



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

FROM CONCEPT TO CONSTRUCTION

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Date: May 9, 2014
To: Interested Person
From: Kathy Harnden, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in 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 13-143892 LDP

GENERAL INFORMATION

Applicant: Mike Coyle / Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: George Hale, Kloh LLC, INC.
9700 SW Capital Hwy, Suite 100 / Portland OR 97219

Site Address: 10050 WI/ SW 25th Avenue

Legal Description: LOT 53, EDGECLIFF
Tax Account No.: R236501900
State ID No.: 1S1E28CB 09300
Quarter Section: 4027
Neighborhood: Marshall Park, contact John DeLance at 503-246-4382.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Plan District: None
Other Designations: Potential Landslide Hazard Area
Zoning: Residential 10,000 (R10)
Case Type: Land Division Partition (LDP)
Procedure: Type I_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to partition this approximately 30,000 square-foot site into two parcels, with the rear parcel being a flag lot. Proposed Parcel 1, the front parcel, will contain 13,159 square feet and will be 84.8 feet wide and 155 feet deep. Parcel 2, the flag lot, will contain 16,853 square feet and will be 100.19 feet wide and 145 feet deep. The pole to access Parcel 2 will run along the south side of the property. Both parcels will be developed with detached, single-dwelling houses. An existing 15-foot wide access easement, which provides access from SW 25th Avenue to Edgecliff Lot 55, Tax Lot 7,000 to the east of the site, will be extinguished and replaced with a new access easement. That portion of the driveway adjacent to proposed Parcel 1 will be widened to 20 feet to meet Fire Code requirements. Most of the trees will be removed as the applicant proposes to retain only the minimum 35 percent of total tree diameter

on the site as required by Code.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two lots are proposed; and (3) the site is located within a Potential Landslide Hazard Area (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 proposes to create two parcels.

Relevant Approval Criteria:

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

FACTS

Site and Vicinity: This site is located in the Markham neighborhood of Southwest Portland, on SW 25th Avenue, approximately 70 feet north of the intersection of SW 25th and SW Huber Street. The site is near both Tryon Creek State Natural Area and Maricara Natural Area, a nearby smaller protected woodland area. Several small tributaries to Falling Creek are located to the northwest and northeast of the site, which slopes downward to the north. The site is heavily treed with a primary mix of big-leaf maple, Douglas fir and western red cedar.

Most of the lots in the area are larger, fully developed single dwelling lots, although several have been divided into flag lots as well. The site is adjacent to an 8-lot subdivision to the south on SW Huber Court.

Infrastructure:

- **Streets:** The site has approximately 100 feet of frontage on SW 25 Avenue, which is classified as a City Bikeway, City Walkway, and a Local Service Street for all other modes. There are no curbs or sidewalks at this location, although the lot immediately adjacent to the south has both a curb and sidewalk, which end at the lot boundary line. Tri-Met Bus No. 43 provides service almost one-half mile west of the site at SW 35th and SW Huber.
- **Water Service:** There is an existing 4-inch CI water main in SW 25th Avenue which can provide service to both new lots. There is no existing service to the site.
- **Sanitary Service:** There is an existing 8-inch PVC public sanitary gravity sewer in SW 25th Avenue, and an existing lateral that are available to service this site, although an additional service will be required. All new laterals must be constructed to the public main.
- **Stormwater Disposal:** There is no public storm-only sewer currently available to this property. The applicant has proposed on-site treatment and detention using flow-through planters, with over-flow to a public ditch system along SW 25th for the development of two houses on this 2-lot partition site.

Zoning: The R10 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 6,000 square feet. Newly created lots must have a minimum density of 1 lot per 10,000 square feet of site area. The provisions of this zone allow this use.

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 **July 26,**

2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table 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.
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	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 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing a 2-parcel partition that will result in one standard and one flag lot. Density is based on the area of the lot prior to the required street dedication. The minimum and maximum densities for the site are as follows:

Minimum = $(30,012 \text{ square feet} \times 0.80) \div 10,000 \text{ square feet} = 2.40$, which rounds down to a minimum of 2 parcels, per Ch. 33.930.020.A, Portland Zoning Code.

Maximum = $30,012 \text{ square feet} \div 10,000 \text{ square feet} = 3.0$

Therefore, this 30,012 square-foot site has a minimum required density of 2 units and a maximum allowed density of 3 units. The applicant is proposing 2 parcels in the R10 zone, with one being a standard lot (Parcel 1) and one being a flag lot (Parcel 2). Therefore, the density standards are met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R10 Zone	6,000	17,000	50	60	30	40	40
Parcel 1	13,159.0 SF		84.80	155.0	84.8		
Parcel 2	14,531.9 SF** (flag portion only)		--	--	--	100.0	145.13

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

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

Flag Lots are allowed in limited circumstances, per 33.610.400. In this case, the original site dimensions are such that they preclude a lot configuration that meets the minimum lot width standard. The proposed flag meets the lot width and depth standards for flag lots, and will include a 15-foot pole that will connect Parcel 2 to SW 25th Avenue.

