



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 23, 2014
To: Interested Person
From: Rachel Whiteside, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 13-128425 LDP

GENERAL INFORMATION

Applicant: Randy Goode / Strata Design LLC
3620 NE 77th Ave / Portland, OR 97213-6406

Owner: John Carson / Carson III Investments Inc
12402 SE Steele St / Portland, OR 97236

Site Address: 2309 SE 142ND AVE

Legal Description: BLOCK 2 LOT 9, PARKTOWN ADD
Tax Account No.: R648900590
State ID No.: 1S2E02DD 01000
Quarter Section: 3244
Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910. Midway, contact Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Plan District: None
Zoning: R5a – Single-Dwelling Residential with an Alternative Design Density Overlay

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

Proposal:

The applicant proposes to divide the site into three parcels – two standard lots and one flag lot. Proposed lot sizes range from 4,180 to 8,501 square feet. A 12-foot wide flag pole is proposed between Parcels 1 and 2 that will serve as vehicle access for all three parcels. The site is currently developed with a single-family residence that is proposed to remain on Parcel 1.

Sanitary sewer and water mains both exist within SE 142nd Avenue. Stormwater from future parcels will be managed onsite in vegetated infiltration basins.

There is only one tree on the site subject to preservation (an 8-inch spruce). Because it is located in the center of the site, it will be impacted by the proposed shared driveway. The applicant is proposing to plant additional trees as mitigation for the removal of the spruce tree.

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 three parcels.

RELEVANT APPROVAL CRITERIA:

In order 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: Both the site and vicinity are generally flat, with a very gentle slope to the southeast. The historic lot pattern in the area is large lots of roughly 15,000 square feet or greater, while the original development are small to modest one-story homes. As the area has redeveloped, flag lots and two-story homes have become more typical. As the density increases towards SE Division Street, the housing type changes to multi-dwelling. Towards the major intersection of SE 148th and Division, residential development transitions to commercial uses.

Infrastructure:

- **Streets** – The site has approximately 100 feet of frontage on SE 142nd Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 142nd Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 550 feet to the south along SE Division Street via Bus #4.

SE 142nd Avenue is improved with 28 feet of center-strip paving within a 50-foot right-of-way. There is no curb or sidewalk.

- **Water Service** – There is an existing 8-inch DI water main in SE 142nd Avenue. The existing house is served by a 5/8-inch metered service from this main.

- **Sanitary Service** - There is an existing 8-inch PVC public sanitary gravity sewer line in SE 42nd Avenue.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. There is a public underground injection control system located in the vicinity of the site that receives stormwater runoff from the public right-of-way. This system consists of two inlets, one sedimentation manhole, and one infiltration sump.

Zoning: The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the “a” overlay.

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 **September 16, 2013**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	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. Maximum density is one unit per 5,000 square feet and minimum density is 80% of the maximum. Where minimum density is equal to maximum density, the

minimum may be reduced by one. Therefore, the site has a minimum required density of 2 units and a maximum density of 3 units. The applicant is proposing 3 single family parcels. The density standards are therefore 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)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1	5,470		49.73	110.0	49.73		
Parcel 2	4,180		38.0	110.0	38.0		
Parcel 3	7,181**					99.73**	72.0**

* 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) minimum lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed

In this case the applicant is proposing 3 parcels, only one of which is a flag lot. The site has dimensions which preclude a land division that meets the minimum lot width standard for 3 standard lots. The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards. The maximum lots size standards of the base zone still apply to flag lots. In the R5 zone the maximum lots size is 8,500 square feet. Exhibit C.2 identifies the flag lot as 8,501 gross square feet. Because the applicant has not requested a maximum lot size adjustment, Parcel 3 will need to be reduced in size to 8,500 or less at the time of final plat review.

Vehicle Access

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

In this case, the flag portion of Parcel 3 will provide off street parking access for all three parcels. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. A reciprocal access easement will be placed over the entirety of the pole to allow shared access.

Parcel 3 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 3 is allowed. The findings above show that the applicable density and lot dimension standards can be met with a condition that Parcel 3 is reduced to 8,500 square feet. Therefore, 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 arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). Six trees have been exempted

because they are a nuisance species or located partially off the property. This leaves one tree – an 8-inch white spruce – subject to the preservation requirements of this chapter.

