



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

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Date: May 19, 2021
To: Interested Person
From: Shawn Burgett, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

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 20-219875 LDP

GENERAL INFORMATION

Applicant: Sarah Radelet
Strata Land Use Planning
Po Box 90833
Portland, OR 97290
E-mail: sarah@stratalanduse.com

Party of Interest: Antoine Dean
4540 NE 22nd Ave
Portland, OR 97211

Owner: Michael Duvalko
818 SW 3rd Ave PMB 61
Portland, OR 97204

Site Address: 12110 SE MARKET ST

Legal Description: LOT 12 TL 200, D & O LITTLE HMS SUB 1
Tax Account No.: R202501520
State ID No.: 1S2E03DA 00200
Quarter Section: 3242

Neighborhood: Mill Park, contact Trevor Hopper at mill.park.pdx.chair@gmail.com
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Community Office, contact at 503-823-4550.

Zoning: RM1 (Residential Multi-Dwelling 1)
Case Type: LDP (Land Divison Partition)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 2-lot land division on 15,002 sq. ft. site. Proposed Parcel 1 would measure 6,006 sq. ft. and retain the existing duplex on the site. Proposed Parcel 2 would measure 8,851 sq. ft. in area and accommodate future multi-dwelling development.

The applicant is currently proposing 14 units on Parcel 2 as shown on the attached site plan. Based on the proposed size of Parcel 2, a minimum of 4 units is required. The maximum Floor Area Ratio (FAR) for each proposed Parcel is 1 to 1 per Zoning Code section 33.120 (table 120-3) which allows a maximum of one square foot of floor area on each parcel for every square foot of site area.

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 lots). 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 has a one-story duplex constructed in 1940 according to records. The site abuts existing commercially zoned retail and sales uses to the east and is surrounded by a mixture of multi-unit development and single-family homes.

Infrastructure:

- **Streets** –The site has approximately 79 feet of frontage on SE Market Street. There is one driveway entering the site that serves the existing duplex on the site. At this location, SE Market St. is classified as a Neighborhood Collector in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 220 feet from the site at SE 122nd Avenue via Bus 73.

SE Market St. has a 44-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 79-foot wide site frontage the pedestrian corridor includes curb, 7.5-foot sidewalk.

- **Water Service** – There is an existing 6-inch CI water main in SE Market St. The existing duplex is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public combination sewer line in SE Market Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The RM1 zone is a low-scale multi-dwelling zone that is generally applied in locations intended to provide a transition in scale to single-dwelling residential areas, such as the edges of mixed-use centers and civic corridors, and along or near neighborhood corridors. Allowed housing is characterized by one to three story buildings that relate to the

patterns of residential neighborhoods, but at a somewhat larger scale and building coverage than allowed in the single-dwelling zone.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 10, 2021**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
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 proposed 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, Seeps and Wetlands	No streams, springs, seeps or wetlands 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.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required

	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

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 multi-dwelling through IR zones. The applicant is proposing two multi-dwelling parcels.

This site is in the RM1 zone, an existing duplex is proposed on Parcel 1 and new multi-family development is proposed on Parcel 2. The applicant's conceptual development plan shows 14 units on parcel 2.

Minimum density in the RM1 zone is one unit per 2,500 square feet. The total site area shown on the applicant's survey is 14,685 square feet. A 4' dedication is required by PBOT in front of Parcel 2 at the time of development which is shown on the applicants site plan and was subtracted from the total site area described above (see exhibit C.1).

The site has a minimum required density of 6 units. Proposed Parcel 1 measures 6,006 Sq. Ft. in area which will have minimum density of two units. This density is met based the fact the current duplex will remain on this lot. Proposed Parcel 2 measures 8,851 Sq. Ft. which will have a minimum density of 4 units.

Minimum density must be met at the time of development on this lot. Therefore, the minimum and maximum density standards in Zoning Code section 33.120.212.B (table 120-3) will apply at the time of development of the individual lots.

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

RM1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Multi Dwelling Structures or Development:	4,000	33	70	30
Parcel 1	6,006	43	136	43
Parcel 2	8,851	36	190	36

* 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.

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.

Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

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

However, per Zoning Code section.730.060.D.1.e, the applicant must provide the following: *The approximate location, species, and size of trees on adjacent sites, within 15 feet of proposed or future disturbance areas.* The applicant submitted an arborist report (Exhibit A.8) that has identified 13 trees on adjacent properties surrounding this site. This includes 11 trees along on the property to the east, 2 trees on adjacent site to south and 1 tree on adjacent site to west that are within 15 feet of potential disturbance area on the proposed lots. In order to protect the off-site trees from construction impacts, the arborist recommends arborist oversight for all construction activities on Parcel 1 and 2 near the trees documented in the arborist report.

