



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: May 23, 2008
To: Interested Person
From: Stephanie Beckman, Land Use Services
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NOTICE OF A TYPE II_x 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 and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-109725 LDP

GENERAL INFORMATION

Applicant: John Middleton 503-235-8795
Ztec Engineers
3737 SE 8th Av
Portland, OR 97202

Owner: Tim Walker 503-880-7132
First Choice Custom Homes Inc
7235 SW Bonita Road
Tigard, OR 97224

Site Address: 3652 SW Hume St

Legal Description: EXC E 5'-N 106' OF LOT 8 BLOCK 1, SOUTH MULT HALF AC
Tax Account No.: R778500450
State ID No.: 1S1E20CD 00800 **Quarter Section:** 3825
Neighborhood: Multnomah, contact Brian Russell at 503-869-1632.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Other Designations: Potential Landslide Hazard Area
Zoning: R7 – Single Dwelling Residential 7,000
Case Type: LDP – Land Division Partition
Procedure: Type IIX, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide the 8,178 square foot site to create two lots for attached houses. Parcel 1 will be 4,316 square feet and Parcel 2 is proposed to be 3,862 square feet. An extra unit of density is allowed for attached houses on a corner lot (see 33.110.240E).

The applicant proposes on-site stormwater management for both parcels with a flow through planter that will dispose to the existing ditch on SW 37th Avenue. Private stormwater and sanitary sewer easements are proposed across Parcel 2 to allow service to Parcel 1. Applicant proposes to preserve Tree #3 an 11-inch Wild Cherry.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (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:

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

ANALYSIS

Site and Vicinity: This vacant site located on the southeast intersection of SW Hume Street and SW 37th Avenue. The surrounding neighborhood is characterized by single family residences on originally platted plots or on more recently subdivided properties.

Zoning: The site is zoned R7 – Residential 7,000. The 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.

Typically the R7 zone allows a maximum density of 1 unit per 7,000 square feet of site area, but additional density can be achieved in this situation due to the corner lot provision that allows an extra unit of density (See Chapter 33.110.240.E).

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 March 26, 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 response has been received from a notified property owner in response to the proposal during the comment period. The comments are summarized below with brief staff response (see Exhibit F.1 for more detail). An additional written response was received after the comment period closed (see Exhibit F.2).

- Concerns about steep slopes and underground springs

Staff Response: The applicant has provided a landslide hazard study prepared by a geotechnical engineer and engineering geologist. No significant slope stability concerns were identified. In addition, the report noted the presence of shallow groundwater on the site, but indicates there does not appear to be a spring or seep. The applicant’s representative also indicated that the survey crew did not identify any springs.

- Concerns about deviation from the R7 zoning and lack of a buffer to adjacent properties

Staff Response: An extra unit of density is allowed on corner lots within single dwelling zones including the R7 zone, per Zoning Code Section 33.110.240.E. This could be done by constructing a duplex on the existing lot or by constructing attached houses on two separate lots created by a land division. The applicant has chosen to pursue the land division option. There is no requirement for a buffer to adjacent properties beyond the 5 foot building setback.

However, the tree to be preserved along the southern border of the property will result in an increased setback and buffer on that side.

- Concerns about stormwater impacts

Staff Response: The neighbor letter was forwarded to the Bureau of Environmental Services, which is the agency responsible for public stormwater facilities and off-site disposal of stormwater. A site visit by the maintenance crew identified the need for ditch improvements to ensure there is adequate capacity to convey overflow from the development site without exacerbating existing problems. This work will need to be complete before the final plat is approved. It should be noted that the abutting street and ditch within the SW 37th right-of-way are not maintained by the City of Portland. Therefore, any needed maintenance of these features are the responsibility of abutting property owners. See additional information in section “L” below and in the BES response (Exhibit E.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
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Applicable - See findings below.
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 - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps were identified by the applicant (see Exhibit A.1 and A.3) or were evident on the site visit by city staff.

