



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** June 4, 2008  
**To:** Interested Person  
**From:** John Cole, Land Use Services  
503-823-3475 / [ColeJA@ci.portland.or.us](mailto:ColeJA@ci.portland.or.us)

## **NOTICE OF A TYPE II<sub>x</sub> DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 08-100110 LDS**

#### **GENERAL INFORMATION**

**Applicant**

**Representative:** Saul Zaik,  
BZ Investments, LLC  
2340 NW Thurman St  
Portland, OR 97210

**Site Address:** 7033 N Charleston Ave

**Legal Description:** LOT 7&8 BLOCK 23, JAMES JOHNS 2ND ADD  
**Tax Account No.:** R426001200

**State ID No.:** 1N1W12AC 04700 **Quarter Section:** 2122

**Neighborhood:** Cathedral Park, contact Erik Palmer at 503-283-7770.

**Business District:** St. Johns Business Boosters, contact Gary Boehm at 503-286-1312.

**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**Plan District:** St. Johns

**Zoning:** R1d Multi dwelling Residential 1,000 with a design overlay

**Case Type:** LDS Land Division (Subdivision)

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

**Proposal:**

To divide an existing 10,000 square foot lot located at the southwest corner of North Princeton Street and North Charleston Avenue into four parcels ranging in size from 2,000 square feet to 3,000 square feet in size. Subsequent development on these lots must be built in conformance with R1 Zone Standards, applicable St John's Plan District requirements and the requirements of the "d" Design Overlay district. The applicants are anticipating developing 4 duplexes on this site. Tree preservation requirements will be met through mitigation efforts. Stormwater will be treated for quality and flow rates using flow through planters and subsequently directed to the City public storm sewer.

**Relevant Approval Criteria:**

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

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) between four and ten lots are being proposed (see 33.660.110). For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year (See ORS 92.010).

**ANALYSIS**

**Site and Vicinity:** This is a flat 10,0000 square foot site located at the southwest corner of North Princeton Street and North Charleston Avenue. An existing single family dwelling that will be demolished is located on the property as well as approximately four trees larger than 6" in diameter. It is bordered to the north, across North Princeton by the rear wall of a grocery store zoned CN2d and to the east across Charleston, south, and west by single family residential construction. The larger residential neighborhood south of Princeton is a mixture of single family dwellings on originally platted lots and attached dwellings on replatted lots built out to the higher R1 zone density.

**Zoning:** The R1 designation is one of the City's multi-dwelling zones intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

**Saint John's Plan District:** This property is located within the St. John's Plan District. Two of the purposes of the plan district: promoting housing and mixed-use development and enhancing the pedestrian environment will be supported by this development. There are no specific development standards that accrue to this development because of its location in this plan district.

**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 5<sup>th</sup> 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 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.**

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential 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	33.612	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	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not applicable - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

**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 lot standards applicable in the Multi-dwelling zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development.

The total site area shown on the applicant's survey is 10,000 square feet. No right-of-way dedications are required which would act to reduce this figure.

In this case, Parcels 1 through 4 are proposed for duplex development. Therefore, the density requirements for this site are calculated as follows:

Minimum = 10,000 (site area) ÷ 1,450 (minimum density from Table 120-3) = 6.8 (which rounds up to a minimum of 7 units, per 33.930.020.A).

Maximum = 10,000 (site area) ÷ 1,000 (maximum density from Table 120-3) = 10.00 dwelling units.

The applicant is proposing 4 duplex lots or eight dwelling units. The density standards are therefore met.

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

#### Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Chapter 33.612 of the Zoning Code):

	<b>R1 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>	<b>Proposed Parcel 3</b>	<b>Proposed Parcel 4</b>
<b>Lots for Duplexes</b>					
Minimum Lot Area	none	2,500 sf	2,500 sf	2,000 sf	3,000 sf
Minimum Lot Width*	none	50 ft	50 ft	40 ft	10 ft
Minimum Lot Depth	none	50 ft	50 ft	50 ft	100 ft
Minimum Front Lot Line	10 ft.	50 ft	50 ft	40 ft	10 ft

