



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** May 27, 2015  
**To:** Interested Person  
**From:** Shawn Burgett, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-111329 LDS AD**

#### **GENERAL INFORMATION**

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

**Owners:** Sean Heyworth / 72 Steele LLC  
5105 SW 45th Ave / Portland, OR 97221

Michael Mitchoff / Sericko Resources LLC  
Po Box 82697 / Portland, OR 97282

**Site Address:** 5310 SE 72nd Ave and property directly west of 7232 SE Steele St.

**Legal Description:** BLOCK 2 LOT 1&2, EAST VIEW; BLOCK 2 LOT 3&4, EAST VIEW TL 9500

**Tax Account No.:** R228000150, R228000170

**State ID No.:** 1S2E17AC 09400, 1S2E17AC 09500

**Quarter Section:** 3538

**Neighborhood:** Mt. Scott-Arleta, contact Nicole Green at 503-816-1310.

**Business District:** 82<sup>nd</sup> Ave of Roses Business Assoc, Frank Harris at 503-774-2832.

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.

**Zoning:** R1a (Multi-Family Residential 1,000 square feet per unit) and R2a (Multi-Family Residential 2,000 square feet per unit) with "a" (Alternative Design Density Overlay)

**Case Type:** LDS (Land Division Subdivision) and AD (Adjustment)

**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is proposing a 10-lot land division for attached housing on this split zoned site (R1a/R2a). Proposed Parcels 1-4 will measure between 1,107 square feet and 1,151 square feet and face SE Steele Street. Proposed Parcels 5 and 6 will measure between 1,278 and 1,287 square feet and face SE 72<sup>nd</sup> Ave. Proposed Parcels 7-10 will measure between 1,274 and 1,664 square feet and face Tract A, a Shared Court that will be within a private street tract. The applicant is proposing to demolish the existing house addressed 5310 SE 72<sup>nd</sup> Ave. The applicant has recently completed a Lot Confirmation/Property Line adjustment (14-157826 PR)

to divide a portion of the property previously associated with the house addressed 7232 SE Steele Street onto a separate lot. The existing house addressed 7232 SE Steele Street is not part of this proposal.

Zoning Code section 33.110.215.B.1 limits maximum height of the new units facing SE Steele St. and SE 72<sup>nd</sup> Ave (Lots 1-6) to 25' in height within 10' of the front property line and 45' in overall height when the new structure is more than 10' from the front property line.

The applicant has requested the following adjustment to this standard:

- The proposed attached dwelling units on Lots 1-6 are 30' in height within 5' of the front property line, exceeding the 25' height limitation within 10' of the front property.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment Review) is proposed (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 11 units of land (10 lots and 1 tract). Therefore this land division is considered a subdivision.

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The approval relevant criteria are:

- Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.
- Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

## **FACTS**

**Site and Vicinity:** The site is located on a corner lot with frontage along SE 72<sup>nd</sup> Avenue and SE Steele Street. The existing home on the site was built in 1913. The property located directly north of the subject site with frontage along SE 72<sup>nd</sup> Ave and SE Steele St. has a large multi-family apartment complex located on it that was constructed in 1972. The property located directly east of the subject site has a single family home on it that was constructed in 1951. The property located directly south of the site (at the corner of SE 72<sup>nd</sup> Ave and SE Insley St.) has an existing Multi-family apartment complex located on it that was constructed in 1966. The properties located directly southeast of the subject site with frontage along SE Insley St. include two single family homes, one of which was built in 1907, the other in 1984.

#### **Infrastructure:**

- **Streets** –The site is a corner lot, it has approximately 96 feet of frontage on SE 72<sup>nd</sup> Avenue and approximately 142 feet of frontage along SE Steele St. There is one driveway entering the site from SE Steele St. that serves the existing house on the site. At this location, SE 72<sup>nd</sup> Avenue is classified as a Neighborhood Collector, while SE Steele St. is classified as a Local Service Street for all modes in the Transportation System Plan (TSP).

SE 72<sup>nd</sup> Avenue has a 40-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 96-foot wide site frontage the pedestrian corridor includes a 3-foot wide planter area, curb, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (3-6-1 configuration).

SE Steele St. has a 28-foot curb to curb paved surface within a 42.5-foot right-of-way with parking on both sides. Along the 142-foot wide site frontage the pedestrian corridor includes a 2.5-foot wide planter area, curb, 5-foot sidewalk and no buffer at the back of the sidewalk (2.5-5-0 configuration).

Tri-Met provides transit service approximately 345 feet from the site at SE Harold St. via Bus 10.

- **Water Service** – There is an existing 6-inch CI water main in SE Steele St. and 8-inch CI water main in SE 72nd Avenue. The existing house is served by a 5/8-inch metered service from the main in SE Steele St.
- **Sanitary Service** - There is an existing 10-inch CSP public combination sewer line in SE 72nd Avenue and an 8-inch CSP public combination sewer in SE Steele St. that terminate in a manhole approximately 82 feet from the SE 72nd Ave right of way line.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The site is split zoned R1a and R2a. The R1 and R2 designation are both one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. 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. It should be noted that the applicant completed a Lot Confirmation/Property Line adjustment (14-157826 PR) to divide a portion of the property previously associated with the house addressed 7232 SE Steele Street onto a separate lot. The existing house addressed 7232 SE Steele Street is not part of this proposal.

**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 **October 21, 2014**. Two written responses (Exhibits F-1 and F-2) have been received from notified property owners in response to the proposal.

A second Notice of Proposal in Your Neighborhood was mailed on **March 16, 2015** due to the applicants addition of the Adjustment request described in the proposal. One written response (Exhibit F-3) was received in response to the second notice.

**Neighborhood Comments:** One letter (Exhibit F-1) expressed concern about the impact on her property value due to the proposal. This letter also expressed concern regarding the traffic impact. The letter indicated that they did not see the proposal improving the neighborhood. The second letter (exhibit F-2) expressed concern over the demolition of the 102 year old home on the site and the construction of 10 new homes. This letter expressed concern about traffic, parking, livability and the impact on the character of the neighborhood. The third letter (Exhibit F-3) also expressed concern regarding traffic impact on the surrounding neighborhood. This letter indicted that they felt the area was already unsafe with the current traffic rate.

**BDS Response:** The traffic concerns are addressed in the approval criteria below. The Transportation Impact findings are addressed on page 7 of this report. The applicant submitted a Transportation Impact Analysis and parking study as part of this review which was reviewed by the Portland Bureau of Transportation. Please see these findings for additional details. In regard to property value, the Zoning Code does not allow staff to consider this issue as part of this review, it not found under the applicable approval criteria.

In regard to the removal of the single family home on the site, and the addition of 10 new homes. The demolition of this home is allowed by right. This site is located in a Multi-family

zoning designation which allows the amount of density proposed. Please see the findings on pages 5-6 of this report for additional details.

## ZONING CODE APPROVAL CRITERIA

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	The applicant has provided an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). 8 trees have been exempted because they are too small, unhealthy, a nuisance species, or located partially off the property. No trees are subject to the preservation requirements of this chapter.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
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.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
	33.654.130.B Extension of existing public dead-end streets & pedestrian connections	No extensions of existing public dead-end streets & pedestrian connections are proposed or required
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:****A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

**Findings:** Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 10 lots for attached housing.

This site is split zoned R2/R1 zone and attached houses are proposed along a shared court alley. Therefore, the minimum density for the R2 portion of the site is 1 unit per 3,000 square feet, while the minimum density for the R1 portion of the site 1 unit per 2,000 square feet.