The total non-exempt tree diameter on the site is 8 inches. The applicant proposes to remove Tree #3 due to its location in the center of the site. The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes, instead, to use the mitigation options of 33.630.300.

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for detached housing, which is an allowed housing type in the R5 zone. The location of the existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R5 zone. Criterion C.4 is met.

There is only one tree on site subject to preservation and, as noted above, it is not possible to preserve the tree. Therefore, Criterion A is not applicable because there are no other trees available to preserve.

The applicant has submitted a tree mitigation plan that proposes planting two trees that would total 3 inches, or 35% of the one 8-inch tree subject to preservation. Because it is not possible to preserve just a portion of a tree, BDS finds providing mitigation equal to a portion of said tree to be inadequate. Therefore, BDS finds that 8-inches of tree diameter should be planted on proposed Parcel 1, the parcel with the existing house, to satisfy this criterion. The mitigation trees should be placed on Parcel 1 because: a) that is the parcel that would have contained the one tree to be preserved; and b) there are other tree planting requirements that will apply to Parcels 2 and 3 at the time of development.

Criterion B is met with a condition of approval requiring 8 inches of tree diameter to be planted on Parcel 1, the lot with the existing house, prior to final plat approval. A Zoning Permit must be obtained, and receive final inspection approval verifying that these trees have been planted prior to final plat approval.

Therefore, with the conditions noted above for mitigation, the criteria can be met.

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

Findings:

Clearing and Grading

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there may be an abandoned cesspool or septic tank on the property. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

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

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

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

- A 14-foot wide reciprocal access and private utility easement is required across portions of Parcels 1-3;
- A Private Access Easement is proposed across a portion of Parcel 1 for the benefit of Parcel 3; and
- A Private Access Easement is proposed across a portion of Parcel 2 for the benefit of Parcel 3.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

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

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

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

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

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

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.
The Water 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.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. However, as a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will no longer be within its site frontage. Prior to final plat approval, the applicant must cap the existing lateral to provide future service to Parcel 2 and establish a new lateral for the existing house. For capping and establishing new service, the work must be completed and permits finalized prior to final plat approval.
To accurately determine the location of the existing private sewer lateral relative to the proposed property line, BES requires that acceptable documentation – such as a report and site plan from a professional utility locate service – be provided for review. In addition, the location of the lateral must be included on the surveyor’s supplemental plan, and the applicant should be prepared to provide surface locate markers on site for City staff review.
Prior to final plat approval, a supplemental plan must be submitted showing the proposed and as-built locations of sanitary sewer laterals for this project.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1

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

The applicant has proposed the following stormwater management methods

- **Parcels 2-3:** Stormwater from these lots will be directed to individual vegetated infiltration basins that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the stormwater management plan.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. The applicant has provided documentation that the site has adequate infiltration rates and BES has indicated conceptual approval of the stormwater management plan.

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.

The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of 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, there is no practicable opportunity to provide them in this land division.

In addition, the Portland Master Street Plan does not identify any street connections in the vicinity of this property. The subject block is representative of the block pattern in the general area in terms of orientation and width/length.

For the reasons described above, 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

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. At this location, SE 142nd Avenue is improved with a 28-foot paved roadway and gravel or grass shoulders. There are no curbs, planter strips, or sidewalks.

For sites located along a Local Service street and abutting R5-zoned lots, the City's public right-of-way standards requires a 56-foot right-of-way width which will accommodate a 26-foot wide roadway (this will allow parking along both sides) and two 15-foot wide sidewalk corridors (0.5-foot curb, 8-foot stormwater management facility, 6-foot sidewalk, and 0.5-foot frontage zone). The applicant would typically be required to construct the above referenced sidewalk corridor with the new curb set at 13 feet from the right-of-way centerline as a condition of Building Permit review.

However, because none of the other frontages have been improved on this street, Portland Transportation has determined through a public works appeal (14-158959 PW) that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval. The applicant will also be required to dedicate 4 feet along the entire site frontage to accommodate the future improvements.

This criterion is met, with the condition that the required waivers are signed prior to final plat approval and the required right-of-way dedication is shown on the Final Plat.

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

The applicant has proposed a 14-foot access and utility easement over and adjacent to the shared driveway that serves all three parcels. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Future Development

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 3.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5.79 feet from the new property line. Therefore,

the required setbacks are being met, with the exception of the porch cover on the south facade. To ensure this standard continues to be met at the final plat stage, the porch cover must be removed prior to final plat approval. The final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines and documenting the removal of the porch cover.