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

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 and evaluates their condition. 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)
1	Big Leaf Maple	60"	yes	Yes (in ROW)	no	
2	Apple	15"	no	no	no	
3	pear	10"	no	no	no	
4	English Walnut	30"	yes	no	no	
5	Apple	10"	no	no	no	
	total	65"				

The total non-exempt tree diameter on the site is 65 inches. The applicant is proposing to remove all of the trees. The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options of 33.630.300:

### **33.630.300 Mitigation Option**

**As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:**

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
  - 1. Minimum density;**
  - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
  - 3. Implementation of an adopted street plan;**
  - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
  - 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**
  - 6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.**

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for attached housing, which is an allowed housing type in the R1 zone. The location of the existing trees on the site prevent a land division that results in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R1 zone. Criterion C.4 above is met.

The two Apple, one Pear and one Walnut tree that are designated as non-exempt trees on this property are located at least six feet from the exterior property line and closer to the likely development area of this high density residential site. It is impracticable for this site to be developed with structures meeting the minimum density requirements of the development code together with the attendant paving and utilities and preserve the trees in their present location

Therefore, the applicant has meet Criteria A, because as many trees as possible will be preserved.

The applicant has submitted a tree mitigation plan that proposes planting approximately 70" DBH of trees within the site as a component of their landscape plan. This figure excludes proposed vine maples and arborvitae which the City does not consider replacement trees for the purpose of mitigation. Additional street trees will be planted within the right of way in coordination with the City Forester and the project also includes approximately 1,750 square feet of pervious paving. These efforts exceed what would be retained under Option 1 of the Tree Preservation Chapter i.e. preserving 35% of the non-exempt tree diameter or 22.75" dbh tree diameter on-site.

The submitted landscape plan is more detailed than what is necessary for a tree mitigation plan. For example it also describes shrubs and groundcovers. In order to provide the developer flexibility to change the final landscape plan while still demonstrating that the mitigation plan better meets the purpose of the Tree Preservation Chapter the following conditions of approval will be included with this decision:

- All driveways will be constructed of pervious pavers or comparable pervious paving material. This will help filter stormwater and reduce stormwater run off from this developed site.
- At least 23" of tree diameter (DBH) replanted on the site as a component of building permits shall be chosen from the City of Portland Native Plant List of Trees. This will maximize the benefits of these plantings as wildlife habitat as well as their value in providing shading, screening and other market/environmental benefits listed in Code Section 33.630.010. These trees should be equally dispersed across the site as shown in the following table:

LOT #	DBH Portland Plant List Native Species
Lot 1	5.5"
Lot 2	5.5"
Lot 3	5.5"
Lot 4	6.5"

Section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted on new lots as part of the approval of future building permits. The T1 tree standard requires the planting of at least 2 inches of tree caliper per 1,000 square feet of site area, which would result in 20 inches of new trees planted on the proposed lots. Because of the small size of the parcels it is not practical for additional trees beyond the T1 standard to be planted without jeopardizing the overall health of all of the trees on the site. Therefore, the mitigation trees may be counted toward meeting the T1 requirement on the new lots.

Subject to conditions, these criterion are met.

**G. 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. 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. There is one 60" Big Leaf Maple located on this properties southeastern property line that has been exempted from Tree preservation requirements. This tree falls under the authority of the City Forester because it is located at least partially within the right of way. Prior to any clearing or grading on the site the disposition of this tree shall be determined by the City Forester. Subject to such a condition, this criteria 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.**

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

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

### **33.636.100 Requirements for Tracts and Easements**

- A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:**
  - 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
  - 2. The Homeowners' Association for the area served by the tract;**
  - 3. A public or private non-profit organization; or**
  - 4. The City or other jurisdiction.**

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

- B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval**

**and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.**

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

- At least one Private Utility Easement is proposed across the relevant portions of Parcels 1,2,3 and 4, for both sanitary sewer and stormwater laterals. This easement must be 10 feet wide unless a narrower width is approved through a plumbing code appeal.
- Earlier iterations of site design for this project included an access easement across the “pole portion” of Lot 4 for the benefit of Lot 3. If the applicant returns to this shared driveway concept then such an easement shall be designated on the final plat and supported by both a plat note and maintenance agreement.

