



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 27, 2013
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE Ix 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. 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 13-150855 LDP

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions, 223 NE 56th Ave, Portland, OR 97213
Owner: Hij Florin, Hij Construction, 16933 SE Foster Rd, Gresham, OR 97080
Site Address: 4310 SE 79th Avenue
Legal Description: TL 10200 0.20 ACRES, SECTION 08 1S 2E
Tax Account No.: R992080740
State ID No.: 1S2E08DD 10200 **Quarter Section:** 3438
Neighborhood: Foster-Powell, contact Aaron Sorenson at 971-235-0025.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: Residential 2,000 (R2) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to partition the subject property into two parcels of approximately 3,663 (Parcel 1) and 5,156 (Parcel 2) square feet in size in accordance with the Alternative Design Density Overlay provision that allows flag lots averaging 2,500 square feet in the R2 zone (33.405.070.C). Proposals taking advantage of this provision must be approved through design review or meet the Community Design Standards (33.218).

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

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

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

FACTS

Site and Vicinity: The site is located on the east side of SE 79th Avenue approximately 340-feet north of the intersection with SE Holgate Boulevard. The site is currently void of any existing development or trees and is relatively flat. The surrounding vicinity is primarily composed of multi-dwelling (R2) zoning and developed with a mix of single-family and multi-family structures.

Infrastructure:

- **Streets** – The site has approximately 50-feet of frontage on SE 79th Avenue, which is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 340-feet south of the site on SE Holgate Boulevard via bus #17. At this location, SE 79th Avenue is improved with a 28-foot paved roadway and pedestrian corridor that consists of a 4-foot planter strip, 6-foot sidewalk, and 1-foot setback to private property (4-6-1) within a 50-foot wide right-of-way.
- **Water Service** – There is an existing 8-inch CI water main in SE 79th Avenue. A 5/8-inch metered service is available to the site from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary-only sewer main in SE 79th Avenue.

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

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

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. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 8, 2013**. No written responses have been received from 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 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 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	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	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections 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 two parcels that must each accommodate 2 units of density, one of which is a flag lot (Parcel 2) in conformance with the Alternative Design Density Overlay Zone provision that allows flag lots averaging 2,500 square feet (33.405.070.C).

Single-dwelling or duplex development is proposed for some or the entire site, therefore the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site

area shown on the applicant's survey is 8,819 square feet. Therefore, the site has a minimum required density of 4 units and a maximum density of 4 units. The applicant has proposed to construct a single family home and accessory dwelling unit on each parcel, which meets the applicable density requirements noted above. Because the proposed area of Parcel 1 would only trigger a minimum density requirement of 1 unit according to Table 120-3, conditions are needed to ensure that the density requirements of the land division site will be met at the time of development.

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

R2	Minimum lot area (square feet)	Minimum lot width (square feet)	Minimum lot depth (square feet)	Minimum front lot line (square feet)
Detached Houses	1,600	25	none	25
Duplexes	2,000	33	50	30
Parcel 1	3,663	37.76	97	37.76
Parcel 2 (flag lot)	5,156	N/A	N/A	N/A

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

Flag lots averaging 2,500 square feet

Lots in the R2 and R2.5 zone may be developed as flag lots with an average area of 2,500 square feet when the proposed development meets all of the following requirements:

1. Both attached and detached dwellings are allowed;
2. The average area of the lots created must be at least 2,500 square feet. Each must be at least 1,600 square feet;
3. The pole portion of the flag lot must be part of the flag lot, must connect to a street, and must be at least 12 feet wide for its entire length;
4. Detached structures on a flag lot are required to have an eight foot setback from all lot lines. Attached structures on flag lots are required to have an eight foot setback along those lot lines that abut a lot that is not a part of the flag lot development; and
5. Required setbacks must include a landscaped buffer area. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard.