The total site area on the applicant's site plan shows the site measuring 16,950 square feet. The R1 portion of the site has 10,000 square feet; while the R2 portion of the site has 6,950 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. However, the area used for shared courts is not subtracted from the total site area to calculate maximum density. In this case, a new shared court street is proposed in a tract located within the R2 portion of the site and totals 3,221 square feet. Street dedication along SE Steele St. totals 532.5 square feet (367.5 feet within the R1 zone and 165 feet within the R2 zone) while the street dedication along SE 72<sup>nd</sup> Ave totals 200 square feet. The resulting lot size for calculating minimum/maximum density in the R1 portion of the site is 9,432.5 square feet, while the lot size for calculating maximum density in the R2 zone is 6,740 and minimum density is 3,519. In the R1 portion, the site has a minimum density of 5 units and a maximum density of 9 units. In the R2 portion, the site has a minimum density of 1 units and a maximum density of 3 units.

The applicant is proposing 8 lots for attached houses within the R1 zoned portion of the site and 2 lots for attached houses within the R2 portion of the site, therefore the density standards noted above are met.

In the R1 zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

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

<b>R1</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Attached Houses</b>	none	15	none	15
Lot 1	1,119 square feet	25 feet	44.25 feet	25 feet
Lot 2	1,151 square feet	26 feet	44.25 feet	26 feet
Lot 3	1,151 square feet	26 feet	44.25 feet	26 feet
Lot 4	1,107 square feet	25 feet	44.25 feet	25 feet
Lot 5	1,278 square feet	26 feet	49 feet	26 feet
Lot 6	1,287 square feet	26 feet	49 feet	26 feet
Lot 7	1,274 square feet	26 feet	49 feet	26 feet
Lot 8	1,274 square feet	26 feet	49 feet	26 feet

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

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Attached Houses</b>	1,600	15	none	15
Lot 9	1,657 square feet	21.96 feet	75.31 feet	21.96 feet
Lot 10	1,664 square feet	21.96 feet	75.31 feet	21.96 feet

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

The findings above show that the applicable density and lot dimension standards are met. Therefore this criterion is met.

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

**Findings:**

***Clearing and Grading***

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

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However a new shared court private street is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Grading, Clearing, and Demolition Plan (Exhibits C.3 and C.4) that depicts the proposed work including existing and proposed elevation contours, a gravel construction entrance, limits of disturbance and erosion control/sediment fencing.

The proposed Preliminary Grading, Clearing, and Demolition Plan shown on Exhibits C.3 and C.4 represent a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed via drywells and an infiltration planter, respectively, to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street and the preparation of the lots. The limits of disturbance shown on the applicant's plan includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns, limit the disturbance on the adjacent properties, and allow for the existing house and detached garage on the site to be demolished and any debris associated with these buildings to be removed. No trees are required to be preserved on the site that would require root protection fencing. In addition, the clearing and grading plan required to be submitted to the Site Development section of BDS during the Final Plat review as a condition of approval. This plan will be required to clearly indicate areas of topsoil storage and general stockpiling.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As indicated above, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division.

With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan, while also clearly documenting stockpile areas; and must note that topsoil must be stockpiled on site and re-used to the extent practicable.

With the condition of approval noted above, this criterion will be met.

### ***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. Although the existing house is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site, sewer capping, and decommissioning of the septic system prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion will be met.

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

**Findings:** The following tracts are proposed:

- Tract A: Private Street (Shared court)

With a condition that the proposed tract be owned in common by the owners of Lot 4 and Lots 7-10 or a Homeowner's Association, this criterion can be met.

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

- A Private Storm Sewer Easement is required across the relevant portions of Lots 1-8 for a storm line that will provide stormwater disposal to the shared drywell within Tract A for Lots 1, 2, 3, and lots 5 and 6.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tracts and 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, 33.654.120.B & C Width & elements of the right-of-way**

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

### Street capacity and level-of-service

**Findings:** Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The applicant included a professionally prepared Traffic Impact Study (TIS) to adequately address the above referenced approval criterion. The following discussion is based on PBOT's assessment of the submitted TIS and transportation impacts for this proposal.

Access to Lots 1 & 2 and will be via a shared driveways along SE Steele serving the pair of attached homes. Access to Lots 5& 6 will be via a shared driveway along SE 72<sup>nd</sup> Ave. Another driveway located on SE Steele St will lead to a "shared court" (private street) that will serve as access to Lots 4 and 7-10. The shared court will also accommodate parked vehicles, pedestrians, and bicycles in the same circulation space. The existing single family home located at 5310 SE 72<sup>nd</sup> Ave and its detached garage will be demolished.

Since the subject property (not including the house at 7232 SE Steele that will remain, but is not a part of the subdivision proposal) currently contains 1 single-family home and will ultimately contain 10 homes following the subdivision, the net result of the proposed development will be the addition of 9 dwellings. Referring to the ITE Trip Generation Manual, 9<sup>th</sup> Edition, there will be 6 new AM peak hour trip and 9 additional PM peak hour trip (84 total new daily trips) that may result from the development proposal on the site.

The applicant's traffic consultant (Exhibits A-10, A-16 and A-18 ) conducted observations at the following several nearby intersections during the evening peak hour to determine existing levels of service and to project the capacity of the intersections in relation to the proposed development:

<u>Intersection</u>	<u>Existing LOS (PM)</u>	<u>Projected LOS (PM)</u>
SE 72 <sup>nd</sup> Ave/SE Foster (signalized)	C	C
SE 72 <sup>nd</sup> Ave/SE Harold (signalized)	B/C	B/C
SE 72 <sup>nd</sup> Ave/SE Steele (stop controlled)	B	B

Accordingly, it is not anticipated that any one of the area intersections (including those analyzed herein), will experience any greater degradation than another. Therefore, as demonstrated by the submitted data and analysis, site generated vehicle trips will have negligible impacts to the capacity of nearby intersections.

#### Vehicle access and loading

**Findings:** Vehicles will access the new lots, as mentioned previously, via new driveways to paired units along both site frontages and via the shared court located on SE Steele. The shared court will provide access to some dedicated parking spaces that are reserved exclusively for residents of the proposed dwelling units on Lots 4 and 7-10. On-street parking is also available on both sides of SE Steele and along both sides of SE 72<sup>nd</sup> Ave in the vicinity of the proposed development. It is anticipated that vehicle access and loading will occur using the dedicated on-site parking spaces as well as the nearby on-street parking.

The subject property is located within a well-connected street grid allowing multiple options for access and circulation in the site vicinity. It is also located within 1,000 feet of SE Foster Road, a District Collector street that provides a direct connection to SE Powell Blvd and I-205. The existing and



proposed facilities are adequate to serve the needs of the proposed development in addition to the existing uses in the site vicinity.

#### On-street parking impacts

The parking demand that will be generated as a result of the proposed subdivision is estimated using rates from the Institute of Transportation Engineers (ITE), *Parking Generation Manual, 4th Edition, 2010*. The data utilized to determine the parking demand for the 10 new homes on the site was for land use #210, *Single-Family Detached Housing*. Based upon this data, the 85<sup>th</sup> percentile peak parking demand will be 20 parking spaces.

The applicant's traffic consultant conducted site visits during the evening peak hours (4:30-5:30 PM) as well as during the late evening hours (about 12:00 AM) to observe existing parking demands and availability in the site vicinity during the time of peak traffic demand as well as during the time of peak residential parking demand. The parking survey area included both sides of SE 72<sup>nd</sup> Ave between SW Harold and SE Foster as well as both sides of SE Steele between the dead end of the street west of SE 72<sup>nd</sup> Ave to SE 74<sup>th</sup> Ave.