Additionally, the pole portion of Parcel 2 will provide off-street parking access for both proposed parcels, which minimizes the need for additional curb-cuts along the street and reduces the amount of impervious area needed for vehicle access. A portion of the pole will also preserve access to an "also-owned" lot that is located east of the site. A private access easement will be placed over the entirety of the pole to allow shared use of the driveway for proposed Parcels 1 and 2, and for the existing lot at 10050 SW 25th (Edgecliff, Lot 55 TL 7,000). (See additional requirements in Criterion H, below).

Based on the foregoing, the applicable density and lot dimension standards will be met, so this criterion is met.

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 provided an arborist report (Exhibit A.3) that inventoried all the trees within the land division site and evaluated their conditions. Several trees were exempted because they are unhealthy or hazardous, or because they aren't wholly on the site. Of the 83 trees on the site, 16 healthy trees have been selected for preservation. The total non-exempt tree diameter is

620 inches. The applicant must preserve 35 percent, or a minimum of 217 inches of tree diameter.

The applicant's tree preservation plan indicates that 218 tree diameter inches will be retained on-site, including a 28-inch Douglas fir and a 28-inch Port Orford cedar. These trees, and several others to be preserved on the site, are designated as Significant Trees, per Tree Table 630-1. The trees to be preserved and their required root protection zones are shown on the applicant's Tree Plan, Exhibit C.3. To ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must submit and record an *Acknowledgement of Tree Preservation Land Use Conditions*.

Therefore, this criterion is met subject to the conditions that development on Parcels 1 and 2 be carried out in conformance with the Preliminary Site/Utility/Tree Preservation Plan (Exhibit C.3), including tree protection fencing during site preparation and development, and the applicant's revised arborist report (Exhibit A.3); that preserved trees are shown on the required Supplemental Plan; and that an *Acknowledgement of Tree Preservation Land Use Conditions* is provided for review and recorded with the final plat. Prior to final plat or issuance of the first building/development permit, the applicant must receive final inspection approval of a Zoning Permit to verify that the required fencing has been installed.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

Findings: The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited. To evaluate the proposal against these criteria, the applicant submitted a geotechnical evaluation of the site and of the proposed land division that was prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.4). This report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site.

After additional analysis and consultation with the Bureau of Environmental Services regarding stormwater disposal, Site Development concurred with the findings of the applicant's geotechnical report. This conclusion was reached in part because stormwater will not be disposed of on the site itself; rather it will be treated on-site and then discharged into an existing drainage ditch along SW 25th Avenue.

With the additional stormwater analysis, Site Development concurred with the findings of the applicant's geotechnical report, and 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, although the site itself is gently to moderately sloped and has no indications of slope instability, it is located within a Potential Landslide Hazard Area. Therefore, the clearing

and grading associated with preparation of the lots must occur in a way that will further limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

The applicant submitted a Landslide Hazard Report (Exhibit A.4) that stated the site is “underlain by basalt bedrock that is relatively resistant to deep-seated slope instability.” The report states that soil explorations at the site indicate the soils are “characterized by moderate-to-high shear strength and a moderate-to-high resistance to slope instability on moderately steep slopes,” and determined that no “special design or construction provisions are needed to address slope issues on the site. No areas of the site need to be restricted from development due to slope stability issues or landslide hazards, which are nonexistent.”

The applicant also provided a Tree Protection Plan and an arborist report (Exhibit A.3) that provided root protection zones where grading should not occur in order to protect the roots of trees to be preserved on the site.

Therefore, it is anticipated that the grading will primarily involve minor excavation for proposed house foundations and utility trenching, but will not include mass grading of the site that would alter existing contours. Stormwater runoff from the lots will be appropriately managed through on-site treatment with disposal to a public ditch system to assure that runoff will not adversely impact the site or adjacent properties. The applicant must enlarge several driveway culverts down-slope of the site to accommodate the additional flow (see a more detailed discussion of stormwater management later in this report).

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant’s Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition the plans will be reviewed for compliance with the applicant’s tree preservation plan and arborist report. Therefore, these criteria are met.