In order to ensure Arborist oversight occurs in correlation with future development on these lots a condition of approval is necessary. Prior to new development on Parcels 1 and 2, a certified arborist must provide a letter and contract specifying that they will be onsite during construction meeting the recommendations of the applicant's arborist report (Exhibit A.8).

Based on the condition noted above, this criterion is met.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. 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. This criterion is met.

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

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

If required by BES at final plat, the following easement may be necessary for this land division:

- A Private Storm Sewer Easement is required across the relevant portions of Parcel 1 and 2, for a shared facility providing stormwater disposal for both parcels.

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

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

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

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

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: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

In single family residential zones, a land division on its own increases the development potential of the site as each lot is allowed a single residence. Creating additional single family zoned lots creates the ability to build additional dwelling units by right, which has impacts on the transportation system. This is not the case with a multi-family zoned land division site. The subject site is zoned RM1 (Residential Multi-Dwelling 1). Per Table 120-3, the RM1 zone has no maximum density but does have a maximum Floor Area Ratio of 1:1. The by-right development allowances of a given area of land are unchanged by the number of sites that area of land is divided into. It's still an FAR allowance of 1:1 with no maximum density cap. The development potential of this site, and the resultant potential impact on the transportation system, is not increased by the land division.

As such, the proposed land division is not anticipated to result in an increase in vehicle trips over what is allowed by the existing zoning and site configuration. No mitigation is required at this time.

When building permits are submitted to create new dwelling units, that action will have an impact on the transportation system triggering the need for dedication and sidewalk improvements. As such, the applicant has voluntarily proposed a dedication of land to meet the standard sidewalk corridor requirements for proposed parcel 2, which is currently vacant. PBOT has no objection to receiving the voluntary dedication as part of the plat.

These criteria are 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 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as

noted on page 2 of this report.

Existing Development (Parcel 1): According to City records, the existing structure on proposed Parcel 1 is currently connected to the sanitary-only sewer in SE Market St via a lateral located approximately 280 feet west of the manhole in SE 122nd Ave. This places the lateral with the frontage of Parcel 1. No changes to this lateral are proposed as part of this land division.

BES noted that there is additional private sanitary infrastructure that crosses the proposed property line and which connects to the current sanitary system serving the building to remain on Parcel 1. However, this sanitary system does not serve existing development and appears to be abandoned. While BES will not require the private sanitary piping on Parcel 2 to be removed, the applicant should note that this sanitary infrastructure is not available for use with the new development as that would create a shared sanitary system across property lines which is nonconforming.

Proposed Development (Parcel 2): Parcel 2 will be served by a new connection to the sanitary-only sewer in SE Market St within its frontage. The applicant has shown the sanitary lateral located 5 feet from the neighboring property line.

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.

Parcel 1 (the lot with the existing duplex): Per the submitted site plans, stormwater runoff from the existing structure to remain on Parcel 1 discharges to a drywell on Parcel 1. While the location of the drywell appears to meet setbacks to the proposed new property line, a portion of the existing stormwater system will cross the property line. According to the site plan, the catch basin in the paved area on proposed Parcel 2 is served by the drywell on Parcel 1. Therefore, prior to final plat, the applicant must demonstrate that the stormwater management for existing development will meet applicable SWMM requirements and will not be impacted by the proposed lot lines. This could be accomplished by doing one of the following:

- 1) Modify the existing system to meet the City's Stormwater Management Manual and other BES requirements. Obtain finalized permits as necessary prior to final plat. Or,
- 2) Obtain approval of a plumbing code appeal from BDS (if necessary) and provide a private stormwater easement over Parcel 1 for the benefit of Parcel 2 on the final plat, or other legally acceptable instrument as approved through the appeal review, as necessary.

Shared Private Drywells: BDS may allow drywells to be shared across property lines if the conditions outlined in the [BDS Shared Drywells Code Guide](#) are met. BES will review the proposal to confirm that the proposed drywell meets SWMM standards. In addition, an easement and maintenance agreement for the shared drywell is required, to be reviewed by BDS prior to recording with the appropriate country recorder. The applicant is encouraged to contact BDS Plumbing directly with questions related to shared drywells and private easements: (503)-823-7388 for residential projects, and (503) 823-7302 for commercial projects.