The submitted site plan also places water lines within the proposed easements. This conflicts with Water Bureau standards that prohibits placement of water lines within easements. As an alternative, a public water main extension will be required within the Charleston Avenue right of way to provide direct water service to lots 3 and 4.

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

*“A Declaration of Maintenance agreement for private sanitary sewer and stormwater management has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

*“A Declaration of Maintenance agreement for a private access easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

With the condition of approval discussed above, 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 100 feet of frontage (each) on North Princeton Street and North Charleston Avenue. At this location, both of these streets are classified as Local Service Streets for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 265 feet to the east of the site on North Richmond Ave via bus 144, 4 and 16. Parking is currently allowed on both sides of North Charleston Avenue and both sides of North Princeton Street except for a short segment on the north side of Princeton near the street intersection.. There is one driveway entering the site from North Princeton that provides access to off-street parking for the existing house

North Charleston is improved with a paved roadway, curbs, planting strips, and 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. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that four additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

North Princeton is improved with a paved roadway, and curb adjacent to this site. There are no, planter strips, or sidewalks on the south side of the street. There is a curb and sidewalk along the north side. 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 sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. No additional right of way dedication is needed to accommodate the anticipated sidewalk improvements at this location. With those improvements, 8 additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The Bureau of Transportation has indicated that the number of individual driveways shown in the proposed site plan is effectively eliminating all of the on-site parking available adjacent to this site and has recommended that the driveways on proposed lot three be paired. The author agrees with the PDOT observation but comments that driveway separation requirements of the Community Design Standards will require such driveway pairings and that a specific condition is not required as a component of this report.

This criterion is met, with the condition that sidewalk improvements be made to North Princeton Street.

**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. An existing 24-inch water main is available in North Princeton to serve the needs of proposed Lot 1 and 2. The applicant must make arrangements to extend a new water main in North Charleston to ensure service is available to Lots 3 and 4. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 10" VSP combined sewer located in North Princeton that can serve the sanitary needs of the proposed lots. See Exhibit E-1 for more details.
- 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. No new streets are proposed or required within the land division site because the existing block pattern in this neighborhood meets the through street and pedestrian connectivity requirements described in code section 33.654.110. (Through streets are located less than 530 feet apart.) As a 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 A-1, A-2, A-3, C-2), and the Bureaus have responded as follows (Exhibits E-1 and E-5)

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

- **Lots 1-4:** Stormwater from these lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to the existing storm sewer in North Charleston Avenue. Each lot has sufficient size for individual planter boxes, and the Bureau of Environmental Services has indicated that the treated water can be directed to the existing combination sewer in Charleston Avenue.

A specific design has also been proposed for the driveway serving Lot 3 including both pervious pavers and a sand filter leading to the public sewer in North Charelson. The submittal demonstrates that the proposed lots can be developed in such a manner that the City of Portland Stormwater criteria are met.

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.

This site is located with a “d” Design Overlay Zone. As such, subsequent development of the individual lots will either have to comply with the pertinent Community Design Standards established in Code Section 33.218.110 or have an alternative design approved through the Design Review process described in code section 33.825.

***The proposed site plan has been reviewed by city staff only for compliance with the land division code. No warranties are made that it will comply with the applicable design standards described in Code Section 33.218.110. Specific conflicts between the proposed siteplan and the applicable community design standards related to driveway separation have been identified and will need to be corrected if the Community Design Standards are to be used. Such changes can be made without altering the preliminary lot layout or service provision plans for this site.***

## 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	Topic	Contact Information
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<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
Water Works	Title 21	Water availability	503-823-7404 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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 Aerial Fire Department Access. At time of development the applicant must demonstrate that certain road width and unobstructed aerial access is available to the site or building height will be limited to 30 feet at the eave. These requirements are based on the technical standards of Title 31 and the Fire Code.
- Street trees will be required along all public street frontages and will be reviewed and approved by the City Forester during street plan review or building permit application. Street trees required for residential sites are to be 2-inch caliper in size.
- Mitigation for the loss of the 60" Maple Tree within the North Charleston right-of-way will be required if construction designs require removal. A written permit from the City Forester is required to remove, destroy, cut, break, or injure, any tree of any size in or upon any street, park, or public area as detailed in Title 20.40.090 D. This requirement is based on the standards of Title 20.