The number of parking spaces (supply) along the segment of SE 72<sup>nd</sup> Ave noted above is approximately 54 spaces; along the studied segment of SE Steele there are approximately 50 spaces. During the evening peak hour observation, the applicant's traffic consultant noted that there were 13 cars parked along SE 72<sup>nd</sup> Ave and 20 cars parked along SE Steele. During the early morning observation that was made, there were 12 cars parked along SE 72<sup>nd</sup> Ave and 20 cars parked along SE Steele. Accordingly, during both observation periods, there were at least 76% of the parking supply (spaces) available along SE 72<sup>nd</sup> Ave and at least 60% of the supply available along SE Steele.

Under existing conditions, there are two curb cuts on the southeast side of SE Steele St. The proposed development will include an additional curb cut with one serving the shared court and the other two serving the units on Lots 1 & 2 and on Lot 3. Based on the submitted site plan, the available on-street parking along the southeast side of SE Steele St will be reduced by a couple of spaces.

Assuming that none of the off-street parking spaces are utilized by residents of the proposed development and that on-street parking demand in the vicinity will therefore increase by up to 20 spaces, it is projected that there will remain abundant number of on-street parking spaces within the study area under peak demand conditions. Adequate on-street parking is available in the site vicinity to serve even the worst-case parking demands from the proposed development in addition to the existing uses in the site vicinity.

#### Availability of transit service and facilities and connections to transit

Tri-Met offers nearby transit service in vicinity of the subject site via bus routes #10 and #14. The #10 (Harold St) route runs along SE Harold, approx 1.5 blocks south of the subject site. The #14 (Hawthorne) route runs along SE Foster, a short distance north/north-east of the subject site. Adequate sidewalks, marked and signalized crossings between the subject site and the bus routes facilitate pedestrian travel to the transit service.

#### Impacts on the immediate/adjacent neighborhoods

As analyzed above, the impact of the proposed project's generated vehicle trips on area intersections and streets will be minimal and the operations of the transportation system will continue to be acceptable. Currently, there is sufficient on-street parking to serve the demand of the existing uses in the area. As demonstrated above, adequate on-street parking opportunities will remain after the construction of the proposed subdivision. From a transportation perspective, these noted areas (transportation system and parking impacts) are impacts that can adversely affect neighborhoods. These issues are not expected to negatively impact the immediate or adjacent neighborhoods in question.

#### Safety for all modes

Traffic volumes on SE Steele St within the immediate site vicinity are very low, and travel speeds are limited by the 25 mph statutory residential speeds and on-street parking on both sides of the surrounding streets (with the exception of SE 72<sup>nd</sup> Ave, which has a posted speed of 30 mph).

The site is less than two blocks away from Harold Street, which is a designated Shared Roadway (Portland Bike/Walk Map) for bicycling and is located between two north-south Shared Roadways of SE 67<sup>th</sup> and SE 77<sup>th</sup> Avenues. In addition, the SE Foster Rd Transportation and Streetscape Plan (currently in development with the City of Portland) will bring improved bikeway connectivity and pedestrian facilities along SE Foster Rd including dedicated bike lanes and new crosswalks.

Continuous pedestrian facilities are in place on both sides of the streets in the site vicinity. Intersection crossings on SE 72<sup>nd</sup> Ave at both SE Foster Rd and SE Harold St have marked crosswalks on all approaches. Pedestrians are able to walk safely along the sidewalk network throughout the area.

The applicant's traffic consultant obtained crash data from ODOT's Crash Analysis and Reporting Unit for years 2008 through 2012 for all of the study area intersections. There were no reported crashes at the intersection of SE Steele St/SE 72<sup>nd</sup> Ave. However, there were reported collisions for the intersections of SE 72<sup>nd</sup> Ave with SE Harold St and with SE Foster Road. Crash rates for the intersections were calculated at less than one crash per million entering vehicles which is not indicative of a significant safety hazard.

Based on the detailed analysis, the existing motorized vehicle, pedestrian, and bicycle facilities in the site vicinity are adequate to provide safe access for all travel modes and are capable of supporting the proposed development in addition to the existing uses in the area.

In summary, as analyzed above and as evidenced in the submitted TIS, with acceptable analyses, methodologies and conclusions, all of which PBOT staff supports, the applicant has clearly demonstrated that "the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area". To ensure this finding, PBOT will recommend that the approval of this requested land division is conditioned to include the driveway configurations as depicted on the submitted plans.

Frontage improvements will be required along the site's frontages.

### **Street Classification**

At this location, the City's Transportation System Plan (TSP) classifies SE 72<sup>nd</sup> Ave as a Neighborhood Collector street, Community Transit street, City Bikeway, City Walkway and a Community Corridor. SE Steele is classified in the TSP as a Local Service street for all modes.

The City Engineer requires a site's frontage to be improved to City Standards for any building permit or land use action that increases occupancy. It is typical PBOT procedure to review existing roadway configurations by referring to City GIS database resources in order to determine the necessary dedications and/or improvements related to proposed land use cases. City staff *may* receive different information from the applicant's engineer with regard to the existing condition of the subject roadways based on the actual survey of the site.

At this location, according to City GIS, SE 72<sup>nd</sup> Ave is improved with 40-ft of paving and a 3-6-1 sidewalk corridor within a 60-ft right-of-way (r.o.w.). For streets classified as City Walkways and abutting R1/R2 zoned sites, the Pedestrian Design Guide recommends a 12-ft wide sidewalk corridor (0.5-ft curb/4-ft wide furnishing zone/6-ft wide sidewalk/ 1.5-ft frontage zone).

SE Steele is improved with 28-ft of paving and a 2.25-5-0 sidewalk corridor within a 42.5-ft r.o.w. For streets classified as Local Service and abutting R1/R2 zoned sites, the Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor (0.5-ft curb/4-ft wide furnishing zone/6-ft wide sidewalk/0.5-ft frontage zone).

In relation to the proposed subdivision, the applicant will be required to re-construct the existing sidewalk corridors to satisfy the above referenced standards. To accommodate the required 12-ft wide sidewalk corridor along SE 72<sup>nd</sup> Ave, a 2-ft dedication of property for r.o.w. purposes will be required. To accommodate the required 11-ft wide sidewalk corridor along SE Steele, a 3.75-ft dedication of property for r.o.w. purposes will be required (applicant to confirm by survey). The dedication of property will occur as a condition of Final Plat approval.

The applicant challenged PBOT's frontage improvement requirements via 14-116277 PW earlier this year. The City's Public Works Administrative Appeal Committee denied the subject appeal, upholding the requirement that the applicant upgrade the existing sidewalk corridors to satisfy the above referenced standards. The applicant has subsequently initiated the Public Works Permit process (14-205987 WT) for the r.o.w. improvements, which is currently under review.

**RECOMMENDATION**

PBOT has no objections to the proposed subdivision request, subject to the following conditions of approval:

1. The applicant shall construct the previously identified frontage improvements to the satisfaction of the City Engineer.
2. The frontage improvements must be reviewed and permitted through the City's Public Works Permitting process.
3. Plans, fees, a contract (called the application for permit) and a performance guarantee for the estimated value of the frontage improvements must be submitted prior to (Final Plat approval). The performance guarantee may be in the form of a surety bond, irrevocable letter of credit, set-aside account, or cash deposit. Applicant should contact Mark Fischer at (503) 823-7072 for appropriate forms and additional information.
4. The necessary dedication of property along the site's frontages shall occur as part of the Final Plat phase of this land division request.
5. Construction of the new homes on the lots created with this subdivision request shall include the paired driveway configurations shown on the amended plans shown in the 3/16/15 Public notice (as shown on exhibit C.2)

PBOT has reviewed and concurs with the information supplied and the methodology, assumptions and conclusions made by the applicant's traffic consultant. With the condition of approval listed above, this criterion is met.

