

## CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

### Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## DECISION OF THE HEARINGS OFFICER

### I. GENERAL INFORMATION

**File No.:** LU 13-237078 ZC LDP (HO 4140005)

**Applicant:** Mike Coyle  
Faster Permits  
14334 NW Eagleridge Lane  
Portland, OR 97229

**Developer:** Vic Remmers  
Everett Custom Homes  
735 SW 158<sup>th</sup>, Suite 180  
Beaverton, OR 97008

**Owner:** Greg Perrin  
Columbia Redevelopment LLC  
3936 SE Reedway Street  
Portland, OR 97202

**Hearings Officer:** Kenneth D. Helm

**Bureau of Development Services (BDS) Staff Representative:** Rachel Whiteside

**Site Address:** 3936 SE Reedway Street

**Legal Description:** BLOCK 70 LOT 1, WOODSTOCK

**Tax Account No.:** R928904210

**State ID No.:** 1S1E13DA 06600

**Quarter Section:** 3634

**Neighborhood:** Woodstock

**Business District:** Woodstock Community Business Association

**District Neighborhood Coalition:** Southeast Uplift

**Plan District:** None

**Zoning:** R5 (R2.5) – Single-Dwelling Residential 5,000 with a Comprehensive Plan Designation of Single-Dwelling Residential 2,500

**Land Use Review:** Type III, ZC LDP, Zoning Map Amendment and Land Division (Partition)

**Public Hearing:** The hearing was opened at 9:11 a.m. on May 28, 2014, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 10:26 a.m. The record was held open until 4:30 p.m. on June 4, 2014 for new argument/evidence from any party and until 4:30 p.m. on June 11, 2014 for applicant's rebuttal. The record was closed at that time.

**Testified at the Hearing:**

Rachel Whiteside  
Michael Robinson  
Terry Griffiths  
Les Szigethy  
Rebecca Luening  
Mary Kay Tetreault  
Douglas Strickler  
Corrine Lyons  
Paul Anuschat  
Lonnie Port  
Fabio de Freitas

**Proposal:**

The applicant proposes to partition the subject property into three parcels of approximately 4,548 (Parcel 1), 2,406 (Parcel 2), and 3,009 (Parcel 3) square feet in size in conjunction with a Zoning Map Amendment in conformance with the Comprehensive Plan from Residential 5,000 (R5) to Residential 2,500 (R2.5). Proposed Parcels 2 and 3 are below the minimum lot width of 36 feet and must meet the narrow lot criteria as part of the land division request. The existing home is to remain on Parcel 1, while the garage and pool will be removed to make way for proposed Parcels 2 and 3. No replacement parking is proposed for Parcel 1.

Sanitary sewer service is proposed for the new parcels from SE Reedway Street, with a 10-foot wide private sanitary sewer easement across Parcel 1 for the benefit of Parcel 3. Water service for each lot is proposed in their respective frontages. Stormwater disposal for Parcels 2 and 3 is proposed via individual drywells. There are no trees onsite, but six existing street trees are proposed to remain.

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 3 units of land (3 parcels and 0 tracts). Therefore this land division is considered a partition.

This partition is generally reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; and (3) none of the lots, utilities, or services is proposed within a Potential Landslide Hazard or Flood Hazard Area (see 33.660.110). However, because a Type III Zoning Map Amendment is required for the zone change in conformance with the Comprehensive Plan, the entire case is processed through the Type III procedure.

**Relevant Approval Criteria:**

- **33.855.050, Approval Criteria for Base Zone Changes**
- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**

**HEARINGS OFFICER'S OVERVIEW:**

A public hearing was held on May 28, 2014. The Hearings Officer notified all present of their rights under ORS 197.763, and did not have any *ex parte* contacts to report.

BDS Staff provided a PowerPoint overview of the application. BDS Staff recommended approval with conditions.

Attorney Michael Robinson spoke on behalf of the applicant and the developer of the proposed project. He stated that the findings and conditions of approval were accepted by the applicant. He emphasized that the requested zoning designation and land division were subject only to zoning criteria and did not require separate compliance with the City's Comprehensive Plan.

He explained that the applicant was requesting an exception to the lot width dimensions set forth in PCC 33.611 to allow a slight reduction of the minimum lot width of 36 feet. He noted that PCC 33.611.200(C)(2) expressly allows for exceptions to minimum lot widths. Specifically, if the proposed reduction can be found "on balance" to be consistent with the purposes set forth in PCC 33.611.200(A) and PCC 33.611.010, then a reduction in width can be allowed.

Mr. Robinson also offered an alternative argument that the Zoning Map Amendment and partition could be approved as "Needed Housing" under applicable state statute. The Hearings Officer will not address that argument in this opinion because the proposal can be approved under the applicable PCC criteria.

Several neighbors testified in opposition to the proposal. Their arguments fell into the following categories:

- The resulting lots are much different than other lots in the immediate area.
- The driveway for proposed Parcel 2 will cause a traffic safety problem due to lack of adequate sight lines onto SE Reedway.
- Solar access standards cannot be met. New homes will block sunlight for at least one adjoining neighbor and the existing home on the subject property.
- The character of the neighborhood will be disrupted by the skinny homes likely to be built on the proposed parcels.
- The below minimum lot widths don't meet the purposes of PCC 33.611.200(A). Narrow lots are not compatible with neighborhood.
- Does Mr. Remmers, the developer, have authority to represent the applicant?

Portland Bureau of Transportation representative Fabio de Freitas commented on the driveway for Parcel 2. He explained that even though the drive access would be cut into the existing slope, the right-of-way for SE Reedway is about 16 feet wide which provides more than enough space for a vehicle to back out and stop to check for traffic before entering the roadway. He also noted that SE Reedway is a local street rated for 25 mph. These factors caused PBOT to approve the proposed driveway location based on applicable traffic safety criteria.

BDS Staff provided additional information on the Comprehensive Plan intensity for the R 2.5 zone as it might apply to PCC 33.611.200(C). The plan intensity is four lots per 10,000 square feet. The current proposal is below that density.

Mr. Robinson and the parties agreed to leave the record open for seven days until June 4, 2014, and for the applicant's final argument to be due June 11, 2014. Submissions were made into the record during that period and no objections to that information were filed. The record closed June 11, 2014.

## **II. ANALYSIS**

**Site and Vicinity:** The site is developed with a detached single-family home, garage, and in-ground pool. The site is primarily flat, except for a retaining wall along the north property line that increases in height as SE Reedway Street slopes down to SE Cesar E Chavez Boulevard to the west. The development is of a size and vintage similar to much of the surrounding homes. The majority of development in the neighborhood is detached single-family homes on lots 5,000 square feet or larger. Two to three blocks south, near and along SE Woodstock Boulevard, the density increases to R2. Commercial development along SE Woodstock is primarily small storefront commercial. The Reed College campus begins two blocks west at SE 38<sup>th</sup> Avenue.

