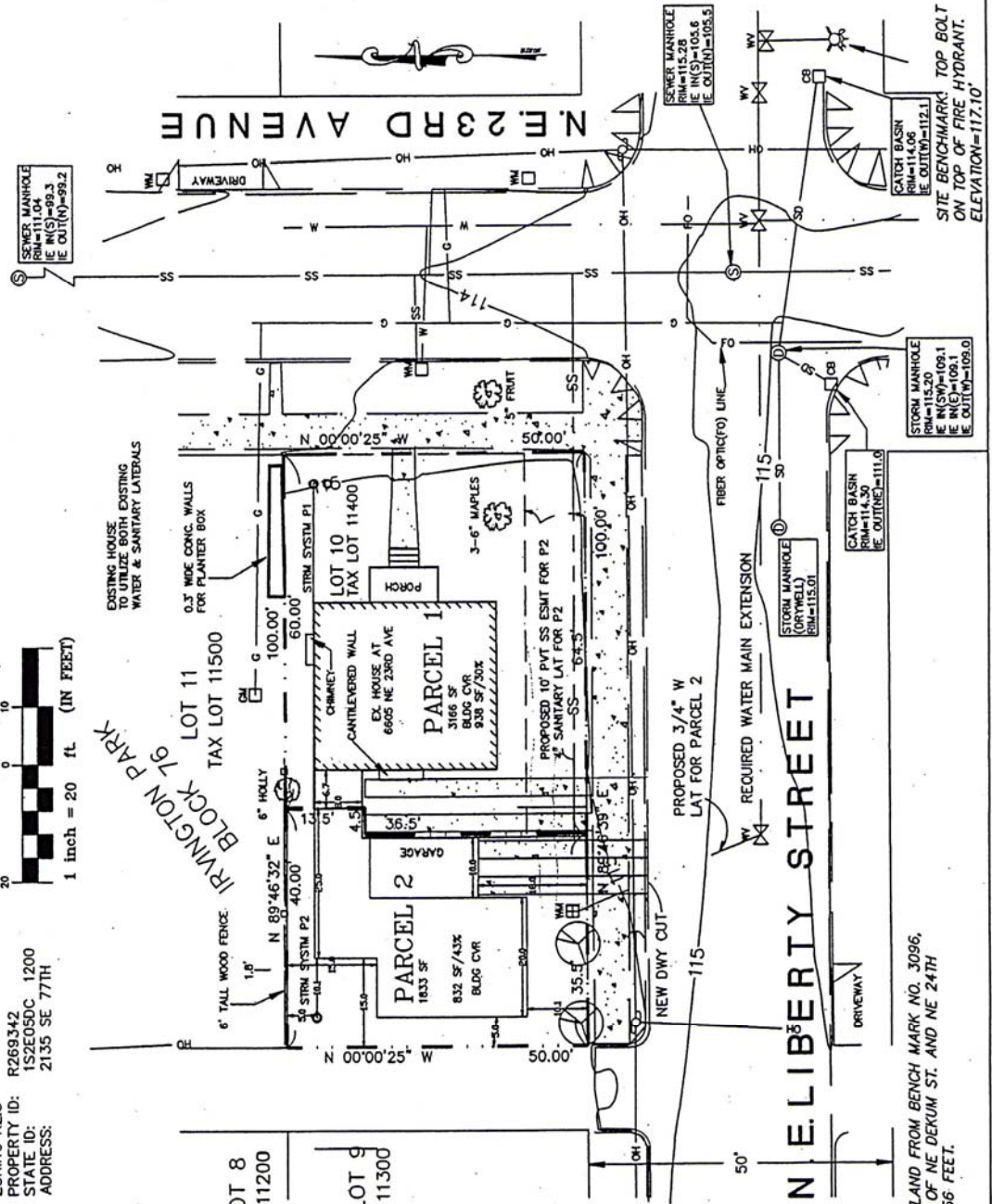
SITE PLAN

6605 NE 23rd Avenue
 ADDRESS
 PORTLAND, OREGON

PROJECT NO. **ENC_005**
 FILE: 8/1/11
 DATE: 8/1/11
 DESIGNED:
 DRAWN:

TOWNSHIP/RANGE/SECTION
1N1E 14AD
 COUNTY
 multnomah
 TAX LOTS
 1200

SHEET TITLE
SITE PLAN
 SHEET NUMBER
D2



RECEIVED

SEP 19 2011

CASE NO. **11-153091LDP**
 EXHIBIT **C 1**

NOTES:
 1. ELEVATION DATUM IS CITY OF PORTLAND FROM BENCH MARK NO. 3096, A BRASS DISK AT THE NE CORNER OF NE DEKUM ST. AND NE 24TH AVE. WITH AN ELEVATION OF 100.556 FEET.