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

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report. The water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to Lots 5 and 6 from SE Steele St., while Lot 4 have access to the existing sewer in SE Steele St. Lots 7-10 will have access to the sewer in SE Steele St. through Tract A.</p> <p>There is no public sanitary sewer available in SE Steele St. to serve Lots 1-3. The nearest available sewer is located in SE Steele Street, 82 feet from the SE 72<sup>nd</sup> Ave right-of-way line. The applicant must obtain a public works permit to extend the public sewer to this site prior to final plat approval. Prior to final plat approval BES will require that the applicant either provide a financial guarantee and pay all required design/inspection fees or complete the construction of the sewer.</p>

With the condition of approval noted above, the sanitary sewer service standards of 33.652 have been verified.

**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 (see Exhibits A.15, A.20 and C.2)

**Private Street:** Stormwater will be directed to a 7-foot wide infiltration planter located within the street tract. The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed swale can accommodate the volume of stormwater runoff from the impervious areas of the street. BES has indicated conceptual approval of the proposed swale location and size.

**Public Street Improvements:** As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.

**Lots 1-8:** Stormwater from these lots will be directed to individual a shared drywell in Tract A that will treat the water and slowly infiltrate it into the ground. Tract A 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. BES has indicated conceptual approval of the drywell. Lots 1-3 and Lots 5 & 6 share a stormwater disposal lateral which connects these lots to the drywell located in Tract A.

Easements across the relevant portions of Lots 1-8 must be provided. As a condition of approval, BES is requiring that the applicant demonstrate stormwater service access to the shared tract for lots 1-3 and lots 5 & 6 across relevant portions of lots 1-8. Lot 4 and Lots 7-8 will have each have their own lateral connecting it to the shared drywell in Tract A. The applicant received approval of a plumbing code appeal (#10794-10800) to utilize the shared facility for lots 1-8 within the Shared Court (Tract A).

The applicant has proposed an individual drywells for lots 9 and 10. Both of these lots have adequate room to accommodate this type of facility.

**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 property is located on the corner of SE 72nd Ave (north-south street) and SE Steele St. (east-west Street) and meets the noted spacing requirements. The Bureau of Transportation had the following comments:

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject site is situated on a block that satisfies the above referenced connectivity goals in the east-west direction only. Because the subject site is located at the north-west corner of the 600-ft long block, it is not located in a prime location to further the above referenced connectivity goals. PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division request

The site is within the Portland Master Street Plan for the Southeast District. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

**33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.**

The proposal includes a private dead-end private street and pedestrian connection, which will be located in the new street. As discussed under the findings for through streets above, a new public north-south through street is not required for this proposal. The private dead-end street will serve 5 dwelling units and it is approximately 96 feet in length from the frontage along SE Steele St. This criterion is met.

**33.654.120.G – Approval criteria for shared courts**

The area for the shared court tract will be approximately 39-24 feet wide by approximately 96 feet long, and constructed of non-pervious ornamental pavers. The shared court is configured to allow access to the garages on Lots 4, 7-8 and 9-10, as well as access to the main entrances to the development on Lots 7-8 and Lots 9-10. There is one guest parking space that is also accessed by the shared court, as well as a common bike parking area for the land division. The applicant has provided sufficient information on vehicle turning and maneuvering movements (exhibit A-18) to demonstrate that the configuration of the shared court will allow vehicles to enter and exit the shared court from the adjacent public street in a forward motion. The applicant has also demonstrated sufficient turning radius area for vehicles backing out each garage into the shared court. Because the shared court is less than 150 feet long, the Fire Bureau does not need to maneuver fire trucks into the shared court.

The shared court provides pedestrian access from the adjacent sidewalk on SE Steele Street to the main entrances of the buildings proposed for Lots 7-10. Because the shared court will provide access to fewer than 16 lots in this manner, the opportunities for conflict between residential vehicles and pedestrians will be limited. The shared court includes 285 square feet of grassy area, play area, or gardening space that is at least 15 feet wide at its narrowest point. For the reasons described above, the size and configuration of the shared court is sufficient to accommodate the expected users. This criterion is met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

**APPROVAL CRITERIA FOR ADJUSTMENTS****33.805.010 Purpose**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

**33.805.040 Adjustment Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

**A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Findings:** The applicant is requesting an adjustment to allow the proposed attached houses on Lots 1-6 to exceed the 25 foot height limit within the first 10 feet of the front property line in the R1 zone (33.120.215.B.1). The height standards serve several purposes:

- *They promote a reasonable building scale and relationship of one residence to another;*
- *They promote options for privacy for neighboring properties; and*
- *They reflect the general building scale of multi-dwelling development in the City's neighborhoods.*

The minimum front building setback in the R1 zone is 3-feet and the maximum height is 45 feet, except on the portion of a site within 10 feet of a front property line, where the maximum height is 25 feet. The applicant is proposing 3 separate sets of attached houses (on Lots 1-2, 3-4 and 5-6) that are approximately 30-feet (see Exhibit C.8) in height and setback 5-feet from the front property line. While the proposal slightly exceeds the allowed 25 foot height limit standard within the first 10 feet from the front lot line, the overall height of the proposed structures (30 feet) is well below the maximum height allowed in the zone (45 feet) in the area on the lots greater than 10 feet from the front property boundary.

Therefore, the proposed attached houses represent a reasonable building scale in the context of surrounding development. The proposed height adjustment will not impede the privacy of adjacent neighboring properties since Lots 5 and 6 will abut SE 72<sup>nd</sup> Ave. An existing multi-family apartment complex is located adjacent to the south facing façade of the new unit proposed on Lot 6. This existing apartment complex includes a large paved parking area in front of the apartments along SE 72<sup>nd</sup> Ave which will be adjacent to the area where the new attached unit proposed on Lot 6 will be located. In addition, the proposed units on Lots 1-4 will face SE Steele St., across the street from another large multi-family apartment complex with a large paved parking lot abutting SE Steele St. in front of the existing apartment complex. The combination of the right of way width within SE Steele St. and the paved parking area will provide plenty of separation between the adjacent properties and the new units proposed on Lots 1-4 which will eliminate any privacy concerns related to the slight increase in height. Overall, the development on Lots 1-6 is more oriented towards the adjacent streets and setback an adequate distance from existing residentially zoned property. The increase in building height by 5 feet (from 25 feet to 30 feet) within 10 feet of the front property boundary will match the general building scale in the area.

This criterion is met.

- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

**Findings:** The site is in a residential zone and is located within the Mt.Scott-Arleta Neighborhood. The residential area considered is defined as shown on the Zone Map (Exhibit B). Properties within the vicinity of the site are composed of multi-dwelling and commercial zones with varying development types. The proposed attached housing project will not detract from the livability or appearance of the area due to the presence of more intensive commercial and multi-family uses in the vicinity. Therefore, this criterion is met.

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**

**Findings:** One adjustment is being requested. Therefore, this criterion is met not applicable.

- D. City-designated scenic resources and historic resources are preserved; and**

**Findings:** The site is not located within a scenic or historic overlay zone. Therefore, this criterion is not applicable.

