



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** November 21, 2013  
**To:** Interested Person  
**From:** Kathy Harnden, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 13-145665 LDS**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain / Urban Visions  
223 NE 56th Ave / Portland OR 97213

**Property Owner:** Eden Enterprises LLC  
5505 SW Delker Rd / Tualatin, OR 97062-9710

**Site Address:** 2808 SE Belmont St

**Legal Description:** BLOCK 21 LOT 1&2, HANSONS ADD & 2<sup>ND</sup>  
**Tax Account No.:** R358102020  
**State ID No.:** 1S1E01BB 13200      **Quarter Section:** 3133  
**Neighborhood:** Sunnyside, contact Paul Loney at 503-233-8265.  
**Business District:** Beaumont Business Association, Dan Johnson at 503-445-2157.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** Multi-Dwelling Residential 1,000 (R1)  
**Case Type:** Land Division Subdivision (LDS)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

**Proposal:** The applicant proposes a **Land Division Subdivision** which will divide an approximately 10,000 square-foot corner lot into 4 lots that are proposed to be developed with detached houses with accessory dwelling units. The site is currently developed with a renovated 2-story, plus attic, house listed on the Historic Resource Inventory. The house will be removed to make way for the redevelopment of the site as described above.

Water and sewer service connections are proposed from existing city facilities located in both SE 28<sup>th</sup> Avenue and SE Belmont.

This subdivision proposal is reviewed through a Type II<sub>x</sub> procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS

92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create four units of land (4 lots). Therefore this land division is considered a subdivision.

**Relevant Approval Criteria:** 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.**

## FACTS

**Site and Vicinity:** This 10,000 square foot lot is situated on the southeast corner of the intersection of SE Belmont Street and SE 28<sup>th</sup> Avenue. It is currently developed with a very attractive, 2-story house with an attic. Although the house is listed on the Historic Resource Inventory, it is not designated as an historic landmark, and therefore does not receive protection through Historic Resource review. Three of the four trees on the site are subject to the Tree Preservation standards. The surrounding neighborhood contains other older homes, some of them converted to multi-dwelling structures, and a number of them also having the “Historic” designation. There are also small apartment buildings and duplexes in the area, and a dry-cleaners kitty-corner of the site.

### **Infrastructure:**

**Streets** –The site has approximately 100 feet of frontage on SE Belmont Avenue and just under 100 feet (99.96) of frontage on SE 28<sup>th</sup> Street. There is one driveway entering the site from SE 28<sup>th</sup> that serves the existing house.

At this location, SE Belmont Avenue is classified as a Neighborhood Collector, Major Transit Priority Street, City Walkway, Major Emergency Response Street and a Local Service Street for all other modes. It is currently improved with an approximately 42-foot wide paved roadway and a pedestrian corridor that consists of an 8.5-foot wide sidewalk corridor along the site’s Belmont frontage.

SE 28<sup>th</sup> Avenue is improved with a 28-foot wide roadway and an 8-6-2 sidewalk corridor that exceeds the current standard for a 12-foot corridor.

TriMet Line 15-Belmont provides frequent service on SE Belmont Avenue and has a stop on Belmont in front of the house.

**Water Service:** There is an existing 6-inch cast iron (CI) water main in SE 28<sup>th</sup> Avenue that may potentially provide water to proposed Lot 3. Water from this main is also available to provide service to proposed Lots 2 and 4. There is also an 8-inch CI main in SE Belmont available to serve Lots 1 and 2. An existing 5/8” metered service may potentially be used to provide water to proposed Lot 3 provided a new water service and meter of appropriate size is installed within the public right of way and within the specific property boundary/frontage that it will serve.

**Sanitary Service:** The following public combined sewers are adjacent to the project and are available for sanitary connections from future development:

- A 54-inch reinforced concrete combined sewer in SE Belmont; and
- An 8-inch clay combined sewer in SE 28<sup>th</sup> Avenue.

**Stormwater Disposal:** There is no public storm-only sewer currently available to this property.

**Zoning:** The site is located in the **Multi-Dwelling Residential 1,000 (R1)** zone. The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing.

**Land Use History:** City records indicate that previous to this review, there was a conditional use (CU 61-89) approved for the house in 1989.