Findings: As outlined above, the average area of the proposed parcels is 4,409 square feet and are both larger than the minimum lot area of 1,600 square feet. The proposed Site Plan (Exhibit C.1) demonstrates that Parcel 2 has a flag pole that is part of the flag lot, is 12-feet wide, and is connected to SE 79th Avenue. Conceptual building footprints delineated on the proposed Site plan demonstrate an 8-foot setback for detached structures. Per 33.405.070.D, proposals taking advantage of this provision must be approved through design review or meet the Community Design Standards in Chapter 33.218. With a condition noting this requirement, this criteria is met.

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 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. The existing house on the site was removed as a part of demolition permit 07-107650 RS. However, the applicant never received final inspection approval of this permit. In addition, there is an old cesspool on the site and the City has no record that this facility was ever decommissioned. Therefore, prior to final plat approval, the applicant must obtain final inspection approval for demolition of the house and meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning of the existing cesspool. With these conditions, 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. The following easement is proposed for this land division:

- A Private Access Easement is proposed over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) 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 Private Access Easement 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,

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. The applicant has submitted a Transportation Impact Study (TIS) to address the evaluation factors of this approval criterion (Exhibit A.3). PBOT’s Analysis (Exhibit E.2) is quoted, in part, as follows:

Findings: (NOTE: As will be further discussed in other sections of this response, PBOT staff also has had to consider a nearby 6-lot subdivision proposal (LU 13-149266 LDS) approximately 100-ft north of the subject site, on the west side of SE 79th Ave. Because of the similar transportation system and constrained environment, PBOT advised the applicant that consideration of both projects would need to be accounted for in the individual review of each land division proposal. The applicant also happens to be the same applicant for both of these land use reviews and had his traffic consultant prepare one TIS which takes into consideration the impacts of both projects on the local transportation system. The results of the analyses provided in the TIS represent a more conservative approach in evaluating each individual land use proposal.)

To estimate the trips generated by the proposed partition to create two parcels for the construction of two new single-family homes (and two new Accessory Dwelling Units), trip

rates from the manual *TRIP GENERATION*, 8th Edition, published by the Institute of Transportation Engineers (ITE) were used. The same reference was utilized for estimating the number of vehicles trips for the nearby six-lot subdivision proposal. The trip generation calculations show that the two proposed projects are projected to result in 6 new trips during the morning peak hour and 8 additional trips during the evening peak hour. The 8 total lots are projected to result in 80 new daily trips.

In order to ensure that the nearby transportation system is capable of supporting the new trips from the proposed residential partition, the intersection of SE 79th Ave/ SE Holgate was analyzed using observations made by the applicant's traffic consultant. With very little delay observed, and with no related queuing issues, the intersection capacity is operating at a level that currently meets performance measures and will continue to do so with the addition of site trips from the two proposed residential land divisions.

Vehicle access and loading

Findings: There are no turn restrictions or one-way facilities in the immediate vicinity of the site. The site can be accessed from the greater network relatively easily due to its proximity to several arterial routes. It is expected that the intersection of SE 79th Ave/ SE Holgate will be the primary access point for most site trips. From this intersection, SE Holgate connects directly to several north-south arterials, including SE 82nd Ave, a few blocks east of the subject site in the opposite direction towards the central city. Vehicle loading (for both subject sites) will utilize a combination of on-site parking within the proposed individual driveways and garages as well as on-street parking along SE 79th Ave. and along the proposed private street (for the 6-lot subdivision site). Ample loading capacity is available to accommodate any delivery vehicles serving the subject properties. Vehicle access and loading space is adequate at this location to support the proposed developments.

On-street parking impacts

Findings: A parking study survey was completed by the applicant's traffic consultant on Thursday, June 20 at 8:00 PM, 6:45 AM, 12:00 PM and on Saturday, June 8 at 1:30 PM. In order to determine parking supply, a parking stall length of 22-ft was used. The TIS identifies the parking survey area as both sides of SE 79th Ave between SE Holgate and SE Center. In total, there are approximately 86 on-street parking spaces in this survey area. The TIS contains the more detailed findings of the observations that were made, but in the worse-case finding, there were at most 27 vehicles found parking within the survey area, resulting in 68% of the parking supply still available to be utilized.