- Accessory Structure – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structure that straddles the line between proposed Parcels 2 and 3 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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.

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; posting of "No Parking" signs in the flag pole/shared driveway; ensuring adequate hydrant flow and spacing or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the shared driveway (flag pole); and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 3-parcel partition, as shown on the attached preliminary plan (Exhibit C.2). 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: tree mitigation, frontage requirements, and fire code standards. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in two standard lots and one flag lot, as illustrated with Exhibit C.2, subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any existing utility connections or stormwater facilities.
- A turning radius of 28 feet inside, 48 feet outside, if the shared driveway is to be a fire apparatus access.
- 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 142nd Avenue. The required right-of-way dedication must be shown on the final plat.
2. If the shared driveway is to be a fire apparatus access, an Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the shared driveway to the satisfaction of the Fire Bureau.
3. A Reciprocal Access Easement over the “flag pole” portion of Parcel 3 for the benefit of Parcels 1 and 2 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.8-9 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

1. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.

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 final plat approval.
4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate residential hydrant spacing. The applicant must provide verification to the Fire Bureau that Appendix C of the Fire Code is met prior final plat approval.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 3, 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 3, 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.

Existing Development

6. The applicant must obtain a finalized demolition permit for removing the garage on Parcels 2 and 3.
7. A parking space shall be installed on Parcel 1. The parking space must be a minimum of 9' x 18' and located out of the new front setback for the lot with the existing house. In addition, it must be in a location that can be accessed from the new shared driveway. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. A connecting apron can be provided when the new driveway is constructed. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan.

Required Legal Documents

8. A Maintenance Agreement shall be executed for the Reciprocal Access Easement described in Condition B.3 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval. This agreement must include language addressing "no parking" requirements by the Fire Bureau.
9. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 3 to contain internal fire suppression sprinklers, unless the private driveway meets all standards as a fire apparatus access road. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other requirements

10. The applicant must obtain a finalized zoning permit to install 8 inches of tree diameter within the area to become Parcel 1. The location of the new trees must be shown on the supplemental plan.

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

1. If required by Condition C.5 above, the applicant must post the flag pole driveway with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit. Please refer to the final plat approval report for details on whether or not this requirement applies.
2. The applicant must meet the addressing requirements of the Fire Bureau for all parcels. The location of the address sign must be shown on the building permit.

3. The applicant will be required to meet any conditions identified through a Fire Code Appeal, which may include installing residential sprinklers in the new dwelling unit on Parcel 3, if needed to satisfy conditions listed above. Please refer to the final plat approval report for details on whether or not this requirement applies.
4. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Rachel Whiteside

Decision rendered by: *R Whiteside* **on September 11, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed September 23, 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 March 15, 2013, and was determined to be complete on September 11, 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 March 15, 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 up to the maximum 245 days. **The 120-day deadline is September 11, 2014.**

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830

requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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