### **Infrastructure:**

- **Streets** – The site has approximately 100 feet of frontage on SE Reedway Street and 100 feet of frontage on SE 40<sup>th</sup> Avenue. There is one driveway entering the site that serves the existing house from SE 40<sup>th</sup> Avenue. At this location, both streets are classified as a Local Service Street for all modes in the Transportation System Plan (TSP). TriMet provides transit service

approximately 100 feet west of the site at SE Cesar E. Chavez Boulevard via Bus #75 and approximately 600 feet south of the site at Woodstock Boulevard via Bus #19.

At this location, according to City records, SE Reedway and SE 40<sup>th</sup> Avenue are improved with roadways that are 28 feet wide within 60-foot wide rights-of-ways. The pedestrian corridors are similarly improved with a 7-foot wide planter, 6-foot wide sidewalk, and 3 feet of reserve right-of-way (7-6-3 configuration).

- **Water Service** – There is an existing 8-inch CI water main in SE Reedway Street and a 1-inch main in SE 40<sup>th</sup> Avenue. The existing house is served by a 1-inch metered service from the main in SE Reedway Street.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line in SE Reedway Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The R5 and R2.5 designations are two of the City’s single-dwelling zones which are intended to preserve land for housing and to promote housing opportunities for individual households. Both zones implement 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 responded to the proposal and relevant comments are addressed under the applicable approval criteria. Planning Exhibits “E” contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 5, 2014. One written response was received from the Neighborhood Association in response to the proposal. The letter from the Woodstock Neighborhood Association (Exhibit F.1) raised the following concerns (*the BDS Staff response follows in Italics*):

- The proposed narrow lots are not consistent with existing lots in the area and should be subject to a Planned Development Review.

*Findings regarding consistency with the surrounding area are found later in this report on pages 8 and 9 under the Narrow Lot Criteria. A Planned Development (PD) is a viable alternative for a proposal to seek modification of site-related development standards, including lot dimensions, however the City cannot force the applicant into a PD review. Additionally, the approval criteria come back to the same purpose statement already addressed in this review.*

- The Zone Change request must be reviewed for compliance with Comprehensive Plan Policy 12.6, which it fails to meet.

*The requested Zoning Map Amendment is to the corresponding zone on the Comprehensive Plan Map. Therefore, a Comprehensive Plan Map Amendment is NOT required. The approval criteria applicable to a Zoning Map Amendment in conformance with the Comprehensive Plan Map are listed below and do not include a requirement to address individual Comprehensive Plan policies.*

## **ZONING CODE APPROVAL CRITERIA**

### **APPROVAL CRITERIA FOR ZONING MAP AMENDMENTS**

#### **33.855.050 Approval Criteria for Base Zone Changes**

**A. Compliance with the Comprehensive Plan Map. The zone change is to a corresponding zone of the Comprehensive Plan Map.**

- 1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.**

**Findings:** The Comprehensive Plan designation is R2.5. This designation has only one corresponding zone, R2.5. Therefore, this criterion does not apply.

- 2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.**

**Findings:** This site does not have a C, E, or I designation or a Buffer overlay. Therefore, this criterion does not apply.

- 3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.**

**Findings:** The requested zone change is not from a higher density residential zone to a lower density residential zone or from the CM zone to the CS zone. Therefore, this criterion does not apply.

**B. Adequate public services.**

- 1. Adequacy of services applies only to the specific zone change site.**
- 2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.**

**Findings:** BDS Staff provided findings summarizing of bureau responses. The Water Bureau, Police Bureau, Fire Bureau, Bureau of Environmental Services and Portland Bureau of Transportation stated that adequate services are available for the anticipated level of use(s) that would be allowed to occur and had no conditions or additional requirements for approval of the requested Zoning Map Amendment. BDS Staff found, and the Hearings Officer agrees, that based on the following findings this criterion is met.

- a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.**

**Findings:** The Water Bureau has indicated (in Exhibit E.3) that service is available to the site from the 8-inch CI water main in SE Reedway Street. The estimated static water pressure range for this location is 60 psi to 75 psi at the existing service elevation of 237-feet. The 1-inch water line in SE 40<sup>th</sup> Avenue is at capacity and will need to be upsized in order to provide water to proposed Parcel 3. With a condition of approval that the applicant pay for their share of an upsized water main prior to final plat approval, water capacity will be capable of serving Parcel 3 by the time development is complete.

The Police Bureau does not anticipate any impact in services as a result of the proposed zone change and therefore has no concerns (Exhibit E.8).

The Fire Bureau has reviewed the applicant's complete proposal and has requested conditions of approval to be met prior to final plat approval to ensure that adequate water supply is available for firefighting purposes (Exhibit E.4). Specifically, 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. The applicant must also demonstrate that spacing and number of fire hydrants meets the requirements of Appendix C of the Fire Code. With these conditions, public services for water supply and fire protection will be capable by the time development is complete.

- b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.**

**Findings:** The Bureau of Environmental Services (BES) has indicated that sanitary service is available to the site from the 8-inch public combination sewer main in SE Reedway Street (Exhibit E.1), though conditions of approval relating to a private sanitary sewer easement and the existing sanitary lateral serving the house to remain have been requested. BES has also granted conceptual approval of the applicant's proposed method of stormwater

management, consisting of individual infiltration facilities, based on submittal of a Simplified Approach stormwater report (Exhibit A.5) that demonstrates infiltration rates that exceed the City's minimum requirements. Conditions of approval have been requested for a supplemental plan and accompanying narrative at the time of final plat review. With the requested conditions, sanitary and stormwater disposal systems will be acceptable to BES.

- c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.**

**Findings:** The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services (Exhibit E.2). The applicant has submitted a Transportation Impact Analysis that includes an analysis of the Transportation Planning Rule (Exhibit A.8) to address this approval criterion. PBOT's Analysis is quoted, in part, as follows:

*(. . .) At this location, SE Reedway and SE 40<sup>th</sup> Avenue are classified as Local Service streets for all transportation modes in the City's Transportation System Plan (TSP). In terms of identified functions, the TSP states the following relative to the various classifications of both streets, that;*

*Local Streets are designed to complement planned land uses and reduce dependence on arterials for local circulation; they are multimodal, but are not intended for trucks (other than local deliveries) in residential areas.*

*The proposed use, which is a continuation of the current use (single-family residential) on the subject site, will not conflict with the above referenced objectives for the surrounding street classifications.*

*(. . .) From a traffic operations standpoint, considering the fact that the site and an area around the site have been designated via the City's Comprehensive Plan Map to allow twice the density in the area, increases in traffic volumes on the local street system has been acknowledged and is anticipated. The approximate additional 20 daily trips (including the additional 2 peak hour trips) that potentially may result from a development proposal on the site assuming the rezone request is approved, is an insignificant number of trips that does not warrant any improvements to nearby intersections. In fact, the insignificant number of new vehicles trips associated with 2 new houses on the subject site are less than the daily*