Land Suitability

The site is undeveloped and there is no record of any other use in the past. As indicated above, the site is relatively flat to moderately sloped and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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

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

- A 10-foot wide Private Storm and Sanitary Sewer Easement is required along the north property boundary of Parcel 1 for the benefit of Parcel 2;
- A 10- to 15-foot wide Private Storm Sewer Easement is required across the relevant portions of Parcels 1 and 2 for a stormwater management system that includes: a ten-foot wide easement over a stormwater drain trench across the driveway on Parcels 1 and 2 and over lines that carry stormwater to the flow-through planter on Parcel 1 and carry treated stormwater to the ditch in SW 25th Avenue; and a 15-foot wide easement over the flow-through planter on Parcel 1 that will treat the driveway stormwater (see Exhibit C.3);
- A 15-foot wide Reciprocal Access Easement is required to allow shared use of a driveway that will straddle the proposed lot lines of Parcel 1 and the pole of Parcel 2.
- A 15-foot wide Access Easement is required across the flag portion of Parcel 2 to allow shared use of a driveway that extends to the off-site property to the east, described as Edgecliff Lot 55 TL 7000;

The applicants also show a 4-foot wide Public Utility Easement (PUE) along the north side of the proposed driveway on Parcels 1 and 2 that will serve the Edgecliff Lot 55 TL 7000 property. However, this land use review does not regulate PUEs for non-City Service Bureau easements.

All existing and required easements and the facilities they cover shall be shown on a Supplemental Plan.

An existing 15-foot wide access easement adjacent to the south property line on Parcel 2 to Edgecliff Lot 55 TL 7000 shall be extinguished.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements are required that describe maintenance responsibilities for the easements described above and for facilities within these easement areas. This criterion can be met with the condition that the appropriate maintenance agreements are prepared and recorded with the final plat. The maintenance agreements must include the adjacent property to the east, identified as “Edgecliff, Lot 55 TL 7000,” where appropriate. The plat must reference the recorded maintenance agreements with a recording block for each agreement, substantially similar to the following example:

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

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

- K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**
- L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.**

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated and mitigated 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 or will be 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 to the site from the 4-inch CI water main in SW 25th Avenue, as noted on page 2 of this report. 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 for detailed comments.
The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary gravity sewer located in SW 25 th Avenue that can serve the sanitary needs of the proposed parcels. The conceptual sanitary sewer disposal plans proposed for Parcels 1 and 2 are acceptable to BES for the purposes of land use review. All new laterals required to serve the project must be constructed to the public main at the applicant’s or owner’s expense at the time of development. Any required private utility easements must be at least 10 feet wide. Both private sanitary and storm lines for Parcel 2 will be located within a private sewer easement on Parcel 1.
With conditions implementing these requirements, this criterion will be met.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1 & E.5
BES has verified that the 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 methods:
Public Street Improvements: Stormwater from the PBOT-required street improvements was

originally designed to be directed into an 8-foot infiltration swale located between the curb and the new sidewalk. BES indicated that surface infiltration is not a preferred method of stormwater disposal in this area, and that stormwater from the public street improvements must be directed to a flow-through planter, which will discharge treated water into an existing roadside ditch. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site may be required and must be shown on the final plat if needed.

BES requires a Public Works Permit for construction of the above-described system. The applicant must provide engineered designs and financial guarantees of performance for the flow-through planter prior to final plat approval.

Parcels 1 and 2: Stormwater from Parcel 1 and from a portion of the paved driveway will be directed to a flow-through planter on Parcel 1 that will remove pollutants and suspended solids. Parcel 1 has sufficient area for the stormwater planter in the front yard, and the Bureau of Environmental Services has indicated that the treated water can be directed to the existing drainage ditch in SW 25th Avenue. A trench drain must be installed across the bottom of the driveway to collect driveway run-off that will then be directed to the proposed stormwater planter on Parcel 1. Treated water will be directed across Parcel 1 to the storm ditch in SW 25th Avenue.

Stormwater from Parcel 2 will be directed to an individual flow-through planter on Parcel 2 for treatment and then it too will be discharged via a stormwater line in an easement on the north side of Parcel 1 to the roadside ditch in SW 25th.

Several private driveway culverts downhill to the north of the site must be enlarged in order to handle the additional run-off from the proposed development. The Bureau of Environmental Services has provided conceptual approval of these stormwater management plans, subject to the following conditions:

Prior to final plat approval:

1. The applicant must submit a financial guarantee and fees for the public works permit, subject to BES approval.
2. The applicant must show any additional dedication necessary to accommodate stormwater management facilities for public right-of-way improvements on the final plat.
3. A private storm easement must be shown over the stormwater management facility located on Parcel 1 that benefits other parcels.
4. The private driveway culverts for 10010 SW 25th and 10020 SW 25th must be upsized in order to provide capacity in the SW 25th ditch system, as required by BES. The work must be completed and required permits must be finalized prior to final plat approval.
5. A supplemental site plan must be provided that shows stormwater management facilities with escape routes, utilities, right-of-way improvements and dedications, and easements.