On-site parking opportunities for at least one-vehicle per lot within both of the proposed land division sites will be provided to address the additional parking demands expected by the two developments. Although one on-street parking space will be eliminated as a result of the curb cut/driveway for the subject 2-lot partition, and two on-street parking spaces will be lost because of the proposed private street associated with the proposed 6-lot subdivision, as noted above, coupled with the on-site parking spaces that will be provided, there is a sufficient on-street parking supply to serve the existing and future uses in the area.

Availability of transit service and facilities and connections to transit

Findings: The nearest transit to the site is Tri-Met bus route #17 (Holgate/Broadway) which can be accessed on SE Holgate, approximately 350-ft south of the subject 2-lot partition site.

Impacts on the immediate and adjacent neighborhoods

Findings: The impacts associated with the additional lots that the proposed residential land divisions (both of them) will create are expected to be minor, and primarily consist of the small increase in vehicular traffic associated with the new homes on the proposed lots. These added trips will not have a significant effect on either the nearby street system or the available on-street parking supply, which are the primary transportation-related impacts associated with these types of developments.

Safety for all modes

Findings: Crash data was examined for the SE 79th Ave/SE Center and SE 79th Ave/SE Holgate intersections for the most recent available data-time period from the State of Oregon. Over the last three years, there has only been one crash that was reported at the SE 79th Ave/SE Holgate intersection. Typically, crash rates of fewer than one crash per million entering vehicles are not indicative of a significant safety concern.

A robust and complete system of sidewalks throughout the area provide for pedestrian safety and access in the neighborhood. The low level of traffic on SE 79th Ave makes this an ideal street for safe bicycling; SE 79th is identified as a “Shared Roadway” in the City’s Official Bike/Walk Map. SE Center, north of the site, is identified as a Neighborhood Greenway/signed and marked bicycle route. The proposed residential partition and subdivision will not negatively impact safety for any mode.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition and subdivision requests, as well as the insignificant impacts expected to result from the proposed developments as analyzed above, PBOT determines that the transportation system will be able to support the existing development in the area as well as the proposed development.

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. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the proposed development can be safely served by this existing street without having any significant impact on the level of service provided. Therefore, this criterion is met.

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

Findings: 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
The Water Bureau has indicated that service is available in SE 79 th Avenue, as noted on page 2 of this report. An exiting metered service is available to this site that may be used for Parcel 1. The water service standards of 33.651 have been verified. Therefore, this criterion is met.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
The Bureau of Environmental Services has indicated that service is available in SE 79 th Avenue, as noted on page 2 of this report. According to 1997 City of Portland plumbing records there is an existing lateral 370-feet from the manhole to the south. This existing lateral is about 5-feet from the southern property line and will be available to serve Parcel 2. The sanitary sewer service standards of 33.652 have been verified. Therefore, this criterion is met.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Simplified Approach stormwater report to address this approval criterion (Exhibit A.2) and has proposed the following stormwater management methods:
<ul style="list-style-type: none"> • Parcels 1 and 2: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has

sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. In addition, a vegetated filter strip is proposed to accommodate stormwater runoff from a driveway in the pole portion of the flag lot. The Bureau of Environmental Services has indicated conceptual approval of the applicant's proposed method of stormwater management. Therefore, this criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The area between SE 72nd Ave and SE 80th Ave between SE Center and SE Holgate is uniquely configured with long and narrow blocks in a north-south direction; there are no east-west streets within this identified area. The north-south oriented streets satisfy the above referenced spacing goals, however, due to the lack of east-west connectivity in the area, the spacing goals cannot be met. Considering the development type and pattern that exists within this 6-block area, which is primarily single-family and multi-family residential homes on small lots, to require that either of the sites associated with the proposed land divisions provide a public street connection through said sites would result in no improvement to the overall lack of east-west connectivity in the area. To establish public street connections throughout the identified area that would meet the aforementioned connectivity goals would require the demolition of numerous existing homes throughout the 6-block area. Not to mention that providing even a partial width public street through either subject site would result in either no development potential (13-150855 LDP) or extremely diminished development potential (LU 13-149266 LDS).

