



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: October 10, 2008
To: Interested Person
From: Stephanie Beckman, Land Use Services
503-823-7056 / BeckmanS@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 08-139765 LDP

GENERAL INFORMATION

Applicant: Ronald K. Petersen
20385 NE Lakeside Drive
Fairview, OR 97204

Representatives: Ron Naff 503-639-8045
Naff Design Support Services
8021 SW Viola Street
Tigard, OR 97224

Spencer Vail 503-281-8245
Planning Consultant
4505 NE 24th Ave
Portland, OR 97211

Owner: Paula C Shaffer
3725 NE Liberty Ter
Portland, OR 97211-7840

Site Address: 3514 NE 45TH AVE

Legal Description: TL 14000 0.12 ACRES, SECTION 19 1 N 2 E
Tax Account No.: R942190620
State ID No.: 1N2E19CC 14000
Quarter Section: 2635

Neighborhood: Beaumont-Wilshire, contact Michael Rounds at 503-936-0740.
Business District: Beaumont Business Association, contact Matt Schumacher at 503-460-9025.
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.

Zoning: CSh – Storefront Commercial with an “h” 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:

The applicant proposes to divide the 5,000 square foot corner lot to create 2 parcels. The existing commercial building will be retained on Parcel 1 (3,010 square feet). Parcel 2 is proposed to be 1,990 square feet. The existing house and garage will be removed. The applicant proposes to develop a duplex on Parcel 2. An Adjustment request is being processed under a separate case to reduce the north side setback from the required 8-feet to 5-feet to accommodate the proposed duplex on Parcel 2 (see LU 08-139755 AD).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones.**

This partition is reviewed through a Type I land use review because: (1) the site is in a commercial 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 33.662.110).

ANALYSIS

Site and Vicinity: The site is a corner lot located at the intersection of NE Fremont Street and NE 45th Avenue. Currently, the site has an existing tavern located on the southern portion of the site, and a single story residence located on the northern portion of the site.

Zoning: The site is in the CSh zone, which is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service and business uses with a local and regional market area. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

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 280-feet above the lowest base point at Portland International Airport for the northern portion of the site where the new structure is proposed. 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 298.3-feet. The highest ground elevation on the site is approximately 255.8-feet. Therefore, buildings and vegetation on the site cannot exceed approximately 42.5-feet in height. The height limit for this zone is 45 feet, therefore the ‘h’ overlay will restrict the allowed height on the northern portion of the site. The current proposal is for a two-story residential structure that is approximately 22 feet in height. Therefore, no issues are identified.

Land Use History: LU 08-139755 AD: Approval of an adjustment to reduce the north side building setback from the required 8-feet adjacent to a residential zone to 5-feet to accommodate the proposed duplex on Parcel 2.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on August 29, 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.

APPROVAL CRITERIA

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

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

The relevant criteria are found in Section **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.613	Lots	Applicable - See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located on the 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	33.635 .100	Clearing and Grading	Applicable - See findings below.
F	33.635 .200	Land Suitability	Applicable - See findings below.
G	33.636	Tracts and Easements	Applicable - See findings below.
H	33.639	Solar Access	Not Applicable – Applies only to single-dwelling detached development.
I	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
J	33.641	Transportation Impacts	Applicable - See findings below
K	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.613 contains the lot standards applicable in the commercial zones. Chapter 33.613 works in conjunction with other chapters of the Zoning Code to ensure that land divisions create lots that can support appropriate uses and development. The standards are as follows:

33.613.100 Minimum Front Lot Line Standard

Each lot must have a front lot line that is at least 10 feet long.

Findings: Each proposed lot has a front lot line that is at least 10 feet long. Parcel 1 has a front lot line of 50- feet and Parcel 2 has a front lot line of 39.80-feet. This standard is met.

33.613.200 Minimum Lot Area, Width and Depth Approval Criterion

There are no minimum lot area, width or depth standards. Lots must be of a size, shape, and orientation that is appropriate for the location of the land division and for the type of development and use that is contemplated.

Findings: The site is a corner lot located at the intersection of NE Fremont Street and NE 45th Avenue. The applicant proposes to divide the 5,000 square foot corner lot to create 2 parcels. The existing commercial building will be retained on Parcel 1 (proposed to be 3,010 sf), which has an adequate size to accommodate the existing use and a 10 foot setback from the new property line needed to address building code concerns. Parcel 2 is proposed to be 1,990 square feet. The current proposal is to construct a duplex on the lot as shown on Exhibit C.2. However, given the high building coverage allowed in the zone and no required parking, a number of different commercial or residential development options could be supported on Parcel 2. This criterion is met.

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

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

33.635.100 – Clearing and Grading

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

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. 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. This criterion is met.