*variations that would be expected at any intersection in the vicinity. The applicant's TIS confirms that the impacts to the area intersections most likely to be effected by the additional project-related trip generation will be negligible. The SE Cesar E Chavez Blvd intersections with SE Reedway and SE Woodstock and the intersection at SE 40th Ave/SE Reedway are currently operating at acceptable levels (related to the City's performance measures) and will continue to operate at acceptable levels with the vehicle trips generated by the proposed project (3-lot partition) factored into the analysis.*

***Transportation Planning Rule (TPR) 660-012-0060***

*The Transportation Planning Rule generally requires a local government to determine whether certain regulatory amendments will "significantly affect an existing or planned transportation facility." (. . .) The amended TPR includes an exception to this general requirement for a Zoning Map Amendment where the proposed new zoning is consistent with: (1) the comprehensive plan map designation for the site; and (2) the local Transportation System Plan. If both conditions are satisfied, the local government may find that the amendment "does not affect an existing or planned transportation facility." (OAR 660-012-0060(9)). In this case, the proposed R2.5 zoning is consistent with Comprehensive Plan Map designation for the site and the local Transportation System Plan.*

More detailed analysis of street systems is also addressed below on pages 10 and 11 under Criterion K, Transportation Impacts.

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

- 3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.**

**Findings:** The request does not include rezoning the site to the IR zone, so this criterion does not apply.

**C. When the requested zone is IR, Institutional Residential.**

**Findings:** The request does not include rezoning the site to the IR zone, so this criterion does not apply.

**D. Location. The site must be within the City's boundary of incorporation.**

**Findings:** The site is within the incorporated boundaries of the City of Portland. Therefore, this criterion is met.

***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.***

BDS Staff found that due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. No party to the public hearing raised any additional criteria that might be applicable to this application. 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.
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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

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

**Findings:** BDS Staff stated that Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density in the R2.5 zone is one unit per 2,500 square feet and minimum is 80 percent of one unit per 5,000 square feet. Based on a site area of 10,000 square feet, the site has a minimum required density of 1 unit and a maximum density of 4 units. The applicant is proposing 3 single-family parcels. The Hearings Officer agrees that the density standards are therefore met.

BDS Staff provided the following table to explain the required minimum lot sizes for the R 2.5 zone and the minimum lot widths proposed by the applicant:

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R2.5 Zone</b>	1,600	NA	36	40	30
Parcel 1	4,548		66.97	67.91	66.97
Parcel 2	2,464		33	74.66	33
Parcel 3	3,009		31.75	99.97	31.75

\* 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.

The applicant proposes that Parcels 2 and 3 be slightly narrower than the minimum width for the R2.5 zone, as shown in the table above. Although several neighbors argue that the 36 foot lot width identified above absolutely cannot be varied, PCC 33.611.200(C) expressly allows for narrower lot widths if the proposed widths can still meet the purposes of the lot dimension standards set forth in PCC 33.611.200(A). Those purposes are as follows:

- (1) Each lot has enough room for a reasonably-sized attached or detached house;
- (2) Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;
- (3) Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- (4) Each lot has room for at least a small, private outdoor area;
- (5) Lots are wide enough to allow development to orient toward the street;
- (6) Each lot has access for utilities and services;
- (7) Lots are not landlocked;
- (8) Lots don't narrow to an unworkable width close to the street; and
- (9) Lots are compatible with existing lots while also considering the purpose of this chapter.

BDS Staff found that the applicant demonstrated that the proposed Parcels 2 and 3 are consistent with purpose statements Nos. 1-8 for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore they have demonstrated that the proposed lot(s) can accommodate a reasonably sized house and garage or parking pad while meeting the development standards of the zoning code, including the outdoor area requirements.
- Parcel 1 is larger than Parcels 2 and 3, but not so much that it could be further divided to exceed the maximum allowed density of the site in the future.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street.

The record does not contain sufficient credible or relevant argument to contradict the BDS Staff findings as to these purpose statements. The Hearings Officer agrees with the above findings.

However, multiple opponents of this application disputed the BDS Staff findings with respect to purpose statement No. 9. BDS Staff found that in addition to addressing the question of "compatibility," purpose statement No. 9 requires that the proposal be consistent with the purpose statement for the Chapter which is set forth in Section 33.611.010. That language states:

This chapter contains the density and lot dimension requirements for approval of a Preliminary Plan for a land division in the R2.5 zone. These requirements ensure that lots are consistent with the desired character of the zone while allowing lots to vary in size and shape provided the planned intensity of the zone is respected. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate structures in accordance with the planned intensity of the R2.5 zone.

BDS Staff found that the proposal met purpose statement No. 9 for the following reasons:

"The regulations in Chapter 33.611 explicitly allow lots to vary in size and shape, provided the planned intensity of the zone is respected. The planned intensity of the zone is one unit per 2,500 square feet, or 4 units for a site of 10,000 square feet. The applicant is proposing 3 units, thus the planned intensity is being respected. The code must provide flexibility for lot dimensions because it is not possible to redevelop a standard 100 by 100-foot lot to the intended density and still meet the standard lot dimensions - particularly lot width, even when the site is vacant.

This site could be redeveloped under the current R5 zoning, but still not meet the minimum lot width due to the location of the existing home. The applicant could also achieve a density of 3 units without a Zoning Map Amendment if the existing house was demolished and bonus density provisions for attached housing on a corner lot were utilized. While Parcels 2 and 3 are narrower than surrounding development in the vicinity, the proposal successfully balances preserving the existing house with the base zone goal of providing housing opportunities for individual households."

The Hearings Officer finds "compatibility" standards such as the one in purpose statement No. 9 to be particularly vexing from a legal standpoint because they are so subjective as to be nearly meaningless as a standard. "Compatible" is not defined in PCC 33.920. In such cases a term must be given its dictionary meaning. Webster's Third New International Dictionary defines "compatible" in numerous ways. The most relevant here is "capable of existing together without discord or disharmony." This definition is itself very flexible adding to the subjective nature of purpose statement No. 9. However, the above definition does not require that lots be "identical" or "similar" or "consistent with" surrounding lots. If that was the intent, then purpose statement No. 9 would so read. ORS 174.010.

Here, the opponents' objections are largely aesthetic – that the lots will be narrower than other lots in the vicinity, and that the lots will necessarily produce "skinny" houses which will be different than the surrounding homes. They also argue that a much better option would be to demolish the existing home and build two new homes on 50' x 100' lots. Exhibit H.18.

