



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

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**Date:** August 12, 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 08-105283 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Dale Marx 503-667-5550  
Dale Marx Associates  
Po Box 565  
Gresham, OR 97030  
  
Jim Kosta  
B-W Construction, Inc.  
Po Box 66910  
Portland, OR 97290

**Site Address:** 2161 SE 142ND AVE

**Legal Description:** LOT 1, PARTITION PLAT 2007-106  
**Tax Account No.:** R649874210  
**State ID No.:** 1S2E02DD 00501 **Quarter Section:** 3244  
**Neighborhood:** Hazelwood, contact Arlene Kimura at 503-252-9429.  
**Business District:** Gateway Area Business Association, contact Fred Sanchez at 503-256-3910; Midway, contact Donna Dionne at 503-252-2017.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.  
**Zoning:** R5a – Residential 5,000 with an “a” Alternative Design Density 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 is proposing to divide the existing 10,119 square foot property into two parcels for detached houses. Parcel 1 is proposed to be 6,248 square feet and will retain the existing residence. Parcel 2 is proposed to be 3,871 square feet and is subject to the “narrow lot” standards of Portland Code Section 33.611.200.C. Stormwater for proposed Parcel 2 will occur on-site through infiltration.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

**Relevant Approval Criteria:**

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

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

## ANALYSIS

**Site and Vicinity:** The site is relatively flat and contains an existing single dwelling residence and a detached garage. There are no significant geological features on the site, which is composed of grassy and gravelly areas and several small trees that were planted as a condition of a previous land division review.

The surrounding area primarily consists of single dwelling development. Adjacent to the site to the south is a private street that serves several relatively newly created lots. There is a flag lot behind the site to the west that was divided from the land division site in 2007. There is a home under construction on the flag lot. The properties to the north also include a standard lot and flag lot developed with single family homes.

**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 "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. The applicant's proposal does not use provisions of the "a" overlay zone.

**Land Use History:** A land division and associated adjustments (LU 04-011813 LDP AD) were approved at this site in 2005. The land division divided the flag lot to the west of this site from the subject property. Adjustments were approved allowing the subject site to exceed the maximum lot size for the R5 zone and waiving the tree preservation requirements of Chapter 33.630. As a condition of that land division, the applicant was required to plant three broadleaf trees of 2-inch caliper and two 6-foot tall Cedar trees (Zoning Permit 07-117563), with the condition that if the subject site were further divided, these trees must be preserved through a tree preservation plan.

The result of a site visit indicate that all of the trees to be planted on Parcel 1 are no longer there. Based on a review of aerial photograph resources it appears as though some of the trees may have died and been replaced. However, the correct quantity and species could not be located on the site. To rectify this issue and to comply with the condition of approval of LU 04-011813, the applicant will be required to obtain a zoning permit to verify the correct trees are planted at the site. The final plat submittal shall include a supplemental plan showing the location, size and species of the trees along with the location of protection fencing to be installed during construction on proposed Parcel 2.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on **July 3, 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:** One written responses was received from the Hazelwood Neighborhood Association that expressed no concerns (Exhibit F.1)

## 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
<b>A</b>	<b>33.610</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
B	33.630	Trees	Not applicable – There are no significant trees or trees in excess of 6 inches in diameter located on the site. Tree mitigation planting was required for a previous land use case (LU 04-011813). There are requirements related to that condition (see Land Use History above).
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.
<b>G</b>	<b>33.635 .100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635 .200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
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.
<b>K</b>	<b>33.641</b>	<b>Transportation Impacts</b>	<b>Applicable - See findings below</b>

Criterion	Code Chapter	Topic	Applicability Findings
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 =  $(10,119 \text{ square feet} * .80) \div 5,000 \text{ square feet} = 1.61$  (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum =  $10,119 \text{ site area square feet} \div 5,000 \text{ square feet} = 2.02$  (which rounds down 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.	6,248 sq. ft	3, 871 sq. ft.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	66.34 ft.	33.66 ft.
Minimum Lot Depth	50 ft.	115 ft.	115 ft.
Minimum Front Lot Line	30 ft.	66.34 ft.	33.66 ft.

