



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: December 9, 2015
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NOTICE OF A TYPE IX DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-173928 LDP

GENERAL INFORMATION

Applicant: Victor Locke
6734 SW 35th Avenue
Portland OR 97219-1727

Representative: Richard Givens
18680 Sunblaze Drive
Oregon City OR 97045

Site Address: Vacant lot, between 12504 and 12536 SE Madison Street

Legal Description: LOT 29, SPECHT AC
Tax Account No.: R784000840
State ID No.: 1S2E02BC 04101
Quarter Section: 3143
Neighborhood: Mill Park / Chris Piekarski at mill.park.pdx.chair@gmail.com
Business District: Gateway Area Business Association / Fred Sanchez at 503-256-3910
District Coalition: East Portland Neighborhood Office / Richard Bixby at 503-823-4550
Zoning: Single Dwelling Residential 2,500 (R2.5)
Alternative Design Density (a) overlay

Case Type: Land Division-Partition (LDP)
Procedure: Type IX, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA)

Proposal: The applicant requests a **Land Division-Partition** to divide an approximately 10,538 square foot property into 2 parcels. A 7.5-foot dedication for a public pedestrian pathway will be provided along the east lot line, which will provide additional frontage to both of the proposed parcels.

Parcel 1 is proposed to be 4,314 square feet and is configured as a corner lot with frontages on SE Madison and the new pedestrian connection. Parcel 1 is proposed to be developed with a duplex, in accordance with provisions that allow a duplex on a corner lot (33.110.240.E). Parcel 2 is proposed

to be 5,169 square feet and is configured as a through lot, with frontages on SE Madison and the new pedestrian connection along the east lot line. Parcel 2 is proposed to be developed with a single dwelling residence.

Water and sewer services will be from existing service lines in SE Madison Street. Stormwater management is proposed via onsite drywells on each parcel.

Two Douglas Fir trees are proposed to be retained in the southwest corner of the site and protected during construction with an Alternative Root Protection Zone.

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

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

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

FACTS

Site and Vicinity: The site is an approximately 10,538 square foot property. It is relatively flat and there are no structures on the site. There are trees located across the site.

The surrounding development is varied. Along the section of SE Madison, where the site is situated, between SE 122nd Avenue (west) and SE 127th Avenue (east), most of the nearby lots to the east and west are developed with single story houses on lots that range in size from 5,000 to more than 10,000 square feet. The lots near SE 122nd Avenue, as well as those to the south and north are in multi-dwelling zones (R2 and R3) and are developed with larger multi-dwelling units. There is a mixed commercial and higher density residential corridor along SE 122nd Avenue.

Within a three to four block area, the surrounding street grid consists of longer east-west streets and shorter more fragmented north-south connections.

Infrastructure:

Streets – The site has approximately 75 feet of frontage on SE Madison Street. At this location, SE Madison Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP), and is improved with 28-feet of center-strip paving within a 50-foot right-of-way. There is no curb or sidewalk along the site frontage. East and west of the site there are 11-foot wide sidewalk corridors. A right-of-way dedication and improvements will be required to match the adjacent sidewalk corridor.

The nearest Tri-Met transit service is approximately 820 feet west of the site at SE 122nd Avenue via Bus Line 71.

Water Service – There is an existing 4-inch CI water main in SE Madison Street. The estimated static water pressure range is 36 psi to 45 psi at the street frontage elevation of 307 feet.

Sanitary Service - There is an existing 8-inch PVC sanitary sewer line in SE Madison Street.

Stormwater Disposal – There are no public storm-only sewer in the vicinity, and public right-of-way drainage flows to a public infiltration sump (IUC) near the northeast corner of the site.

Zoning: The site is located in a **Single Dwelling Residential 2,500 (R2.5)** zone. *Single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.*

The site also has an **Alternative Design Density (a)** overlay designation. *The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.* The applicant has not elected to use the provisions of the a-overlay.

Land Use History: City records indicate there are no prior land use reviews for this site. However, the subject site was part of a 2011 Lot Confirmation (11-146248 PR), which confirmed the subject site as a distinct property from the adjoining parcel (12504 SW Madison Street).