In addition, the private storm easement over the stormwater management facility on Parcel 1 must be extended over the drain trench across the driveway and over the storm lines to the treatment facility and from the treatment facility to the drainage ditch in SW 25th Avenue.

Therefore, with the above conditions, regarding stormwater for the new parcels and for public street improvements and dedication, this criterion will be 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 block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west through-street provided in the vicinity of the site. However, properties adjacent to the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through-street or pedestrian connection at this site, *existing development patterns....east of the site prevent the opportunity to obtain either road or pedestrian connections to SW Lancaster from SW 25th.* Therefore, this criterion is met.

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

As outlined in the response from Portland Transportation, the proposed land division will create two new parcels from the existing lot in order to accommodate two new detached single-dwelling homes. Referring to the ITE Trip Generation Manual, 8th Edition, Transportation determined that *these residences can be expected to generate 20 daily vehicle trips with 2 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicle (trips) will not have significant impact on intersection levels of service or street capacity.* Therefore, *no mitigation is needed.*

Transit is available approximately one-half mile to the west of the site near the intersection of SW 35th Street and SW Huber Avenue.

Access to the site will be via a shared driveway along the pole portion of proposed Parcel 2, which minimizes impacts to on-street parking and to potential conflicts to pedestrians and bicycles. Homes along SW 25th are served by driveways/garages that accommodate on-site parking for at least one vehicle/lot. Further, there does not appear to be a current high demand for on-street parking in the immediate vicinity. With only one (existing) curb cut/driveway proposed for the land division, as many on-street parking opportunities as possible will be retained along the street.

SW 25th Avenue is improved with a paved roadway and gravel shoulders on both sides, although a few individual houses have private curbs and private paving at the front of the lots. In general, however, there are no public sidewalks, street curbs, or planter strips in this portion of SW 25th Avenue.

Portland Transportation determined that additional pavement width and curb and sidewalk improvements must be made to ensure that safe vehicle and pedestrian travel is possible within the frontage of the proposed development. The applicant will be required to construct the following: a curb 13-ft from the ROW centerline, a 6-ft sidewalk, and a 1.5-ft frontage zone pre the Bureau of Transportation requirements, and a stormwater swale to the satisfaction of the Bureau of Environmental Services. Stormwater will be discharged to an existing street ditch as described earlier in this report. These improvements will require a property dedication of approximately one foot. The dedication of property can occur in relation to the Final Plat stage of this land division and must be shown on the Final Plat. With these improvements, two additional dwellings can be safely served by the existing street without having any significant impact on the level of service provided.

A performance guarantee and contract for the required frontage improvements must be in place prior to Final Plat approval.

With the above conditions of approval for right-of-way dedication, frontage improvements, and performance guarantees and contracts, this criterion will be met.

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

The applicant has proposed a 4-foot private utility easement along the south side of the site for the benefit of the Edgecliff Lot 55 TL 7000 property, as addressed earlier in this report. Any other easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can also be provided on the final plat. At this time no other specific utility easements adjacent to the right-of-way have been identified as being necessary.

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:

- Flag Lots – special setback and standards apply to flag lots in the R10 zone. These standards apply to Parcel 2.
- The site is currently vacant, so the division of the property will not cause any structures to move out of conformance or further out of conformance with any development standard applicable in the R10 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 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.

Fire Bureau: The applicant must meet the requirements of the Fire Bureau in regard to: addressing requirements; posting of "No Parking" and "Fire Lane" signs in the flag pole driveway; installing a new hydrant if required; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; verification that

the driveway can meet the 28-foot inside and 48-foot outside radius Fire requirement; and ensuring fire apparatus access, including aerial access if required. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. If an approved fire sprinkler system is used to meet Fire Bureau requirements in either proposed house, the applicants must execute an Acknowledgement of Special Lane Use Conditions (ASLUC) which must be noted on, and recorded with, the Final Plat.

CONCLUSIONS

The applicant has proposed a 2-parcel flag-lot partition, 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:

- Flag lot development provisions
- Stormwater Management
- Access and storm sewer easements and maintenance agreements
- Private off-site driveway culvert enlargement
- Right-of-way dedication and frontage improvements
- Tree Preservation
- Fire access, hydrant flow, signage and addressing
- Maintenance Agreements and Acknowledgements of Special Land Use Conditions.