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

#### Narrow Lots

Parcel 2 is 33.66 feet wide — narrower than the standard minimum width for the R5 zone, as shown in the table above. Section 33.610.200.D of the Zoning Code, however, allows narrower lots if the future development can meet certain standards:

- **If the lot abuts an alley, then vehicle access is allowed only from the alley;**
- **If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created under these provisions (lots that abut a pedestrian connection or common green are exempt from this standard).**
- **Lots must be configured so that at the time of development the length of the garage wall will be no more than 50% of the length of the street-facing building façade.**
- **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- **When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley; and**

The applicant has demonstrated that Parcel 2 can meet the narrow lot standards for the following reasons:

#### ***Alley access:***

- The site does not have access from an alley, so this standard does not apply.

#### ***Preserves on-street parking***

- Exhibit C-1 shows that 15-feet of uninterrupted curb space will be preserved along the frontage of the site along SE 142<sup>nd</sup> Avenue between the existing driveway for Parcel 1 and the proposed driveway for Parcel 2.

#### ***50 percent garage wall limitation***

- The widest house that could be developed on Parcel 2 would be 23.66 feet wide, assuming it complied with the 5-foot side yard setback requirement on either side. A standard one-car garage typically includes an 8-foot wide garage door with 1.5 to 2 feet of structural support on either side (resulting in an 11 to 12 foot wide garage). A 23.66 foot wide house could have a garage wall up to 11.83 feet long and still comply with the 50% garage wall limitation standard. Therefore it can be assumed that a new house on the lot could provide a one-car garage and still comply with the 50% garage wall limitation.

#### ***60 percent landscaping requirement for attached houses***

- Parcel 2 will be developed with a detached house, therefore this standard does not apply.

The findings above describe how the applicable lot standards are met.

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

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

**33.635.100 – Clearing and Grading**

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

**Findings:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. Mitigation tree planting was required on the site from a previous land use decision. This decision also required that the mitigation trees be protected if the site is further divided. To comply with this condition, the applicant must verify the mitigation tree locations and protection fencing on a supplemental plan with the final plat. With this condition, these criteria are 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. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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

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

**33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation**

**measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.**

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

The site has approximately 100 feet of frontage on SE 142<sup>nd</sup> Avenue, which is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 950 feet from the site on SE Division Street via bus 4. Parking is currently allowed on SE 142<sup>nd</sup> Avenue on both sides. There are currently two driveways entering the site that provide access to off-street parking for the existing house.

SE 142<sup>nd</sup> Avenue is improved with a paved roadway, and gravel shoulders on both sides. 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. Street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) exist for this property as part of a previous land division (LU 04-011813). However, the Office of Transportation will require that waivers of remonstrance be resubmitted prior to final plat approval to reaffirm this commitment.

Due to the proximity of the existing private street to the south (SE Grant Court) at the time of development, a minimum of 5 feet of separation from the south property line to the driveway approach for Parcel 2 will be required. Therefore, it may be necessary to locate the driveway for proposed Parcel 1 on the north side of the lot.

With the condition of approval described above, 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.

- The water standards of 33.651 have been verified. An existing 8-inch water main is available in SE 142<sup>nd</sup> Avenue. The existing house can continue its current service from the main in SE 142<sup>nd</sup> Avenue. 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 SE 142<sup>nd</sup> Avenue 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.
- 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.

### 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:** The existing house on Parcel 1 has downspouts that drain onto splash blocks that will not be impacted by the proposed property line. Stormwater from Parcel 2 will be directed to an individual soakage trench that will treat the water and slowly infiltrate it into the ground. A conceptual building footprint and soakage trench location shown on the site plan demonstrate that this parcel 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 trench.

### Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site and because no street is proposed or required, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable – No new right of way is proposed or required.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

**33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:**

- a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
- d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**

- e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

**Findings:** The site is located between SE Division Street and SE Harrison Street, which have a distance between them of approximately 1,640 feet. There are no other east-west through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one could conclude that there should be an east-west through street provided in the vicinity of the site.

The site does not contain sufficient width to allow the creation of a public east-west through street and still allow a partition of the property. In addition, the flag lot and narrow lots to the west of the site and the existence of a private street adjacent to the site to the south are not configured in a manner that would easily allow the further extension of a street from the site. For the same reasons, a through public pedestrian connection would not be feasible.