Parcel 2: BES Staff reviewed the project's Simplified Approach stormwater report (12/15/20), which includes infiltration test results of 2 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via drywells that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian

connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

The block on which the subject property is located meets the noted spacing requirements.

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.

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

In reviewing this land division, PBOT 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. PBOT has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional lot can be safely served by this existing street without having any significant impact on the level of service provided.

PBOT noted the following: As such, the proposed land division is not anticipated to result in an increase in vehicle trips over what is allowed by the existing zoning and site configuration. No mitigation is required at this time.

However, when building permits are submitted to create new dwelling units, that action will have an impact on the transportation system triggering the need for dedication and sidewalk improvements. As such, the applicant has voluntarily proposed a dedication of land to meet the standard sidewalk corridor requirements for proposed parcel 2, which is currently vacant. PBOT has no objection to receiving the voluntary dedication as part of the plat.

Required Improvements:

Proposed Parcel 2 (Site for new development): At the time of permit, the applicant will be required to dedicate land and construct a standard 12-foot sidewalk corridor. The frontage is less than 100-feet long, contains no grade breaks and does not need an ADA corner ramp. As such, it is anticipated the work can be accommodated via a Minor Improvement Permit associated with the building permit for the new units.

Proposed Parcel 1 (Duplex to be retained): Frontage improvements and dedication will only be required if development permits are submitted which result in one of the public improvement triggers being met. Dedication is only required if development results in an increase in trips such as from the addition of residential dwelling units to the site. If building permits are pulled which do not increase trips but which do meet the significant alteration threshold, no improvements are needed. The frontage is already fully improved within the existing right-of-way.

Dedication. 4-feet is anticipated

This criterion is met. A dedication and sidewalk improvements are required at the time of development on Parcel 2 and may be triggered on Parcel 1 in the future if re-developed.

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.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved

during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Future Development

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

- The site is zoned RM1, since Proposed Parcels 1 and 2 are more than 100 feet in depth they are subject to the Zoning Code's Eastern Pattern Area minimum rear building setback per Zoning Code section 33.120.220.B.2. The site plan submitted with this application (Exhibit C.1) demonstrates how this standard can be met on each parcel.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the RM1 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing duplex will be 7 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Off-Street Parking - A paved parking pad provides parking for the existing duplex Parcel 1. As a result of this land division, the parking space for the existing house will be located on a different lot and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 220 feet from the site on SE 122nd Ave via bus number 73. Bus number 73 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.

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 11 – Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; fire flow/water supply and recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2 if development is greater than 150 feet from SE Market St. or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry as described below: Fee required for loss of street tree planting locations. Because 1 street tree is required for every 25 feet of frontage, prior to lot division there is room for 3 street trees. After the proposed lot division, there will only be room for 2 trees. A fee of \$675 (\$450 per inch x 1.5” required size) is required for the permanent loss of available planting space.

Conditions of Approval:

Urban Forestry has no objections to the proposal subject to the following conditions of approval: Fee in Lieu of planting of 675 (\$450 per inch x 1.5” required size) required for lost street tree planting spaces. Payment required prior to final Plat approval. This requirement is based on the standards of Title 11.

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: stormwater management for existing duplex to remain on Parcel 1

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in two multi-dwelling lots as illustrated with Exhibit C.1, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES review and approval. That plan must

portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots per condition C.2 below.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant may meet the street dedication requirements of the City Engineer for SE Market St. along the frontage of Parcel 2 as proposed. The required right-of-way dedication may be shown on the final plat. Alternatively, the dedication can occur as required per condition D.2 below.
2. If required below, a private storm sewer easement, for the benefit of Parcels 1 and 2, shall be shown and labeled over the relevant portions of each Parcel.
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 Condition C.3 and C.4 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:

Access

1. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new units on Parcel 2 more than 150' from approved fire apparatus access, if applying the exception unless a Fire Code appeal is approved. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

2. Documentation of the location of the stormwater disposal system for the existing Duplex on Parcel 1 shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing duplex must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing duplex will extend beyond the boundaries of Parcel 1 (the lot with the existing duplex), then the applicant must meet one of the following:
 - Modify the existing system to meet the City's Stormwater Management Manual and other BES requirements. Obtain finalized permits as necessary prior to final plat. Or alternatively,
 - Obtain approval of a plumbing code appeal from BDS (if necessary) and provide a private stormwater easement over Parcel 1 for the benefit of Parcel 2 on the final plat, or other legally acceptable instrument as approved through the appeal review, as necessary.

