



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: April 28, 2008
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 08-105932 LDP

GENERAL INFORMATION

Applicant: Cheryl Bickle
Community Transitional School
5441 SE Belmont Street
Portland, OR 97215

Representative: Robert Johnson
Johnson Land Surveying, INC.
10185 SW Hoodview Drive
Tigard, OR 97224

Site Address: 6507 NE Killingsworth Street

Legal Description: TL 4700 2.30 ACRES, SECTION 17 1N 2E
Tax Account No.: R942170090
State ID No.: 1N2E17CC 04700
Quarter Section: 2437
Neighborhood: Cully, contact Steve Yett at 503-282-3251.
Business District: None
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Plan District: None
Zoning: General Employment 2 (EG2) w/ Aircraft Landing Zone Overlay (h)
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is requesting to partition a 99,007 square foot lot into two parcels of approximately 22,010 (Parcel 1) and 76,997 (Parcel 2) square feet. Two dwellings are located in the area of Parcel 1 that will be retained. A transitional school is currently under construction (07-108638 CO) on Parcel 2.

This partition is reviewed through a Type I land use review because: (1) the site is in an employment 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).

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 **33.662.120, Approval Criteria for Land Divisions in Commercial, Employment, and Industrial Zones.**

ANALYSIS

Site and Vicinity: A transitional school is currently under inspection on the eastern half of the property under building permit 07-108638 CO. The applicant is requesting to partition off the western quarter of the subject property that contains two existing dwellings in the northwest corner. The two trees proposed for retention and compliance with preservation standards are located on proposed Parcel 1.

Two dilapidated houses are clustered in the northwest corner of the property that were subject to numerous housing and code compliance files which are now closed. The structures are currently boarded up and unoccupied. Records indicate that the structures were present on the property prior to annexation and zoning. Household living is conditionally allowed in the General Employment 2 (EG2) zone. Therefore, the structures are considered to contain an automatic conditional use status. Conditional use rights are lost if discontinued for a period of 3 continuous years. Based on the current lack of occupation and need for potentially significant work to make the structures habitable, proof shall be provided substantiating the structures have not lost their conditional use status if the desired use is for residential purposes. The vehicle for determining the status of the structures shall be a zoning compliance letter and is required to be obtained prior to occupancy for residential use.

Zoning: The EG2 zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. Retail Sales and Services uses are allowed by right up to 60,000 square feet.

Zoning to the north and east is General Employment 2 (EG2) with parcels occupied by industrial development. The adjacent parcel to the west is zoned Residential 2,000 (R2) and is occupied by a mobile home park.

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The allowed height limit for buildings and vegetation on the site per the "h" overlay is 180 feet above the lowest base point at Portland International Airport. The airport low base point is at an elevation of 18.3 feet. Therefore, the topographical elevation of the site PLUS the proposed building cannot exceed 198.3 feet. The highest ground elevation on the site is approximately 105 feet. Therefore, buildings and vegetation on the site cannot exceed 93.3 feet in height.

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on February 19, 2008.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

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

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN A COMMERCIAL, EMPLOYMENT, OR INDUSTRIAL ZONES

33.662.120 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.

The relevant criteria are found in Section **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones**. 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 applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.614	Lots	Applicable - See findings below.
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.635 .100	Clearing and Grading	Applicable - See findings below.
F	33.635 .200	Land Suitability	Applicable - See findings below.
G	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
H	33.639	Solar Access	Not applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
I	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
J	33.641	Transportation Impacts	Applicable - See findings below.
K	33.651 - 33.654	Services and Utilities	Applicable - See findings below.

A. Lots. The standards and approval criteria of Chapters 33.613 through 33.615 must be met;

Findings: Chapter 33.614 contains the lot standards applicable in the employment zones. Chapter 33.614 works in conjunction with other chapters of the Zoning Code to ensure that land divisions create lots that can support appropriate uses and development. The standards are as follows:

33.614.100 Minimum Lot Dimension Standards.

All lots must meet the following minimum size and dimension standards. An exception is allowed under the provisions of Section 33.614.200.