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 **January 12, 2015**. One written response was received, which notes concerns about the density and potential congestion from the proposed 2 lots. Density is addressed in Criterion A, below.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

| Criterion | Code Chapter/Section and Topic | Findings: Not applicable because: |
|-----------|--|---|
| C | 33.631 - Flood Hazard Area | The site is not within the flood hazard area. |
| D | 33.632 - Potential Landslide Hazard Area | The site is not within the potential landslide hazard area. |
| E | 33.633 - Phased Land Division or Staged Final Plat | 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. |
| J | 33.640 - Streams, Springs, and Seeps | No streams, springs, or seeps are evident on the site. |
| 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.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. |

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone.

Where a street or, as in this case, a pedestrian connection, will be created as part of the land division, the following maximum and minimum density standards apply:

Maximum density: *Square footage of site x 0.85 ÷ 2,500= Maximum number of lots allowed.*

- 10,538 x 0.85 ÷ 2,500 = 3.58, which rounds down to 3 units

Minimum density: *Square footage of site - Square footage of site within an environmental overlay zone, landslide hazard area, or special flood hazard area x 0.68 ÷ 5,000 = Minimum number of lots required.*

- 10,538 - (0) x 0.68 ÷ 5,000 = 1.43, which rounds down to 1 unit

The applicant is proposing 2 parcels. Parcel 1 is proposed to be a duplex lot, per 33.110.240.E.3.c, which allows one additional unit on corner lots that are at least 3,000 square feet in area, provided the units meet the development standards in 33.110.240.E.3.d. Parcel 2 is also large enough to be developed with a duplex, per 33.110.240.D. At this time, the applicant is proposing a single dwelling residence (1 unit) for Parcel 2.

In the event, the applicant wishes to construct duplexes on each parcel that is allowable, per the aforementioned provisions. However, the applicant may also construct a single dwelling residence on both parcels, and still satisfy the density provisions. In order to assure the density options are clear at the time of development, the density will be designated as follows:

| Density | Minimum | Maximum |
|------------------------|---------|---|
| Parcel 1 (corner lot) | 1 unit | 2 unit duplex in accordance with 33.110.240.E |
| Parcel 2 (through lot) | 1 unit | 2 unit duplex in accordance with 33.110.240.D |

The required and proposed lot dimensions 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) |
|--------------------------|-----------------------------|-----------------------------|------------------------|-------------------|--------------------------------------|
| R2.5 Zone | 1,600 | NA | 36 | 40 | 30 |
| Parcel 1 (corner lot) | 4,314 | | 55 | 78 | 55 <i>(along SE Madison)</i> |
| Parcel 2 (through lot)** | 5,169 | | 62 | 75 | 62 <i>(along pedestrian path)</i> |

* 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 through lots, the minimum front lot line and minimum width standards apply to one frontage of the through lot.

Through Lots

Parcel 2 is configured as a through-lot, with frontages on both SE Madison and the proposed pedestrian connection. Through lots are allowed only where both front lot lines are on local service streets. Both of the frontages have local service designations, so Parcel 2 is allowed. The minimum front lot line and minimum width standards apply to one frontage of the through lot. For the purpose of this review, the front lot line and minimum width standards are satisfied along the pedestrian connection frontage.

Based on the foregoing, the applicable density and lot dimension standards are met. 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 applicant provided an initial arborist report (Exhibit A.1) which inventoried the trees within the land division site. In order to address some discrepancies between the arborist report and the survey, as well as the alternative root protection zone provisions, the applicant provided a revised arborist report (Exhibit A.3.a). The revised arborist report indicates that the alternative root protection zones and arborist supervision will provide a comparable level of tree protection as that required by Section 33.248.068.

Two trees have been exempted because one is a nuisance species and the other is located on the property line. Five trees are subject to the preservation requirements of this chapter. The total non-exempt tree diameter on the site is 131 inches. The applicant proposes to preserve Tree 540 (37-inch Douglas fir) and Tree 541 (28-inch Douglas fir), which comprise of 65 inches of diameter, or 49 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total non-exempt tree diameter on the site to be preserved. The trees to be preserved and the alternative root protection zones are shown on the applicant's Preliminary Land Division/Tree Preservation Plan (Exhibit C.1).