Meeting this compatibility purpose statement does not require that an applicant show that a proposal that otherwise meets the applicable development criteria is the "best" option. Here, the only configuration before the Hearings Officer is for the three parcels proposed. While that configuration is indeed different than the typical 50' x 100' lots in the neighborhood, the proposed widths only deviate from the 36 foot standard by a few feet. Certainly the proposal does not even approach the absolute minimum of 25 feet set forth in PCC 33.600.200(C)(2)(b) as discussed below. The Hearings Officer is also not persuaded that a 31.75 or 33 foot wide lot necessarily mandates a skinny multistory home. Furthermore, neither the testimony nor the written evidence in the record demonstrates that even if skinnier houses are eventually built on the proposed lots that they will necessarily create discord in the neighborhood. In short, while the Hearings Officer understands the anxiety the neighbors feel toward the parcel size and configuration, the record does not show that they will be incompatible with the surrounding area. I also agree with the position taken by BDS Staff and the applicant on the relevance of PCC 33.611.010. The intended density and intensity of the R 2.5 zone is for 2,500 square foot lots. That could allow 25' x 100 foot lots - which can reasonably be imagined because 50' x 100' lots would need to split in that configuration to allow for street frontage in the R 2.5 zone. Although not conclusive, the record appears to show that the subject property could accommodate four such lots – each with a 25' foot width if the existing structure were demolished. That scenario is much more likely to produce the skinny houses the opponents fear than the current proposal. For

these reasons, I find that the proposal also meets the purpose of the Chapter set forth in PCC 33.611.010.

PCC 33.611.200(C)(2) requires compliance with several other criteria (b-f) which BDS Staff discussed. The Hearings Officer agrees with the following findings:

- ***The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***  
The lots will be developed with detached houses and the proposed parcels are at least 25 feet wide. This regulation is met.
- ***If the lot abuts an alley, then vehicle access is allowed only from the alley***  
The site does not have access from an alley, so this standard does not apply.
- ***Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development***
- ***If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

Subsection 33.110.253.E.3.b does not allow an attached garage where the street-facing façade of a unit is less than 22 feet long. Parcel 2 is wide enough to allow a street-facing façade in excess of 22 feet long that will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.E can be met for Parcel 2.

Parcel 3 is not wide enough to accommodate an attached garage on a street-facing façade. However, Parcel 3 is wide enough to accommodate a driveway and parking pad. As noted under the Facts section of this report on page 2, future parcels are exempt from minimum parking requirements due to their location within 500 feet of a transit street with 20-minute service. Because the site qualifies to not have parking, a covenant that prohibits future development of the property with an attached garage on the street-facing façade is required. The covenant may indicate that other forms of on-site parking (i.e. a driveway and parking pad) that is in conformance with applicable zoning regulations may be allowed. With a condition for a covenant, this requirement is met.

The Hearings Officer also notes that the revised TIS submitted by the applicant on June 4, 2014 provides ample evidence to find that the proposal will not have significant adverse impacts, if any, on the current availability of on-street parking in the vicinity. Exhibit H.17.

- ***60 percent landscaping requirement for attached houses***  
The applicant has indicated that the lots will be developed with detached houses; therefore, this requirement does not apply.

The findings above show that the applicable density and lot dimension standards are met.

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

**Findings:** The Hearings Officer agrees with the following BDS Staff 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 not located within the Potential Landslide Hazard Area. 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 in the areas where new development on the site is anticipated. This criterion is met.

***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing detached garage and pool in order to 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 the pool and accessory structures on the site 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.

A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 3.

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

*"A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

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

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

**Findings:** BDS Staff made the following findings:

"Parcels 1 and 2 are on the south side of an east-west oriented street. Parcel 1 will be on the corner, and will be wider than the other lot(s). Parcel 3 is the only lot on a north-south street. This criterion is, therefore, met."

As discussed above, several opponents asserted that the future homes on the new parcels would block solar access either to their homes or the existing dwelling on the subject property. At the hearing, BDS Staff took the position that the solar access standards are prescriptive and that the possibility that future structures may shade adjacent properties does not violate those standards.

After reviewing PCC 33.639 the Hearings Officer agrees with BDS Staff. That section does not impose a generalized prohibition on certain lot configurations or forbid future development from casting shade onto adjacent properties. This criterion is met.

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

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services and provided the following findings:

Level of service

*Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:*

- 1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.*
- 2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.*

*The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors*

*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. The applicant has submitted a Traffic Impact Study (TIS) to adequately determine the impacts of the proposed project on the area's transportation system.*

*The capacity analysis pertinent to this particular evaluation factor has already been noted above in relation to the similar Zone Change approval criteria. As noted in the previous section of this response, the area's intersections most likely to be impacted by the proposed partition request currently operate at acceptable levels of service and will continue to do so with the additional 20 daily vehicle trips (including 2 additional peak hour trips) that will distribute across the area's transportation system.*

#### *Vehicle access and loading*

*Current vehicle access and loading is via the site's SE 40th Ave frontage to the existing house's garage (this driveway will be closed off and there will no longer be any on-site parking for the existing home that will be retained on Parcel 1). Vehicles will access the subject property via SE Reedway St and SE 40th Ave. The subject property is located within a well-connected street grid allowing multiple options for access and circulation in the site vicinity. On-street parking is available on both sides of SE Reedway St and both sides of SE 40th Ave. It is anticipated that loading will occur using the individual driveways provided for Parcels 2 and 3 as well as the adjacent on-street parking. The existing and proposed facilities are adequate to serve the needs of the proposed development in addition to the existing uses in the site vicinity.*

#### *On-street Parking Impacts*

*To identify current on-street parking supply and demand in the area around the subject site during the typical high demand periods for residential parking, the applicant's traffic consultant conducted observations during the evening peak hours and late evening/early morning hours*

*Under evening peak hour conditions there was 1 vehicle parked on the west side and 1 vehicle parked on the east side of SE 40th Ave between SE Reedway St and SE Ramona St (the subject block face). Fifteen on-street spaces remained available on this street segment. There were 2 parked vehicles along the south side and no vehicles parked along the north side of SE Reedway St between SE César E. Chávez Blvd and SE 40th Ave (the subject block face). Sixteen on-street spaces remained available along this street segment.*

*During the early morning hours there was 1 vehicle parked on the west side and 2 vehicles parked on the east side of SE 40th Ave between SE Reedway St and SE Ramona St. Fourteen on-street spaces remained available on this street segment. There were 3 parked vehicles along the south side and no vehicles parked along the north side of SE Reedway St between SE César E. Chávez Blvd and SE 40th Ave. Fifteen on-street spaces remained available along this street segment. On-street parking demands on the other streets in the site vicinity were similarly low.*

*Based on data from the manual PARKING GENERATION, Fourth Edition, published by the Institute of Transportation Engineers, the proposed increase of 2 single-family dwellings is projected to result in demand for 4 additional parking spaces during the period of peak parking demand.*

*The proposed development will add one new driveway to serve Proposed Parcel 2 from SE Reedway and the existing driveway to serve Proposed Parcel 3 from SE 40th Ave. As mentioned*

*previously, the on-site parking space for Proposed Parcel 1 will be eliminated, including the closure of the existing curb cut. Construction of the new driveways is projected to result in the loss of one parking space along the site SE Reedway frontage.*

*Assuming that no off-street parking is utilized by the two new lots, it is projected that the peak parking demand could increase by 4 spaces and that the on-street parking supply will reduce by 1 space. Upon completion of the proposed development it is projected that there will remain a surplus of 24 on-street parking spaces on the street segments on which the subject property is located. Adequate on-street parking is available in the site vicinity to serve the proposed development in addition to the existing uses in the site vicinity.*