- E. Any impacts resulting from the adjustments are mitigated to the extent practical;**

**Findings:** As addressed in the preceding findings, there are no discernible impacts that will result from the proposed adjustments. This criterion is satisfied.

**F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

**Findings:** The site is not located within an environmental overlay (“c” or “p”) zone. Therefore, this criterion is not applicable.

## 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:

- Houses, detached houses and duplexes accessed by common greens, shared courts, or alleys-- special requirements apply to this type of development per Section 33.120.270.E.
  1. The front and side minimum setbacks from common greens and shared courts is 3 feet.
  2. The setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building
  3. In R1 zone where the front lot line abuts a shared court, the maximum height within 10 feet of a front property line abutting a shared court is 45 feet
  4. When a land division proposal includes a shared courts the maximum building coverage is calculated based on the entire land division site, rather than for each lot.
  5. For attached houses, uncovered rear balconies that extend over an alley for vehicle maneuvering area between the house and rear lot line do not count toward maximum building coverage calculations.

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R1a/R2a zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## OTHER TECHNICAL REQUIREMENTS

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

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

Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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

- The applicant is required to make improvements to the proposed private street (Shared Court). Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; posting of "No Parking" signs in private street; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the private street tract if required; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers if required; fire apparatus access to Lot 9, 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 10-lot subdivision and a Shared Court Private Street Tract, as shown on the attached preliminary plan (Exhibits C.1-). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

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

## ADMINISTRATIVE DECISION

**Approval** of an Adjustment to maximum height within the first 10-feet of the front property line in the R1 zone (33.120.215.B.1) from 25-feet to 30-feet within 5 feet of the front property boundary for new development on Lots 1-6, per Exhibit C.2 and C.8;

**Approval** of a Preliminary Plan for a 10-lot subdivision for attached housing and a Shared Court Private street tract, that will result in 10 single dwelling lots as illustrated with Exhibits C.1-C.7 subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for BES and Fire review and approval. That plan must portray how the conditions of approval listed below are met.

- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- 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 72<sup>nd</sup> Ave and SE Steele St. The required right-of-way dedication must be shown on the final plat.
2. A private storm sewer easement, for the benefit of Lots 1-3 and Lots 5 and 6, shall be shown and labeled over the relevant portions of Lots 1-8.
3. If required, an Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portions of the private street to the satisfaction of the Fire Bureau.



4. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Shared Court *name of street*". A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lot 4 and Lots 7 through 10, or a Homeowners Association.
5. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition A.10-A.12 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 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 plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant shall submit an application for a Site Development Permit for construction of the Shared Court and mass grading and utility construction for the new private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibits C.1-C.7 and the Private Street Administrative Rule. In addition the street shall include the following:
  - The Shared Court must meet the tree and landscaping standards in Section III.K of the Private Street Administrative Rule.
  - Specific amenities required include bike parking and benches as shown on Exhibits C.5 and C.7
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private shared court and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street/mass grading described in Condition C.2. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibits C.3 and C.4) with the following additions:
  - It must show stockpile areas;
  - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.

**Utilities**

5. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE Steele St. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.

6. 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.
7. 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.
8. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lot 9, 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 Lot 9, 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**

9. A finalized permit must be obtained for demolition of the existing residence and detached garage on the site and capping the existing sanitary sewer connection. (if the demo includes a primary residential structure, add:) Note that Title 24 requires a 35-day demolition delay period for most residential structures.

**Required Legal Documents**

10. A Maintenance Agreement shall be executed for the Stormwater Management Easement described in Condition B.2 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.
11. The applicant shall execute a Maintenance Agreement for the Shared Court Private Street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lot 4, and Lots 7-10 or a Homeowners Association and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
12. If required, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development to contain internal fire suppression sprinklers, per Fire Bureau Appeal no \*. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

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

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

Lot	Minimum Density	Maximum Density
1	1	1
2	1	1
3	1	1
4	1	1
5	1	1
6	1	1

7	1	1
8	1	1
9	1	1
10	1	1

2. The first lift of paving for the Shared Court shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. The applicant must complete the frontage improvements along SE Steele St. and SE 72nd Avenue as required by the Portland Bureau of Transportation to the satisfaction of the City Engineer.
5. Driveway configurations for Lots 1-6 must be in substantial conformance with Exhibit C.2.
6. The applicant must post the shared court with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
7. The applicant must meet the addressing requirements of the Fire Bureau lots facing the shared court. The location of the sign must be shown on the building permit.
8. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling units. Please refer to the final plat approval report for details on whether or not this requirement applies.
9. 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: Shawn Burgett**

*S. Burgett*

**Decision rendered by:** \_\_\_\_\_ **on May 21, 2015**

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 27, 2015**

**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 January 31, 2014, and was determined to be complete on **July 31, 2014**.

*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 January 31, 2014.

*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 Exhibit A-5. Unless further extended by the applicant, **the 365 days will expire on: July 31, 2015.**

**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, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 10, 2015** 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 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us) .

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 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.**

**Recording concurrent approvals.** The preliminary land division approval also includes concurrent approval of [adjustment review]. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

**Expiration of concurrent approvals.** The preliminary land division approval also includes concurrent approval of adjustments. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application. The approved adjustments were voluntary and not necessary for the land division to be approved. These concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