In order to ensure that future owners are aware of the tree preservation requirements and the required alternative root protection zones shown on the Preliminary Land Division/Tree Preservation Plan (Exhibit C.1), the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, which includes the revised arborist report (Exhibit A.3.a), at the time of final plat.

With the noted condition, this criterion will be met.

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

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

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Some minor grading will be required for the new public pedestrian connection and for utilities and development on the individual parcels. However, no significant clearing or grading will be required to make the new parcels developable; and no clearing and grading is proposed within the root protection zones of the trees that are required to be preserved.

The minor contour changes should not increase runoff or erosion because erosion control measures must be installed prior to starting the grading work. Similarly, stormwater runoff from the new pedestrian connection and the parcels will be appropriately managed to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

Land Suitability: Based on aerial photos, between 1996 and 2013, the site appears to have been in residential use as a yard with accessory buildings for the adjacent property (12504 SE Madison Street), and there is no record of any other use. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development.

Based on these factors, no significant grading or alterations are necessary to make the parcels suitable for development; and with the previously noted condition regarding tree protection requirements, this criterion will be met.

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

Findings: No tracts are proposed or required.

Initially, the project plans showed three curb cuts along the SE Madison frontage. Now, in the most recent submittal (Exhibit C.1), a shared reciprocal driveway easement is proposed to serve Parcels 1 and 2. Though a 19-foot wide easement is noted, the specific width of the driveway is not clear and the scale noted on the site plans does not appear to match the dimensions marked on the plans. In any event, Portland Transportation is supportive of a single curb cut which will help to retain on-street parking, but notes the size of the curb cut will be limited to 12-feet in width unless a Driveway Design Exception is requested and approved.

Based on phone conversations with the applicant, Victor Locke, and his engineer, Tom Sisul, on December 1, 2015, both understand the curb cut for the shared reciprocal driveway must be reduced to 12-feet in width and both understand that the land use review timeline cannot be further extended, so they do not intend to seek any design exceptions or request any other driveway configurations. They are also aware that the plans provided for the associated public works permit also show a single curb cut to a shared driveway, with stormwater facilities across the balance of the site's SE Madison frontage.

Therefore, a condition will be applied that a reciprocal access easement must be provided to allow shared use of a driveway that will straddles the proposed lot lines of Parcel 1 and Parcel 2.

Additionally, as stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(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 discussed above, this criterion will be met.

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

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

The proposed development on Parcel 1 is for a duplex, so the solar standards do not apply. However, as noted above, the parcel could also be developed with a single dwelling house, and the solar access provisions have no preference about lot configuration for corner lots on the south side of the street.

Parcel 2 is an interior through lot (not on a corner), which is proposed to be developed with a detached single-dwelling residence. In this context, solar access standards express no lot configuration preference.

Based on these factors, the solar access criteria are satisfied.

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

Portland Transportation reviewed the proposal and provided the following comments:
The minimal expected added vehicle trips (3 AM peak hour trip/ 3 PM peak hour trip/ 30 total new daily trips) will not adversely impact the operations of area intersections. IN RELATION TO THE AMENDED PLAN, on-street parking will not be impacted given the proposed single curb cut/driveway and ample opportunities for on-site parking on nearby lots. PBOT is supportive of the single access point for the proposed lots. The proposed lot split will not have any effect to transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

With the previously noted conditions related to a shared driveway and a single curb cut along the site’s SE Madison frontage, this will help to retain on-street parking, and this criterion will be 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:

| |
|--|
| 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 |
| The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report. The sanitary sewer service standards of 33.652 have been verified. |
| 33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1 |
| No stormwater tract is proposed or required. BES evaluated the proposed stormwater management methods for the proposal, and initially determined there was not sufficient information to demonstrate this criterion was satisfied. Subsequently, based on new and revised information, BES determined that sufficient information has been provided to demonstrate a feasible stormwater management plan for both the public rights-of-way and private development, as follows: Public rights-of-way: BES noted that drainage improvements in the rights-of-way must be reviewed through a Public Works Permit (PWP). In conjunction with the Public Works Permit review, BES noted the following information was evaluated: <ul style="list-style-type: none"> ▪ <i>SWMM Special Circumstances application, which was subsequently approved by BES on October 14, 2015 for the applicant’s proposal to construct a new sedimentation manhole and infiltration sump system – and not a green street facility – for runoff from the public frontage improvements required by PBOT; and</i> ▪ <i>Updated Public Works Permitting (PWP) 30% Concept plans that BES was able to approve at the October 28th, 2015 PWP 30% Concept meeting.</i> ▪ <i>Preliminary Storm plan from Sisul Engineering dated 11/19/15</i> |