**Agency Review:** Several Bureaus 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 **September 19, 2013**. One written response was received from a notified property owner who expressed concern that a beautiful, historic house will be removed to make room for what he described as an “inefficient, inelegant, and simply sad” development. However, these comments do not relate to any of the Zoning Code criteria which must be used for the review of the proposal. Therefore, they are not addressed below.

## 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:
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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
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 four lots for detached housing, with one accessory dwelling unit per lot. The proposed lots must meet minimum density requirements, but not exceed the maximum density stated in Table 120-3.

The minimum density in the R1 zone is one unit per 2,000 square feet (for sites less than 10,000 square feet in area, Ch. 33.120.205.C.2) and the maximum density is one unit per 1,000 square feet. The site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density.

In this case, the total site area shown on the applicant’s survey is 9,996 square feet. A 350-square-foot street dedication is required along SE Belmont, resulting in a 9,646 square-foot site area. With a density requirement of one unit per 2,000 square feet, the minimum density is 4.8 units, which rounds up to a minimum of 5 units that are required by a division of land on this site, and a maximum of 9.

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

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

R1	Minimum lot area (square feet)	Minimum lot width (square feet)	Minimum lot depth (square feet)	Minimum front lot line (square feet)	Density	
					Minimum	Maximum
<b>Detached Houses</b>	none	25	none	25		
Lot 1	2,335	30.00	75.5	30.00	1	2
Lot 2	2,332	33.32	70.0	33.32	1	2
Lot 3	2,332	33.32	70.0	33.32	1	2
Lot 4	3,096	33.32	70.0	33.32	2	2

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

Although the applicant has proposed detached houses for the four lots, based on the proposed lot widths, all four lots are wide enough to be developed with detached, attached, or duplex houses, per 33.612.200/Table 612-1.

The applicant did not specify density for this 4-lot proposal, which has a minimum density requirement of 5 units. An additional unit must be assigned to one of the lots in order to meet the minimum density requirement. The applicant also did not specify a preference for which lot would receive the additional density requirement. Therefore, staff has assigned the extra density to Lot 4 as shown in the above table. Because the proposed area of Lot 4 requires only a minimum density of 1 unit, per Table 120-3 of the Zoning Code, a condition is needed to ensure that the minimum density requirements of the land division site will be met on Lot 4, and that it will be developed with both a single, and an accessory dwelling unit (ADU). With this condition, this criterion will be met.

With conditions related to the minimum and maximum density, the applicable density and lot dimension standards will be met, as will this criterion.

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

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

The applicant's arborist provided a report that inventoried the trees within the land division site, evaluated their conditions and specified root protection zones (Exhibit A.2). One of the four trees on the site, an 18-inch cutleaf birch, has been exempted because it is a nuisance species and therefore, is not subject to preservation. The other 3 trees are subject to the preservation requirements of this chapter.

The inventory identifies the following trees on the site and uses the tree numbers that were assigned in the Arborist Report:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
279	Cherry ( <i>Prunus sp.</i> )	28	No	No	NA
280	Birch	18	Yes	No	NA
281	Cherry ( <i>Prunus sp.</i> )	31	No	No	NA
282	Cherry ( <i>Prunus sp.</i> )	26	No	No	NA

The total non-exempt tree diameter on the site is 85 inches. The applicant proposes to remove all of the trees on the site because their locations would preclude the proposed development, as allowed under Ch. 33.630.300.C.1. The three non-exempt trees on the site have "moderate" value in that they are all a common species (cherry) and do not have special characteristics. Removing all the trees from a site is allowed if the applicant provides a mitigation plan that adequately mitigates the tree removal by planting new trees on the site.

Tree preservation requirements call for 35 percent of the site's non-exempt tree diameter to be retained on-site, and if not retained, to provide mitigation at the same rate. Thirty-five percent of 85 inches of tree diameter equals 29.75 inches of required tree mitigation, which rounds up to 30 inches. Because the site, with four proposed lots containing individual houses, is so small, the applicant proposes a mitigation plan that includes planting four 2-inch diameter trees on the site and paying into the City's tree fund to make up the remaining required mitigation. The applicant will plant 4 new 2-inch diameter trees, for 8-inches of on-site mitigation, and pay into the Portland Tree Fund for the remaining 22 tree diameter inches. The Tree Fund is used by the City to help partially restore the loss of trees to the community by financing the planting and establishment of public trees throughout the community. With conditions requiring the locations of the required mitigation trees to be shown on a Supplemental Plan; for installation of four 2-inch diameter trees on the site prior to final building permit approval; and for paying into the City's Tree Fund for 22 inches of tree diameter to help mitigate the loss of mature trees on this site and provide a copy of the receipt prior to final plat approval, this criterion will be met.