*Transit service*

*The area is served by Tri-Met bus route #75 (Cesar Chavez/Lombard) along SE Cesar E Chavez Blvd, one block west of the subject site. Tri-Met bus route #19 (Woodstock/Glisan) provides local service along SE Woodstock Blvd, 3 blocks south of the site.*

*Impacts on the immediate and adjacent neighborhoods*

*Traffic volumes on area roadways and at area intersections are not expected to change significantly upon approval of the proposed lot split. The additional site trips during the peak hours will have no noticeable impacts to immediate and adjacent neighborhoods. No significant operational or safety problems were identified. There is a sufficient on-street parking supply to accommodate the existing and proposed developments. It is PBOT's determination that the proposed partition request will not result in adverse impacts on the immediate and adjacent neighborhoods.*

*Safety for all modes*

*Traffic volumes on SE Reedway St and SE 40th Ave within the immediate site vicinity are very low, and travel speeds are limited by the 25 mph statutory residential speed limits. Bicycles can safely share the roadway with motorized vehicle traffic on these streets. Dedicated bike lanes are also available along both sides of SE 41st Ave and SE Woodstock Blvd in the site vicinity.*

*Continuous pedestrian facilities are in place on both sides of many of the streets in the site vicinity. Marked crosswalks are also in place at the nearby signalized intersections of SE César E. Chávez Blvd/SE Steele St and at SE César E. Chávez Blvd/SE Woodstock Blvd.*

*The existing pedestrian and bicycle facilities in the site vicinity are adequate to safely serve the needs of the proposed development in addition to the existing uses in the site vicinity. Based on the detailed analysis, the existing streets and infrastructure in the site vicinity are sufficient to provide safe access for all travel modes.*

In addition to this analysis, the Hearings Officer finds persuasive Mr. de Freitas' testimony on the safety of the driveway access for Parcel 2. Based on the applicant's submitted TIS, and PBOT's analysis, the Hearings Officer finds that this criterion is met.

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

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. BDS Staff found, and the Hearings Officer agrees, that the criteria and standards are met as shown in the following table:

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to Parcels 1 and 2 from SE Reedway, as noted on page 3 of this report. There is existing water service in SE 40 <sup>th</sup> Avenue, however the one-inch line is at capacity. The applicant must make arrangements to upsize the water main in SE 40 <sup>th</sup> Avenue to ensure service is available to Parcel 3. 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.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report. There is no sanitary sewer located in SE 40 <sup>th</sup> Avenue to serve Parcel 3, however a BES assessment of the site and vicinity determined that a public sewer extension is not required. A private sanitary sewer easement to allow a sanitary connection to the public combined sewer in SE Reedway Street will be permitted by BES for this specific project. The applicant has shown a private sanitary lateral for Parcel 3 running along the eastern boundary of Parcel 1 within a 10-foot wide private sanitary sewer easement, which is acceptable to BES. The sanitary sewer service standards of 33.652 have been verified.
If a new sewer connection is established for the house and the existing line is capped for use by future Parcel 3, all plumbing permits must be obtained and receive final inspection approval prior to Final Plat approval.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable.
The applicant has proposed the following stormwater management methods
<ul style="list-style-type: none"><li>• <b>Parcels 2 and 3:</b> 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. BES has indicated conceptual approval of the drywells for the purposes of land use review, but requests a stormwater narrative describing the stormwater management plan for proposed roof and non-roof impervious areas on Parcels 2 and 3 at the time of final plat review.</li><li>• <b>Parcel 1 (the lot with the existing house):</b> The existing house has downspouts that drain into underground pipes. BES has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. If the</li></ul>

stormwater disposal system for the existing house will not be fully located on the parcel it serves after the land division, then the applicant must modify the stormwater system for the existing house to the specifications of BES and obtain finalized plumbing permits for the modifications prior to final plat approval.
<b>33.654.110.B.1 Through streets and pedestrian connections</b>
Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The spacing goals for public through streets or pedestrian connections are met on the subject block and along other blocks in this area. PBOT has indicated they have no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition. This criterion is met.
<b>33.654.120.B &amp; C Width &amp; elements of the right-of-way – See Exhibit E.2 for bureau comment</b>
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 two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met.
<b>33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)</b>
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:

- Narrow Lots-- development on Parcels 2 and 3 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a

- Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5 feet from the new property line on the south side and 6.5 feet from the new property line on the west side. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcels 2 and 3 must be removed prior to final plat. Demolition permits are required for both the pool and garage. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

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

## **OTHER TECHNICAL REQUIREMENTS**

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; ensuring proper residential hydrant spacing; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

### III. DECISION

**Approval** of a Zoning Map Amendment in conformance with the Comprehensive Plan from R5 to R2.5; and

**Approval** of a Preliminary Plan for a 3-parcel partition, that will result in one standard lot and two narrow lots, as illustrated with Exhibit C.3, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES, and Fire review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots along with a narrative describing the stormwater management plan for the proposed roof and non-roof impervious areas;
- The location of the nearest fire hydrant; and

- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. A private sanitary sewer easement, for the benefit of Parcel 3, shall be shown and labeled over the relevant portions of Parcel 1.
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 C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for a Private Sanitary Sewer Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

**Utilities**

1. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the upsizing of the water main in SE 40<sup>th</sup> Avenue.
2. If the applicant chooses to cap the existing sanitary lateral for Parcel 1 and establish a new service, the work must be completed and permits receive an approved final inspection.
3. 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.
4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant residential hydrant spacing. The applicant must provide verification to the Fire Bureau that Appendix C of the Fire Code is met.

**Existing Development**

5. The applicant must obtain finalized demolition permits for removing the garage on Parcel 3 and in-ground pool on Parcel 2.
6. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must provide finalized

plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

**Required Legal Documents**

7. A Maintenance Agreement shall be executed for the Private Sewer Easement described in Condition B.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.
8. The applicant shall execute a covenant with the city that prohibits development with an attached garage. Such covenant must meet the requirements of section 33.700.060 and must be attached to and recorded with the deed for the new lot.

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

1. The applicant must meet the addressing requirements of the Fire Bureau for future development.
2. If determined necessary, the applicant will be required to meet any conditions identified through a Fire Code Appeal. Please refer to the final plat approval report for details on whether or not this requirement applies.
3. 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.



Kenneth D. Helm, Hearings Officer

*June 26, 2014*

Date

Application Determined Complete:	March 20, 2014
Report to Hearings Officer:	May 16, 2014
Decision Mailed:	June 27, 2014
Last Date to Appeal:	4:30 p.m., July 11, 2014
Effective Date (if no appeal):	July 14, 2014 Decision may be recorded on this date.

