



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

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**Date:** May 12, 2008  
**To:** Interested Person  
**From:** John Cole, Land Use Services  
503-823-3475 / [ColeJA@ci.portland.or.us](mailto:ColeJA@ci.portland.or.us)

## **NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 08-117837 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Steve Buckles,  
Repetto & Associates  
Plaza 125, Blg G  
12730 SE Stark St  
Portland, OR 97233

**Owner:** Patrick Patterson,  
6255 SW Karron Pl.  
Aloha, OR 97007

**Site Address:** 4260 NE SUMNER ST

**Legal Description:** ELY 1/2 OF LOT 25, BOUNDARY AC  
**Tax Account No.:** R094100620  
**State ID No.:** 1N2E19BB 11800    **Quarter Section:** 2535  
**Neighborhood:** Cully, contact Steve Yett at 503-282-3251.  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.  
**Zoning:** R5h Single Dwelling Residence 5,000 with an Aircraft Landing Overlay  
**Case Type:** LDP Land Division Partition  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**

To divide a 9,711 SQ FT site into two parcels. Parcel 1 will be 4,040 SQ FT and will retain the existing house under construction. Parcel 2, a flag lot, will be 5,671 SQ FT and made available for development consistent with R5h Zoning District Standards.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**

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).

## ANALYSIS

**Site and Vicinity:** The site is located on the south side of NE Sumner street. There is a building under construction on the front (N) side of the property. The surrounding neighborhood is characterized by single family and multi family residences on originally platted lots or on more recently subdivided properties.

**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.

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The allowed height limit for buildings and vegetation on the site per the "h" overlay is 180 feet above the lowest base point at Portland International Airport. The airport low base point is at an elevation of 18.3 feet. Therefore, the topographical elevation of the site PLUS the proposed building cannot exceed 198.3 feet. The highest ground elevation on the site is approximately 180 feet. Therefore, buildings and vegetation on the site cannot exceed 18.3 feet in height. On this site the maximum limit of the base zone (R5) is 30 feet, but would only be allowable with a letter of approval from the FAA granting permission to exceed the height limits allowed by the h-overlay. An application for FAA approval may be obtained from the Aviation Department of the Port of Portland

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

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on April 2, 2008.

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

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

## ZONING CODE APPROVAL CRITERIA-

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Not applicable. There are no non-exempt trees on-site.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing. The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = (9,711 square feet \* .80) ÷ 5,000 square feet = 1.5 (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = 9,711 square feet ÷ 5,000 square feet = 1.9 (which rounds up to a maximum of 2 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1.

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

#### Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	<b>R5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area	3,000 sq. ft.	4,040 sq.ft.	5,671 sq.ft.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	38.32 ft.	
Minimum Lot Depth	50 ft.	98 ft.	
Minimum Front Lot Line	30 ft.	41.85 ft.	12 ft.
Minimum Flag Lot Width**	40 ft.		50 ft.
Minimum Flag Lot Depth**	40 ft.		90 ft.

\* Width is measured at the minimum front building setback line

\*\* For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

#### Flag Lots

Parcel 2 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located 5.8 feet from the West property line and 19.3 feet from the East property line, which would preclude the creation of a lot that would meet the minimum width standard of the R5 zone of 40 feet. Two lots are proposed. As discussed above, minimum density has been met. The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet. Therefore, Parcel 2 is allowed.

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

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

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

### **33.635.100 – Clearing and Grading**

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

**Findings:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criteria is met.

### **33.635.200 – Land Suitability**

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

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

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

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

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

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

**B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.**

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

- An Access Easement is proposed to allow shared use of a driveway on Parcel 2 that will benefit Parcel 1.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easements described above and facilities within this 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 a Private Access Easement for the benefit of Parcel 1 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,**

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

**33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.**

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

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

The site has approximately 53.85 feet of frontage on NE Sumner Street. NE Sumner Street is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 300 feet from the site on the corner of NE 42<sup>nd</sup> and Sumner Street via bus 75. Parking is not allowed on NE Sumner Street. There is one proposed driveway entering the site that will provide access to off-street parking for both the existing house now under construction on Parcel 1 and for future development on Parcel 2.

