



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

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Date: March 15, 2012
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 12-101648 LDP

GENERAL INFORMATION

Applicant: Waverly Commons LLC
1015 NW 11th Avenue, #243
Portland, OR 97209-3496

Representative: Doug Campbell
Campbell Planning & Development, Inc
3851 SW 50th Avenue
Portland, OR 97221

Site Address: SE 36th Avenue & Brooklyn Street

Legal Description: BLOCK B LOT 1 TL 22402, WAVERLEIGH HTS
Tax Account No.: R885309450
State ID No.: 1S1E12AB 22402
Quarter Section: 3334
Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.

District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: None
Zoning: Residential 5,000 (R5)
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 divide the subject property into two equally sized 2,500 square foot parcels in accordance with the Alternative Development Option of Duplexes and attached houses on corners (33.110.240.E).

This partition is reviewed through a Type I 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. Therefore this land division is considered a partition.

Relevant Approval Criteria:

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

FACTS

Site and Vicinity: The site is located on the northwest corner of the intersection of SE Brooklyn Street and SE 36th Avenue. A lot confirmation and property line adjustment (11-181827 PR) was recently executed to reestablish this site separate from the westerly adjacent property which previously housed the Waverly Children’s Home (3550 SE Woodward St). Existing development consists of a covered sport court that was associated with the aforementioned development and will be removed prior to final plat approval. No trees subject to preservation standards are located within the land division site.

Development within the surrounding vicinity is primarily comprised of detached single family homes with comparable zoning. The nearest commercial corridors are located approximately 1,000 feet to the north on SE Division Street and 1,500 feet to the south on SE Powell Boulevard.

Infrastructure:

- **Streets** – The site has approximately 50-feet of frontage on SE Brooklyn Street and 100-feet of frontage on SE 36th Avenue. At this location, both SE Brooklyn Street and SE 36th Avenue are classified as Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 928-feet east of the site on SE Cesar Chavez Boulevard via Bus #75. Parking is currently allowed on both sides of these streets.

At this location, SE Brooklyn Street is improved with a 30-foot paved roadway surface and pedestrian corridor that consists of a 5-foot planter, 5-foot sidewalk and 5-foot setback to private property (5-5-5) within a 60-foot wide right-of-way. SE 36th Avenue is improved with a 36-foot paved roadway surface and pedestrian corridor that consists of a 4-foot planter, 6-foot sidewalk and 2-foot setback to private property (4-6-2) within a 60-foot wide right-of-way.

- **Water Service** – There is an existing 8-inch CI water main in both SE Brooklyn Street and SE 36th Avenue.
- **Sanitary Service** - There is an existing 8-inch vitrified clay public combined gravity sewer located in SE Brooklyn Street. There is no sanitary sewer service available in SE 36th Avenue along the frontage of the site.

Zoning: The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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. Please see Exhibits “E” for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **January 27, 2012**. 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 significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.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.D - Partial rights-of-way	No partial public streets are proposed or required

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing 2 parcels for attached houses. The minimum and maximum density for the site is as follows:

Minimum = (5,000 square feet * .80) ÷ 5,000 square feet = 0.8 (which rounds up to a minimum of 1 parcel, per 33.930.020.A)

Maximum = 5,000 square feet ÷ 5,000 square feet = 1

The applicant is proposing 2 parcels, which exceeds the maximum density normally allowed for the site. However, Parcels 1 and 2 are proposed for attached houses under the provision in 33.110.240.E, which allows one extra unit in conjunction with attached houses on corner lots. Therefore, an additional lot is allowed provided Parcels 1 and 2 are developed with attached houses. With a condition of approval limiting the development on Parcels 1 and 2 to attached houses, the density standards are met.