- A. EG1 zone. All lots in the EG1 zone must meet standard B stated in Table 614-1.**
- B. EG2 zone. The following standards apply in the EG2 zone.**
 - 1. For land divisions of 10 or more lots, at least 80 percent of the lots must meet Standard A stated in Table 614-1 and the remainder must meet standard B.**
 - 2. For land divisions of less than 10 lots, all but one lot must meet standard A stated in Table 614-1. One lot may meet standard B. The lots that meet Standard A may not be redivided unless they continue to meet standard A.**
- C. EX zone. Each lot must have a front lot line that is at least 10 feet long. There are no other required minimum lot dimensions for lots in the EX zone.**

Table 614-1 Minimum Lot Size and Dimensions in Employment zones			
	Minimum Lot Area	Minimum Dimension	Minimum Front Lot Line
Standard A	20,000 sq. ft.	100 ft. x 100 ft.	35 ft.
Standard B	10,000 sq. ft.	75 ft. x 75 ft.	35 ft.

Findings: The site is located in the General Employment 2 (EG2) zone and the proposal is for a land division to create two parcels, therefore the standards of code section 33.614.100.B.2 are applicable. As demonstrated in the table below each proposed parcel is compliant with Standard A of Table 614-1. Because each parcel is proposed to meet standard A it will not be feasible to further divide each parcel unless Standard A continues to be met. Therefore, under the current zoning designation it will not be feasible to redivide Parcel 1. Parcel 2 could potentially be redivided into 3 parcels to meet Standard A. However, the improvements of a transitional school currently under construction would prevent redevelopment.

	Proposed Parcel 1	Proposed Parcel 2
Lot Area	22,010 sq. ft.	76,997 sq. ft.
Lot Width	104.24 ft.	362.46 ft.
Lot Depth	211.46 ft.	211.46 ft.
Front Lot Line	104.24 ft.	352 ft.

The findings above describe how the applicable lot standards are met. This criterion is therefore 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 has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit C-3). Some trees have been exempted by the arborist because they are either unhealthy, hazardous or a nuisance species. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1002	Douglas fir	30	Yes	Hazard		
1003	Douglas fir	25	Yes	Hazard		
1004	Douglas fir	20		Hazard		
1005	Douglas fir	21	Yes	Hazard		
1006	Atlas Cedar	37	Yes		Yes	See Exhibit C-4
1007	English Holly	9		Nuisance		
1008	Incense-cedar	22	Yes		Yes	See Exhibit C-4
1009	Tree of Heaven	26	Yes	Nuisance		
1010	Douglas fir	42	Yes			
1011	Douglas fir	36	Yes			
1012	Water hickory	19		Dead		
1013	Water hickory	17		Dead		

The total non-exempt tree diameter on the site is 137 inches. The applicant proposes to preserve trees 1006 & 1008, which comprise of 59 inches of diameter, or 43 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 tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-4).

This criterion is met, subject to the condition that development on Parcels 1 and 2 be carried out in conformance with the Tree Preservation Plan (Exhibit C-4) and the applicant's arborist report (Exhibit C-3).

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

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

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.

Prior to application of the building permit for the school the applicants applied for a site development permit (06-171101 SD) to begin preparing the site for the school. However, this permit was cancelled as a site development permit cannot cover grading work associated with the future development. Site development and erosion control review have been approved for the site through the commercial building permit for the school. The site is primarily flat, and is not located within the Potential Landslide Hazard Area. A majority of grading on the site has already occurred for the school on Parcel 2. No significant clearing or grading will be required on Parcel 1 to accommodate new development. In addition, there are no trees required to be preserved in the areas where new development on the site may occur. This criterion is met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate 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 in order to make the lots suitable for their intended uses and the provision of services and utilities.

Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

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

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. 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.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 458 feet of frontage on NE Killingsworth Street and 16 feet of frontage on NE Cully Boulevard. NE Killingsworth Street is classified as a District Collector, City Walkway, City Bikeway, Major Transit priority Street, Major Emergency Response Street and a Community Corridor. NE Cully Boulevard is classified as a Neighborhood Collector, City Walkway, City Bikeway, Transit Access Street, Truck Access Street, Major Emergency Response Street and a Community Corridor. Tri-Met provides frequent transit service on NE Killingsworth Street via bus #72. Parking is currently allowed on both sides of NE

Killingsworth Street in this area. No parking signs are posted on both sides of NE Cully Boulevard in the vicinity of the site.

A private access easement (2008-001389), accessible from a curb cut on NE Killingsworth Street, is present along the western property boundary of the site and connects to NE 65th Avenue to the north. The private easement provides access to the two dwellings on the property, the mobile home park to the west and industrial development to the north. Easement language indicates that once NE 65th Avenue is connected to NE Killingsworth Street through the adjacent site to the west, the easement will become void. The school is accessible from a curb cut approximately 205 feet from the intersection of NE Killingsworth Street and NE Cully Boulevard.