NE Sumner Street is improved with a paved roadway. There are no curbs, planter strips, or sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

This criterion is met, with the condition that the required waivers are signed prior to final plat approval.

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

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 4-inch water main is available in NE Sumner Street. Water is available to serve the proposed development from the water main in NE Sumner Street. Parcel 1 has an existing water service from that main that can continue to be used. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in NE Sumner Street that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. See Exhibit E-1 for more details.
- City records do not show that the septic system on the site was decommissioned at the time the house was connected to the public sewer system. If this septic system is found, then a permit to decommission the system will be required.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. Due to the narrow configuration of this lot and the adjoining development it is impractical to provide any public right of way as a condition of this land division. Therefore, the criterion related to street connectivity is met. Because, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. The remaining standards and approval criteria related to street location, and design are not applicable.

### **33.653.020 Stormwater Management Approval Criteria**

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

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

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

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

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

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

- **Parcel 1 and 2:** BDS Site Development finds that on-site stormwater treatment and disposal from this site is acceptable. Stormwater from these lots will be directed to individual soakage trenches 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. Site Development has indicated conceptual approval of the soakage trenches. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval.

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

## **DEVELOPMENT STANDARDS**

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

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

**Development Standards:** Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F)

**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 will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone (Please see section on Other Technical Standards for Building Code standards). Therefore, this land division proposal can meet the requirements of 33.700.015.

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 7.3’ and 36.8 feet from the new property lines. 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.
- Required Off-Street Parking - The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 300 feet from the site on the corner of NE 42<sup>nd</sup> and NE Sumner Street via bus number 75. Bus number 75 provides peak-hour service meeting this requirement.

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.

<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
Water Works	Title 21	Water availability	503-823-7404 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access and addressing requirements for flag lots. These requirements are based on the technical standards of Title 31 and the Fire Code.

## **CONCLUSIONS**

The applicant has proposed a 2-lot partition to create two single-family residential lots. The existing house in Parcel 1 will remain, and Parcel 2 will be available for new development meeting the flaglot standards of the R5h zone. As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Stormwater management setback requirements
- Street and Storm Waivers of Remonstrance
- Septic System decommission
- Fire Access requirements

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

## **ADMINISTRATIVE DECISION**

**Approval** of a Preliminary Plan for a 2-lot partition, that will result in one standard lot and one flag lot as illustrated with Exhibit C-1, subject to the following conditions:

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

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

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

1. A Private Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A recording block for the maintenance agreement and any Acknowledgement of Special Land Use Condition as required by Conditions 5&6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following examples:
  - *“A Declaration of Maintenance Agreement for Access Easement for the benefit of Parcel 1 has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*
  - *“An Acknowledgement of Special Land Use Condition has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

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

1. The applicant shall sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.
2. The applicant shall verify that the Fire Bureau required turning radius of 25-feet inside, 45-feet outside can be met. Alternately, the applicant will be required to relocate the existing power pole or install residential sprinklers in the new house on Parcel 2. An Acknowledgement of Special Land Use Conditions describing any sprinkler requirement must be referenced on and recorded with the final plat.

**Utilities**

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.

**Existing Development**

4. Documentation of the location of the stormwater disposal system for the site shall be submitted to the Site Development Section of the Bureau of Development Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan.

**Required Legal Documents**

5. A Maintenance Agreement shall be executed for the Private Access Easement area 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.
6. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lot 2 to contain internal fire suppression sprinklers as may be required by Condition C-2 above. Any such acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

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

7. The applicant must post the flag pole driveway for Parcel 2 with "No Parking" signs to the satisfaction of the Fire Bureau.
8. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

**Decision rendered by:**  **on May 8, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed May 12, 2008**

**Staff Planner: John Cole**

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

**Procedural Information.** The application for this land use review was submitted on March 25, 2008, and was determined to be complete on March 28, 2008.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 25, 2008.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

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

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

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

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

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS

197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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