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

**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.

Clearing and Grading: The site, although elevated above street level, is primarily flat and is not located within the Potential Landslide Hazard Area. Grading will be required to access each of the new lots and the existing house will be demolished. The three trees on the site have been

designated for removal. However, only minimal grading is expected for development of each lot. Therefore, no significant clearing or grading will be required to make the new lots developable.

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

Based on these factors, this criterion is met.

**I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

Proposed Lot 1 is on the south side of an east-west oriented street (SE Belmont), and is an interior lot (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots. This criterion is therefore met for Lot 1.

The three remaining lots are on the east side of a north-south oriented street. Lot 2 will be on the southeast corner of an east-west oriented street, and will be the same width as the other 2 lots facing SE 28th. In this context also, there is no preference that any one lot be wider or narrower than the other lots. Therefore, this criterion is met.

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

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

**Findings:** The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on Page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on Page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management method:</p> <p><b>Lots 1 through 4:</b> Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES has indicated conceptual approval of the drywells. Prior to Final Plat approval, the applicant must submit a revised supplemental survey showing that stormwater facilities on all lots meet setback requirements. To ensure that stormwater management requirements are adequately addressed, prior to final plat approval, the applicant must submit a revised Supplemental Plan showing stormwater facilities on all lots that meet all setback requirements, as summarized in Exhibit 2-1 (pages 2-8) of the Stormwater Management Manual.</p>

**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. Because the lot to be divided is a corner lot, Portland Transportation has indicated no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030****33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment**

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 provided the following information related to Transportation Impacts:

*The net increase of three single-family residents can be expected to generate 28 daily vehicle trips with 2 additional trips in the AM Peak Hour and 3 in the PM Peak Hour. This small increase is not anticipated to create any significant impact on intersection Level of Service. Therefore, new peak hour trips are insignificant and do not warrant any mitigation to nearby intersections.*

*With regard to impacts to on-street parking, the applicant submitted a parking study showing that in the immediate vicinity, at least 48% of on-street parking spaces are available to area residents and businesses during a typical weekday evening at the time of peak residential demand. At least one on-site parking space is proposed for each lot. PBOT finds the transportation system, with conditions, is capable of serving the proposed development in addition to existing uses in the area.*

*If retaining walls are proposed at any street-facing property lines, a site distance study for each driveway design will be required at the time of building permit submittals, which will document that drivers leaving the site will have adequate lines of sight. However, the site distance analysis submitted with the application did not take into account the existing elevated grade above the street and sidewalks.*

*Further, if the future driveway for proposed Lot 2 does not meet the minimum Title 17 requirement to be separated from the lot line abutting an intersection by at least 25-ft, a Design Exception shall be required as a condition of building permit approval.*

*Since the site is a corner lot, connectivity is not required. With the requirement to upgrade the sidewalks on SE Belmont to current City standards, both frontages will provide adequate pedestrian facilities.*

In addition, PBOT will require that a site-distance study be based on proposed elevations that will be on the site as the result of this land use decision.

With conditions based on the requirements listed above, this criterion will be met.

**33.654.120.E. Approval criterion for the width of pedestrian connections.**

**Findings:** Portland Transportation provided the following response:

*SE Belmont Street is classified as a Neighborhood Collector, Major Transit Priority Street, City Walkway, Major Emergency Response Street, and a Local Service Street for all other modes. It is improved with a 0-6.5-2 sidewalk corridor meaning there is 8.5-ft from the face of the curb to the property line. A 3.5-ft dedication and reconstruction to a 12-ft corridor shall be a condition of final plat and building permit approvals. The 12-ft corridor consists of the existing 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and a 1.5-ft frontage zone.*

*SE 28<sup>th</sup> is classified as a City Bikeway and a Local Service Street for all other modes. It is improved with a 8-6-2 sidewalk corridor that excess the current standard for a 12-ft corridor. No dedications or street improvements will be required other than repairing any broken sidewalk sections and adding street trees as necessary. These limited improvements shall be conditions of building permit for each lot with frontage on SE 28<sup>th</sup> Ave.*

*Dedications and frontage improvements shall be a condition of final plat approval. All such dedications and required frontage improvements shall be shown on a Supplemental Plan included in the Final Plat application.*