Required Legal Documents

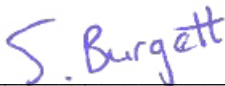
3. If required, a Maintenance Agreement shall be executed for the Stormwater Management Easement described in Condition C.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose 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.
4. If required per condition C.1 above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 more than 150' from SE Market St. to contain internal fire suppression sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other requirements

5. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. The applicant shall provide a letter and contract from a certified Arborist specifying that the Arborist will be onsite during new construction activity on Parcels 1 and 2 meeting the recommendations of the applicant's arborist report (Exhibit A.8) in association with new development proposed within the Root Protection Zones of 13 private trees located on adjacent lots impacted by new development on these Parcels.
2. The applicant shall meet the requirements of the City Engineer for right of way improvements and dedication along the frontage of Parcel 2. The applicant must construct improvements with development on the lot.
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 required, the applicant will be required to meet any requirements identified through a Fire Code Appeal and/or install residential sprinklers in new dwelling units on Parcel 2 more than 150 feet from SE Market St. Please refer to the final plat approval report for details on whether or not this requirement applies.
5. The applicant must meet Fire Bureau requirements related Fire Flow/Water Supply which must be verified at time of development.

Staff Planner: Shawn Burgett**Decision rendered by:**  **on May 14, 2021**

By authority of the Director of the Bureau of Development Services

Decision mailed May 19, 2021

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 November 30, 2020, and was determined to be complete on January 29, 2021.

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 November 30, 2020.

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 did not waive or extend the 120-day review period. **The 120 days will expire on: 5/29/2021**

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**

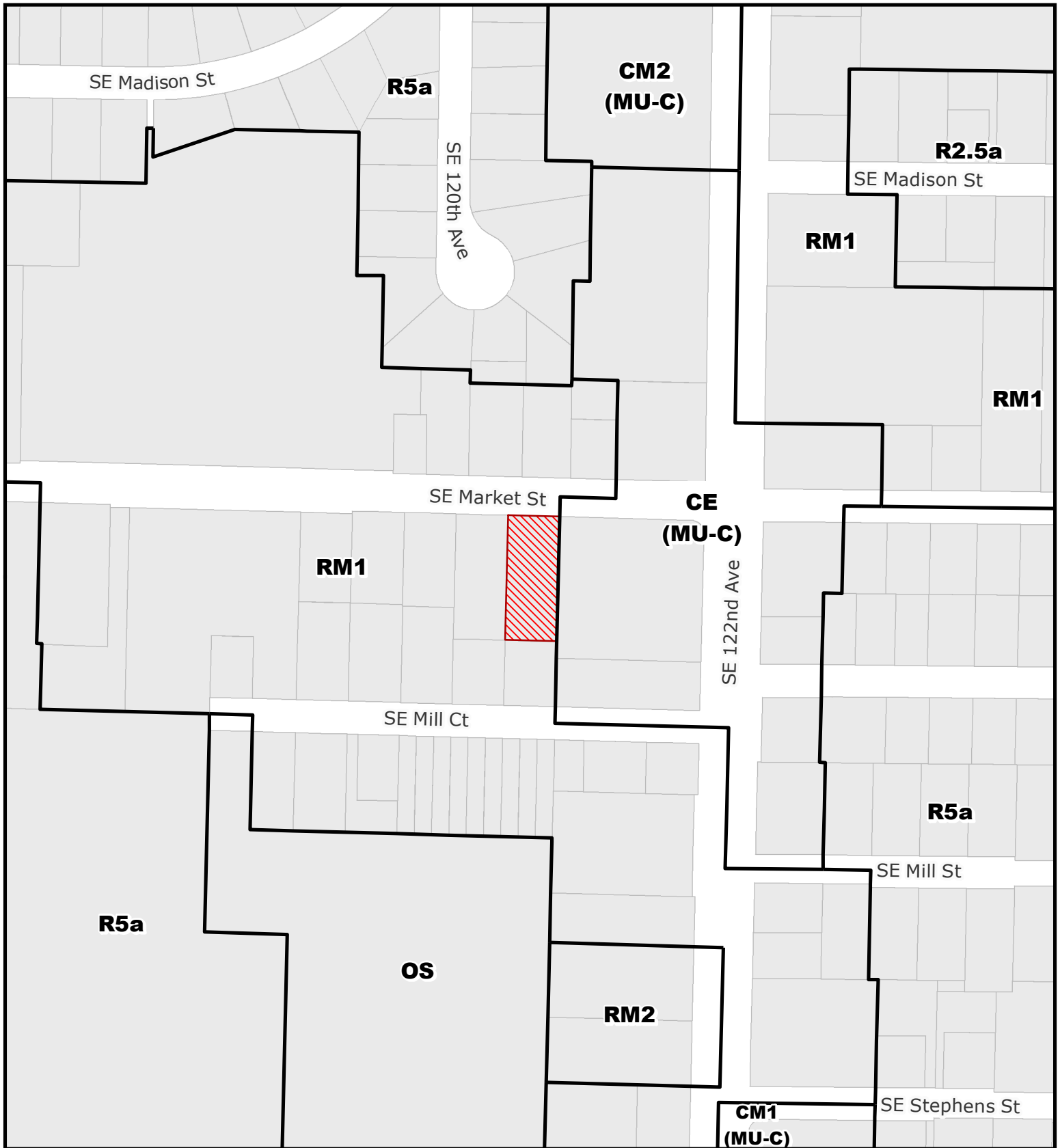
a final plat is submitted within three years of the date of the City's approval of the preliminary plan.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicants Narrative
 - 2. Deed
 - 3. Fire Flow
 - 4. Resubmittal letter
 - 5. Deed info
 - 6. Deed info
 - 7. Infill test
 - 8. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing Conditions Survey
 - 3. Plat survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- 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: (None received)
- G. Other:
 - 1. Original Application
 - 2. Incomplete Letter
 - 3. BES RFC
 - 4. PBOT RFC
 - 5. Site Development RFC
 - 6. Expedited LD acknowledgement