For the reasons 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.

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.

Future Development

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- **Design Review:** Proposals taking advantage of the provisions of the Alternative Design Density Overlay Zone (a) must be approved through design review or meet the Community Design Standards in Chapter 33.218.

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

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical

expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access, fire flow/water supply, and turning radius. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

CONCLUSIONS

The applicant is proposing two parcels that must each accommodate 2 units of density, one of which is a flag lot (Parcel 2) in conformance with the Alternative Design Density Overlay Zone provision that allows flag lots averaging 2,500 square feet (33.405.070.C), as shown on the attached Site 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: Alternative Design Density (a) overlay for a flag lot, Fire Bureau requirements and Land Suitability.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in two parcels that must each accommodate 2 units of density, one of which is a flag lot (Parcel 2) in conformance with the Alternative Design Density Overlay Zone provision that allows flag lots averaging 2,500 square feet (33.405.070.C), as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside; and
- 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), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.4 below. The recording block(s) shall, at a minimum, include language 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.”

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

- 1. The applicant shall meet the requirements of the Fire Bureau for 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, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
- 2. 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, the applicant will be required to install residential sprinklers in the new house on Parcel 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
- 3. The applicant must obtain final inspection approval for demolition of the house and meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning of the existing cesspool.
- 4. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition B.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.

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

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

Lot	Minimum Density	Maximum Density
1	2	2
2	2	2

- 2. Development on Parcels 1 and 2 must be approved through design review or meet the Community Design Standards in Chapter 33.218.
- 3. Detached structures on Parcel 2 are required to have an eight foot setback from all lot lines. Required setbacks must include a landscaped buffer area. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard.

Staff Planner: Sean Williams

Decision rendered by:  **on September 25, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 27, 2013

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 9, 2013, and was determined to be complete on August 5, 2013.

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 9, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: December 3, 2013.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