- *Updated storm report and letter from Sisul Engineering dated 11/19/15*

Overall, in order to satisfy this criterion, BES recommends:

Prior to final plat approval, the applicant must complete the following related to the construction of public stormwater facilities within the site's frontages, to the satisfaction of BES: through the Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.

With regard to the onsite improvements, BES notes:

Lots: *The applicant submitted a Simplified Approach stormwater report that includes Simplified Approach infiltration test results in excess of 2 inches per hour. The applicant proposes to discharge runoff from the development to onsite drywells that can meet minimum setback distances. Staff finds this conceptual approach acceptable for the purpose of reviewing the preliminary land division plan against the stormwater management approval criterion.*

Shared Driveway: *The infiltration planter proposed to manage runoff from the shared driveway is acceptable; Sisul Engineering has shown that as proposed, it is sufficiently sized to accommodate the anticipated runoff. Note that as currently proposed, the overflow pipe from the planter to the drywell on Parcel 1, which is intended to handle emergency overflows during intense precipitation events, extends beyond the proposed easement area. The easement should be adjusted to include all aspects of the shared driveway's stormwater management system prior to final plat approval.*

With a condition that the applicant must provide sufficient plans and guarantees to satisfy the Public Works Permit requirements and a condition that the final plat must show a private easement that sufficiently covers the stormwater management system for the shared private driveway, to the satisfaction of BES, this criterion will be met.

33.654.110.B.1 Through streets and pedestrian connections

33.654.130.C Future extension of proposed dead-end streets & pedestrian connections

33.654.130.D Partial Rights of way

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 a north-south through street provided in the vicinity of the site.

Portland Transportation provided the following comments regarding connectivity:

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The location of the subject site within its block is not a desirable location to provide a new public street. However, given that the subject block is over 1,250-ft in length, a new pedestrian connection through the block at this location is appropriate. The applicant has shown a 7.5-ft wide property dedication along the eastern property line for public r.o.w. purposes to accommodate the proportionate share of a pedestrian connection. The applicant will be constructing a portion of the pedestrian connection improvement to the satisfaction of the City Engineer. Said pedestrian connection will include a 4-ft hard-surfaced walkway (which will satisfy ADA standards) and a 3.5-ft wide landscaped buffer.

The noted dedication will provide a portion of the standard 15-foot wide pedestrian connection and its location abutting the east and a portion of the south lot line will allow the pedestrian connection to be completed and extended across the adjacent properties, in the event those properties are divided, as provided by these criteria. In this case, Portland Transportation has determined that the configuration of a partial right-of-way is acceptable. Further, the new pedestrian connection, as well as the new walkway along the site's SE Madison frontage, discussed below, will be straight line paths, which will allow visibility from one end to the other.

For the reasons described above, these criteria are met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment
33.654.120.E. Approval criterion for the width of pedestrian connections.

Along the site's frontage, SE Madison is improved with a paved roadway and a gravel shoulder. There are no curbs, planter strips, or sidewalks. 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.

In this case, Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development, as follows:

SE Madison is improved with 28-ft of center-strip paving within a 50-ft r.o.w. (no curb or sidewalk/ there is approx 11-ft of r.o.w. between the edge of pavement & property line - applicant to confirm with a survey). East and west of the subject site, there are existing 11-ft wide sidewalk corridors on both sides of SE Madison. In relation to the proposed development on the site, the applicant will be required to construct the standard sidewalk corridor with a new curb that will align with the existing curb east and west of the subject site.