*A Financial Guarantee for the sidewalk improvements along SE Belmont Street shall be submitted before or at the time of Final Plat reviews and shall be a condition of approval of the Final Plat.*

*If retaining walls are proposed near any street-facing property lines, a site distance study shall be required for each driveway design, documenting that drivers have adequate site lines as their vehicles exit the site, and will take into consideration proposed site grades for the development.*

*If the proposed driveway for proposed Lot 2 is not separated from the lot line abutting the adjacent public street intersection by at least 25-feet, a Design Exception shall be required as a condition of building permit approval.*

Based on the conditions listed above, this criterion will be met.

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

At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. 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. As such, this criterion is met.

## **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.

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

- **Detached Houses-** Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.
- **Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R1 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

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

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau in regard to fire apparatus access, fire apparatus access roads, fire flow/water supply, addressing of structures, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- **Urban Forestry:** Existing street trees are to be protected and preserved until such time as their removal is approved by Urban Forestry. Street trees will be required along all public frontages depending on planting conditions and will be reviewed and approved by the City Forester during building permit application. Tree species and location to be determined by the City Forester during plan review. Street trees required for residential sites are to be 2 inch caliper in size.

## CONCLUSIONS

The applicant has proposed a 4-lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Density
- Tree Preservation
- Clearing and Grading
- Line of sight for exiting traffic and sidewalk repair
- Fire Bureau requirements for fire flow/water supply, access, and addressing

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 4-lot subdivision that will result in 4 lots to be developed with attached or detached houses, duplexes, or accessory dwelling units, as illustrated with Exhibit C.1, and subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for review and approval. This 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;
- Reduced side setbacks if taking advantage of Section 33.120.270.D;
- The proposed general location of future building footprints;
- Proposed stormwater management facilities that demonstrate compliance with required setbacks;
- The locations for the four required 2-inch diameter mitigation trees with their species and sizes shown, as modified by any conditions listed in this report;
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

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

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site’s SE Belmont Street frontage. The applicant shall obtain applicable permits from the Portland Bureau of Transportation to install the required sidewalk corridor, and provide plans and financial assurances to the satisfaction of Portland Transportation for required street frontage improvements.
2. The frontage improvements require a separate public works permit to City standards per the requirements of the City Engineer.
3. The applicant shall obtain a finalized demolition permit for removing the existing house.
4. The applicant must meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant to the satisfaction of the Fire Bureau.
5. The applicant shall pay into the City’s Tree Fund the required amount to mitigate the removal of 22 inches of tree diameter and shall provide a copy of the receipt 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	1	2
2	1	2
3	1	2
4	1	2

2. Prior to approval of building permit review, if retaining walls are proposed near any street-facing property lines, a site distance study for each driveway design shall be required.
3. Four 2-inch diameter trees shall be installed in the rear yards of proposed Lots 1 and 4, per the applicant’s Revised Arborist Report and site plan, as modified by staff on Site Plan C.1, at the time of final building permit review.

4. The applicant shall apply for and receive approval of a written permit from the City Forester to remove the 24-inch Ash tree that is within the right of way of SE 28<sup>th</sup> Street.
5. The applicant shall plant street tree(s) along all public frontages as required and approved by the City Forester prior to final building permit approval.
6. The applicant must meet the addressing and aerial fire department access road requirements of the Fire Bureau.

**Staff Planner: Kathy Harnden**

Decision rendered by:  on November 18, 2013  
By authority of the Director of the Bureau of Development Services

**Decision mailed:** November 21, 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 April 30, 2013, and was determined to be complete on September 18, 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 April 30, 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 requested that the 120-day review period be extended until such time as a solution for tree preservation could be found, i.e., for an unspecified period of time as shown in Exhibit G.6. A solution was provided in Exhibit A.3, dated November 12, 2013. Unless further extended by the applicant, **the 120 days will expire on: January 16, 2014.**

**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, who will hold a public hearing. Appeals must be filed **by 4:30 PM on December 5, 2013** 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 and information on fee waivers 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](http://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 775 Summer St. NE, Suite 330, 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.**