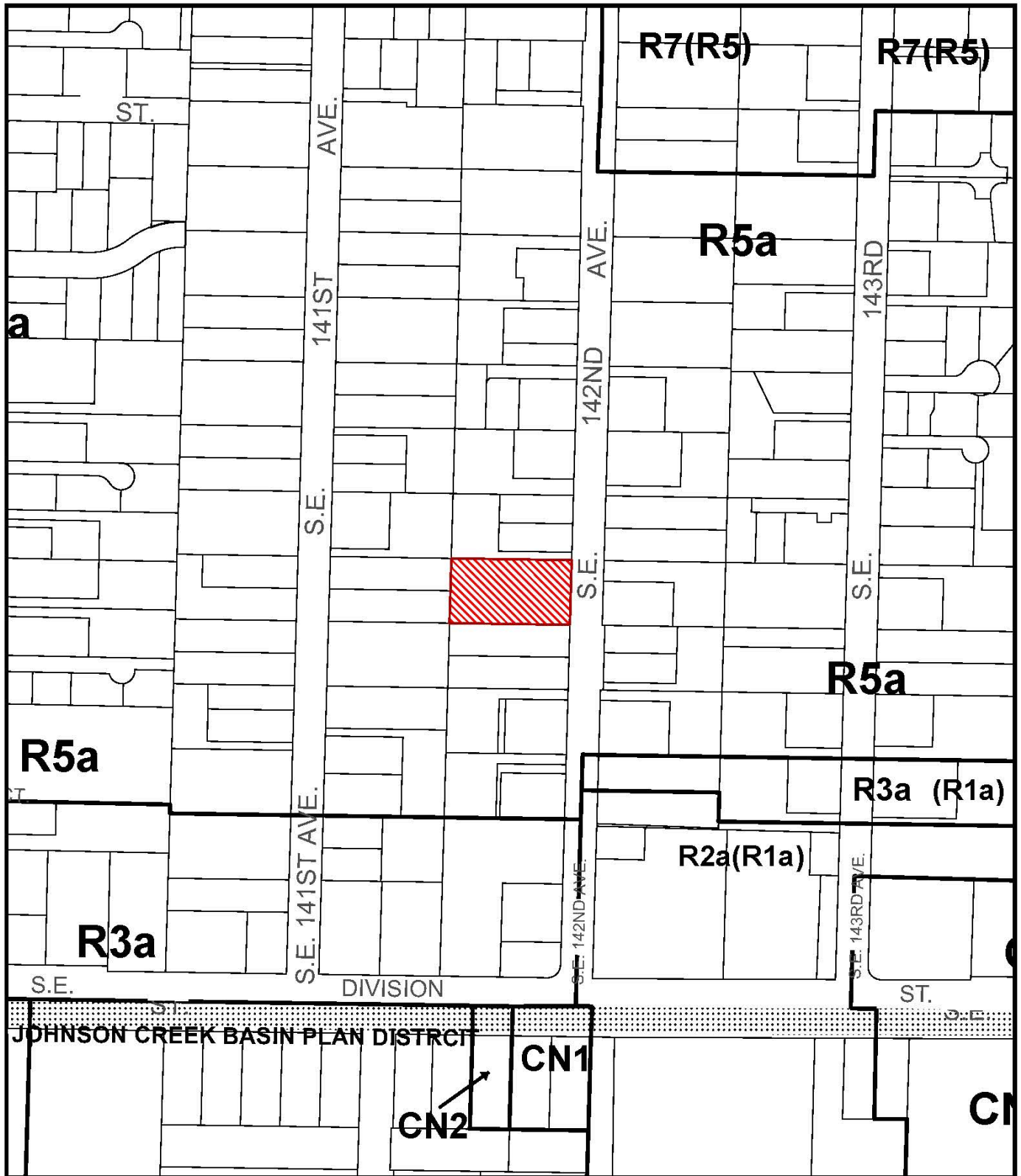
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original Narrative
 - 2. Arborist Report and Tree Preservation Plan
 - 3. Response to March 20, 2013 Letter
 - 4. Revised Arborist Report and Tree Mitigation Plan
 - 5. Residential Soil Infiltration Test
 - 6. Response to Incomplete Letter, dated September 11, 2013
 - 7. Extensions of the 120-Day Clock
 - 8. Response to BES comments, dated September 10, 2013
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Survey
 - 2. Preliminary Plat (attached)
 - 3. Proposed Improvements Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1a. Bureau of Environmental Services
 - 1b. Revised BES Response, dated September 11, 2014
 - 2a. Bureau of Transportation Engineering and Development Review
 - 2b. Revised Transportation Response, dated September 10, 2014
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Review Section of BDS
- F. Correspondence: *none received*
- G. Other:
 - 1. Original LU Application
 - 2. Preliminary Incomplete Letter, dated March 20, 2013
 - 3. Incomplete Letter, dated April 11, 2013
 - 4. Approvability Letter, dated October 24, 2013

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



ZONING



Site



NORTH

File No. LU 13-128425 LDP
 1/4 Section 3244,3245
 Scale 1 inch = 200 feet
 State_Id 1S2E02DD 1000
 Exhibit B (Mar 18,2013)