Criterion	Code Chapter	Topic	Applicability Findings
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.

For Single-dwelling zones:

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. There is no minimum density because the site is within the potential landslide hazard area. The maximum density for this site is as follows:

Maximum = 8,178 square feet ÷ 7,000 square feet = 1.16 (which rounds down to a maximum of 1 lot, per 33.930.020.B)

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

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):

	R7 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2

Minimum Lot Area	4,200 sq. ft.	4,299	3,879
Maximum Lot Area	12,000 sq. ft.		
Minimum Lot Width*	40 ft.	50.56	54
Minimum Lot Depth	55 ft.	78.45	78.45
Minimum Front Lot Line	30 ft.	50.56	30.03

* Width is measured at the minimum front building setback line

Attached Houses on Corner Lots

Parcel 2 is smaller than would normally be allowed in the R7 zone. As described above, these lots are being created through a provision that allows attached houses on corner lots. To use this provision, the original corner lot, before division must meet the minimum lot size standard of the R7 zone. Taken together (before the division), Parcels 1 and 2 combined are 8,178 square feet in area, which exceeds the minimum requirement of 4,200 square feet in the R7 zone. Therefore, the corner lot may be divided to create Parcels 1 and 2 as proposed.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, this criterion is therefore met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones Exhibit A.2. Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt (per 33.630.030)	To be retained	RPZ (Root Protection Zone)
1	Big Leaf Maple	18	Yes	Exempt: Severe rot	No	
2	Apple	9		Regulated	No	
3	Wild Cherry	11		Regulated	Yes	11', except 7' to North
4	Silver Maple	12		Regulated	No	
5	Bigleaf Maple	8,5		Off Site	N/A	
6	Bigleaf Maple	6,10,11,14		Off Site	N/A	

The total non-exempt tree diameter on the site is 32 inches. The applicant proposes to preserve tree # 3, which comprises 11 inches of diameter, or 34 percent of the total non-exempt tree diameter. The applicant has provided a Tree Preservation Plan showing the preserved tree and the root protection zone (Exhibit C.2)

The site plan provided by the applicant shows encroachments into the root protection zone of Tree #3. An addendum from the arborist indicated that impact to the root system will be acceptable and notes that if the contractor needs to get closer than 7 feet to the trunk of the tree, arborist supervision will be necessary. The site plan also shows a deck within the root protection zone, which has not been addressed by the arborist. To ensure adequate protection of tree in limited space, 6-foot high metal fencing shall be installed as shown on the site plan (11 feet from the trunk on the east and west sides and 7 feet from the trunk on the north side). Arborist approval is required for relocation of the fence for construction access after excavation is complete. Any excavation within the root protection zone noted above requires arborist supervision. If a deck is proposed within the root protection zone, a specific tree protection plan for the encroachment must be provided by the arborist with the building permit.

The proposal to preserve only Tree #3 does not meet any of the tree preservation options in 66.630.100. For example, option 1 requires 35% of the tree diameter to be preserved. Therefore, the applicant must use the mitigation option of 33.630.300:

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
 - 1. Minimum density;**
 - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
 - 3. Implementation of an adopted street plan;**
 - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
 - 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**
 - 6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.**

Findings: The site is less than 15,000 square feet in area. The applicant wishes to divide the site for attached housing, which is allowed on a corner lot in the R7 zone. Given the size and shape of the site, there is no other substantially different arrangement of lots that would allow for additional tree preservation on the site. The applicant proposes to preserve one tree (#3) that accounts for 34 percent of the non-exempt tree diameter. Tree #2 is in the middle of proposed Parcel 2 and is therefore not possible to preserve. Tree #4 was originally proposed for preservation, however this tree would be difficult to preserve due to a number of factors including the need to bring stormwater from the site to the only disposal point at the southwest corner of the site, the placement of the stormwater planter for Parcel 2 and the need for grading to install a driveway serving Parcel 2.