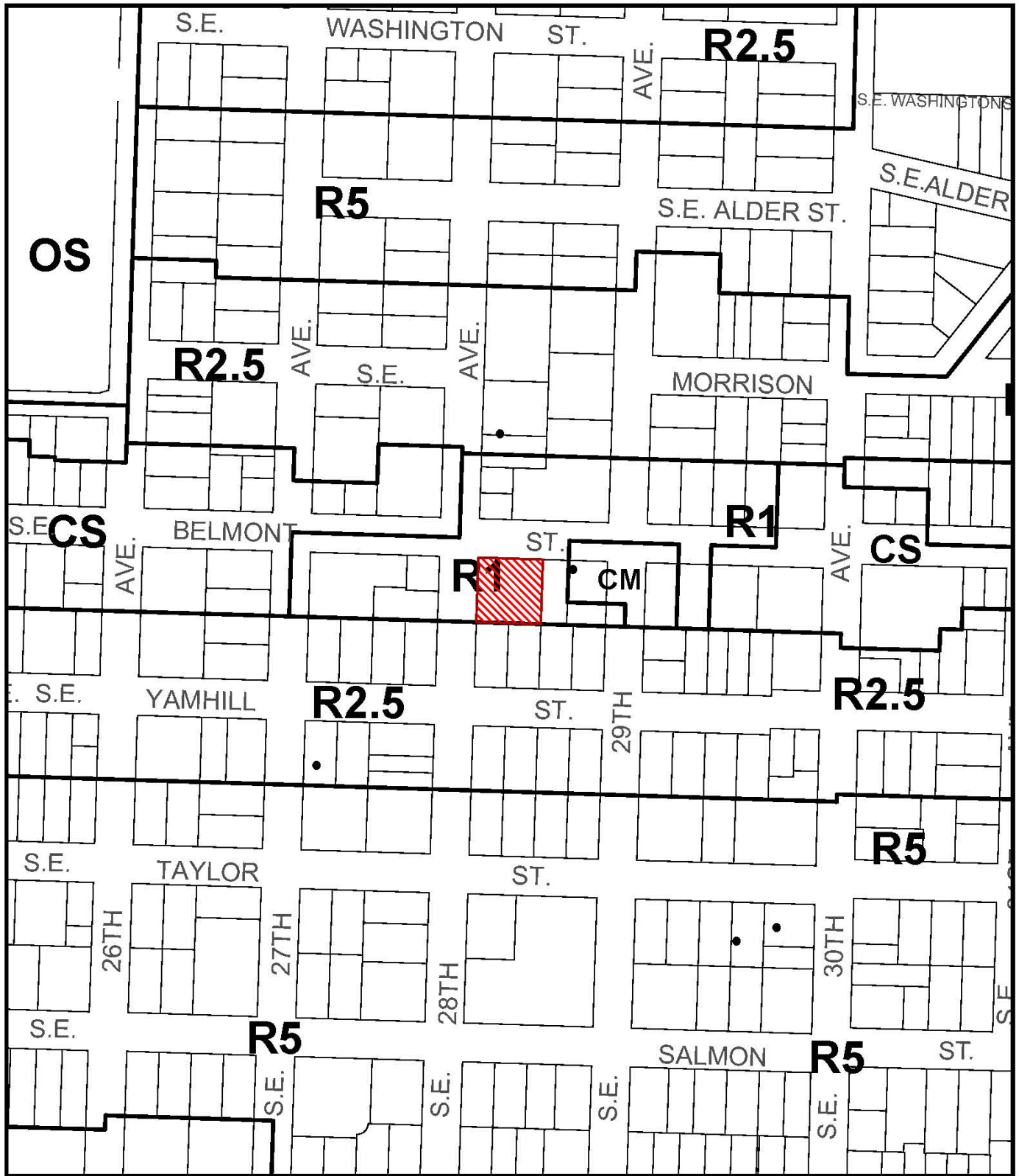
#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Supplemental Narrative
  - 2. Arborist Report
  - 3. Revised Arborist Report with Recommended Mitigation Plan
  - 4. Neighborhood Meeting Request with Certified Mail Receipts
  - 5. Main Street Engineering Traffic Analysis
  - 6. Stormwater Report and Simplified Approach
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary/Conceptual Development & Tree Mitigation Plan (reduced copy attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services

2. Portland Transportation
  3. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Urban Forestry
  7. Life Safety
- F. Correspondence:
1. Bob Gantz, October 20, 2013, opposed to removal of existing house
- G. Other:
1. Original LU Application
  2. Incomplete Letter with attached RFC responses
  3. Request to extend review period