33.635.200 – Land Suitability

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

Findings: The site is currently in commercial and residential use. The commercial use is as a tavern and no associated hazards have been identified. BDS Site Development indicates that there is an existing drywell that will be in the area of Parcel 2. The drywell will need to be decommissioned prior to final plat approval. In addition, the applicant proposes to remove the existing residential structure and garage and redevelop proposed Parcel 2. In order to ensure that the new lots are suitable for development, a permit must

be obtained and finalized for demolition of the structures on Parcel 2, capping the sewer and decommissioning the drywell prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

G. 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 easement is proposed and/or required for this land division:

- A Private Reciprocal Storm Sewer Easement is proposed on Parcels 1 and 2, for a shared drywell that will provide stormwater disposal for both parcels.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and the facility within that 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 for the agreement, substantially similar to the following example:

"A Declaration of Maintenance Agreement for Private Reciprocal Storm Sewer Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

J. 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 50-feet of frontage on NE Fremont Street, and approximately 39.80-feet of frontage on NE 45th Avenue. NE Fremont Street is classified as a neighborhood collector for all modes in the Transportation System Plan, and NE 45th Avenue is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 120-feet from the site on NE Fremont Street via bus 33. Parking is currently allowed on NE Fremont Street and on NE 45th Avenue, on both sides. On-site parking is also included for the proposed duplex on Parcel 2.

NE Fremont Street is improved with a paved roadway, curbs, and sidewalks. NE 45th Avenue is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb, tree wells, and sidewalk improvements along the entire NE Fremont frontage must be made in order to ensure that safe pedestrian travel is possible to and from the proposed development. Furthermore, if NE 45th Avenue is in a poor condition, improvements will be required on that frontage. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service.

This criterion is met, with the condition that curb, sidewalk, and tree well improvements are made.

K. 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 6-inch water main is available in NE 45th avenue. Water is available to serve the proposed development from the water main in NE 45th avenue. Both Parcels have an existing water service from that main. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There are existing 8-inch PVC public sanitary sewers located in both NE 45th Avenue and in NE Fremont Street. BES indicates that City records show one sewer lateral for the property and have indicated that each lot must be shown to have its own connection prior to final plat approval. The applicant must demonstrate that Parcel 1 (the commercial building) has an individual connection on Parcel 1 through a TV and location survey of the line or establish a new line for Parcel 1 through either a connection to the line in NE Fremont or short sewer main extension and connection to the line in NE 45th. If applicable, a

permit must be obtained to cap the commercial portion of the shared connection. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. The site meets the through street and pedestrian connectivity requirements because it is a corner lot. As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or 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)

- **Parcels 1 & 2:** Stormwater from these lots will be directed to a shared drywell that will treat the water and slowly infiltrate it into the ground. As shown on Exhibit C-2, these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards. Site Development has indicated conceptual approval of the shared drywell. A commercial plumbing permit to convert the cesspool to a drywell and modify the storm system for the existing commercial building on Parcel 1 to connect to the converted drywell.

- **Public Street Frontage Improvements:** Portland Transportation is requiring reconstruction of existing damaged curb and sidewalk improvements. BES indicates that installing street trees would likely be an acceptable stormwater solution for such an improvement.

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

DEVELOPMENT STANDARDS

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

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

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

Existing development that will remain after the land division. The 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 CS zone.

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

- Minimum Setbacks – The existing commercial building 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 structure will be 10.05-feet from the new property line in order to comply with building code concerns. The proposed setback also meets the required zoning code setbacks. 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. Any reduction in setback needs to include approval by a building plan reviewer.

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	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Fire Code	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
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 http://www.bds.ci.portland.or.us.

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 limiting the height of new construction to 30-feet to ensure aerial fire department access. These requirements are based on the technical standards of Title 31 and the Fire Code.
- The applicant must meet the requirements of Urban Forestry for street tree planting in conjunction with the public works permit. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. This proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan for review by BDS Land Use Services, BDS Site Development and Bureau of Environmental Services 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. A 10-foot north building setback must be maintained for the commercial structure on Parcel 1 or approval from a Life Safety Plans Examiner must be provided;
- Utility plan showing the existing and proposed sanitary sewer connections (see Condition C.4 below)
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A private reciprocal storm sewer easement, shall be shown and labeled over the relevant portions of Parcels 1 & 2.
2. A recording block for the maintenance agreement, as required by Condition C.5 below. The recording block shall, at a minimum, include language substantially similar to the following example:

“A Declaration of Maintenance Agreement for the Private Reciprocal Storm Sewer Easement 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 meet the requirements of the City Engineer for right of way improvements along the frontage of NE Fremont Street and NE 45th Avenue. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review and the Bureau of Environmental Services for required street frontage improvements.

Existing Development

2. Finalized permits must be obtained for demolition of the existing residence and garage on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures.
3. The applicant must meet the requirements of Site Development for the stormwater systems for the existing commercial building to remain on Parcel 1 as follows:
 - A separate finalized decommissioning permit must be obtained for the existing drywell and to convert the existing cesspool to a drywell. This requirement may not be included as part of the demolition permit.
 - A commercial plumbing permit is required to modify the rain drains to connect the existing commercial building on Parcel 1 to the new drywell (converted cesspool).
4. The applicant must meet the requirements of the Bureau of Environmental Services for each lot to have a means of access and individual connection to the public sanitary sewer system as follows:
 - The applicant must demonstrate that Parcel 1 (the commercial building) has an individual connection on Parcel 1 through a TV and location survey of the line; OR
 - The applicant must establish a new line for Parcel 1 through either a connection to the main in NE Fremont or NE 45th (requires short sewer main extension); and
 - If applicable, a permit must be obtained and finalized to cap the commercial portion of the shared sanitary connection.