NE Killingsworth Street was recently improved to City standards along the frontage of the site with an accompanying right-of-way dedication of 5 feet as a requirement of the building permit (07-108638 CO) for construction of the Community Transitional School. The pedestrian corridor consists of a .5 foot curb, 4 foot planting strip, 6 foot sidewalk and 1.5 foot frontage zone. Therefore, no improvements or dedication is required for the sites NE Killingsworth Street frontage. NE Cully Boulevard is improved with 48 feet of paved roadway surface and 6 foot curb tight sidewalks. The existing configuration does not meet applicable right-of-way standards for this vicinity. 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. A 6 foot right-of-way dedication will be required to accommodate a future 12 foot wide sidewalk corridor. Because the site only contains approximately 16 feet of frontage on NE Cully Boulevard, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

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

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 water standards of 33.651 have been verified. The site has 3 existing 5/8 inch metered water services. One service is located along NE Killingsworth Street and may be used for development on Parcel 2. The other two water services serve the existing dwellings and are located in a water facility easement (2007-189215) over the westerly portion of Parcel 1 in the area of the private access road. Additional water is available to serve the site from the 6 inch water main in NE Killingsworth Street. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8 inch PVC public sanitary sewer located in NE 65th Avenue that currently serves the existing houses on Parcel 1. A lateral extends south approximately 284 feet from a manhole in NE 65th Avenue across the southwest corner of the adjacent property to the north. The lateral is located in a utility easement as noted on the plat. However, the plat notes that the exact location of the lateral is indeterminate. Prior to Final Plat approval the exact location of the lateral shall be determined and delineated on the supplemental plan.

An existing 8 inch PVC public sanitary sewer is located in NE Killingsworth Street that serves the school on Parcel 1 via a newly built lateral approximately 82 feet west of the downstream sewer manhole.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. Portland Transportation has determined there is neither need nor opportunity to provide for a right-of-way connection within the land division site. NE 65th Avenue is NE of the subject property and based on its current alignment will likely continue through the adjacent property to the west when redeveloped. As result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

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

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcel 1: (the parcel with the existing houses):** The existing houses are in various states of disrepair and do not contain a functional method of stormwater management. Prior to final plat approval, Site Development is requiring that new rain drains and drywells be installed for both houses. Additionally, new gutters and downspouts must be installed to direct all roof runoff to the new drywells. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing houses that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks. The as-built location of the new drywells is required to be shown on the supplemental plan.

- **Parcel 2:** The new school under construction (07-108638 CO) has received approval for commercial plumbing and subsurface review. A plumbing permit (07-170188 PT) is currently under review for 2 drywells, 5 catch basins and 743 feet of storm sewer. A drainage swale, 2 catch basins and a drywell will be located in and around the parking lot for the school. The remaining drywell and 3 catch basins will be located on the northern end of Parcel 2 around the proposed track.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. 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.

Existing development that will remain after the land division. The Community Transitional School will remain on Parcel 2 and the existing dwellings will remain 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 EG2 zone (Please see section on Other Technical Standards for Building Code standards.)

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:

- Existing development
- Stormwater management
- ROW dedication

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 each parcel created in compliance with Standard A of Table 614-1 of the General Employment 2 (EG2) zone 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. 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;
- As-built location of new drywells serving the existing dwellings on Parcel 1;
- Existing/proposed sanitary sewer and stormwater management facilities for both parcels;
- Any existing/proposed easements for both parcels;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE Cully Boulevard. The required right-of-way dedication must be shown on the final plat.

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

Streets

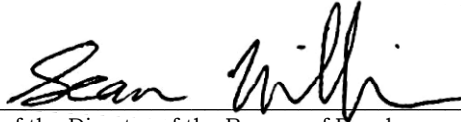
1. The applicant shall sign street and storm sewer waivers of remonstrance for NE Cully Boulevard (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.
3. The applicant must meet the requirements of Site Development for the stormwater systems on the existing houses to remain on Parcel 1. Specifically, the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C-4) and the applicant's arborist report (Exhibit C-3). Specifically, trees numbered 1006 and 1008 are required to be preserved, with the root protection zones indicated on Exhibit C-4. 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.
2. Prior to building permits for redevelopment and ultimately residential occupancy of the existing dwellings on Parcel 1, a zoning compliance letter shall be obtained to document the structure(s) automatic conditional use status.

Decision rendered by:  on April 24, 2008.
By authority of the Director of the Bureau of Development Services

Decision mailed: April 28, 2008.

Staff Planner: Sean Williams

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on January 30, 2008, and was determined to be complete on February 13, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 30, 2008.