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



# ZONING



Site



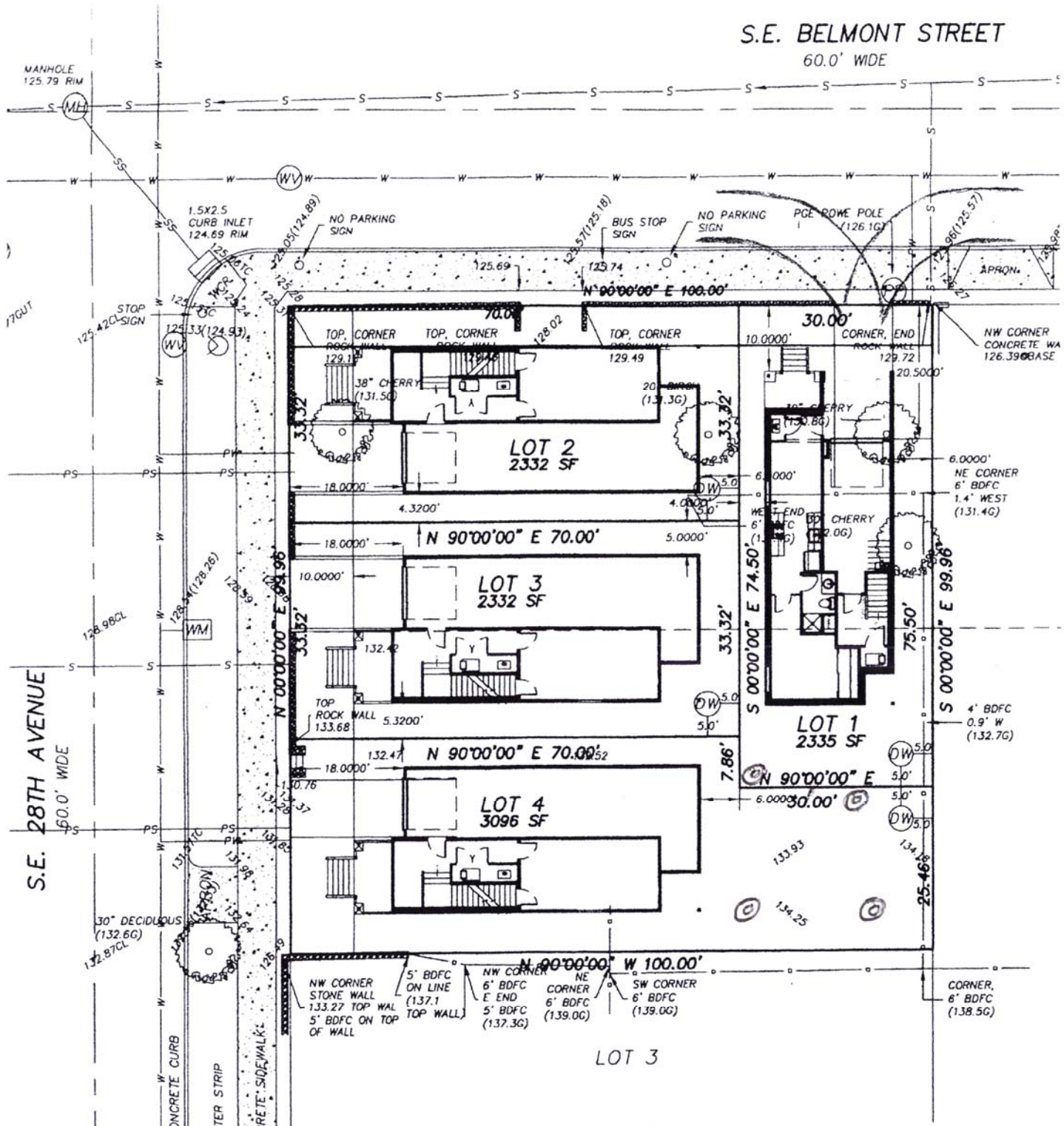
Historic Landmark



File No. LU 13-145665 LDS  
 1/4 Section 3133  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E01BB 13200  
 Exhibit B (May 03, 2013)



S.E. BELMONT STREET  
60.0' WIDE



© - 2" dbh mitigation tree, species as stated in Revised Arborist Report with Recommended Mitigation  
 - Trees to be planted in locations as shown above

LU13-145665  
 Exhibit C.1