The applicant has not submitted a mitigation plan. Because this is a vacant site, Section 33.248.020.H, known as the T1 tree planting standard, will apply on the lots as part of the approval of future building permits. The T1 tree standard requires the planting of at least 2 inches of tree caliper per 1,000 square feet of site area, or the equivalent inches in preservation or payment into the tree fund. Preservation Tree #3 will satisfy the T1 requirement for Parcel 2. The T1 requirement will result in approximately 9 inches of new trees planted on Parcel 1. Because of the small size of the parcels it is not practical for additional trees beyond the T1 standard to be planted on Parcel 1 without jeopardizing the overall health of all of the trees on the site. However, an additional tree could be planted on Parcel 2 to help mitigate for the loss of mature trees on the site. As the tree matures it will help to foster and maintain the City's natural heritage. And will help absorb air pollutants and contamination, provide buffering from noise and wind, and provide visual screening from the adjacent properties. The additional tree must be shown on building permit plans for Parcel 1 and must meet the minimum landscaping standards for residential zones. With this condition, the mitigation option criteria are met.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

33.632.100 Landslide Hazard Area Approval Criterion

The following approval criterion must be met: Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Alternative development options including alternative housing types and reduced density may be required in order to limit the risk to a reasonable level.

Findings: The entire site is located within the Potential Landslide Hazard Area. In order to evaluate the proposal against this criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.3). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the sloping site currently possesses no significant risk of potential landslide hazard. The proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation has concurred that the applicant's proposed method of stormwater disposal at the site will not have a significant detrimental impact on the slope stability on or around the site. This conclusion was reached because stormwater will not be disposed on the site itself. It will be treated and discharged into an existing drainage ditch as discussed later in this report under the findings for "Stormwater Management Approval Criteria."

Site Development has concurred with the findings of the applicant's geotechnical report. This criterion is met.

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

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 sloped, and is located within the Potential Landslide Hazard Area. The applicant has provided a grading plan that shows building footprints and necessary grading to install driveways (Exhibit C.2). Because of the small size of the site, most of the site will be disturbed during construction, with the exception of the tree protection area. A detail plan appears to show some contour areas within the tree protection area (Exhibit C.3). This is not allowed and must be corrected on the grading plan provided with the building permit. The applicant's geotechnical report (Exhibit A.3) includes recommendations to limit erosion and slope stability concerns. Additional review of specific grading and erosion control measures will be part of the building permit review for this site. 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: A house was demolished under a finalized permit in 2001 and the site is currently vacant. As indicated above, the site 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.

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:

- A Private Sanitary Sewer Easement across Parcel 2, for a sanitary sewer lateral connection that will serve Parcel 1.

- A Private Storm Sewer Easement, across Parcel 2, for a storm sewer connection that will serve Parcel 1.

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

“A Declaration of Maintenance Agreement for the (name of feature) 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 100 feet of frontage on SW 37th Avenue and 73 feet on SW Hume Street, both of which are classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 430 feet from the site on the corner of SW Capital and Garden Home via bus 44. Parking is currently allowed on SW 37th Avenue and SW Hume street, on both sides, where space is available. The site is vacant, and there are no existing off-street parking spaces on the site.

SW 37th Avenue and SW Hume Street provide a sub-standard roadway surface. 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. There is an existing 8-inch water main in both SW Hume and SW 37th Avenue. Parcel 1 has an existing water service from the main in SW Hume. Parcel 2 can be served from the main in SW 37th. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch public sanitary sewer located in SW 37th avenue that can serve the sanitary needs of the proposed lots. There is an existing sewer lateral in the frontage of Parcel 2 that the applicant proposes to use for Parcel 1 via easement. The Site Development Section of BDS has noted that a minimum 10 foot wide easement is required unless a plumbing code appeal is obtained. The easement must be shown on final plat. See Exhibits E-1 and E.5 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 stormwater management methods described below and shown on Exhibit C.1, and the Bureaus have responded as follows (see Exhibits E-1 and E-5 for details):