The applicant is proposing 2 parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
Original lot before division in R5 zone	4,500	NA	NA	NA	NA
Original lot before division	5,000		50	100	50
New attached housing lots meet R2.5 Zone dimensions	1,600	NA	36	40	30
Parcel 1	2,500		50	50	50
Parcel 2	2,500		50	50	50

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

Attached Houses on Corner Lots

Parcels 1 and 2 are smaller than would normally be allowed in the R5 zone. As described above, these lots are being created through a provision that allows attached houses on corner lots. To use this code provision the original lot before the division must be at least 4,500 square feet. As shown in the table above, taken together (before the division), the required lot dimension requirements are met. Proposed Parcels 1 and 2 each exceed the minimum lot dimension standards. Therefore, the corner lot may be divided to create Parcels 1 and 2 as proposed.

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

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

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements,

and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case the site is 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 as a part of this land division proposal. This criterion is met.

Land Suitability

The site is currently occupied by a covered sport court that was previously associated with an institutional use on the adjacent property to the west. The applicant has proposed to remove this structure (11-176390 CO) 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 this structure 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;

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

- A Private Sanitary Sewer Easement is required to allow a private sanitary sewer manhole to serve Parcels 1 and 2, providing a single point of connection to the public sanitary sewer.

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

"A Declaration of Maintenance agreement for Private Sanitary Sewer Easement 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,

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

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. 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 standards of 33.651 have been verified and noted earlier in this decision. Water is available to serve the proposed development from the water mains in SE Brooklyn Street and SE 36th Avenue. This criterion is met.

33.652 Sanitary Sewer Disposal Service standards - See Exhibit E.1 for detailed comments.

The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. There is an existing 8-inch vitrified clay public combined gravity sewer located in SE Brooklyn Street. There is no sanitary sewer service available in SE 36th Avenue along the frontage of the site. The applicant has proposed a shared private sanitary manhole located on Parcel 2 that will connect to the main in SE Brooklyn Street and serve the sanitary needs of both parcels. Per BDS Plumbing, shared private sanitary manholes must be covered with private sanitary easements at least 10-feet in width and each lot must have a separate piped connection to the manhole. BES and BDS Plumbing have indicated conceptual approval of the applicant's utility plan (Exhibit C.3). Therefore, the applicant shall provide an easement for the shared private sanitary manhole on the Final Plat to the satisfaction of BES and BDS Plumbing. A Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. This criterion is met.

33.653.020 & .030 Stormwater Management criteria and standards– See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

- **Lots 1 & 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.

33.654.110.B.1 -Through streets and pedestrian connections**33.654.130.B - Extension of existing public dead-end streets & pedestrian connections****33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation (Exhibit E.2) of connectivity for this proposal:

"Given the location of the subject site, at the south-east corner of the block on which it is located, providing any public right-of-way for either a street or a pedestrian connection would not serve any purpose, in relation to the block, surrounding block pattern(s) or street configuration. PBOT therefore has no concerns regarding connectivity in relation to the subject partition. It should be noted that in relation to the abutting subdivision proposal, considerable analysis went into the potential for a pedestrian connection through the subject block, through the subdivision site. It was PBOT's determination that said potential pedestrian connection was neither appropriate or practicable."

For the reasons described above, this criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030**33.654.120.B & C Width and elements of the street right-of-way****33.654.130.D Partial Rights of way**

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 generally do not require a formal transportation

impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. The applicant has submitted a Transportation Impact Study (TIS) to address the evaluation factors of this approval criterion (Exhibit A.3). PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

"Street capacity and level-of-service

Findings: Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. It should be noted that the subject partition request abuts a larger scale subdivision proposal by the same developer. The applicant (developer) is proposing to subdivide the old Waverly Children's Home site into 16 lots for single-family residential development. For the subdivision proposal, the applicant was advised that a Traffic Impact Study (TIS) would have to be prepared in order to adequately determine the impacts of the proposed project on the area's transportation system. The applicant hired Kittelson & Assoc., Inc. as his consultant, and Kittelson submitted their TIS for the City's review. The TIS also factored into the numerous analyses, the subject 2-lot partition request. The following discussion is based on PBOT's assessment of the applicant's TIS.