**Conditions of Approval.** 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.

**Appeal of the decision.** ANY APPEAL OF THE HEARINGS OFFICER’S DECISION MUST BE FILED AT 1900 SW 4<sup>TH</sup> AVENUE, PORTLAND, OR 97201 (503-823-7526). Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$4,790 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

**Who can appeal:** You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization’s bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**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.**

**Recording concurrent approvals.** The preliminary land division approval also includes concurrent approval of a Zoning Map Amendment. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

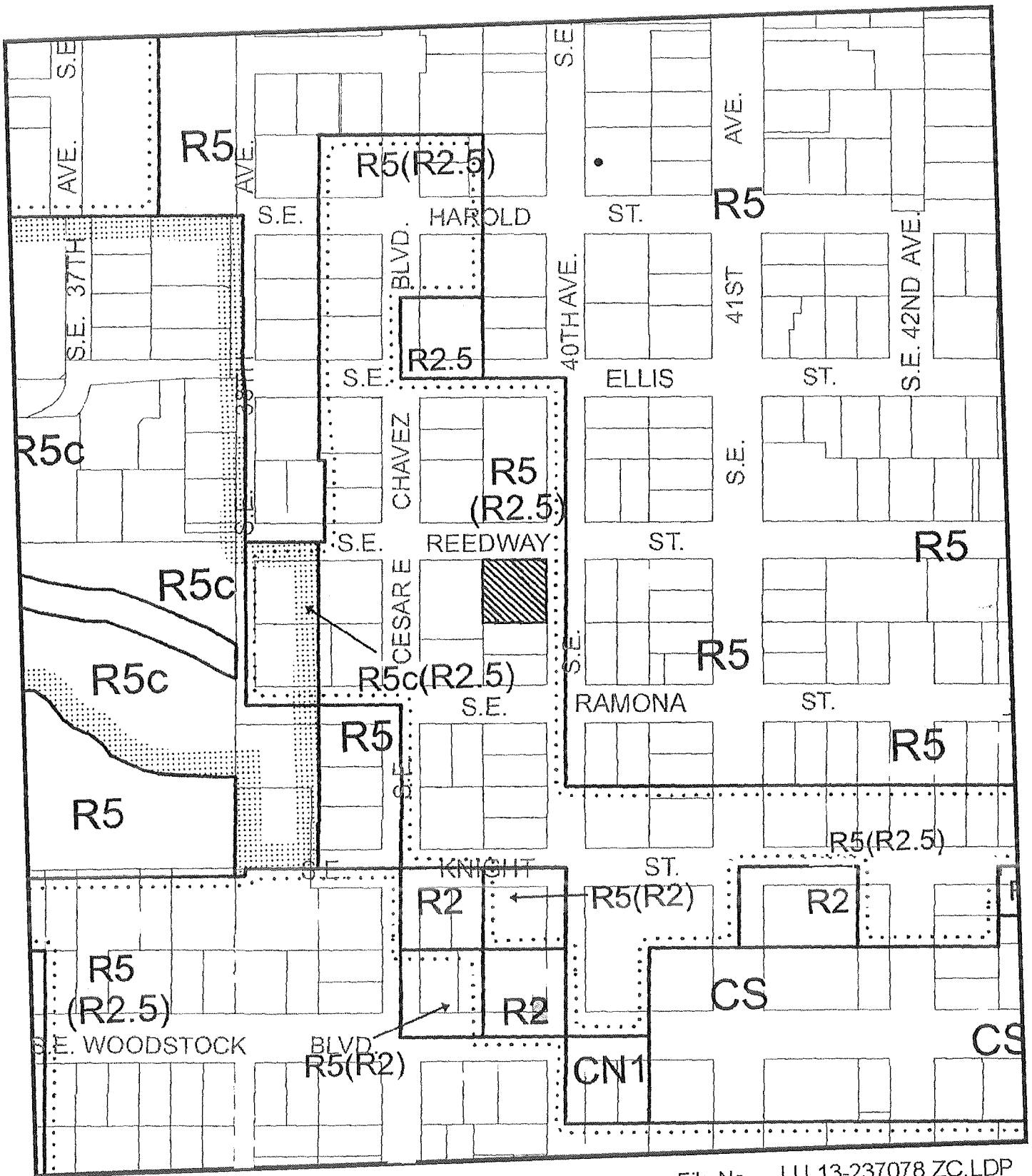
**Expiration of concurrent approvals.** The preliminary land division approval also includes concurrent approval of a Zoning Map Amendment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The Zoning Map Amendment approval was necessary for the land division to be approved. Zone Change and Comprehensive Plan Map Amendment approvals do not expire. All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun.

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Narrative
  - 2. Arborist Report
  - 3. Response to Incomplete Letter, dated March 12, 2014
  - 4. Revised Narrative
  - 5. Simplified Approach Stormwater Forms
  - 6. Transportation Analysis, dated January 3, 2014
  - 7. Hearing Reschedule and 120-day Extension
  - 8. Transportation Analysis, dated May 8, 2014
- B. Zoning Map (**attached**)
  - 1. Existing Zoning
  - 2. Proposed Zoning
- C. Plans and Drawings
  - 1. Vicinity Plan
  - 2. Existing Conditions Site Plan
  - 3. Preliminary Land Division Plan
  - 4. Preliminary Site and Utility Plan
  - 5. Preliminary Grading Plan
  - 6. Stamped Survey
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. a. Notice to be posted for May 12, 2014 hearing date  
b. Notice to be posted for revised May 28, 2014 hearing date
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. 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 Bureau of Development Services
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Review Section of BDS
  - 8. Portland Police Bureau
- F. Letters
  - 1. Woodstock Neighborhood Association, April 21, 2014, letter in opposition
- G. Other
  - 1. Original LUR Application