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.

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage 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**

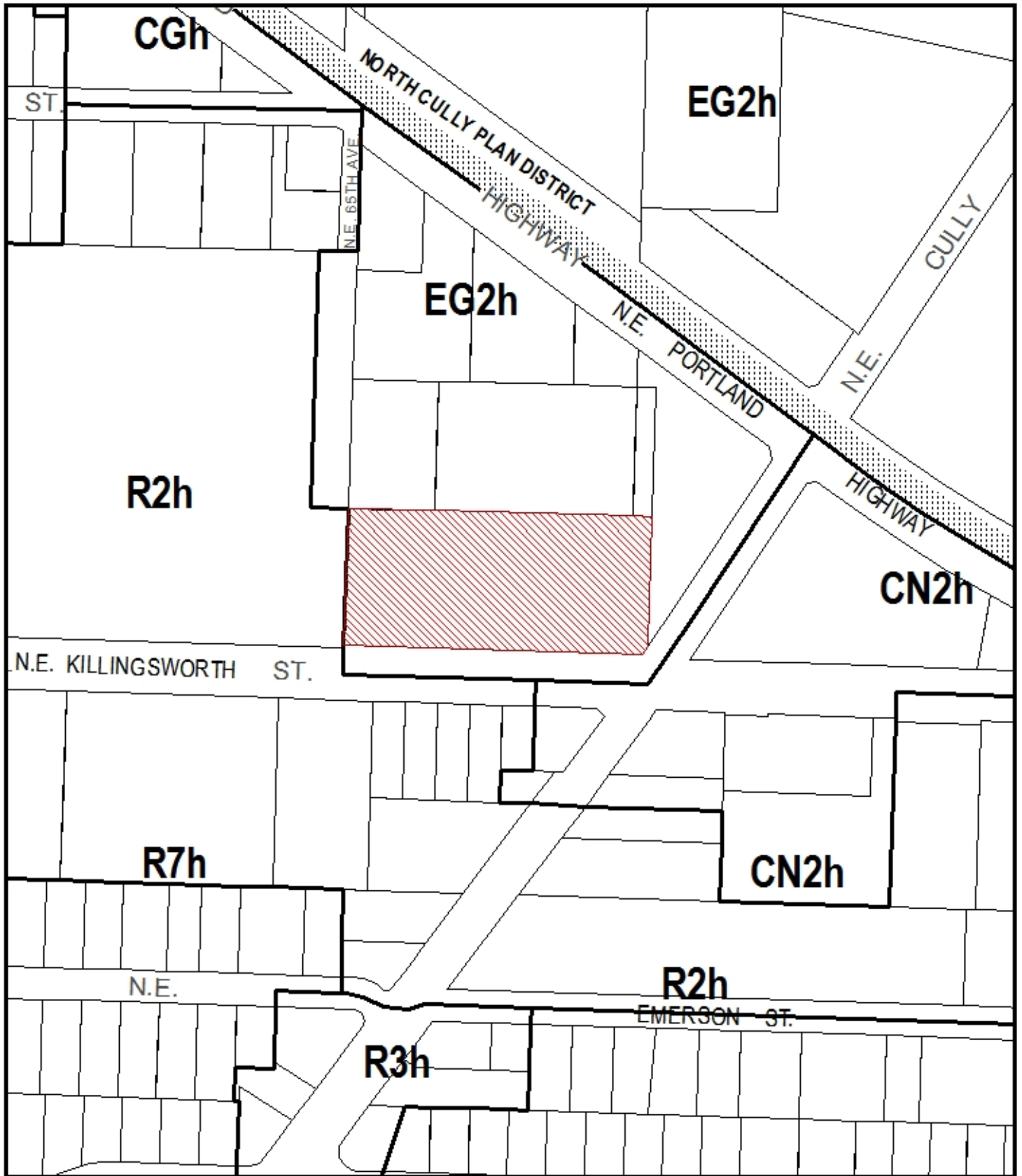
a final plat is submitted within three years of the date of the City's approval of the preliminary plan.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Partition Plat (attached)
 - 2. Site Plan for Partition (attached)
 - 3. Arborist Report
 - 4. Tree Plan (attached)
- 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. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division & Fire Bureau
 - 6. Life Safety Plans Examiner
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



Site



NORTH

File No. LU 08-105932 LDP
 1/4 Section 2437,2537
 Scale 1 inch = 200 feet
 State_Id 1N2E17CC 4700
 Exhibit B (Feb 12,2008)