Required Legal Documents

5. A Maintenance Agreement shall be executed for the Storm Sewer 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.

D. The following conditions are:

1. 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 eave.

Decision rendered by: Stephanie Beckman on October 8, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed: October 10, 2008

Staff Planner: Stephanie Beckman

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 June 23, 2008, and was determined to be complete on August 21, 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 June 23, 2008.

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

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

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

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

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

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

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

digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at www.portlandonline.com.

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

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

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



ZONING



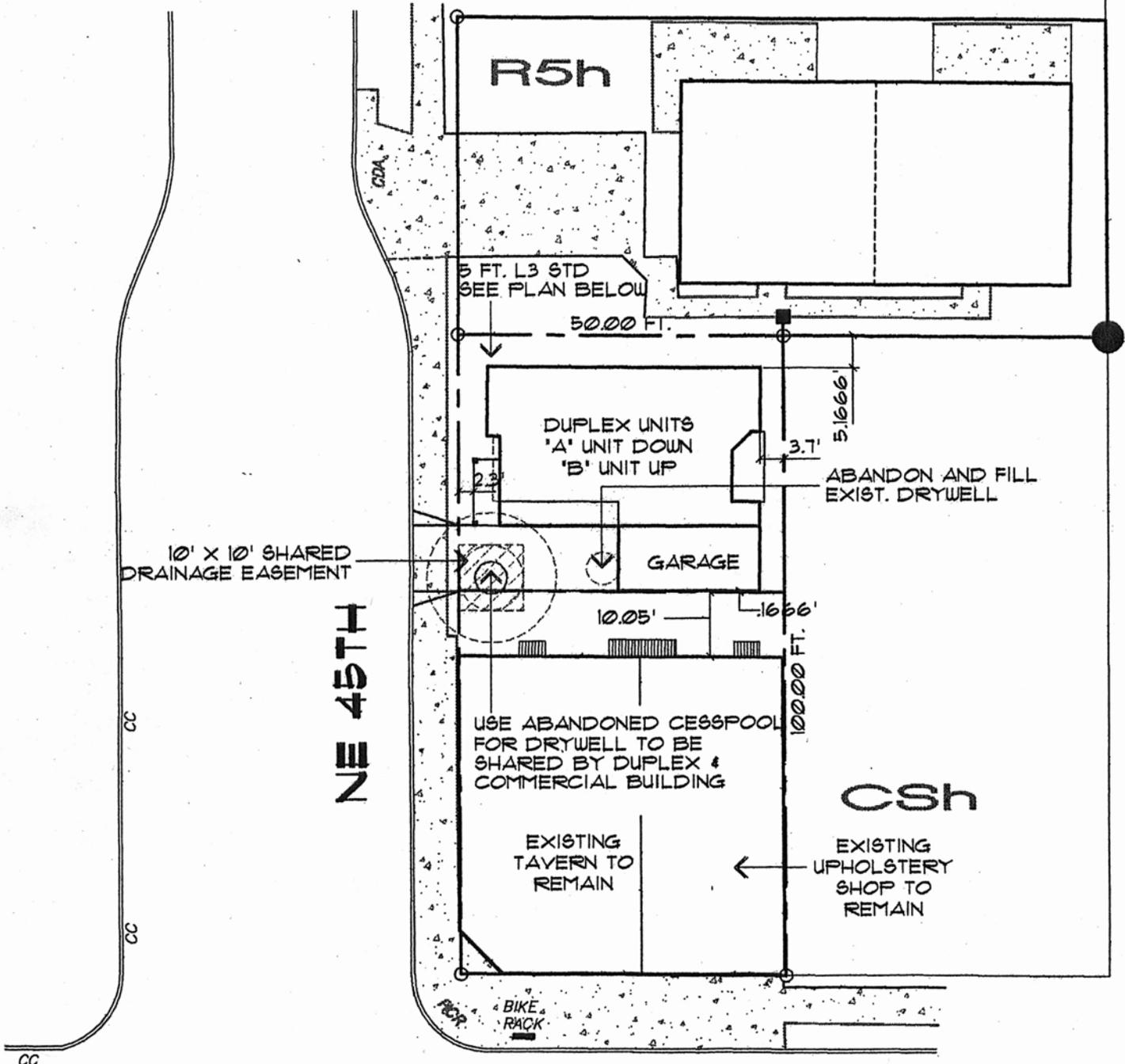
Site



NORTH

File No. LU 08-139765 LDP
 1/4 Section 2635
 Scale 1 inch = 200 feet
 State_Id 1N2E19CC 14000
 Exhibit B (Jun 24, 2008)

Development



11 DAL NORWAY MAPLES
'DES COLUMNARE'

NE FREMONT

CASE NO. LU08-139765
EXHIBIT C2

PROPOSED