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 one standard lot and one flag lot, per the approved site plans, Exhibits C-1 through C-2, signed and dated April 22, 2014, subject to the following conditions:

A. Supplemental Plan. Four copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES, and Fire 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:

- The proposed surveyed lot lines;
- The required street dedication area and street improvements;
- The proposed (or actual) building footprints for each parcel, in compliance with all required building setbacks;
- The identification, location and diameters of trees required to be preserved and their root protection zones;
- The proposed driveway and off-street vehicle parking areas;
- The Fire access lane with the required width and turning radius to the satisfaction of the Fire Bureau;
- All proposed sanitary sewer lines for both proposed lots;
- All proposed stormwater lines and treatment facilities for proposed houses and driveway;
- All stormwater management facilities with escape routes, utilities, right-of-way improvements, dedications and easements;
- All existing and required easements including a new access easement for the Edgecliff Lot 55 TL 7000 site;
- 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 SW 25th Avenue. Any required right-of-way dedication must be shown on the Final Plat.

2. A 10-foot wide Private Storm and Sanitary Sewer Easement for the benefit of Parcel 2 shall be shown and labeled over the relevant portions of Parcel 1.
3. A Private Storm Sewer Easement shall be shown and labeled over the stormwater treatment facility on Parcel 1 and over all associated storm lines leading to and from the facility, for the benefit of Parcels 1 and 2 and Edgecliff Lot 55 TL 7000. The easement area over the driveway and associated piping to and from the treatment facility shall be at least 10 feet wide, and the easement area over the treatment facility shall be at least 15 feet wide.
4. A 15-foot wide Private Access Easement over the proposed driveway area as depicted on Exhibit C.2, for the benefit of Parcels 1 and 2 and the Edgecliff Lot 55 TL 7000 site, shall be shown and labeled over the relevant portions of Parcels 1 and 2 on the final plat.
5. A recording block for each of the legal documents such as maintenance agreement(s) and acknowledgements of special land use conditions, as required by Conditions C.5 – C.8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

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

Streets and Alleys

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site’s street frontage. The applicant shall submit an application for a Public Works Permit and provide engineered designs and financial guarantees of performance to the satisfaction of the Portland Bureaus of Transportation and Environmental Services for required street frontage improvements. Street improvements must connect to the improvements adjacent to the south.
2. The applicants shall increase the size of private driveway culverts for 10010 SW 25th and 10020 SW 25th in order to provide the requisite stormwater capacity in the SW 25th Avenue ditch system, to the satisfaction of the Bureau of Environmental Services.

Utilities

3. 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 to final plat approval.
4. The applicant shall 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. 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.

Required Legal Documents

5. A Maintenance Agreement shall be executed for the 10-foot wide Private Storm and Sanitary Sewer Easement described in Condition B.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and the facilities within that area to the owners of Parcel 2, 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.
6. A Maintenance Agreement shall be executed for the Private Storm Sewer Easement described in Condition B.3 above. The agreement shall include provisions assigning maintenance responsibilities among the three properties for the easement area and all

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.

7. A Maintenance Agreement shall be executed for the 15-foot wide Reciprocal Access Easement described in Condition B.4 above. The agreement shall include provisions assigning maintenance responsibilities among the three properties for the easement areas and any shared facilities within those areas, consistent with the purpose of the easement, and all applicable City Code standards, including Fire Bureau restrictions on parking. 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.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements applicable to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The Acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

Other Requirements

9. The applicant shall install protective fencing around the perimeter of trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Prior to final plat or issuance of the first building/development permit, the applicant must receive final inspection approval of a Zoning Permit verifying that the fencing has been installed.
10. The applicant shall provide legal evidence that the existing 15-foot access easement to the Edgecliff Lot 55 TL 7000 site has been extinguished.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.3) and the applicant's arborist report (Exhibit A.3.) Specifically, trees numbered 24-27, 37, 38, 58, 60, 70-72, 76, and 78-81 are required to be preserved, with the root protection zones indicated on Exhibit C.3. Tree protection fencing is required along the root protection zone of each tree to be preserved or collectively as shown on Exhibit C.3. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. The applicant shall post the flag pole driveway for Parcel 2 with "No Parking – Fire Lane" signs to the satisfaction of the Fire Bureau. The location of the sign(s) must be shown on the building permit.
3. The applicant shall meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot. The location of the sign must be shown on the building permit.
4. If required by the Fire Bureau, the applicant must install residential sprinklers in the new house on Parcel 2 to the satisfaction of the Fire Bureau.

Staff Planner: Kathy Harnden

Decision rendered by:  on May 9, 2014.

By authority of the Director of the Bureau of Development Services

Decision mailed May 9, 2014

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 26, 2013, and was determined to be complete on **July 24, 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 26, 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 waived the 120-day review period, as stated with Exhibits G.3.a and G.3.b. Unless further extended by the applicant, **the 120 days will expire on: July 24, 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 May 21, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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.

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 97301-1283 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.