The applicant proposes to develop the subject site with 2 attached homes. In the context of and in conjunction with the larger abutting project to the west (for 16 detached homes), the submitted TIS demonstrated that the area intersections, including those immediately in the vicinity of the subject site, as well as those studied and further away, along SE Division St, were operating at acceptable levels of service (LOS A-C), and would continue to do so with the expected number of vehicle trips associated with the combined total of 18 lots. If PBOT considers the trip generation and potential impacts into the area's intersection for the proposed subject 2-lot partition separate from the larger scale abutting subdivision proposal, said impacts to the transportation system would be even significantly less, than described for the combined projects. The TIS accurately identified that from a capacity perspective, even if all 18 weekday pm peak hour trips associated with all of the lots (18 combined) were added to the one of the studied area intersections, [scenarios that are highly unlikely given the robust street grid system], they would still operate at acceptable levels of service. Accordingly, PBOT is supportive of the TIS' conclusion that development the proposed abutting subdivision, along with the two attached homes associated with the subject partition request, will have little impact on the surrounding area by the project because of (1) the relatively few trips expected to be generated, and (2) the established grid system that will disperse those trips such that no single intersection is expected to be adversely impacted. All of the local study area intersections will continue to operate below capacity. The surrounding transportation facilities are projected to operate acceptably per City of Portland standards upon completion of the proposed development.

Vehicle access and loading

Findings: Vehicle access and loading for the two attached homes to be constructed in association with the subject partition request will be via on-street parking in the site vicinity as well as what is shown to be a shared driveway serving the two proposed lots (the applicant's narrative

also indicates that the attached homes will include individual garages for each attached unit). With respect to vehicle access, it appears (via the submitted site plan) that the proposed curb cut shown to be located along the site's SE 36th Ave frontage will satisfy the minimum 25-ft distance from the site corner. From PBOT's perspective, given the similar Local Service street classifications of the surrounding streets, there is no one preferential street around the subject site that should serve as access to the proposed lots. The proposed site plan adequately accommodates vehicle access and loading.

On-street parking impacts

Findings: Since the proposed development (including the abutting subdivision proposal) may use street parking to supplement the on-site parking provided, the applicant's traffic consultant conducted an analysis of existing parking supply/demand throughout the day and projected future parking demands upon completion of the proposed development. Observations of existing conditions were conducted during the weekend mornings and weekday evening hours when residential on-street parking space demands reach their peaks.

The applicant's TIS contains the observed parking demands by time of day on the four data collection dates. As shown, there is little existing parking demand along the site's SE Brooklyn St or SE 36th Ave frontages. On-street parking demand along SE Woodward St averaged less than 50% of the available supply. It is expected that some of the current available on-street parking supply will be eliminated along the frontages of the subject site in relation to the proposed driveways/curb cuts. Notwithstanding this loss of some on-street spaces, with the provision of at least one on-site parking associated with each of the proposed homes (related to the abutting subdivision and the subject 2-lot partition), in conjunction with the remaining on-street parking supply, the proposed partition will have no adverse parking impacts to the overall neighborhood on-street parking supply.

Availability of transit service and facilities and connections to transit

Findings: There are no Tri-Met bus routes in the immediate vicinity of the site. Tri-Met does provide frequent bus service on several major streets beyond the vicinity of the site, including:

Stops within 0.5 miles of site: Route 4 stops at SE Division and 35th Ave; Route 75 stops on SE Cesar Chavez Blvd and SE Brooklyn; Route 9 stops at SE Powell and SE 36th Ave; and Route 66 stops at SE Cesar Chavez Blvd and SE Division.

Stops within 0.6 miles of site: route 10 stops at SE Woodward and SE 26th Ave.

Stops within 0.8 miles of site: Route 14 stops at SE Hawthorne and SE 37th Ave.

Impacts on the immediate and adjacent neighborhoods

Findings: Traffic volumes on area roadways and at area intersections are not expected to change significantly upon completion of the proposed development. The addition of the expected project related number of site trips on nearby streets and through the intersections in the site vicinity and beyond, during the peak hours, will have no noticeable impacts to immediate and adjacent neighborhoods. No significant operational or safety problems were identified, and no improvements are proposed.