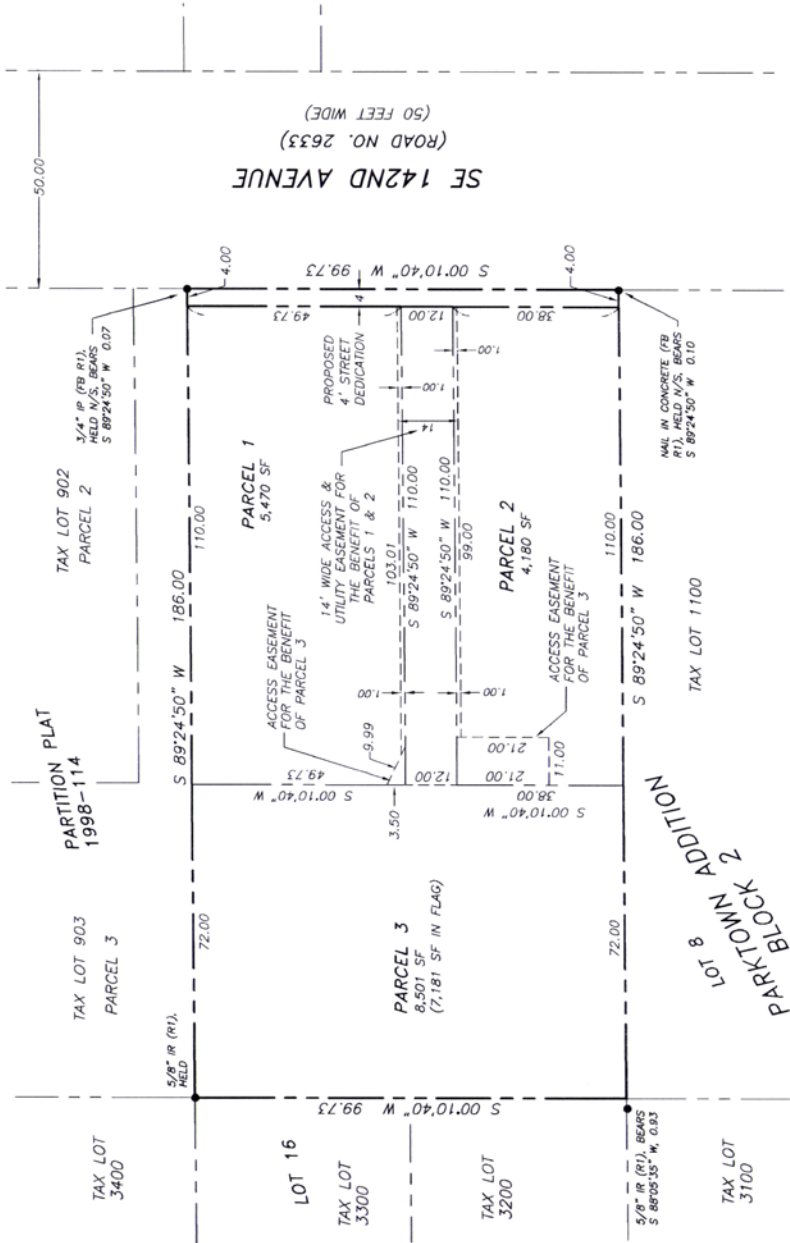
PRELIMINARY PLAT

TAX LOT 1000, MAP 1S2E01DD, LOT 9, BLOCK 2, PARKTOWN ADDITION
SITUATED IN THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 1 SOUTH,
RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH
COUNTY, OREGON

DATE: OCTOBER 3, 2012 SCALE: 1"=20'
FOR: JOHN CARSON

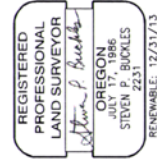
LEGEND

- O = 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "REPPETO & ASSOC. INC." TO BE SET.
- = MONUMENT FOUND AS NOTED.
- FB = FOUND BY
- IP = IRON PIPE
- IR = IRON ROD
- SF = SQUARE FEET
- () = RECORD INFORMATION
- () = CURVE OF PARKTOWN ADDITION.
- P2 = PARTITION PLAT NO. 1998-114
- P1 = SN 14458
- SN = SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS.



NOTE

THERE ARE NO FENCE, BUILDING OR UTILITY ENCROACHMENTS ALONG THE SUBJECT EXTERIOR PROPERTY LINES. ALL OF THE FENCES ALONG THE EXTERIOR NORTH, SOUTH AND WEST LINES FALL WITHIN 0.7 FEET OF THE PROPERTY LINE.



REVISED:
REPPETO & ASSOCIATES, INC. LAND SURVEYORS
Plaza 125, Building G 12730 SE Stark Street Portland, Oregon 97233 Phone: (503) 408-1507 Fax: (503) 408-2370
DATE: OCT. 3, 2012 FILE: C10066-PRE.DWG
DRAWN BY: SPD JOB NO. C10066

L13-128425 LDP
EX.C-2