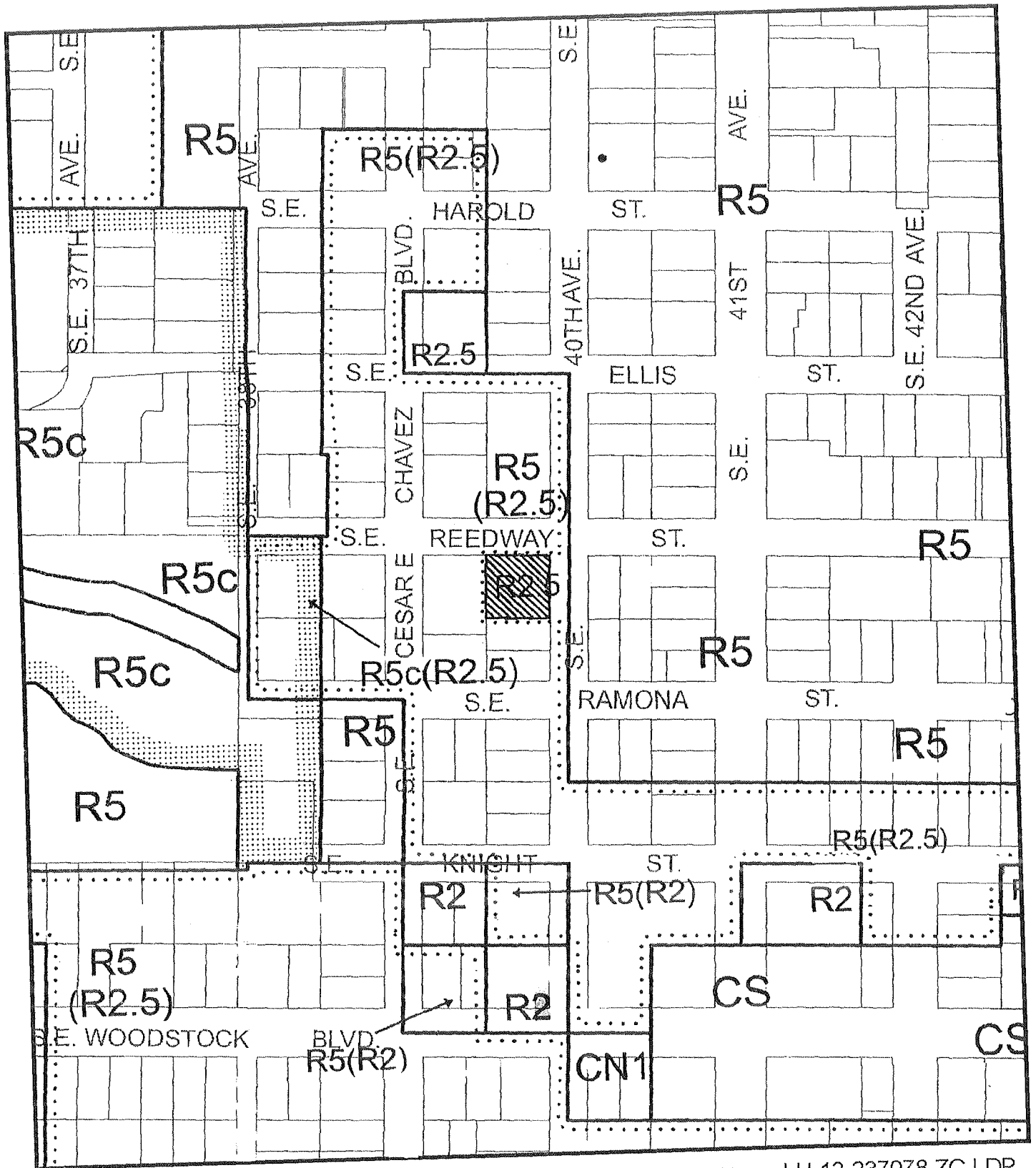
2. Neighborhood Contact Documentation
  3. Pre-Application Conference
  4. Incomplete Letter, sent January 2, 2014
- H. Received in the Hearings Office
1. Request to reschedule - Whiteside, Rachel
  2. Hearing Notice - Whiteside, Rachel
  3. 5/22/14 - Spence, Merrilee
  4. Staff Report - Whiteside, Rachel
  5. 5/21/14 Memo with photos - Szigethy, Les
  6. 5/27/14 letter - Robinson, Michael
  7. PowerPoint presentation printout - Whiteside, Rachel
  8. Photos - Szigethy, Les
  9. Map - Griffiths, Terry
  10. 5/28/14 letter - Luening, Rebecca
    - a. Photo - Luening, Rebecca
  11. Written testimony - Griffiths, Terry
  12. E-mails - Griffiths, Terry
  13. Record Closing Information - Hearings Office
  14. Letter from Jeffery Krater - Whiteside, Rachel
  15. Fax from Les Szigethy - Whiteside, Rachel
  16. Fax from Rob and Corrine Lyons - Whiteside, Rachel
  17. 6/4/14 Letter - Ard, Michael
  18. Letter - Strickler, Douglas
  19. Final argument - Robinson, Michael
  20. Fax Cover - Robinson, Michael
    - a. 6/10/14 Letter - Robinson, Michael



# EXISTING ZONING



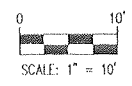
File No. LU 13-237078 ZC,LDP  
 1/4 Section 3634  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E13DA 6600  
 Exhibit B.2 (May 15, 2014)



# PROPOSED ZONING



File No. LU 13-237078 ZC,LDP  
 1/4 Section 3634  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E13DA 6600  
 Exhibit B.1 (May 15, 2014)