- Parcels 1 & 2:** The applicant's landslide hazard study recommends against on-site infiltration of stormwater due to slopes and low permeability of the soils. The applicant proposes to direct stormwater from these lots into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to the existing drainage ditch in SW 37th Avenue that begins near the southwest corner of the site. The applicant has provided a conceptual site plan showing that each lot has sufficient size for individual planter boxes. Site Development has indicated no objection to the proposal and the Bureau of Environmental Services has indicated that the treated water can be directed to the existing ditch provided some improvements are made to ensure adequate capacity is available to convey to overflow without impacting adjacent properties. Prior to final plat approval, the Bureau of Environmental Services requires the applicant to improve the existing ditch along SW 37th Avenue frontage of the site to the intersection of SW 37th and SW Carson Street south of the site. Because the street is not maintained by the City of Portland, the improvement will need to take place under PDOT's expanded maintenance provisions by the property owners (see E-1 for additional details).

With the conditions of approval described above, the stormwater management criteria are met.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, 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.
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 - The proposal does not include any new streets.
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.

Code Section	Topic	Applicability Findings
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 a small corner lot located at the intersection of SW 37th Avenue and SW Hume Street. The street spacing criteria are met.

The site is within an area that has an adopted Master Street Plan but no connection is shown at this location, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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: At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. With conditions that the appropriate easements be shown on the final plat to the satisfaction of the service providing agencies, this criterion can be 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:

- Attached Houses on Corner Lots-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E. The address and main entrance of each house must be oriented to a separate street frontage. Development on Parcel 1 must be oriented toward SW Hume street and development on Parcel 2 must be oriented toward SW 37th Avenue.

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R7 - Single Family Residential 7,000 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	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 Policy B-1	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/

Bureau	Code Authority	Topic	Contact Information
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 contact the Urban Forestry Division of Portland Parks and Recreation for tree removal review before removing any tree located in the City right of way (see E-6 for additional details). This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2 lot partition for attached houses on a corner lot in the R7 zone, as shown on the attached preliminary plan Exhibit C1. 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: The applicant is required to improve the downstream ditch to address capacity concerns.
- Tree Preservation: Encroachments are shown within the root protection zone of the one tree to be preserved. Additional information must be provided from an arborist to allow these encroachments.

With the conditions noted above, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in two standard lots as illustrated with Exhibit C1, subject to the following conditions:

A. The final plat must show the following:

1. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2. The easement is required to be 10 feet wide unless a plumbing code appeal is granted.
2. A private storm sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2. The easement is required to be 10 feet wide unless a plumbing code appeal is granted.
3. A recording block for the required maintenance agreement(s), as required by Condition B.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for the (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

B. 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.

Utilities

- The applicant shall meet BES requirements to improve the existing ditch on SW 37th Avenue along the frontage of the land division site and south to the intersection of SW 37th Avenue and SW Carson Street (see Exhibit E-1 for additional details). Contact Andrew Abei at Portland Department of Transportation at (503) 823-5648 for details about requirements on ditch improvements.

Required Legal Documents

- A Maintenance Agreement(s) shall be executed for the Private Sanitary Sewer and Private Storm Sewer easement areas described in Conditions A.1 and A.2 above. The agreements shall include provisions assigning maintenance responsibilities for the easement areas and any shared facilities within those areas, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

- Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.2). Specifically, tree number 3, a 11-inch Cherry is required to be preserved, with the root protection zone indicated on Exhibit C-2 (11 feet east and west and 7 feet to north). The additional tree protection requirements apply;
 - The root protection zone must be protected with 6-foot high metal fencing.
 - Arborist approval is required for any relocation of the fence for construction access after excavation is complete.
 - Any excavation within the root protection zone noted above requires arborist approval and supervision. If a deck is proposed within the root protection zone, a specific tree protection plan for the encroachment must be provided by the arborist with the building permit.
- At least one tree must be planted on Parcel 2 at the time of development. The tree location, size and species must be shown on the site plan submitted for building permit approval. The required tree must meet the minimum landscaping standards for residential zones.
- Parcels 1 and 2 may only be developed with attached houses meeting the development standards of Zoning Code Section 33.110.240.E.