For Local Service classified streets abutting R2.5-zoned sites, the City's the City's public r.o.w. standards document requires a 15-ft wide sidewalk corridor comprised of a 0.5-ft curb, 8-ft wide stormwater management, 6-ft wide sidewalk & 0.5-ft wide frontage zone). The new curb shall be located 14-ft from the r.o.w. centerline, in alignment with the existing curb east-west of the subject site & paving extended to the new curb (if necessary).

There is insufficient r.o.w. along the street to accommodate the above referenced street section; accordingly, a 4-ft property dedication is likely to be required. The ultimate dedication can only be determined in relation to the site specific design stormwater management facility that will need to be designed by the applicant's civil engineer; final dedication for the SE Madison r.o.w. improvements may vary. The property dedication for these improvements as well as those related to the required (north-south) pedestrian connection will occur as part of the Final Plat phase of this subject land division request.

Further, Portland Transportation reviewed the configuration of the new public pedestrian connection and provided the following comments:

The applicant has shown a 7.5-ft wide property dedication along the eastern property line for public r.o.w. purposes to accommodate the proportionate share of a pedestrian connection. The applicant will be constructing a portion of the pedestrian connection improvement to the satisfaction of the City Engineer. Said pedestrian connection will include a 4-ft hard-surfaced walkway (which will satisfy ADA standards) and a 3.5-ft wide landscaped buffer.

With these improvements, the new pedestrian connection will help to improve connectivity in the area, and the straight line path will allow visibility from one end to the other. With conditions that call for the required dedication and improvements, this criterion will be met.

Therefore, with conditions which require that the right-of-way dedications for the new pedestrian corridor and frontage improvements along SE Madison must be shown on the final plat the applicant and require that the applicant provide plans and financial assurances for the construction of the frontage improvements, this criterion will be met.

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

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

DEVELOPMENT STANDARDS

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 the following regulations regarding duplex development in the R2.5 zone:

Alternative Development Options/Duplex in R2.5 zone/33.110.240.D

Duplexes are allowed in the R2.5 zone if the following are met:

1. *Density. A maximum density of 1 unit per 2,500 square feet of site area is allowed. Density for this standard is calculated before public right-of-way dedications are made;*
2. *Development standards. Duplexes must comply with the height, building setback, building coverage, and required outdoor area requirements of the base zone, overlay zone, or plan district; and*
3. *Front facade. Fire escapes, or exterior stairs that provide access to an upper level are not allowed on the front facade of the building.*

Alternative Development Options/Duplexes on corners/33.110.240.E

Special requirements apply to duplex development on new lots created using the provisions of Section 33.110.240.E.

4. *Development standards. Both units of the duplex or attached houses must meet the following standards to ensure that the two units have compatible elements. Adjustments to this paragraph are prohibited, but modifications may be requested through Design Review. The standards are:*
 - a. *Entrances. Each of the units must have its address and main entrance oriented towards a separate street frontage. Where an existing house is being converted to two units, one main entrance with internal access to both units is allowed;*
 - b. *Height. If attached housing is proposed, the height of the two units must be within four feet of each other; and*
 - c. *On both units:*
 - (1) *Exterior finish materials. The exterior finish material must be the same, or visually match in type, size and placement.*
 - (2) *Roof pitch. The predominant roof pitch must be the same.*
 - (3) *Eaves. Roof eaves must project the same distance from the building wall.*
 - (4) *Trim. Trim must be the same in type, size and location.*
 - (5) *Windows. Windows must match in proportion and orientation.*

Parking Development Standards for Houses and Duplexes/33.266.120.C

33.266.120.C.3. Front yard restrictions.

- a. *No more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. See Figure 266-2. As an exception to the area limitations in this subparagraph, the following is allowed:*
 - (1) *A lot is allowed at least a 9-foot wide vehicle area.*

Existing Development: The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance

with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

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

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

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access; fire flow/water supply; fire hydrant spacing; fire access lanes; fire department access; addressing of structures; driving surfaces; and aerial fire department access roads. These requirements are based on the 2014 Oregon Fire Code and technical standards of Title 31 and Fire Bureau Policy B-1.
- **Urban Forestry:** The applicant must meet the requirements of Urban Forestry for street tree planting as part of the public works plans for SE Madison.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met or can be met with conditions. The primary issues identified with this proposal are:

- Right-of-way dedications and improvements on SE Madison and for a new pedestrian connection
- Stormwater management for the public improvements and the shared driveway
- Reciprocal access easement and maintenance agreement for shared driveway
- Tree preservation
- Fire Bureau requirements

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in one corner lot and one through lot, and a new pedestrian connection as illustrated with Exhibit C.1, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Madison and the new public pedestrian connection. The required right-of-way dedication must be shown on the final plat.