Street spacing requirements are met for north-south streets, with 350 feet between SE 141<sup>st</sup> and SE 142<sup>nd</sup> Avenues.

The site is within the Portland Master Street Plan for the Far Southeast District. The plan does not indicate that a new through connection is necessary this location requires. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

#### **Utility Location, Extension of Streets, Partial Rights of Way**

##### **33.654.130 Additional Approval Criteria for Rights-of-Way**

- A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.**

**Findings:** Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way 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.

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:

- Narrow Lots-- development on Parcel 2 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.2 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 33.110.250.E.4.c (1)

**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 R5 zone (Please see section on Other Technical Standards for Building Code standards.)

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 5 feet from the new property line. 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 Structure – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structure that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. A finalized demolition permit is required prior to final plat approval.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. Currently a driveway and garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. A permit has been issued for the construction of the new parking pad, but it has not received final inspection approval (ZP 08-113934). Documentation of final inspection of this new parking space will be required prior to final plat approval.

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>
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<b>Bureau</b>	<b>Code Authority</b>	<b>Topic</b>	<b>Contact Information</b>
Water Works	Title 21	Water availability	503-823-7404 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Fire Code	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.

## **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. The primary issue identified with this proposal is compliance with a condition of approval for tree planting and protection from a prior land use review (LU 04-011813 LDP AD). With a condition of approval that addresses this requirement 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 narrow 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; and
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application.

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

### **Streets**

1. The applicant shall sign street and storm sewer waivers of remonstrance SE 142<sup>nd</sup> Avenue (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.

### **Existing Development**

2. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2.
3. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. Zoning Permit 08-113934 ZP for this work



**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.

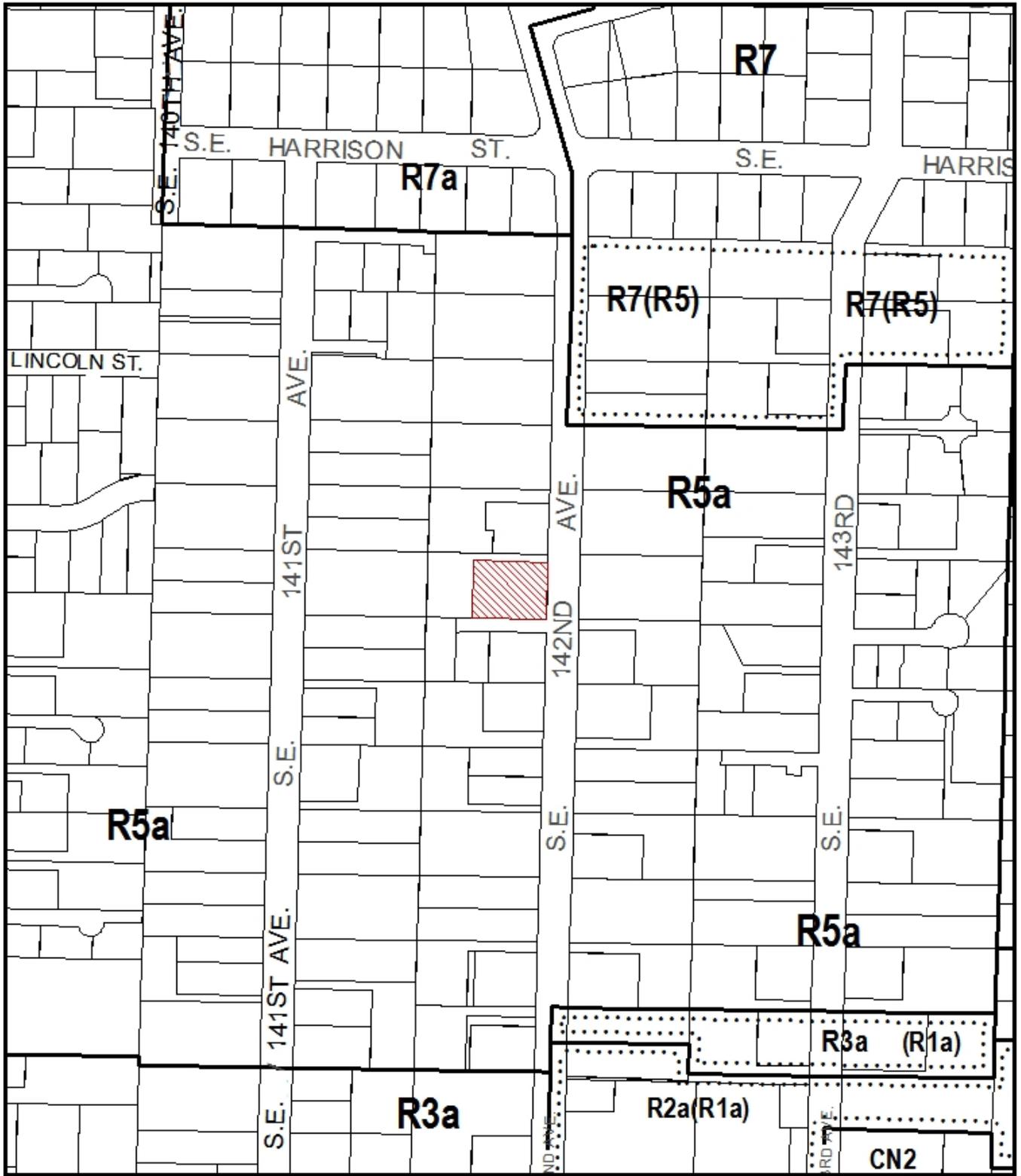
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information 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. Preliminary Land Division 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
  - 7. BDS Life Safety
- F. Correspondence from interested parties:
  - 1. Hazelwood Neighborhood Associations (no concerns)
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete letter