As identified previously, although there will be a loss of some on-street parking spaces in relation to the proposed driveways/curb cuts, the

inclusion of on-site parking spaces for each of the proposed units as well as a sufficient on-street parking supply in the site vicinity will result in no adverse impacts to neighbors in the area with respect to on-street parking.

Site generated traffic impacts on the local/nearby transportation system as well as adverse impacts available on-street parking supply are typically the areas associated with new development that have the potential for greatest impacts to immediate and adjacent neighborhoods. As noted above, these impacts are not expected with the proposed partition (or abutting subdivision).

Safety for all modes

Findings: No safety problems are projected as a result of the proposed development. All of the roadways in the site vicinity have existing sidewalks in place on both sides of the streets. As residential streets, the abutting roadways have statutory speed limits of 25 mph and low volumes of vehicular traffic. Bicycles are expected to share these roadways, which is typical for low-speed/low volume residential streets. The existing roadways and sidewalks are sufficient to provide continuous travel paths for all travel modes."

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. As documented above and in the traffic study prepared by Kittelson & Associates, Transportation Development Review finds that the transportation system can safely support the proposed development in addition to the existing uses in the area. Therefore, this criterion is met.

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Future Development

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

- Attached Houses on Corner Lots-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E.
 1. The address and main entrance of each house must be oriented to a separate street frontage.
 2. Development on Parcel 1 must be oriented toward SE 36th Avenue and development on Parcel 2 must be oriented toward SE Brooklyn Street.
 3. The height of the two units must be within 4 feet of each other
 4. The exterior finish material must be the same, or visually match in type, size and placement.
 5. The predominant roof pitch must be the same.
 6. Roof eaves must project the same distance from the building wall.
 7. Trim must be the same in type, size and location.
 8. Windows must match in proportion and orientation.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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 ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal and aerial Fire Department Access roads. These requirements are based on the technical standards of Title 31 Oregon Fire Code. See Exhibit E.4 for further details.
- The applicant must meet the requirements of Urban Forestry regarding the existing street trees within the SE Brooklyn and SE 36th Avenue rights-of-way. Urban Forestry has provided the following comments:

"The property will be divided into two lots. Some of the trees may have to be removed to accommodate development of the lots. Construction designs should take the trees into consideration when designing the infrastructure (driveways and underground utilities) that may affect the tree roots. Mitigation for the loss of existing right-of-way trees will be required if construction designs require removal. At this time, all right-of-way trees must be protected and preserved until the trees are reviewed and approved to be removed by Portland Parks and Recreation. 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."

These requirements are based on the standards of Title 20 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.2). 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: sanitary sewer disposal service and stormwater management.

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 lots for attached houses in conformance with 33.110.240.E, as illustrated with Exhibit C.2, subject to the following conditions:

A. The Final Plat must show the following:

1. A private sanitary sewer easement for a shared private sanitary manhole to serve Parcels 1 and 2 shall be shown and labeled over the relevant portions of these parcels to the satisfaction of the Bureau of Environmental Services and BDS Plumbing.
2. 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 B.3 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."


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

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
2. The applicant must obtain a finalized demolition permit (11-176390 CO) for removing the existing covered sport court on the site.
3. A Maintenance Agreement shall be executed for the easement area that covers the shared private sanitary manhole described in Condition A.1 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.

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

1. Parcels 1 and 2 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.
2. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Sean Williams

Decision rendered by:  **on March 12, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 15, 2012

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 6, 2012, and was determined to be complete on January 25, 2012.

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 6, 2012.

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. Unless further extended by the applicant, **the 120 days will expire on: May 24, 2012.**

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 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.