Decision rendered by:  on May 21, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed May 23, 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 February 19, 2008, and was determined to be complete on March 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 February 19, 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 extend the 120-day review period.

Note: 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.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 6, 2008** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor.

An appeal fee of \$250 will be charged. The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

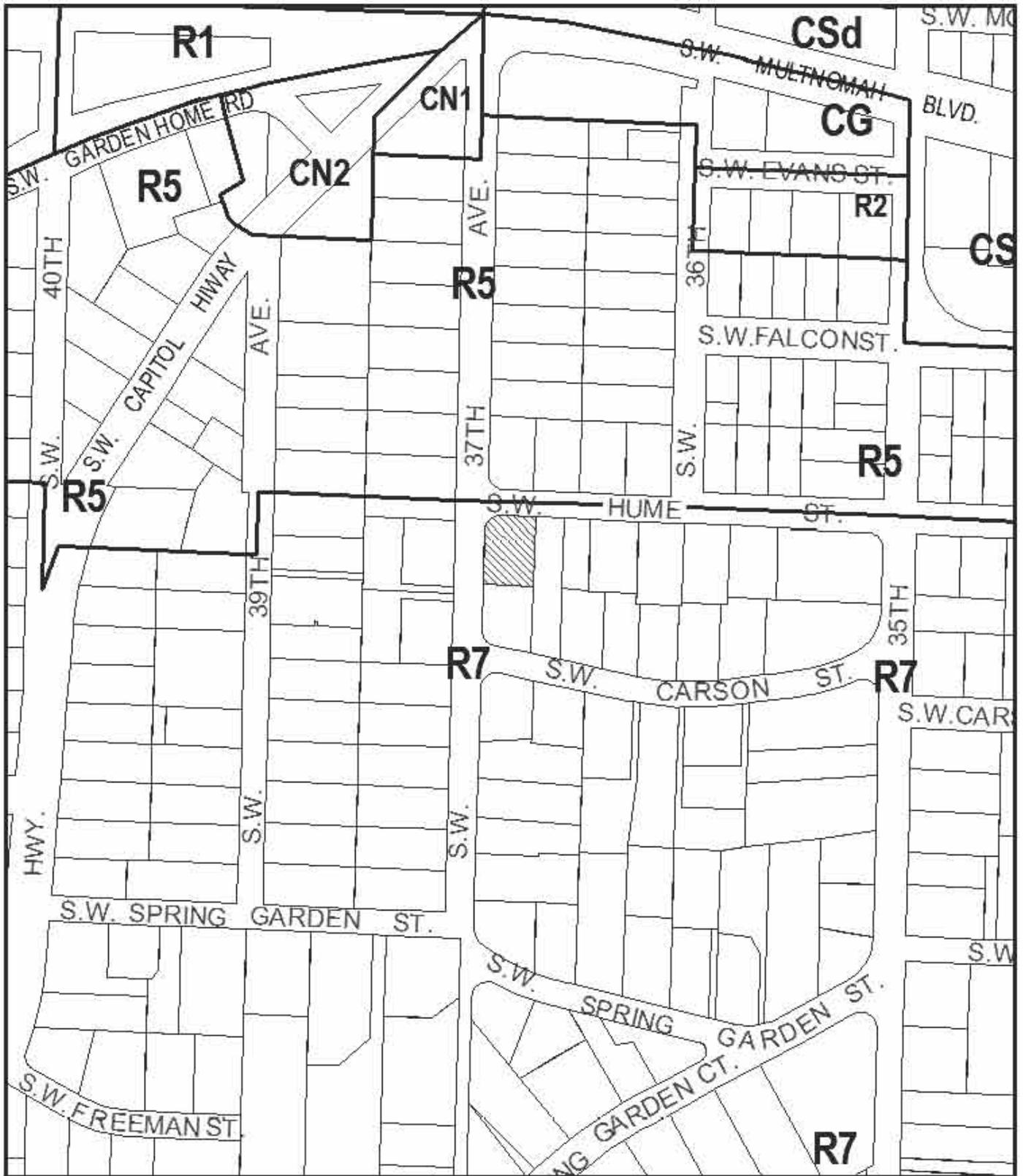
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative form & additional information (a-d)
 - 2. Arborist Report & Addendum
 - 3. Landslide Hazard Study (a&b)
 - 4. Neighborhood contact letters
 - 5. Prior plan submittals (a&b)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat (attached)
 - 2. Preliminary Grading and Tree Protection (attached)
 - 3. Parcel 2 Deck and Tree detail
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services & Addendum
 - 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
- F. Correspondence from interested parties:
 - 1. Rob B. and Nancy J. Middleton (13465 NW Mason Hill Rd, North Plains, OR 97133), received April 21, 2008.
 - 2. Randy Bonella, Multnomah Neighborhood Association, 4122 SW Garden Home Road, Portland, OR 97219, received via email 5/13/08 (after comment period closed)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. 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).