2. A reciprocal access and private storm sewer easement shall be shown and labeled over the relevant portions of Parcels 1 and 2. The size of the easement shall be sufficient to allow shared use of this area for all of the purposes that a driveway would be typically used for and to provide adequate space to include all aspects of the shared driveway's stormwater management system.
3. 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.6-C.8** below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontage and for the new public pedestrian connection. 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.

Utilities

2. The applicant must complete the following related to the construction of public stormwater facilities within the site's frontages, to the satisfaction of BES: through the Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
3. The final plat must show a private easement that sufficiently covers the stormwater management system for the shared private driveway, to the satisfaction of BES.
4. The applicant shall meet the requirements of the Fire Bureau for hydrant spacing and 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.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way. Alternately, if applying an exception, the applicant will be required to install residential sprinklers in the new house(s), and an Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be provided and referenced on and recorded with the final plat.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Reciprocal Access and 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.
7. If the Fire Bureau has required Acknowledgement of Special Land Use Conditions form, the applicant shall execute an Acknowledgement of Special Land Use conditions. The acknowledgement shall be referenced on and recorded with the final plat.

- 8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

- 1. The minimum and maximum density on each parcel shall be as follows:

| Density | Minimum | Maximum |
|------------------------|---------|---|
| Parcel 1 (corner lot) | 1 unit | 2 unit duplex in accordance with 33.110.240.E |
| Parcel 2 (through lot) | 1 unit | 2 unit duplex in accordance with 33.110.240.D |

- 2. Development on Parcel 2 shall be in conformance with the Preliminary Land Division/Tree Preservation Plan (Exhibit C.1) and the applicant's revised arborist report (Exhibit A.3.a). Specifically, trees numbered 540 and 541 are required to be preserved, with the alternative root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
- 3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
- 4. If the Fire Bureau requires sprinklers to be installed in the new houses, the applicant will be required to install residential sprinklers to the satisfaction of the Fire Bureau.
- 5. If the applicant obtained a Fire Code Appeal, the applicant must meet the requirements identified in the Fire Code Appeal. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Kate Green

Decision rendered by: Kimberly Tallant **on December 4, 2015**
 By authority of the Director of the Bureau of Development Services

Decision mailed December 9, 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 June 24, 2014. Per the applicant's request, the application was deemed complete on the 180th day, **December 22, 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 June 24, 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 requested that the 120-day review period be extended the maximum limit (Exhibit A.7). The review timeline cannot be further extended, and **the 120 days will expire on: December 21, 2015.**

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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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.