## CONCLUSIONS

The applicant has proposed a 4-lot subdivision, as shown on the attached preliminary plan (Exhibit C-3). 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 include tree mitigation, provision of utilities and stormwater management. Specific building plans and site design must meet the Community Design standards or undergo a separate design review.

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 4-lot subdivision, that will result in four duplex lots as illustrated with Exhibit C-3, subject to the following conditions:

### A. The final plat must show the following:

1. A private sanitary sewer and stormsewer management easement, for the benefit of Parcel 1,2,3 and 4, shall be shown and labeled over the relevant portions of Parcels 1, 2, 3 and 4. This easement must be a minimum ten feet wide unless a narrower width is approved through a plumbing code appeal.
2. A recording block for the maintenance agreement as required by Condition B.4 below. The recording block shall, at a minimum, include language substantially similar to the following example: *"A Declaration of Maintenance Agreement for private sanitary sewer and stormwater facilities has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*
3. If shared use of the pole portion of Lot 4 as access is anticipated for Lot 3 then it shall be labelled as a private access easement and supported by a similar recording block and maintenance agreement.

**B. The following must occur prior to Final Plat approval:**

1. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in North Charleston Ave.

**Existing Development**

2. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. The site plan for the demolition must not interfere with the 60" Maple tree unless a permit for its removal has been issued by the City Forester

**Required Legal Documents**

3. A Maintenance Agreement shall be executed for the Private Sewer/Stormwater Management Easement area described in Condition A.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. A Maintenance Agreement shall be executed for any optional access easement area described in Condition A.3 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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


1. Development on Lots 1,2,3 and 4 shall be in conformance with the Tree Mitigation Plan approved with this land division. Specifically, all driveways (not pedestrian pathways) must be constructed from pervious pavers or alternative pervious pavement. Individual landscape plans shall include the following tree diameter chosen from the City of Portland Plant List of Native Species (Trees)

<u>LOT #</u>	<u>DBH Portland Plant List Native Species</u>
Lot 1	5.5"
Lot 2	5.5"
Lot 3	5.5"
Lot 4	6.5"

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

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

3. The applicant must demonstrate that North Charleston and/or North Princeton meet the dimensional standards as “Aerial Fire Department Access Roads” to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.
4. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of North Princeton Street. The applicant must obtain an approved Right of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip. The improvements along the frontage of lots 1 and 2 may be constructed with new development on each lot.
5. Street trees will be required along all public frontages and will be reviewed and approved by the City Forester during street plan review or building permit application. A written permit is required from the City Forester before the Maple tree is removed from the North Charleston Avenue right-of-way.

Decision rendered by:  on June 2, 2008

By authority of the Director of the Bureau of Development Services

**Decision mailed June 4, 2008**

**Staff Planner: John Cole**

**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 2, 2008, and was determined to be complete on January 31, 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 2, 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.

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 18, 2008** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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