LEGEND

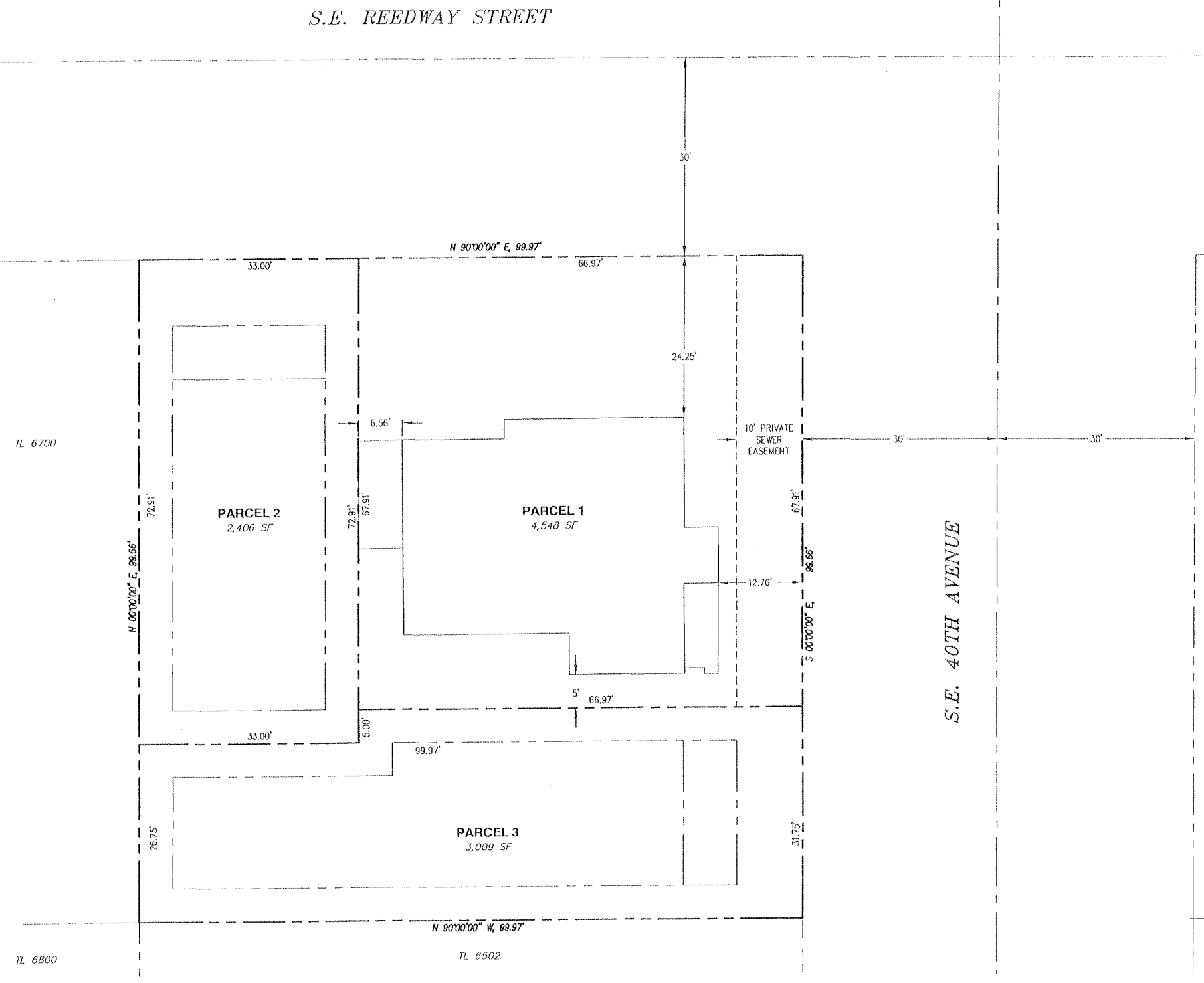
- PROPERTY LINE
- ADJACENT/ADJOINING LOT LINE
- CENTER LINE ROW
- SET BACK LINE

ZONE

R2.5

SETBACKS

FRONT: 10 FT.  
GARAGE: 18 FT.  
REAR: 5 FT.  
SIDE: 5 FT.



3936 SE REEDWAY STREET  
TAX MAP T1S R1E 13DA  
TAX LOT 6600  
PORTLAND, OREGON

PRELIMINARY PLAT

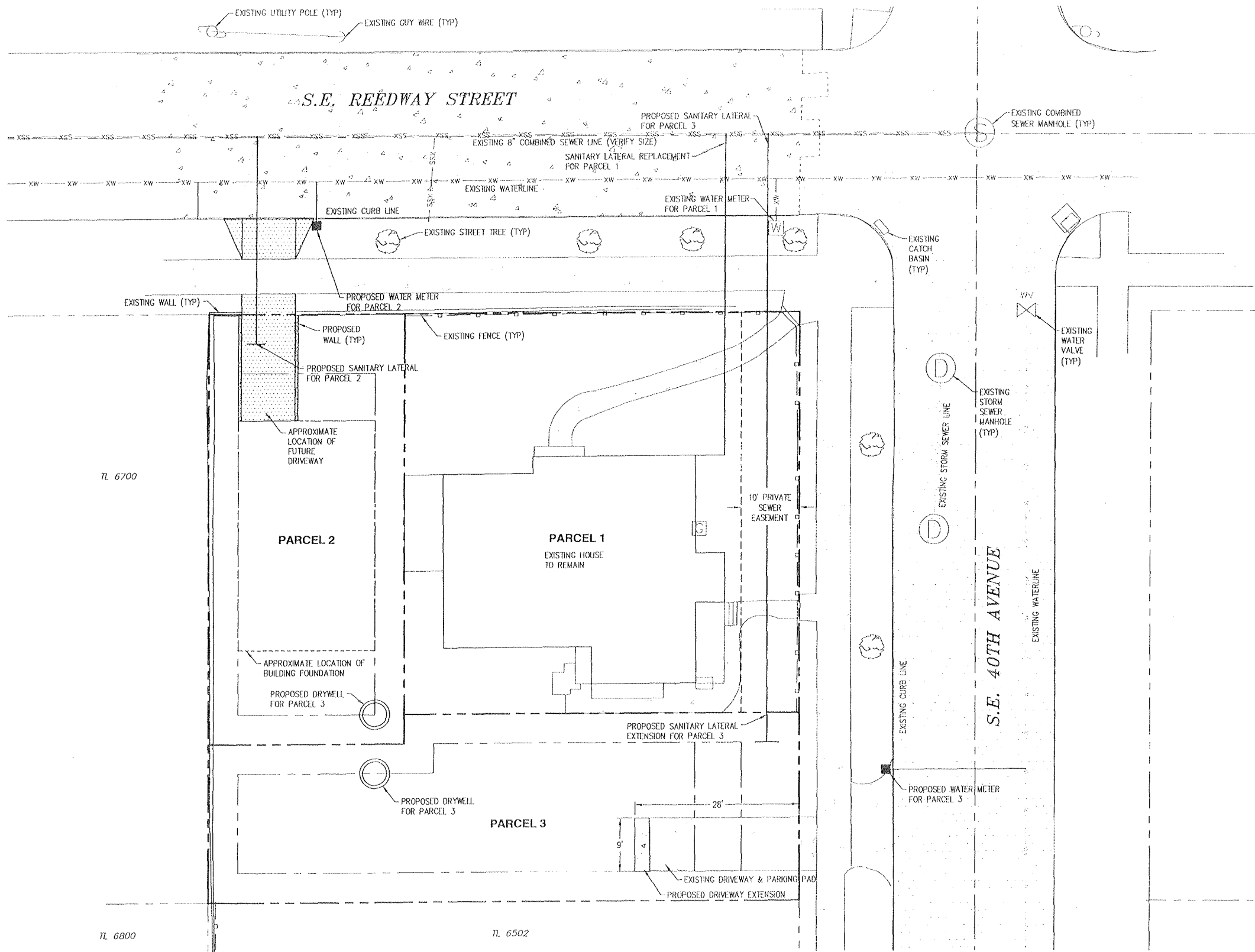
REVISIONS	
NO.	DESCRIPTION

**EMERIO**  
*Design*

6107 SW MURRAY BLVD. SUITE 147  
BEAVERTON, OREGON 97008  
PH: (503)-746-8812

SHEET	
3	OF 5

LU 13-237078 ZC LDP  
Ex. C-3



0 10'  
SCALE: 1" = 10'

**LEGEND**

- BOUNDARY LINE
- ADJACENT/ADJOINING LOT LINE
- CENTER LINE ROW
- ⊗ EXISTING SANITARY SEWER MANHOLE
- ⊗ EXISTING WATER METER
- ⊗ EXISTING WATER VALVE
- ⊗ EXISTING GAS VALVE
- ⊗ EXISTING UTILITY AND LIGHT POLE
- XSS--- EXISTING SANITARY SEWER LINE
- XW--- EXISTING WATER LINE
- XG--- EXISTING GAS LINE
- EXISTING FENCELINE
- PROPOSED SANITARY LATERAL
- PROPOSED WATER METER

3936 SE REEDWAY STREET

TAX MAP T1S R1E 13DA  
TAX LOT 6600  
PORTLAND, OREGON

**PRELIMINARY  
SITE/UTILITY PLAN**

REVISIONS	
NO.	DESCRIPTION

**EMERIO**  
*Design*  
6107 SW MURRAY BLVD. SUITE 147  
BEAVERTON, OREGON 97008  
PH: (503) 746-8812

SHEET

4

OF 5

LV 13-237078 ZC Ldr

Ex.C.4

3N STAFF, Plotted: May 15, 2014 - 1:12pm, P:\24-154 3936 SE Reedway\dwg\plan\124-154\_04puttl.dwg