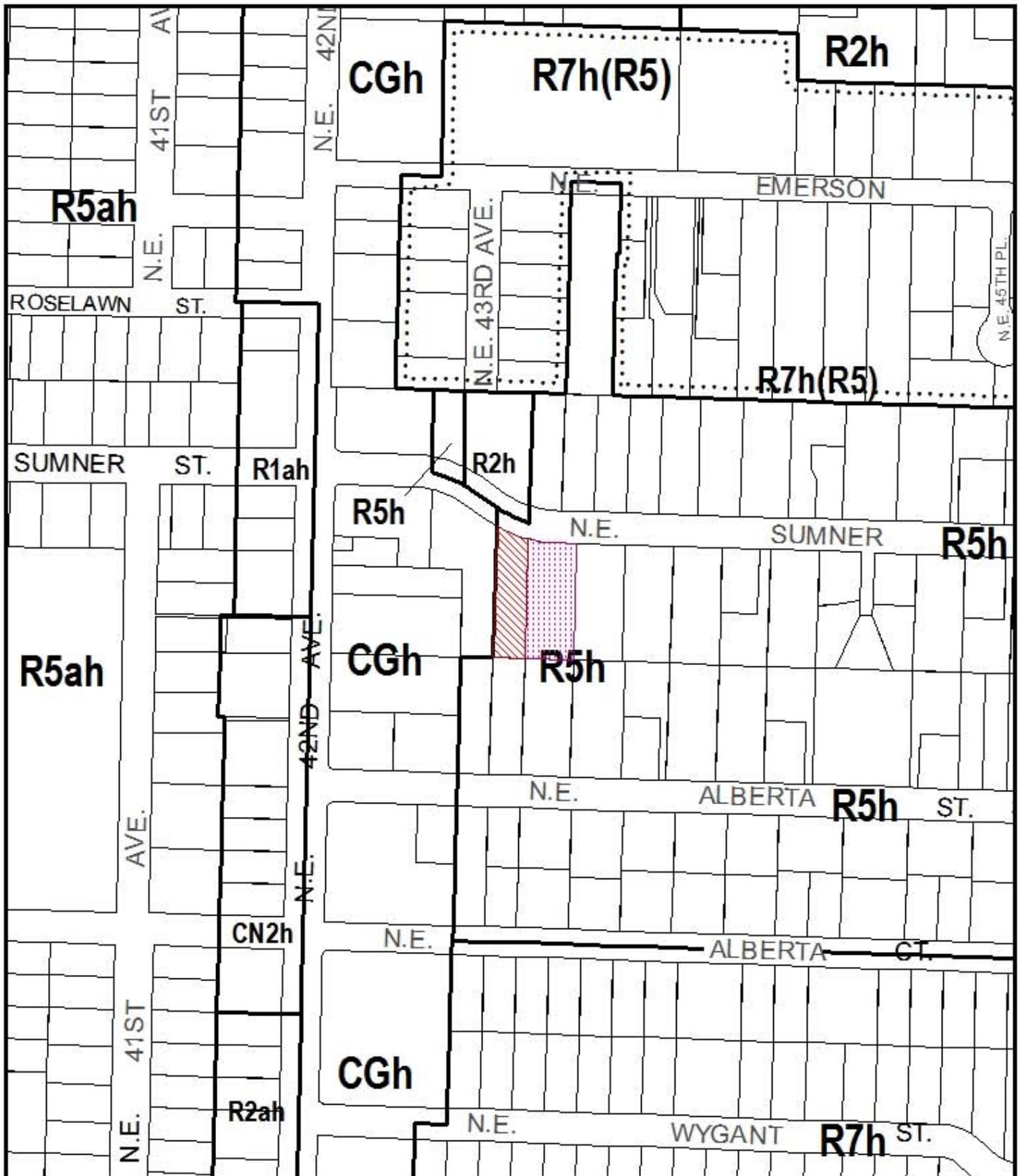
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence None Submitted
- G. Other:
  - 1. Original LU Application