#### EXHIBITS

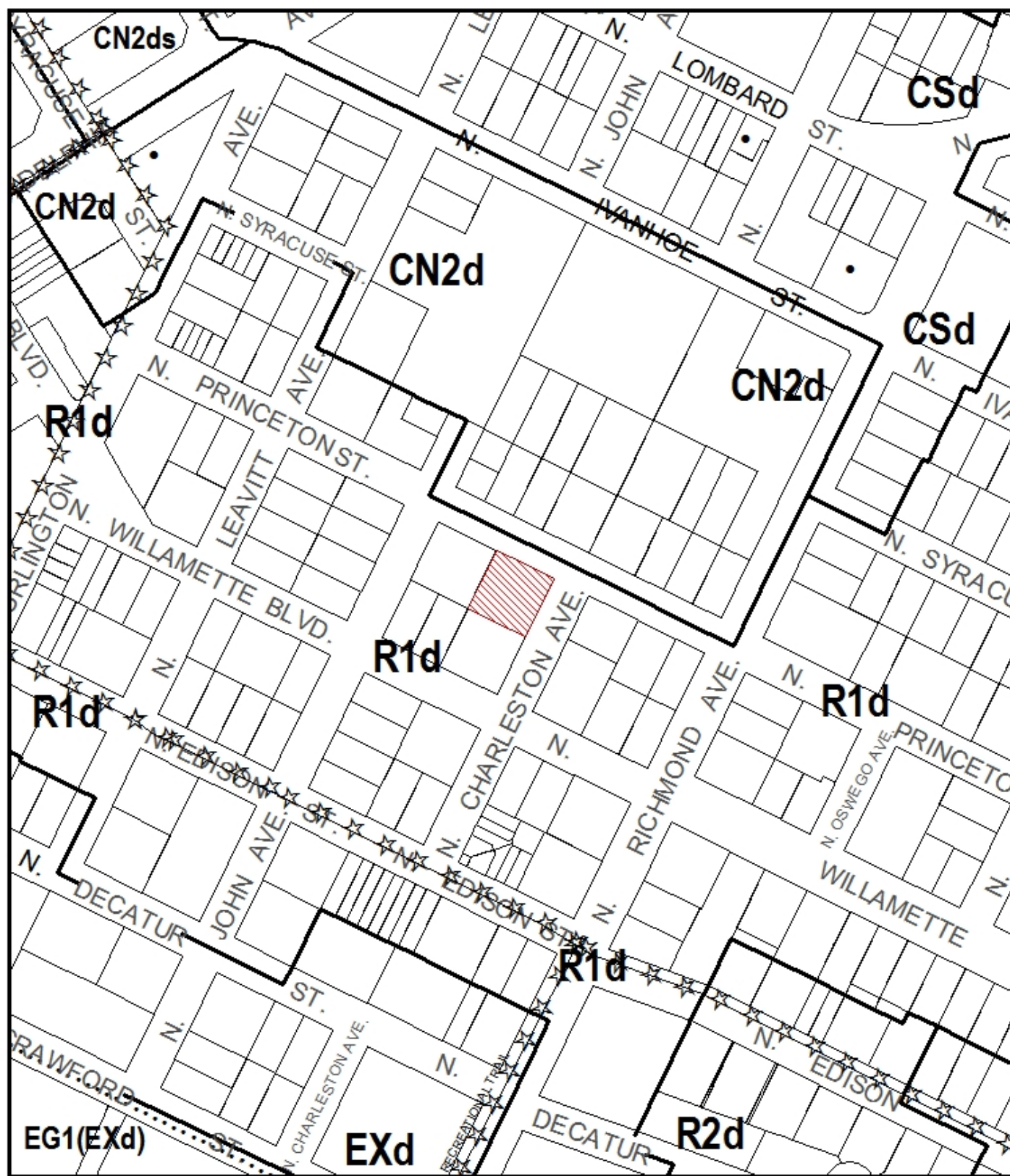
NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Submittal
  - 1. Applicant’s Narrative

2. Infiltration Test Results dated 10/31/08
  3. Revised Stormwater Report dated March 2008
  4. Arborist Report
  5. Early Neighborhood Notice Letters
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Topographic Survey, Chase Jones & Associates
  2. Revised Preliminary Utility/Drainage Plan, SEC dated 5/22/08
  3. Preliminary plat (attached)
  4. Site Plan
  5. Clearing and Grading Plan
  6. Mitigation Plan
  7. Landscape Plan
- 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
- F. Correspondence: None Submitted
- G. Other:
1. Original LU Application
  2. Incomplete letter

**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

This site lies within the:  
ST. JOHN'S PLAN DISTRICT

File No.	LU 08-100110 LDS
1/4 Section	2122
Scale	1 inch = 200 feet
State_Id	1N1W12AC 4700
Exhibit	B (Jan 07, 2008)