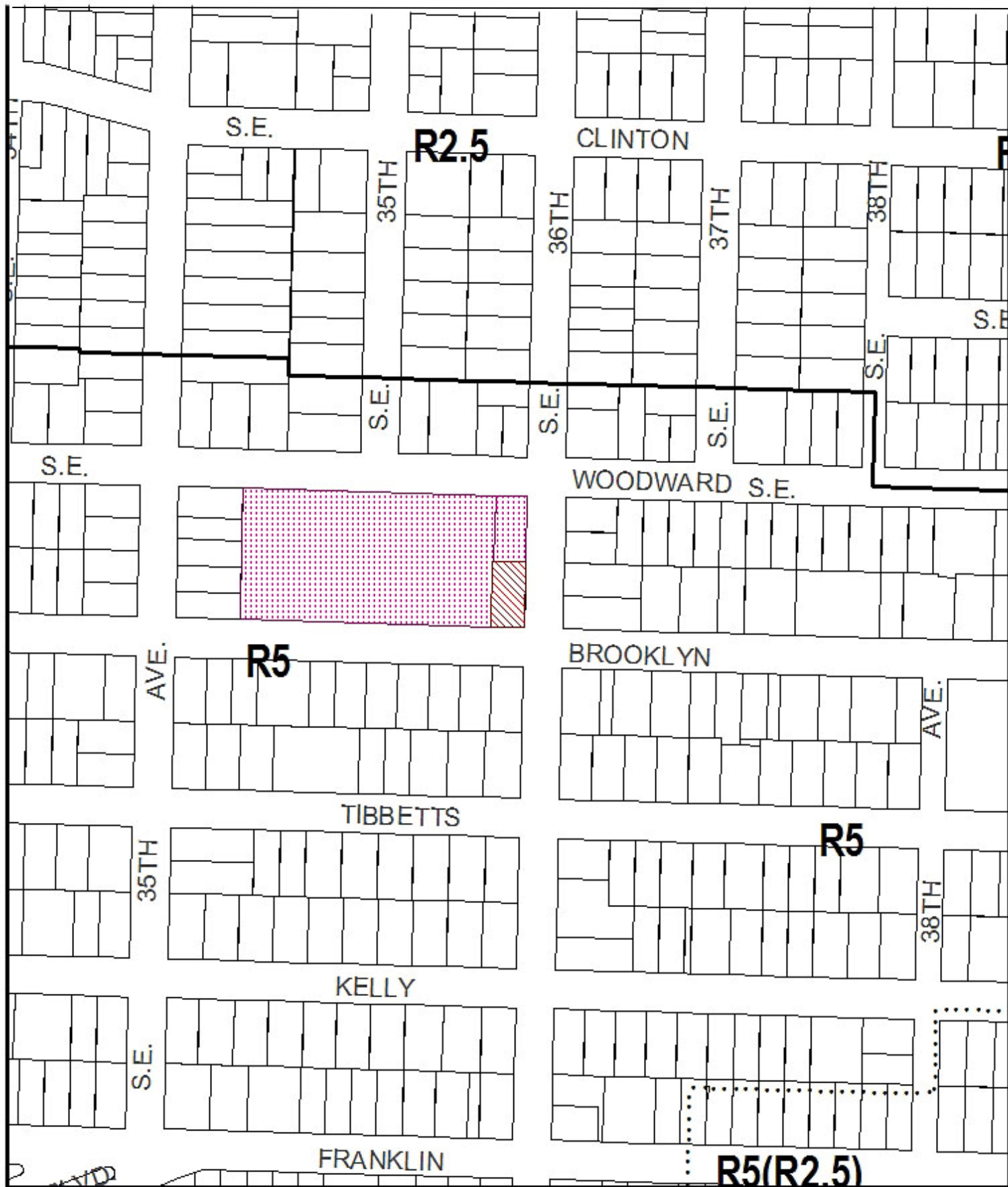
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Narrative
 - 2. Arborist Report
 - 3. Transportation Assessment
 - 4. Stormwater Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Preliminary Partition Plat (attached)
 - 3. Utility Plan (attached)
 - 4. Existing Conditions 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
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. RFC Responses