# ZONING

 Site



File No. LU 08-105283 LDP  
 1/4 Section 3244,3245  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E02DD 501  
 Exhibit B (Jan 30,2008)

**TENTATIVE PLAN FOR LAND DIVISION, EXISTING CONDITIONS AND PROPOSED IMPROVEMENTS**

PARCEL 1 OF PARTITION PLAT IN THE SE 1/4 OF SECTION 2, T.1S., R.2E., W.M. CITY OF PORTLAND, MULTNOMAH CO., OREGON

**MARY ASSOCIATES**  
18615 E. BURNSIDE STREET  
PORTLAND, OR 97233  
TEL: 503-657-5550  
FAX: 503-656-8666  
EMAIL: DALEMARY@TEGRAONLINE.COM

DATE DRAWN: DECEMBER 10, 2007  
ACCOUNT NO. 07062  
DRAWING NO. 07062TP

*REV. 6.26.08*

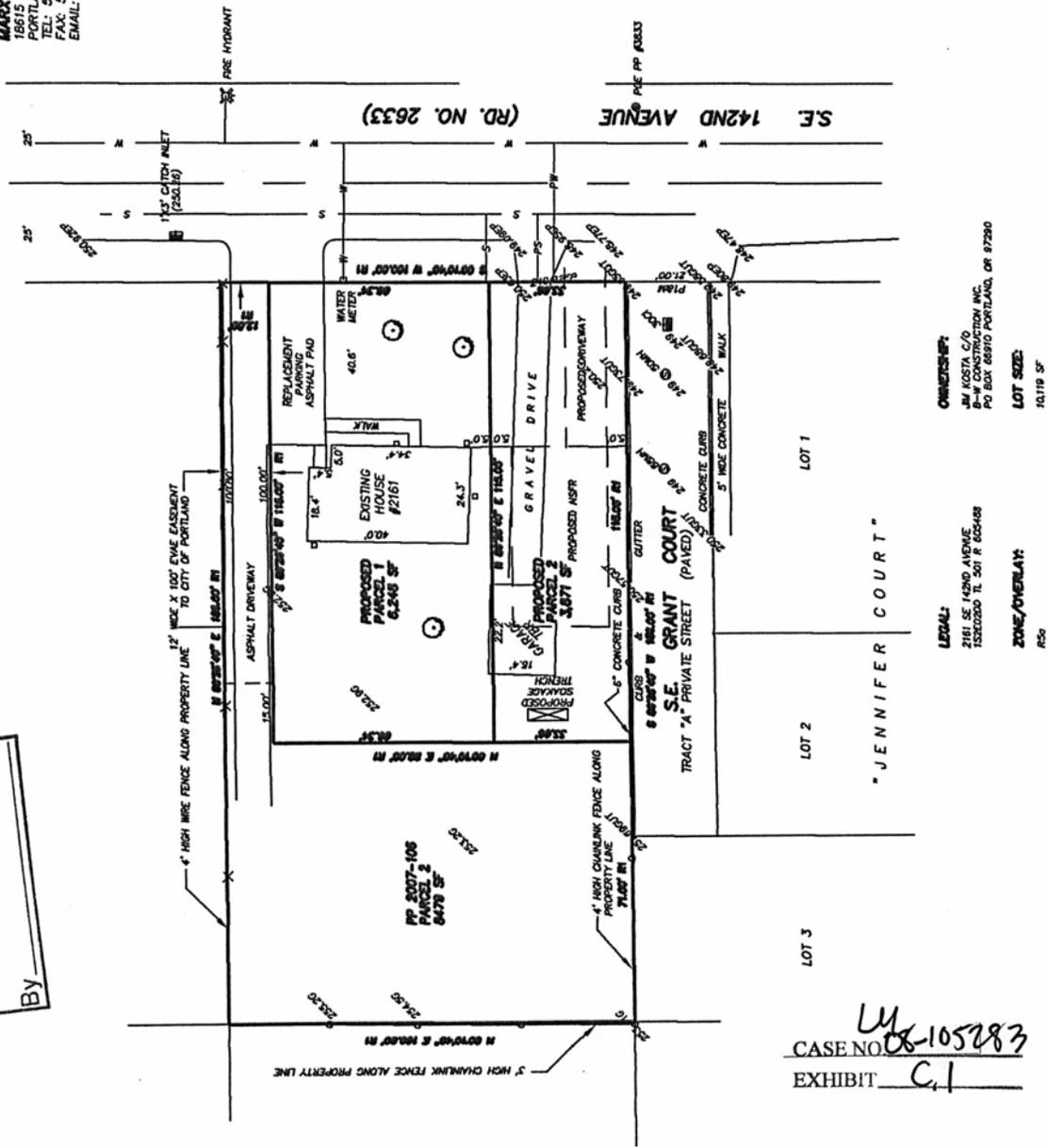
*Note: Driveway location for Parcel 2 to be removed at building permit. Mud need to be relocated to meet separation requirements (see post response to E.I.)*

REGISTERED POST EXAMINED LAND SURVEYOR  
*DR*  
DECEMBER 14, 1988  
JAMES E. BAKER  
EXPIRATION DATE 12/14/09