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



# ZONING

-  Site
-  Also Owned



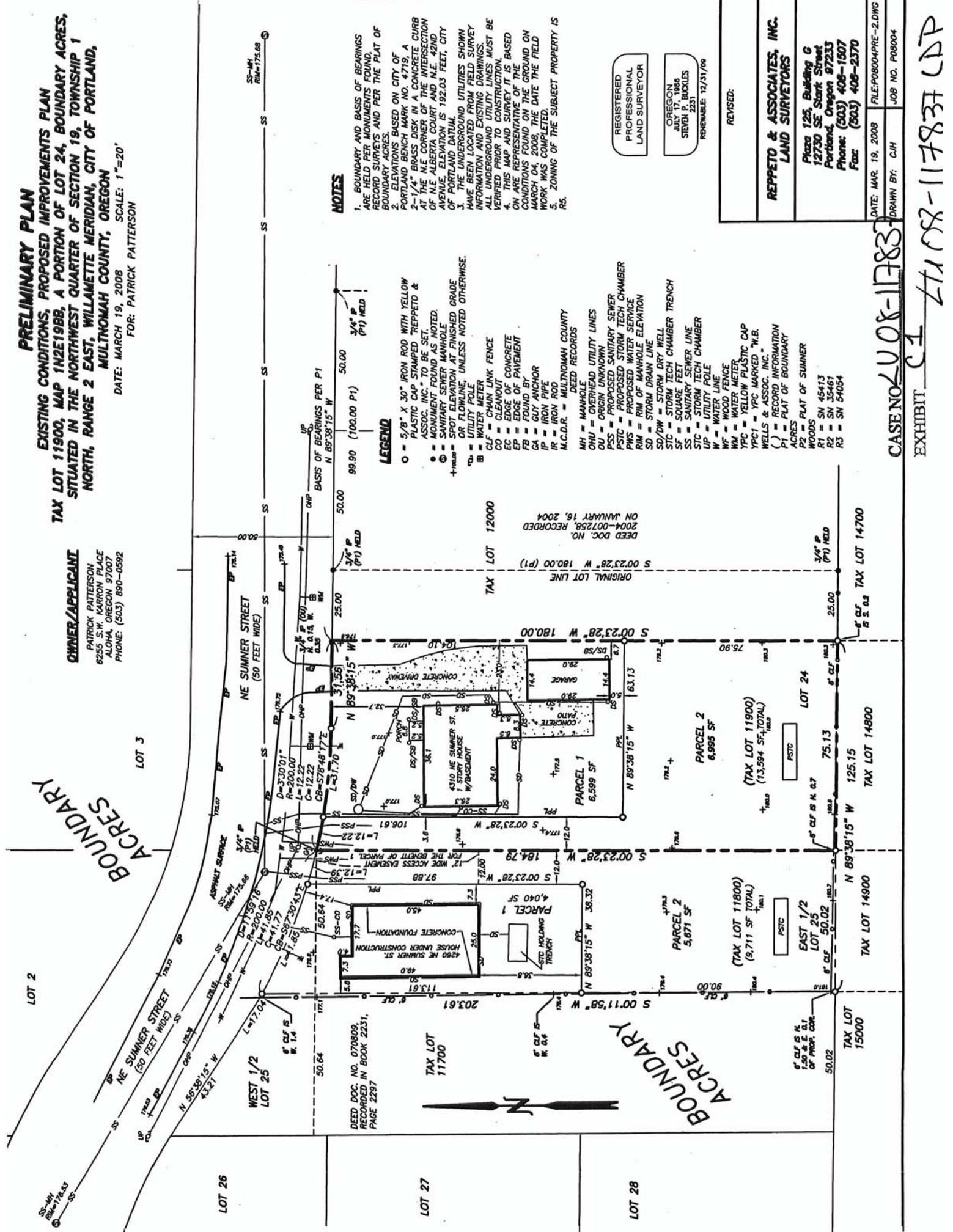
File No. LU 08-117837 LDP  
 1/4 Section 2535  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E19BB 11800  
 Exhibit B (Mar 27, 2008)

**PRELIMINARY PLAN**

EXISTING CONDITIONS, PROPOSED IMPROVEMENTS PLAN  
 TAX LOT 11900, MAP 1N2E19BB, A PORTION OF LOT 24, BOUNDARY ACRES,  
 SITUATED IN THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1  
 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND,  
 MULTNOMAH COUNTY, OREGON