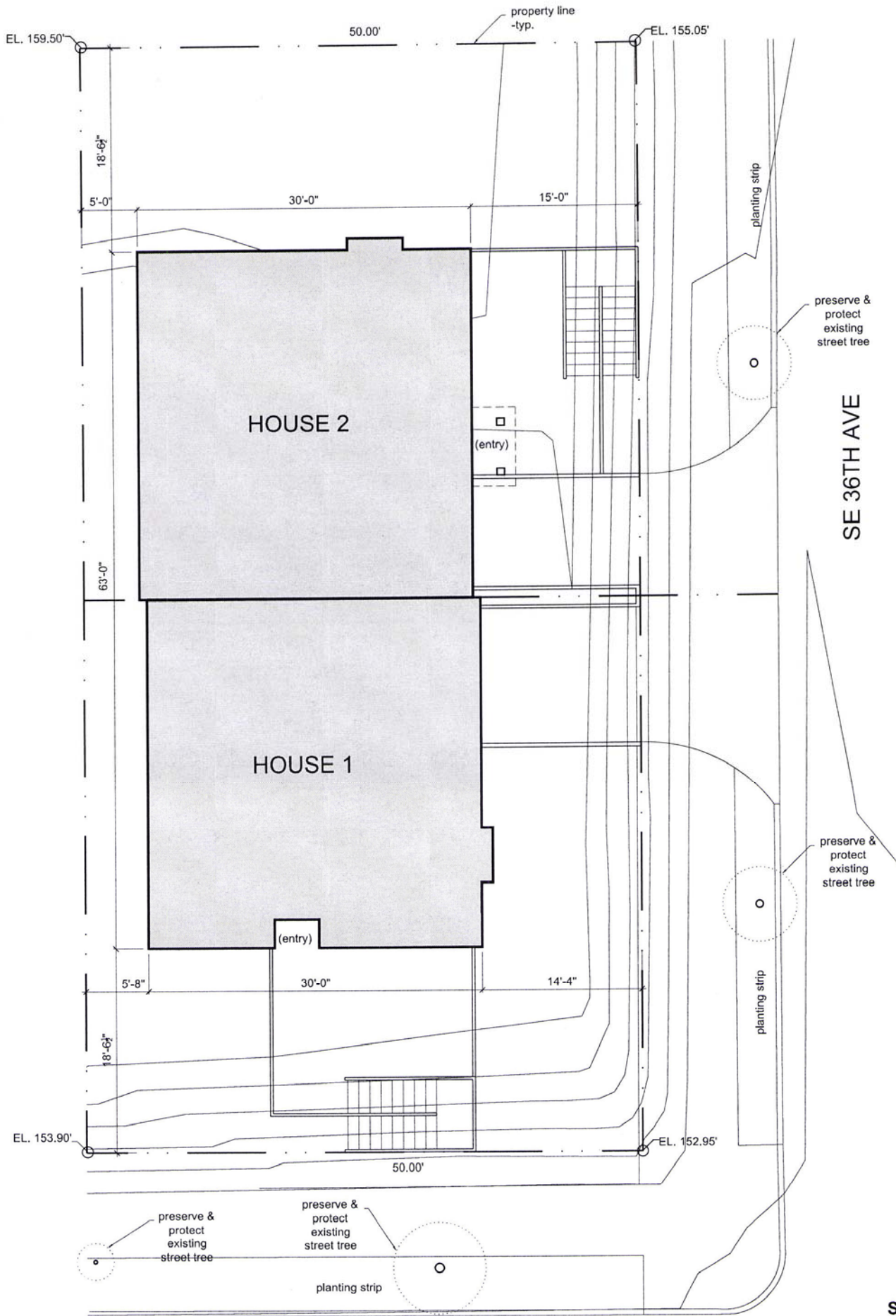
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

-  Site
-  Also Owned

File No. LU 12-101648 LDP
 1/4 Section 3334
 Scale 1 inch = 200 feet
 State_Id 1S1E12AB 22402
 Exhibit B (Jan 09,2012)