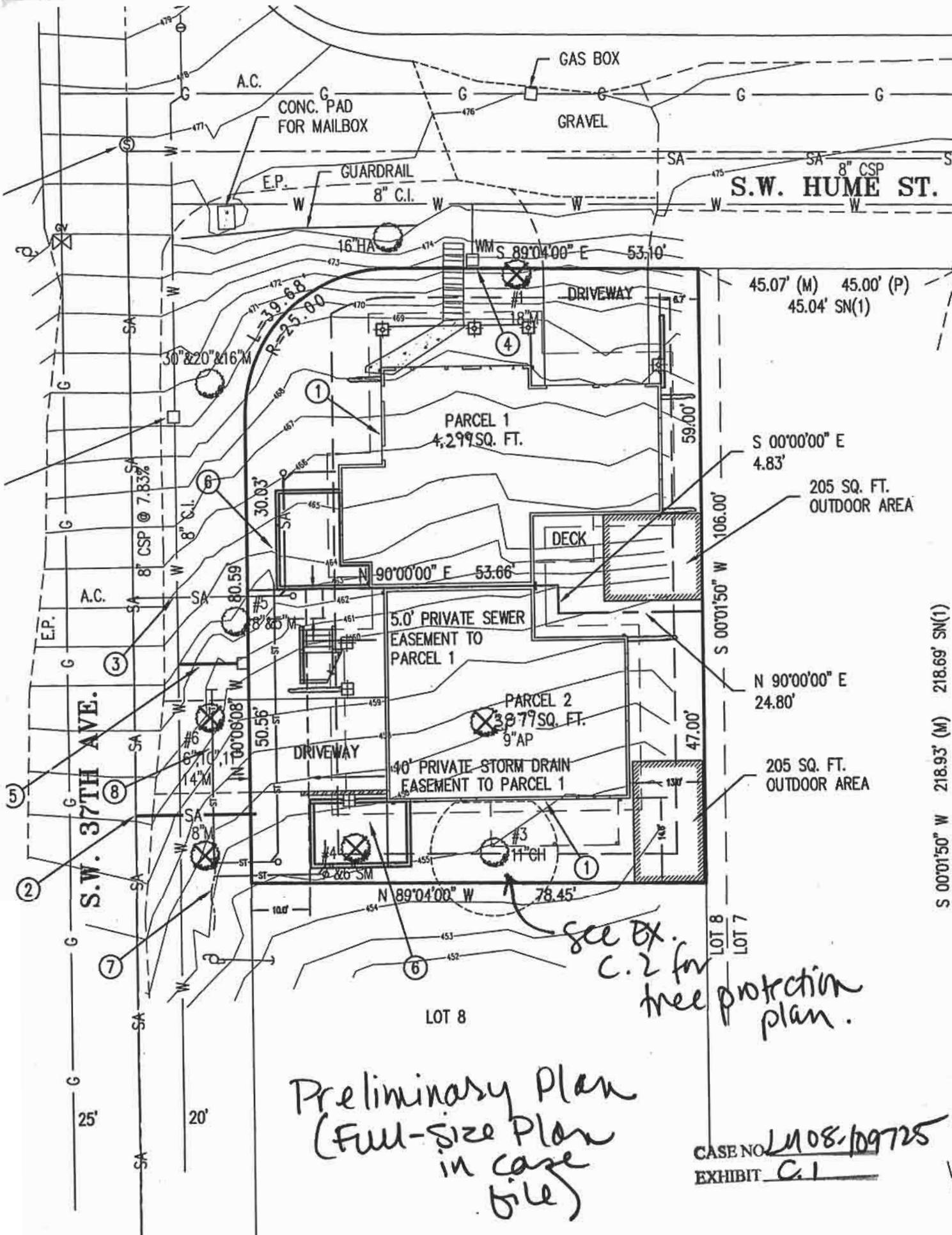


ZONING

 Site



File No.	LU 08-109725 LDP
1/4 Section	3825
Scale	1 inch = 200 feet
State Id	1S1E20CD 800
Exhibit	B (Feb 22, 2008)



S.W. HUME ST.

S.W. 37TH AVE.

LOT 8

LOT 8
LOT 7

*Preliminary Plan
(Full-size Plan
in case
file)*

see Ex. C.2 for tree protection plan.

CASE NO. LM 08-109725
EXHIBIT C.1

S 00°01'50" W 218.93' (M) 218.69' SN(1)

45.07' (M) 45.00' (P)
45.04' SN(1)

S 00°00'00" E
4.83'

205 SQ. FT.
OUTDOOR AREA

N 90°00'00" E
24.80'

205 SQ. FT.
OUTDOOR AREA

PARCEL 1
4,299 SQ. FT.

PARCEL 2
3,877 SQ. FT.
9" AP

5.0' PRIVATE SEWER
EASEMENT TO
PARCEL 1

40' PRIVATE STORM DRAIN
EASEMENT TO
PARCEL 1

DECK

DRIVEWAY

CONC. PAD
FOR MAILBOX

GAS BOX

GRAVEL

GUARDRAIL
8" C.I.

A.C.

APR 10 2008

LEGEND:

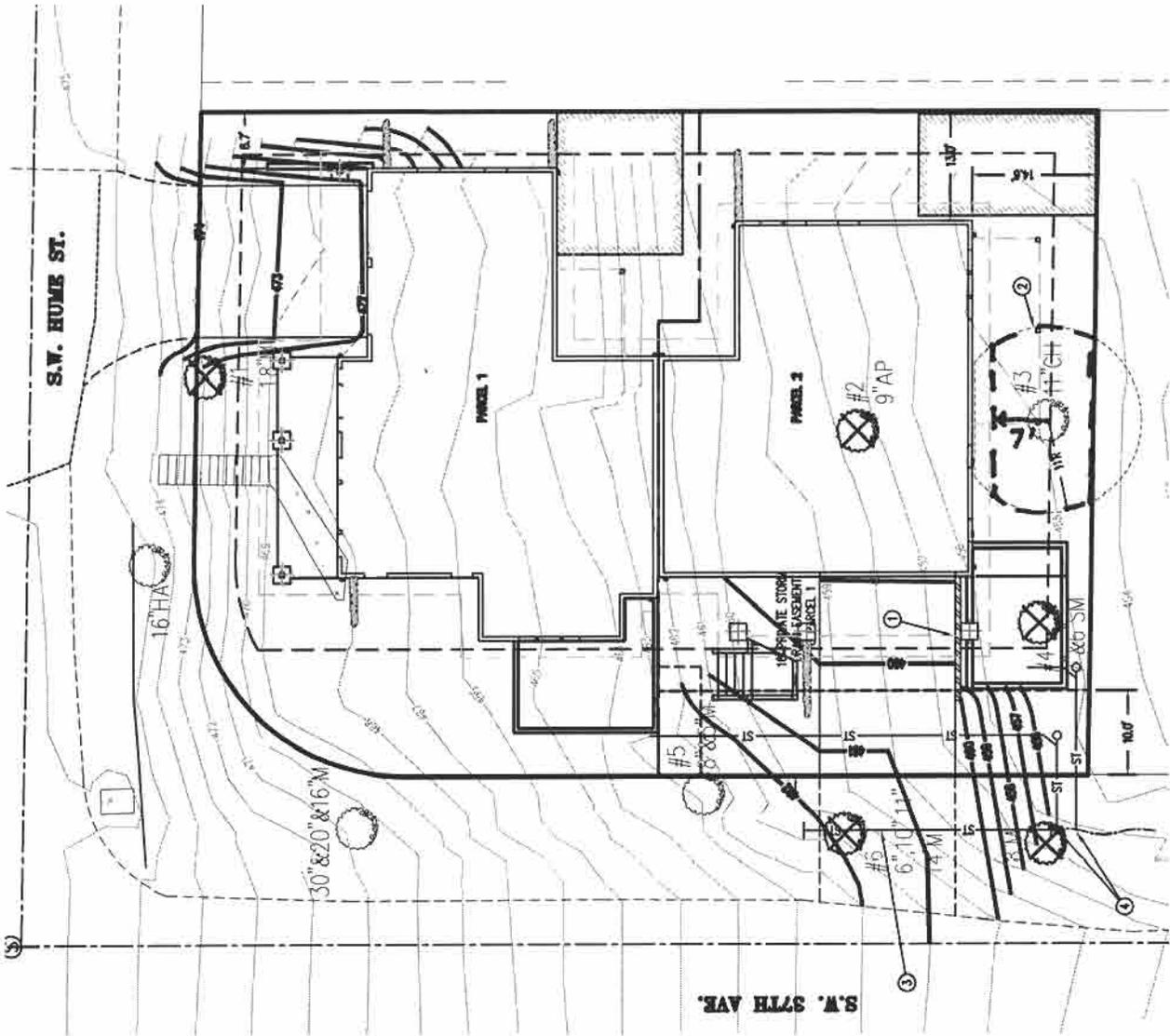
- XXXXXX EXISTING SPOT ELEVATION
- XXXXXX PROPOSED SPOT ELEVATION
- X---X--- EXISTING CONTOUR
- X---X--- PROPOSED CONTOUR
- EXISTING TREE
- ⊗ TREE TO BE REMOVED

CASE NO. LU 08-109725
 EXHIBIT C2

- ① INSTALL RETAINING WALL AT DRIVEWAY #2.
- ② INSTALL TREE PROTECTION FENCE. SEE ARBORIST REPORT.
- ③ INSTALL 12" DILVERT UNDER NEW DRIVEWAY. RP-RAP OUTLET AT EXISTING DITCH.
- ④ RP-RAP OUTLET FROM PRIVATE STORM ROOMS TO EXISTING DITCH IN R.O.W.

6' High metal fence required

Tree #3 required to be preserved
 Deck within RPZ is not approved per this LUR - see condition C.1



JOB#:	R3725-1
DATE:	1-21-08
SCALE:	1"=10'
DRAWN:	JRH
CHECKED:	CCF
FILE:	R3725-1
PLLOT:	4-9-08

ZTEC ENGINEERS INC.
 3737 S.E. 8TH AVE., PORTLAND, OREGON 97202
 PH: (503) 235-8765 FAX: (503) 233-7889

LOCATED IN THE S.W. 1/4 OF SECTION 20,
 T.1S., R.1E., W.M. IN THE CITY OF PORTLAND,
 MULTNOMAH COUNTY, OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR
Chris Fischborn
 OREGON
 JULY 17, 1983
 CHRIS FISCHBORN
 1944

TIM WALKER

PRELIMINARY GRADING AND TREE PROTECTION PLAN