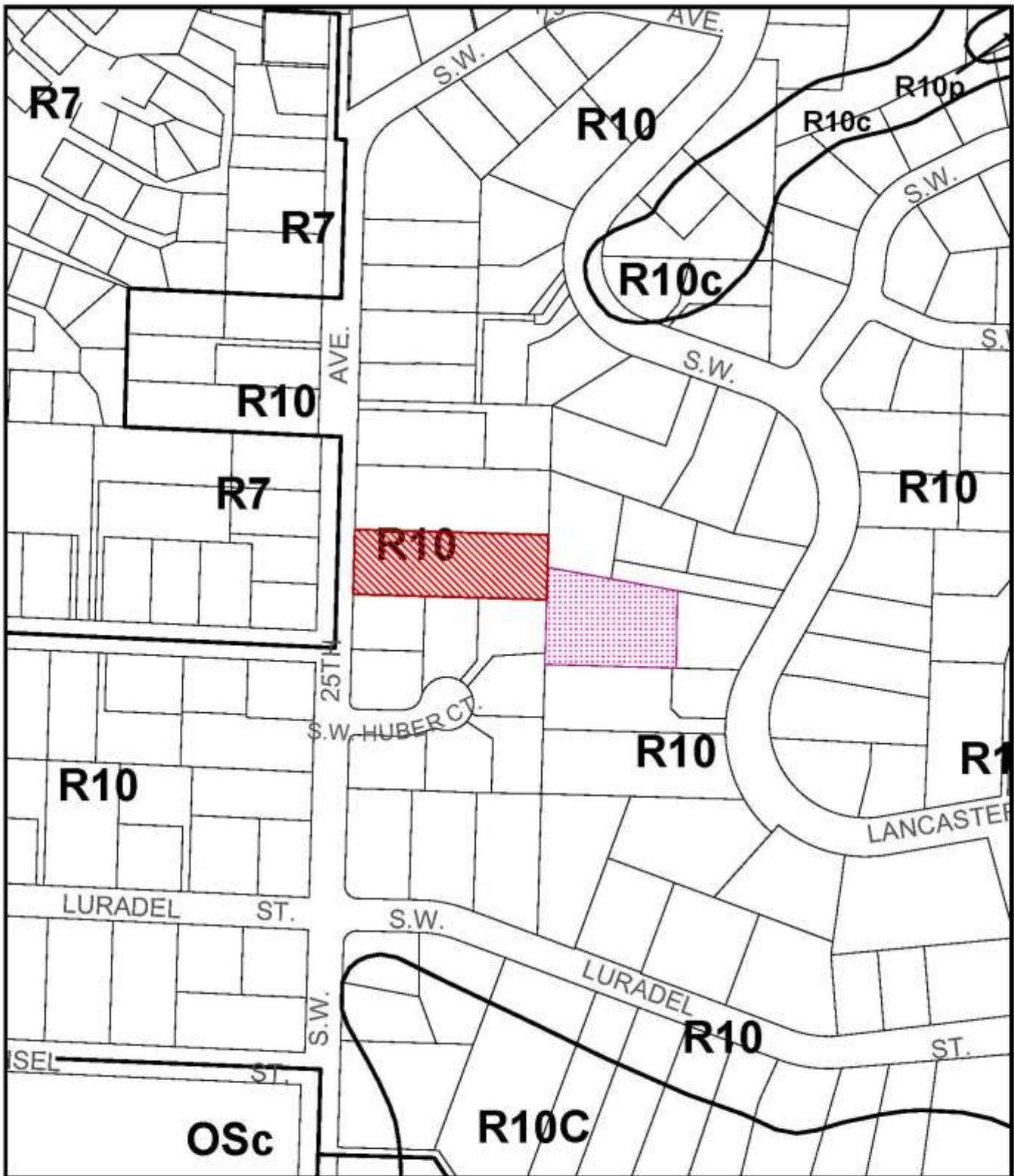
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Initial Submittal
 - 2. Revised Narrative
 - 3. Arborist Report-Revised
 - 4. Landslide Hazard Study
 - 5. Preliminary Stormwater Management Report, Simplified Approach
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions
 - 2. Stamped Survey and Easements Plan (attached)
 - 3. Proposed Site/Utility/Tree Preservation Plan (attached)
 - 4. Tree Identification Plan
 - 5. Preliminary Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Environmental Services, Addendum
 - 3. Portland Transportation
 - 4. Water Bureau
 - 5. Fire Bureau
 - 6. Site Development/BDS
 - 7. Urban Forestry
 - 8. Life Safety
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter w/Service Bureau RFC Responses
 - 3. Request for Evidentiary Hearing and Waiver of Right to a Decision within 120 Days
 - 4. Certified mail receipt

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
	Also Owned

File No.	<u>LU 13-143892 LDP</u>
1/4 Section	<u>4027</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E28CB 9300</u>
Exhibit	<u>B</u> (Apr 26, 2013)