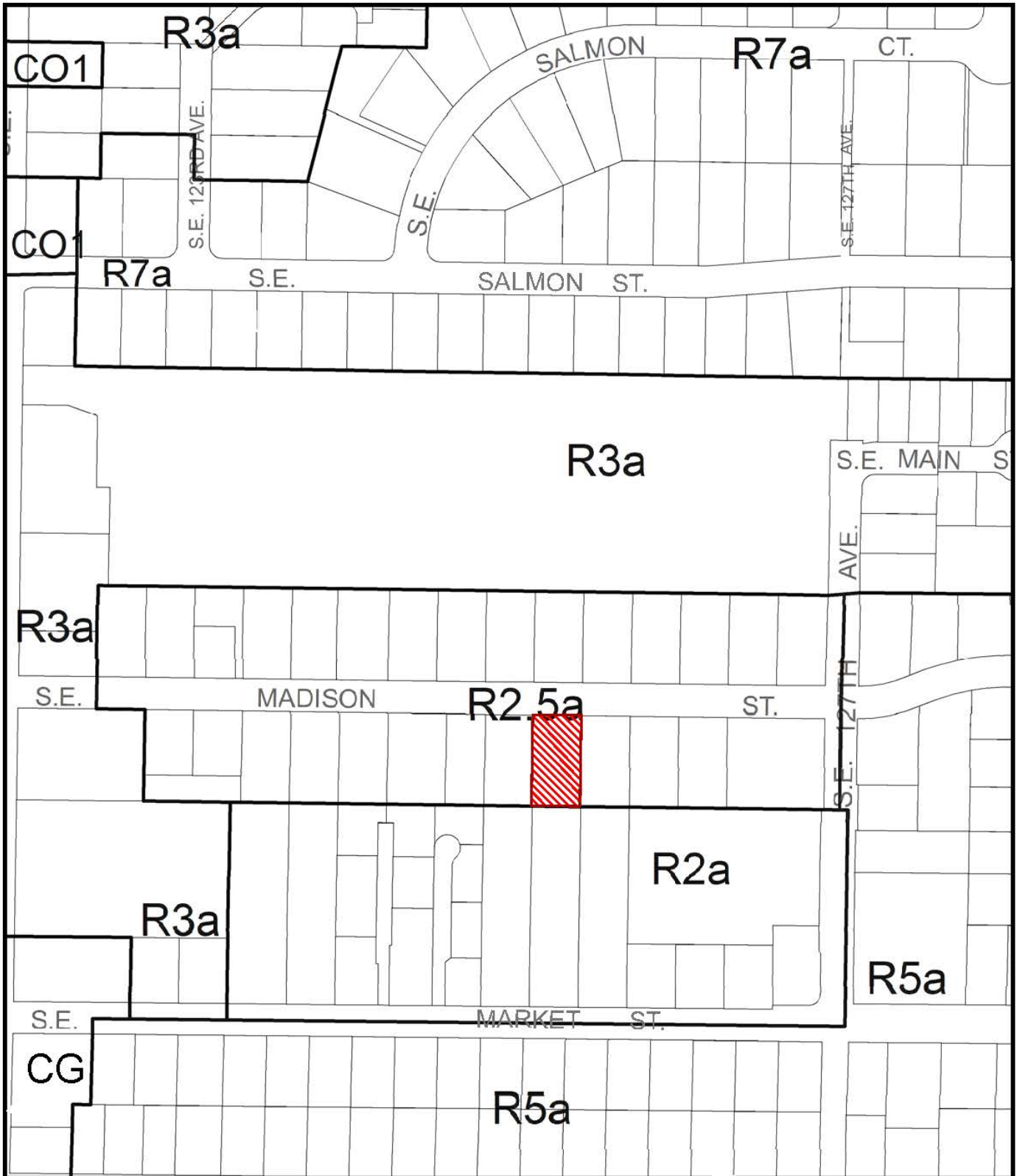
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Initial Submittal
 - 2. Interim plan revision, December 18, 2014
 - 3. Response to incomplete letter, January 9, 2015
 - a. Revised Arborist Report, dated October 30, 2014
 - 4. Response to neighbor's letter, February 11, 2015
 - 5. Revised Submittal, November 13, 2015
 - 6. Revised Stormwater Report/Plan, November 19, 2015
 - 7. Timeline extensions
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division/Tree Preservation Plan (attached)
 - 2. Site and Utility Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development-BDS
 - 6. Urban Forestry
 - 7. Life Safety-BDS
- F. Correspondence:
 - 1. Denise Baker, email dated February 9, 2015, re: concerns about density
- G. Other:
 - 1. Original LU Application
 - 2. Letter to applicant re: incomplete application
 - 3. Emails to/from applicant