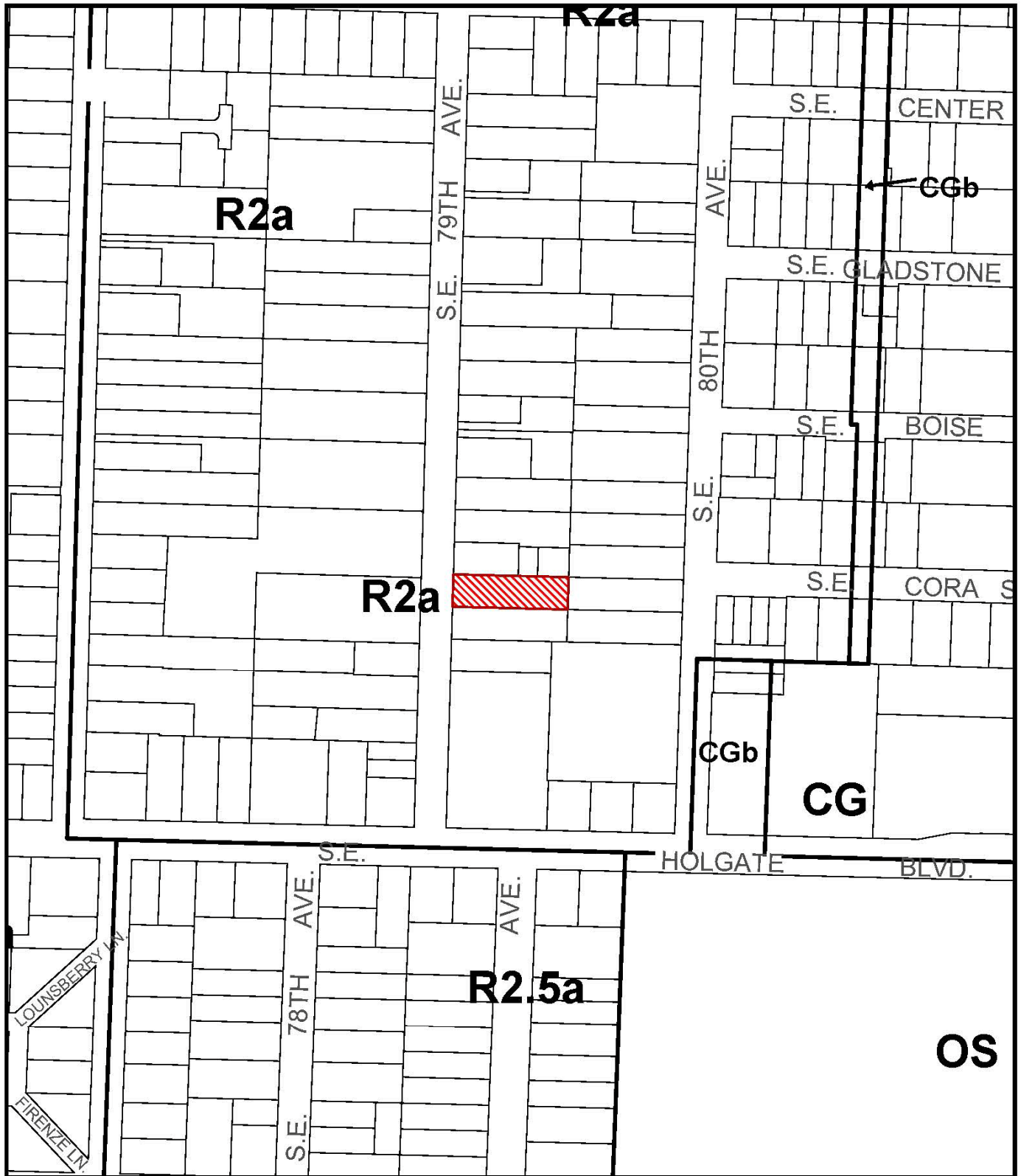
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application Narrative
 - 2. Simplified Approach stormwater report
 - 3. Transportation Impact Study
- 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: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter w/ RFC Responses

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).

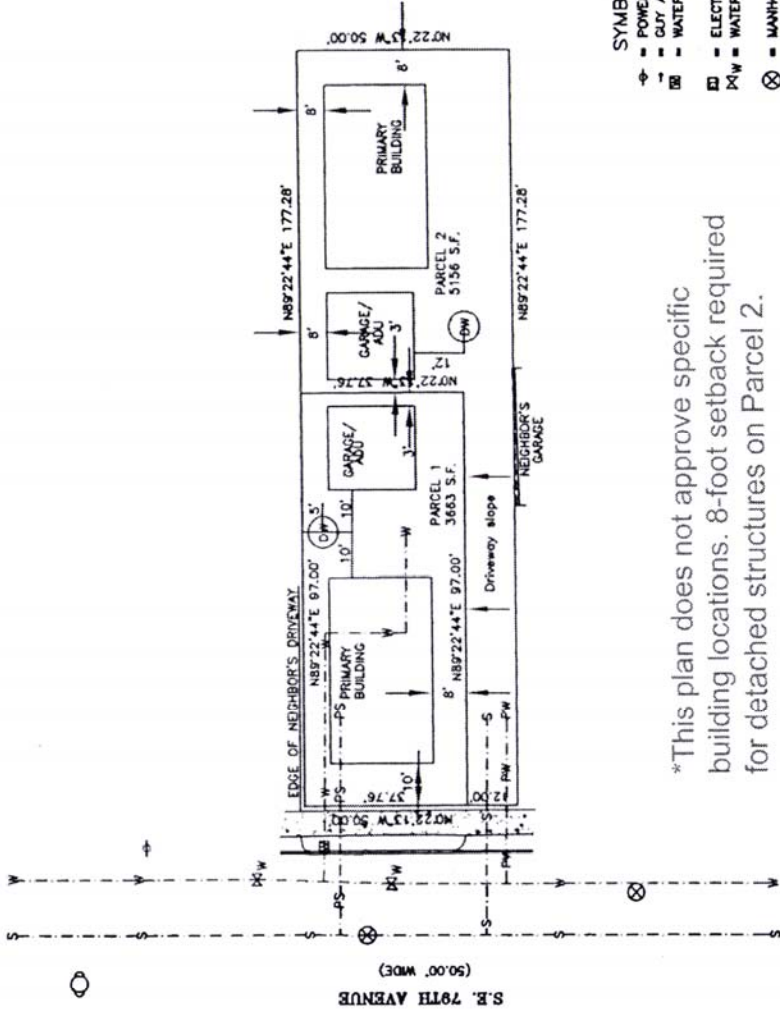
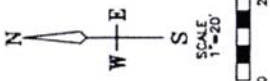