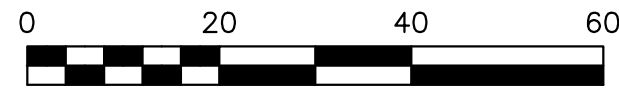
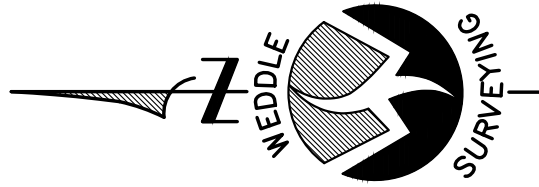
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

 Site

File No.	<u>LU 20 - 219875 LDP</u>
1/4 Section	<u>3242</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E03DA 200</u>
Exhibit	<u>B</u> <u>Dec 01, 2020</u>



SCALE: 1" = 20'
1-FT. CONTOUR INTERVAL
JANUARY 27, 2021

LEGEND

- CATCH BASIN
- CLEAN OUT
- CONIFEROUS TREE (DIA. NOTED)
- DECIDUOUS TREE (DIA. NOTED)
- CLEAN OUT
- DECORATIVE SHRUB
- DOWNSPOUT - DRAINS UNDERGROUND UNLESS OTHERWISE NOTED
- ELECTRICAL PANEL
- GAS METER
- GATE POST
- HVAC UNIT
- MAIL BOX
- NATURAL GROUND
- POWER METER
- POWER POLE
- STORM DRAIN MANHOLE
- SUPPORT COLUMN/POST
- SURVEY MONUMENT FOUND
- WATER METER
- SS SANITARY SEWER LINE
- BUILDING EAVE/OVERHANG
- BUILDING FOOTPRINT
- SD STORM DRAIN LINE
- W WATER LINE
- ARBORVITAE HEDGE
- E OVERHEAD WIRE
- G GAS LINE
- FENCE LINE