CASE NO. 12-101648
EXHIBIT C-1

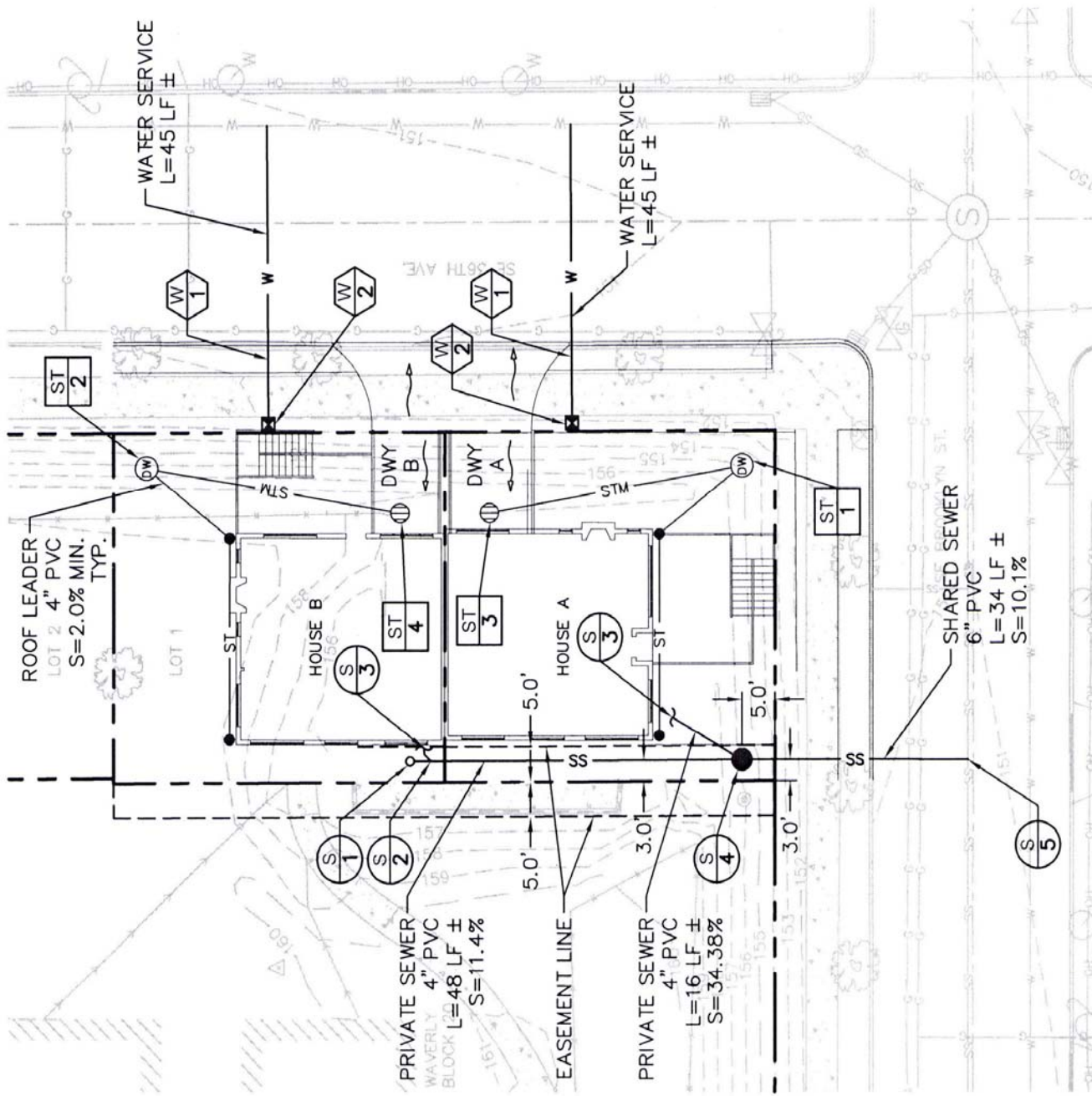


Site Plan

Waverly Lot 1 Partition
05 JAN 2011

SE BROOKLYN

LU 12-101648 LDP



SITE PLAN