**NOTES & LEGEND:**

- BENCH MARK IS CITY OF PORTLAND BENCHMARK NO. 1111, A 2"-1/2" BRASS DISC STAMPED "C.L.B. BENCH MARK NO. 1111 ELEVATION 262.32" AT THE SE CORNER OF S.E. 141ST AVENUE AND S.E. HARRISON STREET.
- A. VERTICLE VALUES ARE TAKEN TO THE DECIMAL POINT OF THE VALUE OR THE LEADER POINT UNLESS NOTED OTHERWISE.
- THERE ARE NO TREES OR SIGNIFICANT SHRUBS ON THIS PROPERTY.
- "P1" DENOTES PARTITION PLAT 2007-106, MULTNOMAH COUNTY PLAT RECORDS.
  - "P2" DENOTES PARTITION PLAT.
  - "D" DENOTES DRIVE.
  - "E" DENOTES EASEMENT.
  - "EM" DENOTES EMERGENCY VEHICLE ACCESS EASEMENT.
  - "S" DENOTES SQUARE FEET.
  - "R" DENOTES TO BE REMOVED.
  - "PS" DENOTES PROPOSED SANITARY SEWER.
  - "PW" DENOTES PROPOSED WATER LINE.
  - "C" DENOTES PROPOSED CURB.
  - "W" DENOTES PROPOSED WALK.
  - "M" DENOTES PROPOSED MITIGATION TREE.
  - "M1" DENOTES MITIGATION TREE (4" MAPLE TYPICAL).

**RECEIVED**  
JUN 30 2008  
By \_\_\_\_\_



*LU 08-105283-04*

CASE NO. *08-105283*  
EXHIBIT *C.1*