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



ZONING

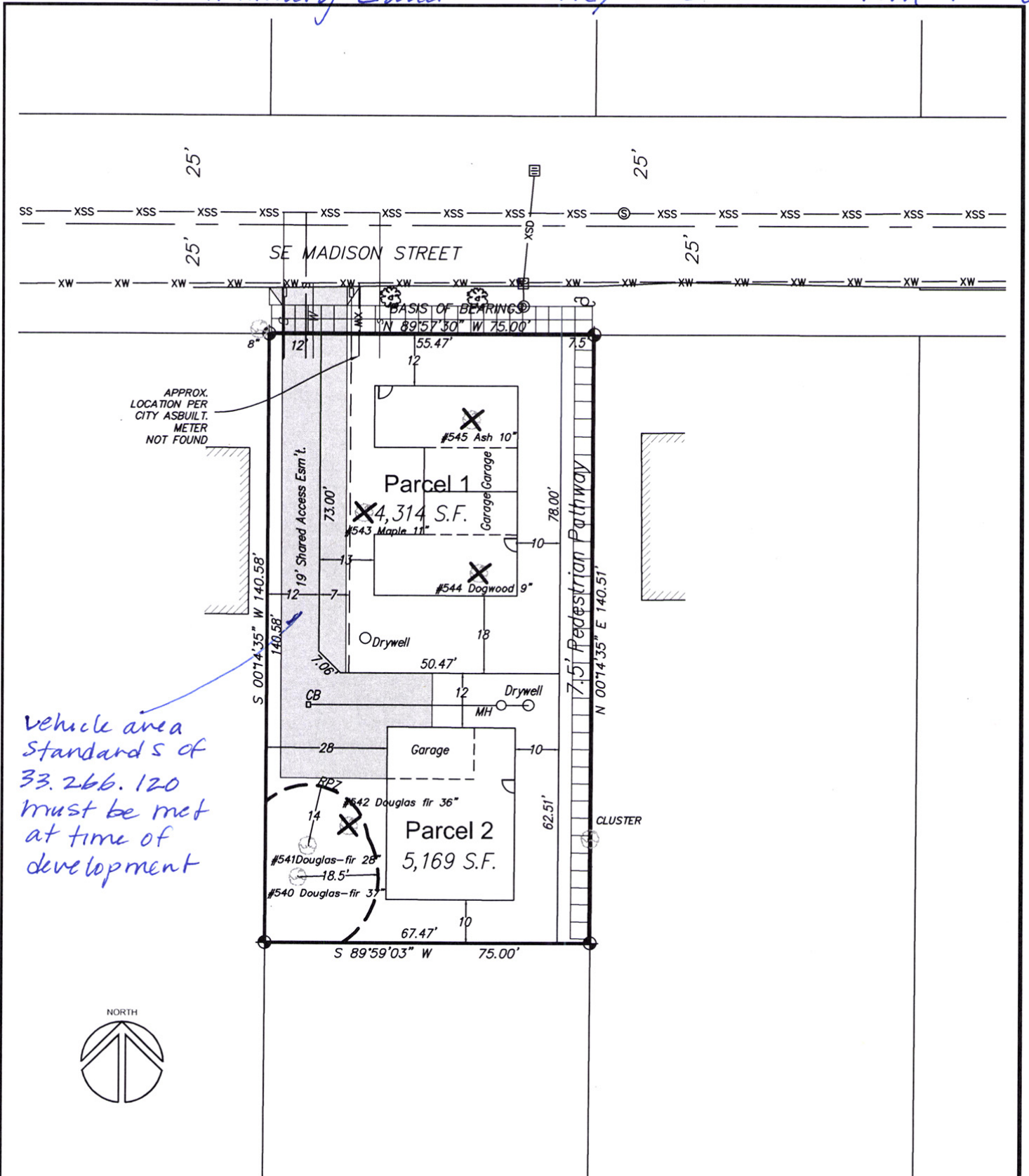


Site



File No. LU 14-173928 LDP
 1/4 Section 3143
 Scale 1 inch = 200 feet
 State_Id 1S2E02BC 4101
 Exhibit B (Jun 26, 2014)

Preliminary Land Division/Tree Preservation Plan



APPROX. LOCATION PER CITY ASBUILT. METER NOT FOUND

Vehicle area standards of 33.266.120 must be met at time of development

in 11.13.2015

DEVELOPMENT PLAN

Richard E. Givens, Planning Consultant
 18680 Sunblaze Dr.
 Oregon City, OR 97045
 PH: (503) 479-0097

SCALE 1" = 30'
 DATE: Jan. 2015
 PROJECT 14-LOC-100

Land Division
 LU 14-173928
 Between 12504 & 12536 SE Madisn St.
 Owner/Applicant: Victor Locke

14.173920 Exhibit C.1