## **EXHIBITS**

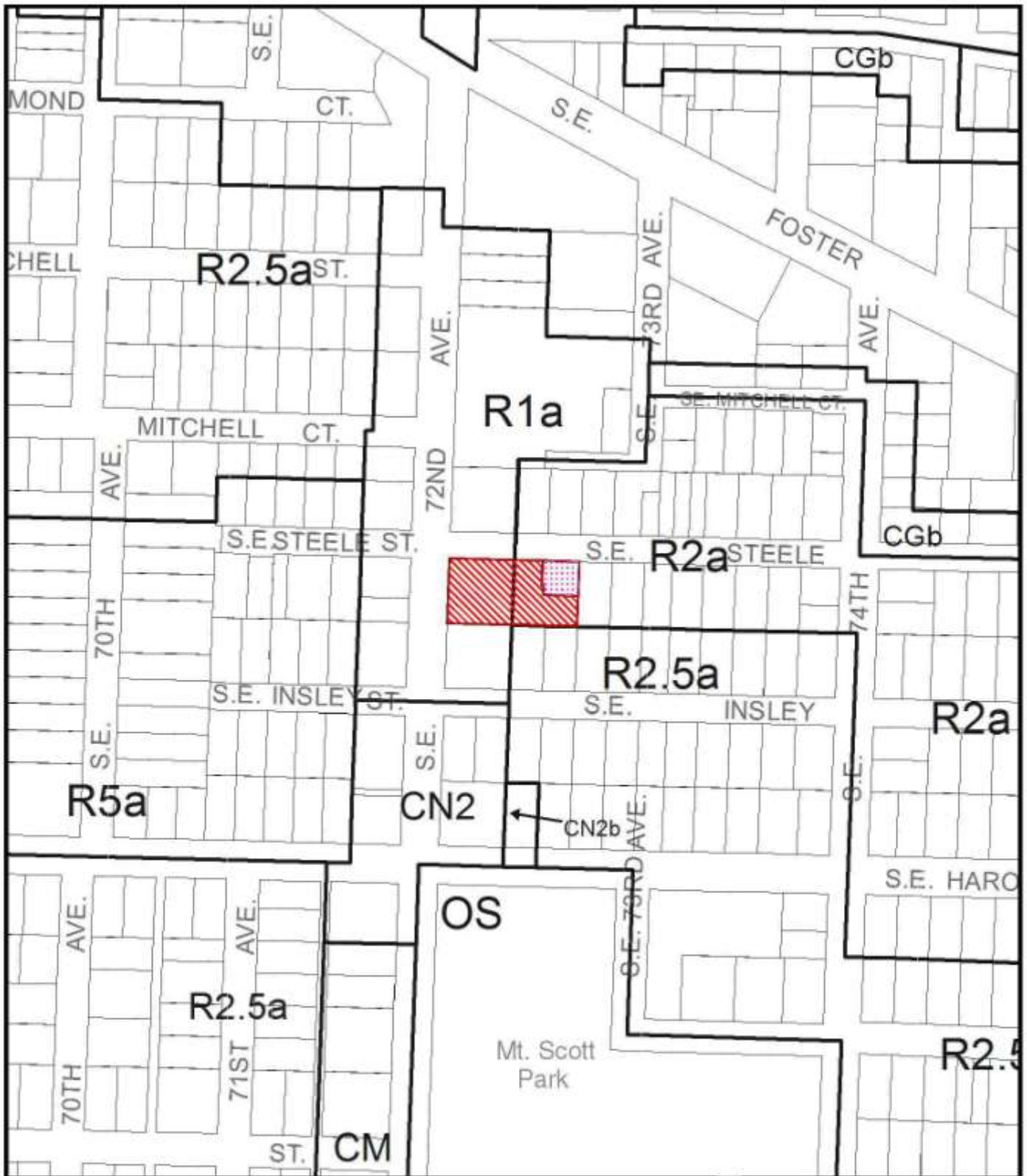
NOT ATTACHED UNLESS INDICATED

### A. Applicant's Statement

1. Narrative
2. Arborist report
3. Early Neighborhood Notification documentation
4. Parking Study
5. Full Extension to 120 day clock
6. Fire Flow
7. Memo from applicant dated 7/15/14
8. Infiltration testing by GeoPacific dated 4/9/14
9. Preliminary Stormwater Management Report by Emerio Design
10. Transportation Analysis by Lancaster Engineering dated 6/2/14
11. Revised narrative, received 7/15/14
12. Plan set received 7/15/14
13. Plan set received 1/31/14
14. Memo from Applicant dated 3/9/15
15. Preliminary Stormwater Management Report by Emerio Design submitted 3/9/15
16. Transportation Analysis Letter by Lancaster Engineering dated 3/9/15
17. Adjustment Approval Criteria dated 2/27/15
18. Transportation Analysis Letter by Lancaster Engineering dated 4/22/15
19. Plan set received 3/9/15
20. Infiltration testing by GeoPacific dated 4/13/15
21. 3 D rendering of proposed units on lots 1-6

- 22. Landscape Plan dated 6/10/14
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Utility Plan (attached)
  - 3. Grading & Erosion Control Plan
  - 4. Shared Court Erosion Control Plan
  - 5. Shared Court Plan (attached)
  - 6. Existing Conditions & demolition Plan
  - 7. Landscape Plan (attached)
  - 8. Façade Elevations of new units on Lots 1-6, 3 pages (attached)
  - 9. Survey of site
- D. Notification information:
  - 1. Mailing list dated 10/21/14
  - 2. Mailed notice dated 10/21/14
  - 3. Mailing list dated 3/16/15
  - 4. Mailed notice dated 3/16/15
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence:
  - 1. Grace Ng, 7227 SE Insley St. Portland, OR 97206, e-mail received 11/16/14
  - 2. Amy Fraser, 7125 SE Steele St. Portland, OR 97206, e-mail received 11/20/14
  - 3. Rich Crowder, 7235 SE Insley St. Portland, OR 97206, e-mail received 4/13/15
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter dated 2/28/14
  - 3. Land Use History
  - 4. City Service Bureau Land use responses (Site Development, Fire Bureau, BES, PBOT) in review of proposal prior to modification to current layout

**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

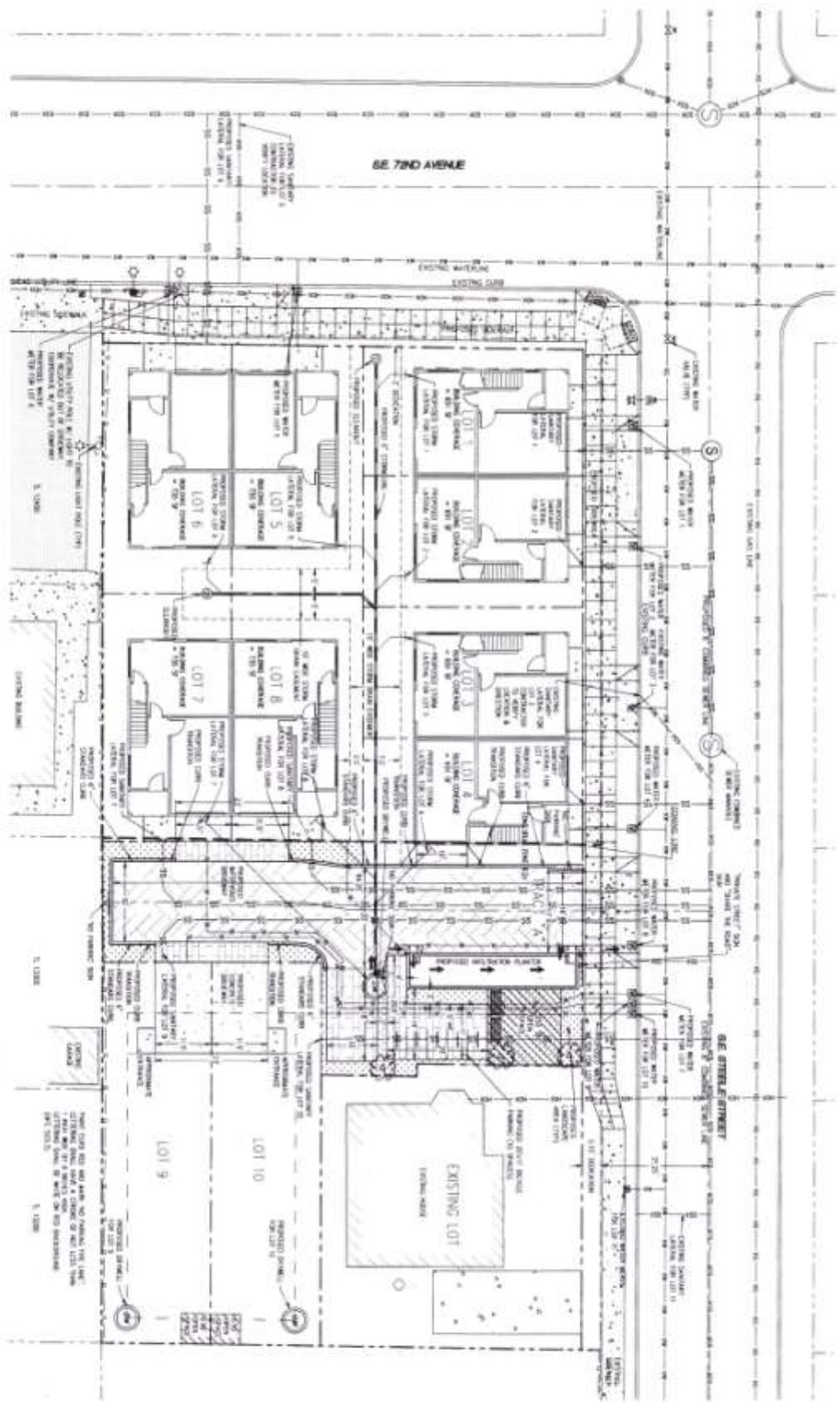
-  Site
-  Also Owned



File No. LU 14-111329LDS, AD  
 1/4 Section 3538  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E17AC 9500  
 Exhibit B (Mar 13, 2015)