# PRINCETON HILL ADDITION

A REPLAT OF

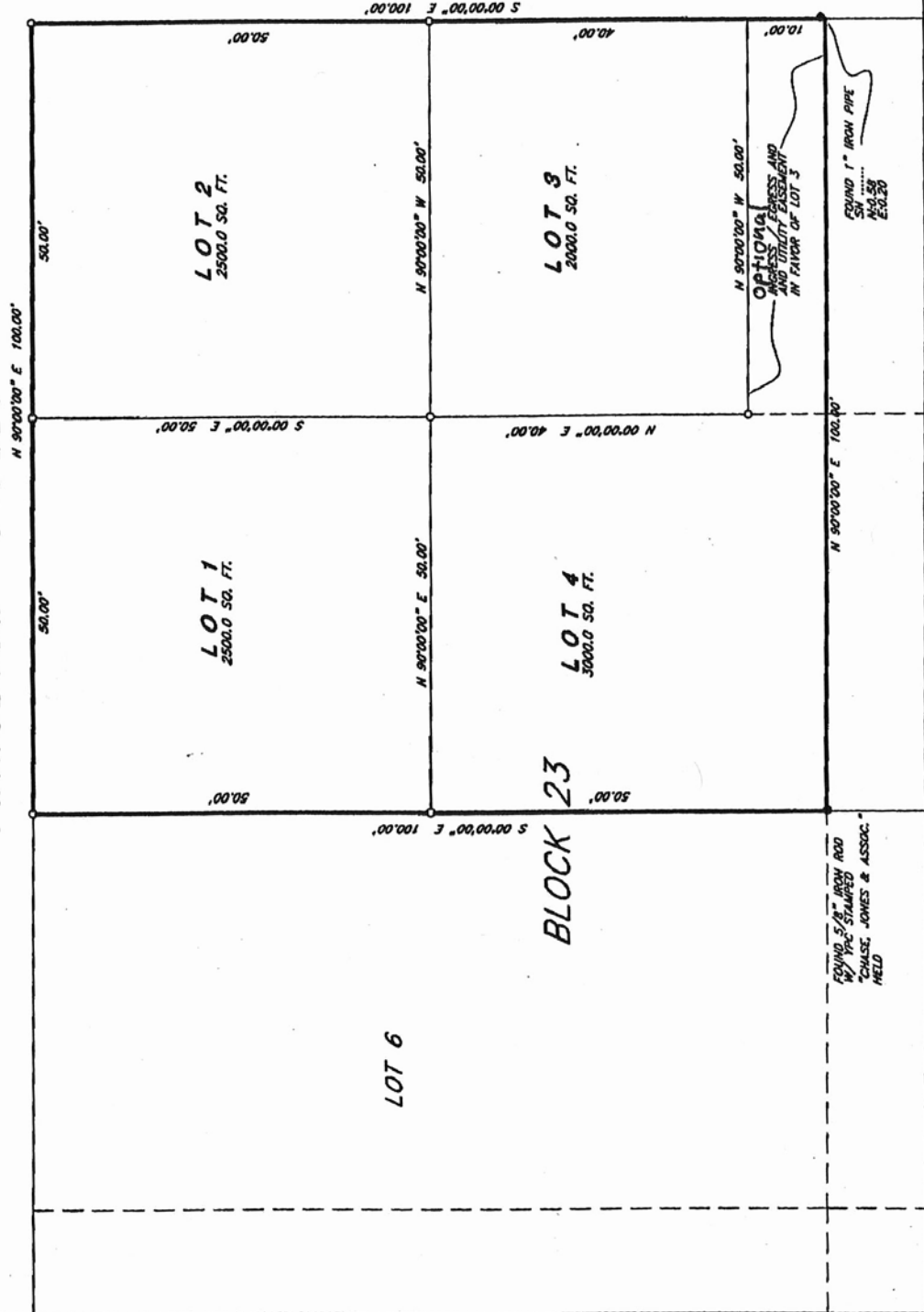
LOTS 7 & 8, BLOCK 23, "JAMES JOHN'S"  
SECOND ADDITION TO TOWN OF ST. JOHN'S"

SITUATED IN THE  
N.W. 1/4 SECTION 12, T 1 N., R. 1 W., W.M.  
CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON  
BY: CHASE, JONES & ASSOCIATES, INC.  
716 S.E. 11TH AVENUE  
PORTLAND, OREGON  
PHONE: 503-228-9844

## LEGEND

- = FOUND MONUMENT AS SHOWN.
- = SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP
- = STAMPED "CHASE, JONES & ASSOCIATES"
- △ = IRON PIPE
- ▽ = IRON ROD
- ▽ = IRON PIPE
- ▽ = IRON PIPE
- 50 FT = SQUARE FOOT

PRINCETON STREET



Preliminary