ZONING

 Site



File No. LU 13-150855 LDP
 1/4 Section 3438
 Scale 1 inch = 200 feet
 State_Id 1S2E08DD 10200
 Exhibit B (May 13, 2013)

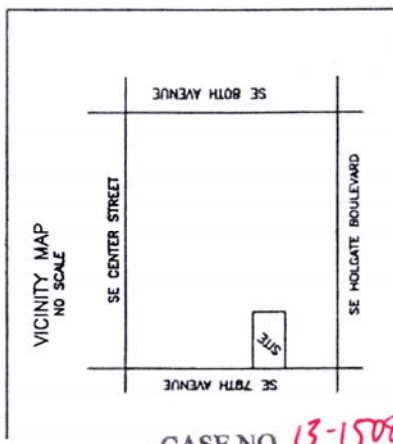


ZONE IS R2A
 DRYWELLS AND OTHER UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.
 PROPOSED BUILDINGS ARE AT THE DISCRETION OF THE OWNER.

- SYMBOLS**
- ⊕ = POWER POLE
 - ⊙ = GUY ANCHOR
 - ⊞ = WATER METER
 - ⊞ = ELECTRIC METER
 - ⊞ = WATER VALVE
 - ⊗ = MANHOLE
 - ⊙ = CLEAN OUT
 - ⊞ = CATCH BASIN
 - ⊙ = FIRE HYDRANT
 - * = DOWN SPOUTS
 - W— = EXISTING WATER LINE
 - E— = ELECTRIC LINE
 - S— = EXISTING SAN. SEWER
 - PS— = PROPOSED SAN. SEWER
 - PW— = PROPOSED WATER LINE
 - S.F. = SQUARE FOOT
 - ⊞ = PROPOSED DRYWELL

REGISTERED PROFESSIONAL LAND SURVEYOR
 JOE H. FERGUSON
 LICENSE NO. 1890
 2445
 EXPIRES 12/31/13
 I CERTIFY THAT THIS MAP WAS PREPARED USING THE PRODUCT #1840A ON MAP-1824 PLM

*This plan does not approve specific building locations. 8-foot setback required for detached structures on Parcel 2.



CASE NO. 13-150855
 EXHIBIT C-1

4310 SE 79th

<p>Ferguson Land Surveying, Inc. 646 SE 106TH AVE. PORTLAND, OR 97216 Phone (503) 408-0601 Fax (503) 408-0602 www.FergusonLandSurveying.com</p>		<p>HJ CONSTRUCTION 18933 SE FOSTER ROAD GRESHAM OR, 97080</p>	<p>JOB NO. 13-050 DATED 4/29/13</p>
<p>SITE PLAN A TRACT OF LAND IN THE SE 1/4, SECTION 8, T.15, R.2E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON</p>		<p>DATE: _____ REVISION: MAY 8, 2013 REVISION: _____ REVISION: _____</p>	<p>SHEET 1 OF 1</p>