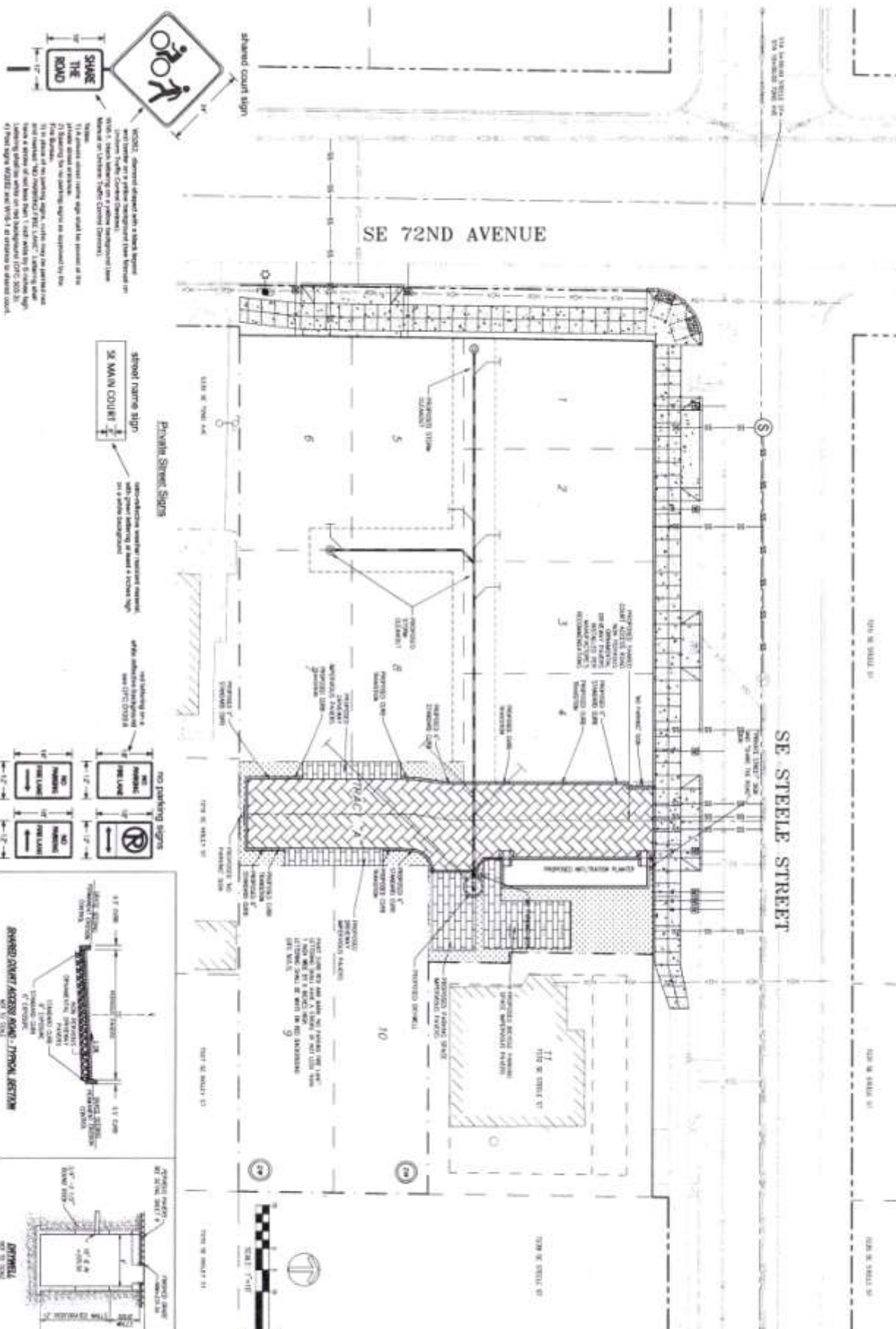






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	REVISION	<p>PRELIMINARY SITE/UTILITY PLAN</p>	<p>SE 72ND AVE &amp; SE STEELE ST TAX MAP T1S R2E 17AC TAX LOT 9400 &amp; 9500 MULTNOMAH COUNTY, OREGON</p>
	NO. DATE		



**SHARED COURT SIGN**  
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 12" x 12" x 12" (MIN.)

**SHARED COURT SIGN - MAIN COLUMN**  
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**NO PARKING SIGNS**  
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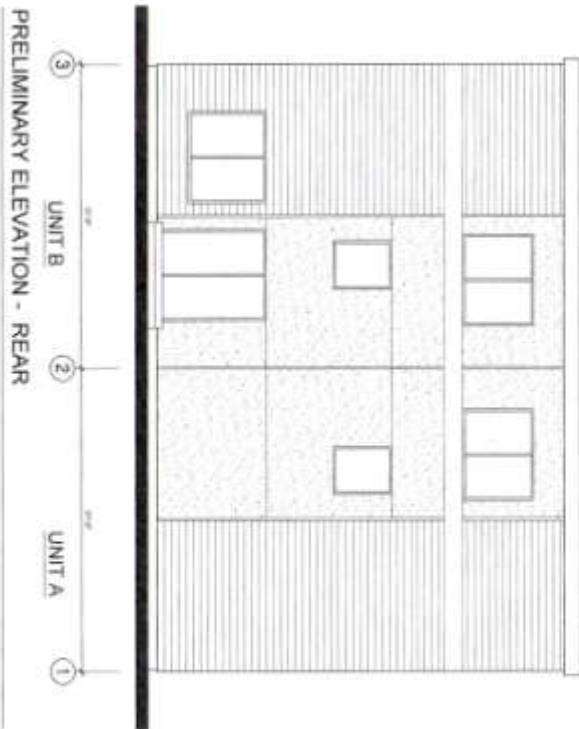
**SHARED COURT ACCESS SIGN - TYPICAL SECTION**  
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**APPROXIMATE SIGN**  
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	<b>EMERIO Design</b> 8117 SW MONROE BLVD. SUITE 147 BEAVERTON, OREGON 97008 PH: (503) 745-8812	REVISIONS NO. DATE DESCRIPTION	<b>PRELIMINARY SHARED COURT PLAN</b>	SE 72ND AVE & SE STEELE ST TAX MAP T1S R2E 17AC TAX LOT 9400 & 9500 MULTNOMAH COUNTY, OREGON
		7 7 7		