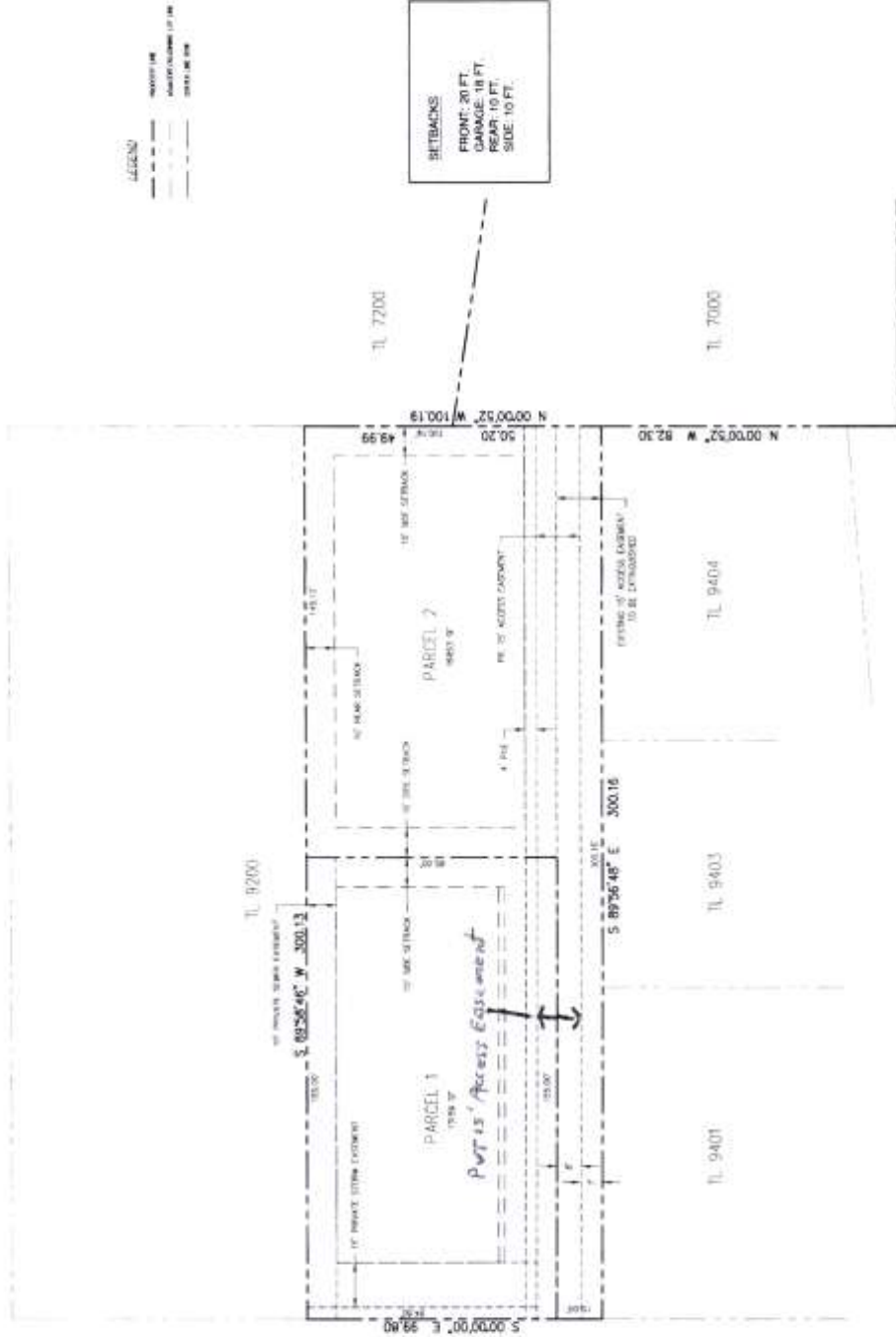


RECEIVED

MAY 06 2014

SW 25TH AVE

LU 13-143892 LDP
Exhibit C.2



BETBACKS
 FRONT: 20 FT.
 GARAGE: 18 FT.
 REAR: 10 FT.
 SIDE: 10 FT.