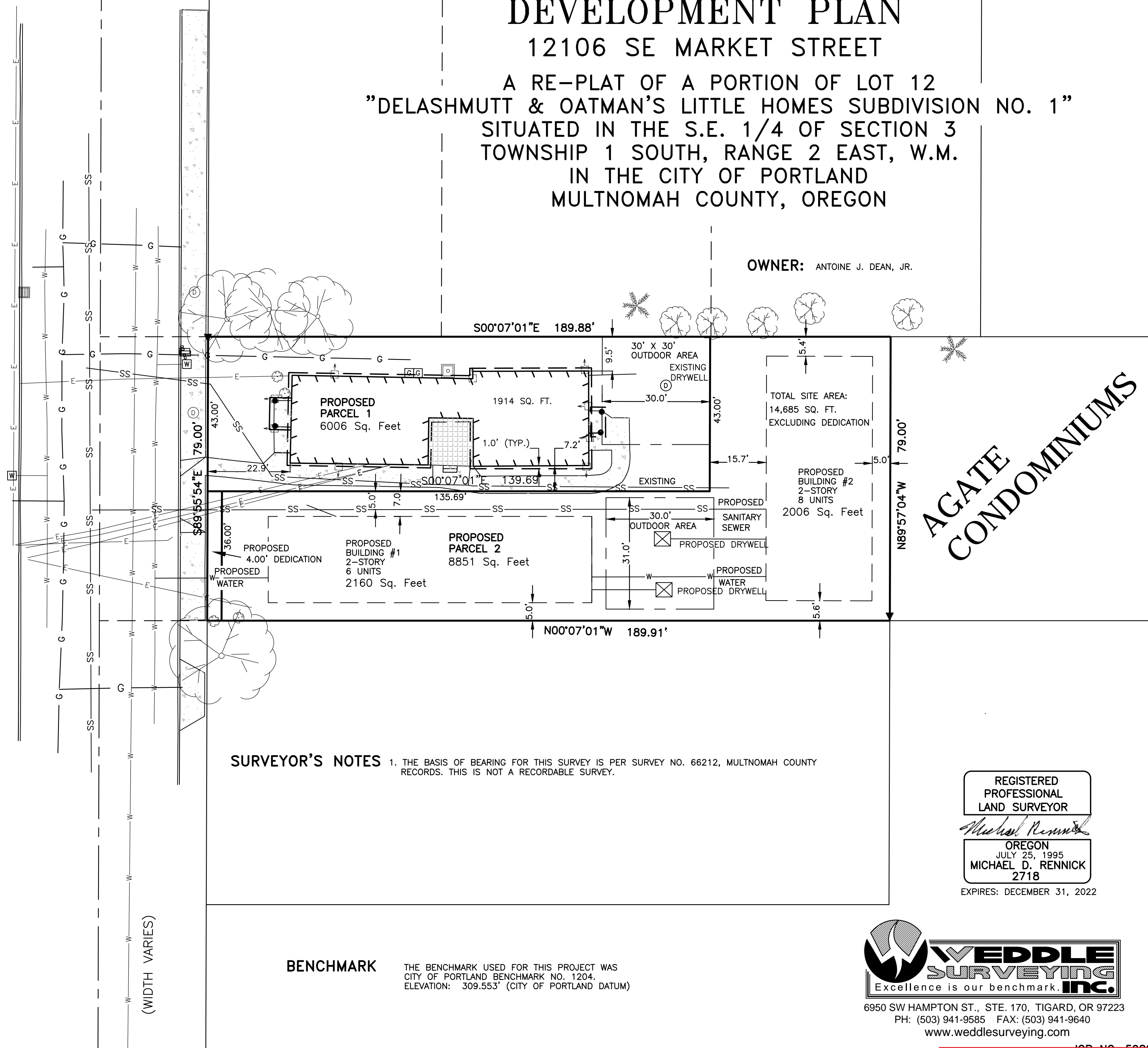
- CONCRETE SURFACE
- DECKING

PROPOSED SITE DEVELOPMENT PLAN

12106 SE MARKET STREET

A RE-PLAT OF A PORTION OF LOT 12
 "DELASHMUTT & OATMAN'S LITTLE HOMES SUBDIVISION NO. 1"
 SITUATED IN THE S.E. 1/4 OF SECTION 3
 TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M.
 IN THE CITY OF PORTLAND
 MULTNOMAH COUNTY, OREGON

OWNER: ANTOINE J. DEAN, JR.



AGATE CONDOMINIUMS

SURVEYOR'S NOTES 1. THE BASIS OF BEARING FOR THIS SURVEY IS PER SURVEY NO. 66212, MULTNOMAH COUNTY RECORDS. THIS IS NOT A RECORDABLE SURVEY.

BENCHMARK THE BENCHMARK USED FOR THIS PROJECT WAS CITY OF PORTLAND BENCHMARK NO. 1204. ELEVATION: 309.553' (CITY OF PORTLAND DATUM)

REGISTERED PROFESSIONAL LAND SURVEYOR
Michael D. Rennick
 OREGON
 JULY 25, 1995
 MICHAEL D. RENNICK
 2718
 EXPIRES: DECEMBER 31, 2022

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LU 20-219875 LDP Exhibit C.1