DATE: MARCH 19, 2008 SCALE: 1"=20'  
 FOR: PATRICK PATTERSON

**OWNER/APPLICANT**  
 PATRICK PATTERSON  
 6235 S.W. MARRON PLACE  
 ALOHA, OREGON 97007  
 PHONE: (503) 890-0592



- NOTES**
- BOUNDARY AND BASIS OF BEARINGS ARE HELD PER MONUMENTS FOUND. RECORD SURVEYS AND PER THE PLAT OF BOUNDARY ACRES.
  - ELEVATIONS BASED ON CITY OF PORTLAND BENCH MARK NO. 4719. A 2-1/4" BRASS DISK IN A CONCRETE CURB AT THE N.E. CORNER OF THE INTERSECTION OF N.E. ALBERTA COURT AND N.E. 42ND AVENUE. ELEVATION IS 192.03 FEET, CITY OF PORTLAND DATUM.
  - THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. ALL UNDERGROUND UTILITY LINES MUST BE VERIFIED PRIOR TO CONSTRUCTION.
  - THIS MAP AND SURVEY IT IS BASED ON ARE APPROXIMATE. FOUNDATION GRIND ON MARCH 04, 2008. THE DATE THE FIELD WORK WAS COMPLETED.
  - ZONING OF THE SUBJECT PROPERTY IS R5.

**LEGEND**

- = 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "REPPETO & ASSOC. INC." TO BE SET.
- = MONUMENT FOUND AS NOTED.
- ⊙ = SANITARY SEWER MANHOLE.
- + = SPOT ELEVATION AT FINISHED GRADE OR FLOWLINE, UNLESS NOTED OTHERWISE.
- ⊕ = UTILITY POLE.
- ⊖ = WATER METER.
- ⊗ = CHAIN LINK FENCE.
- ⊘ = CLEANOUT.
- ⊙ = EDGE OF CONCRETE.
- ⊙ = EDGE OF PAVEMENT.
- ⊙ = FOUND LID FOR IRON PIPE.
- ⊙ = IRON PIPE.
- ⊙ = IRON ROD.
- M.C.D.R. = MULTNOMAH COUNTY DEED RECORDS.
- MH = MANHOLE.
- O.U. = OVERHEAD UTILITY LINES.
- O.U. = ORIGIN UNKNOWN.
- P.S.S. = PROPOSED SANITARY SEWER.
- P.S.T.C. = PROPOSED STORM TECH CHAMBER.
- P.W.S. = PROPOSED WATER SERVICE.
- R.I.M. = RIM OF MANHOLE ELEVATION.
- S.D. = STORM DRAIN LINE.
- S.D./D.W. = STORM DRY WELL.
- S.T.C. = STORM TECH CHAMBER TRENCH.
- S.F. = SQUARE FEET.
- S.S. = SANITARY SEWER LINE.
- S.T.C. = STORM TECH CHAMBER.
- U.P. = UTILITY POLE.
- W. = WATER LINE.
- W.F. = WOOD FENCE.
- W.M. = WATER METER.
- Y.P.C. = YELLOW PLASTIC CAP.
- Y.P.C. = YPC MARKED "W.B."
- W.B. = WELLS & ASSOC. INC.
- ( ) = RECORD INFORMATION.
- P1 = PLAT OF BOUNDARY ACRES.
- P2 = PLAT OF SUMMER WOODS.
- R1 = SN 45413.
- R2 = SN 35461.
- R3 = SN 54054.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON  
 JULY 17, 1986  
 STEVEN P. BUCKLES  
 2231  
 RENEWABLE: 12/31/09

REVISED:

**REPPETO & ASSOCIATES, INC.**  
**LAND SURVEYORS**

125 Building G  
 12730 SE Stark Street  
 Portland, Oregon 97233  
 Phone: (503) 408-1507  
 Fax: (503) 408-2370

DATE: MAR. 19, 2008 FILE: P08004PRE-2.DWG  
 DRAWN BY: C.J.H. JOB NO. P08004

CASE NO. UO&-117837

EXHIBIT C1 21108-117837 CDP