CASE NO. 14-111329 EXHIBIT C-5





NO.	DATE	BY	DESCRIPTION

# DUPLEX - 31' UNITS - SIDE GARAGE

72ND AND STEELE

FOR: -

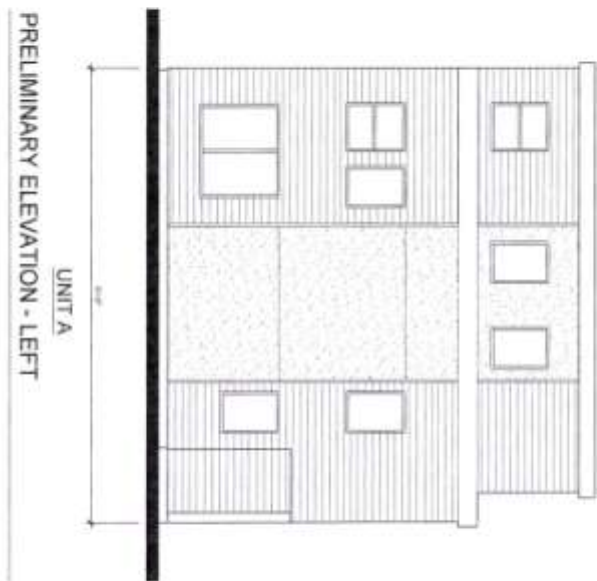
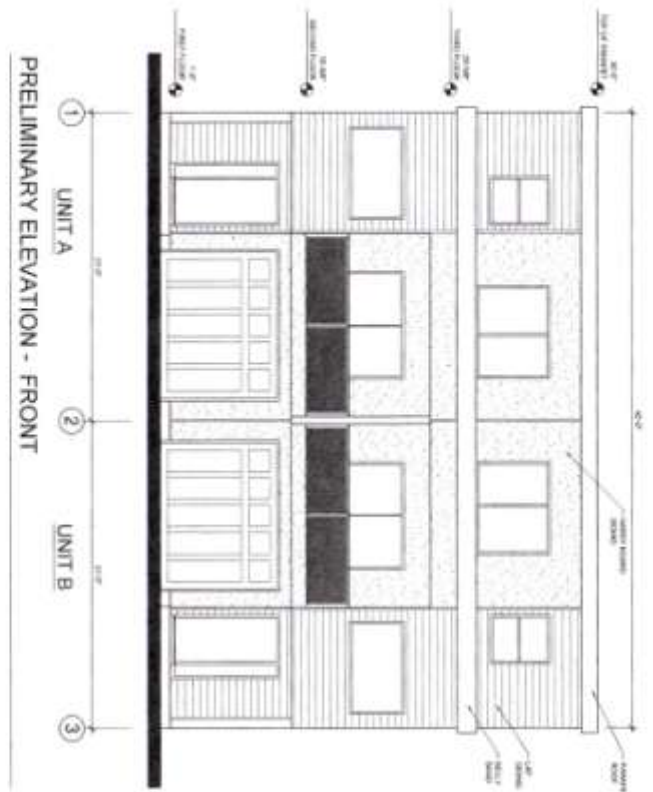
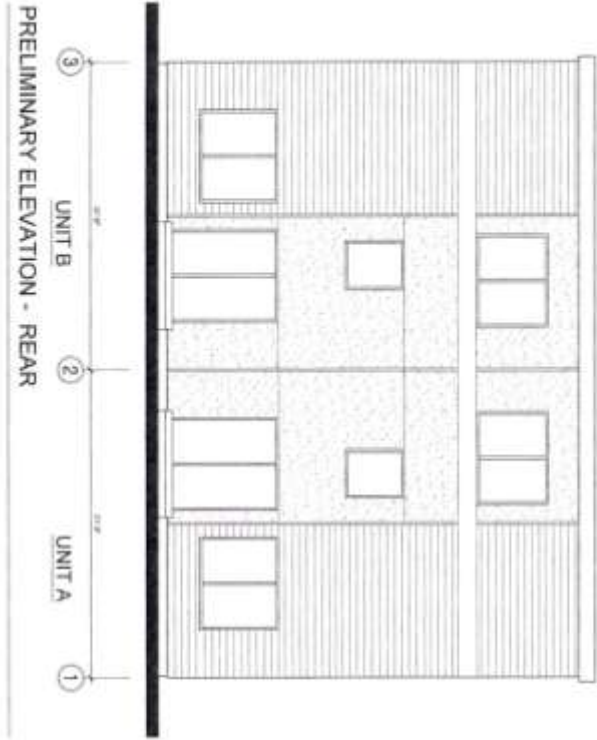
**EMERIO**  
Design

4117 SW BURNETT BLVD. SUITE 147  
MULTI-WORLD, GRESHAM, OREGON  
PH: (503) 636-8588  
FAX: (503) 636-8582

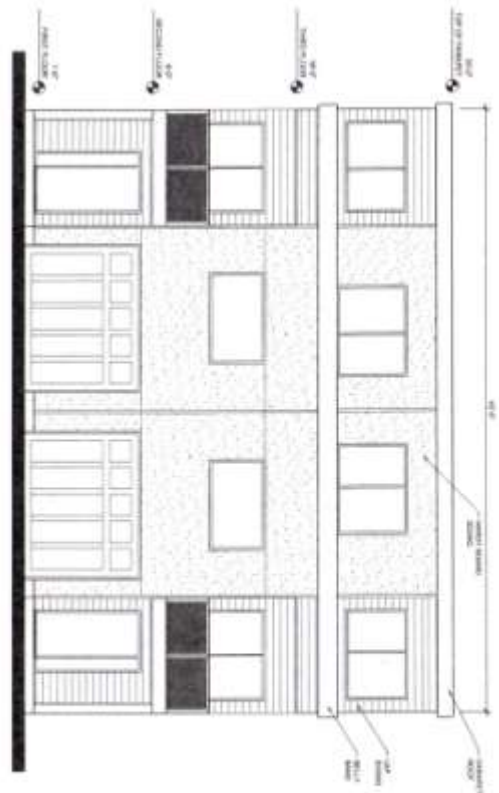
CASE NO. 14-111329

EXHIBIT C-8

Page 1



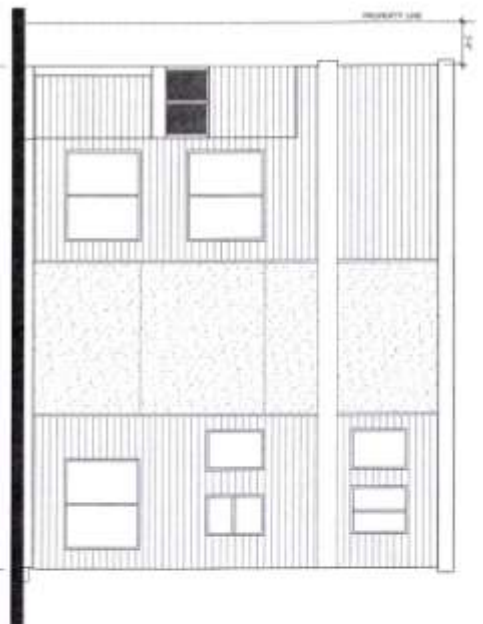
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<b>DUPLEX - 31' UNITS</b>		72ND AND STEELE		
		FOR :		
		<b>EMERIO</b> <i>Design</i> <small>8107 SW GARDEN BLVD. SUITE 147        BEAVERTON, OREGON 97008        PH: (503) 875-8828        FAX: (503) 875-8822</small>		



PRELIMINARY ELEVATION - FRONT



PRELIMINARY ELEVATION - REAR



PRELIMINARY ELEVATION - RIGHT



PRELIMINARY ELEVATION - LEFT

<b>D1</b>	<b>REVISIONS</b> <small>NO. DATE BY</small>	<b>DUPLEX - 35' UNITS</b> 72ND AND STEELE FOR: -	<b>EMERIO</b> <i>Design</i> <small>8107 SW MURRAY BLVD. SUITE 147          BEAVERTON, OREGON 97008          PH: (503) 614-8528          FAX: (503) 614-8582</small>
	<small>DATE</small> <small>DESCRIPTION</small>		

14-111329

Ex: C-8

Page 3