LEGEND
 --- PROPERTY LINE
 --- ADJUTING/ENCUMBRANCE OF THE
 --- SETBACK LINE



10050 W/ SW 25TH AVE
 TAX MAP T1S R1E 29C8
 MULTNOMAH COUNTY, OREGON

PRELIMINARY PLAT

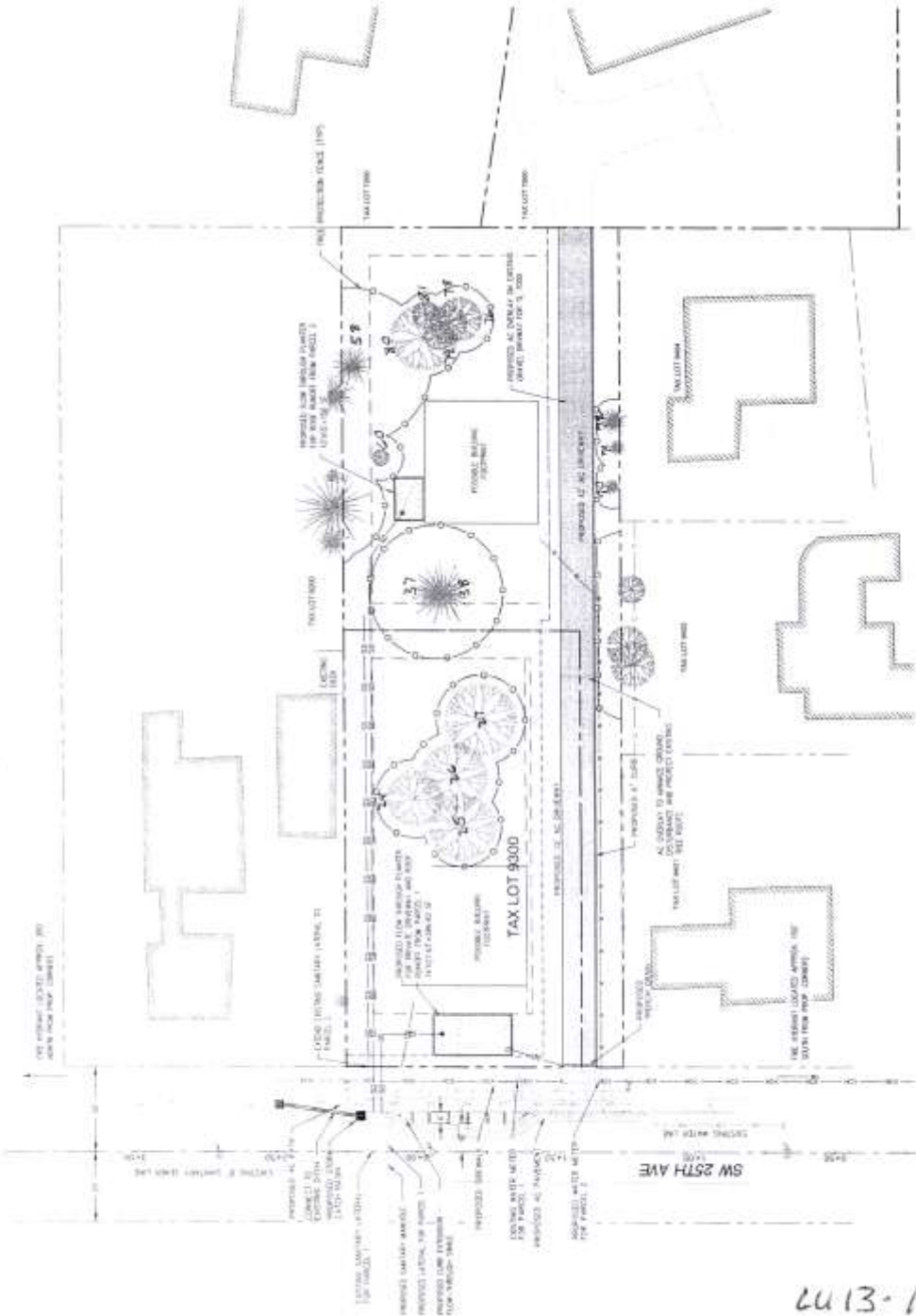
NO.	DATE	DESCRIPTION

EMERIG
Engineering
 407 SW ALBERTA BLVD. SUITE 47
 PORTLAND, OREGON 97204
 PHONE (503) 915-9528

REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON
 LICENSE NO. 10217
 EXPIRES 12-31-14

4
 6

LEGEND	
EXISTING	
	POW LINE
	SEWERAGE MAIN
	SEWERAGE SIDE
	SEWERAGE BRANCH
	WATER MAIN
	TELEPHONE
	UTILITY POLE AND LOOP
PROPOSED	
	SEWER MAIN
	SEWER SIDE
	SEWER BRANCH
	WATER MAIN
	TELEPHONE
	UTILITY POLE AND LOOP
	CONCRETE
	ASPHALTIC CONCRETE (AC)
	PAVEMENT
	SMALLER ENERGY METER
	SMALLER WATER METER
	SMALLER TELEPHONE
	SMALLER UTILITY POLE AND LOOP



LU13-143892 LDP
Exhibit C.3