



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

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**Date:** June 20, 2008  
**To:** Interested Person  
**From:** Jason Richling, Land Use Services  
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**NOTICE OF A TYPE II<sub>x</sub> 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 08-109767 LDS AD**

**GENERAL INFORMATION**

**Applicant(s):** Mei To Tam, Joe Ferguson,  
3721 SE 79th Ave, Ferguson Land Surveying  
Portland, OR 97206-2323 646 SE 106th Ave  
Portland, OR  
97216  
George Lee,  
3717 SE 79th Ave  
Portland, OR  
97206

**Site Address:** 3004 SE 85th Ave  
**Legal Description:** EXC E 70' LOT 26 BLOCK 5, JOHNSTON AC  
**Tax Account No.:** R432102010  
**State ID No.:** 1S2E09BC 04400  
**Quarter Section:** 3339

**Neighborhood:** Powellhurst-Gilbert, contact James Chasse at 503-762-0863.  
**Business District:** Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** None

**Zoning:** R2a (Residential 2,000 with an Alternative Design Density Overlay)

**Case Type:** LDS AD (Land Division [Subdivision] with an Adjustment)

**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

**Proposal:**

To divide an existing 10699 square foot lot located at the Southeast corner of SE 85<sup>th</sup> Avenue and SE Brooklyn Street into four parcels ranging in size from 1,887 square feet to 3,436 square feet. The applicants intend to retain the existing single dwelling on Lot 1 and develop single

dwellings on Lots 2, 3 and 4. Subsequent development on these lots must be built in conformance with R2 Zone Standards and the requirements of the Alternative Design Density Overlay (if utilized). The applicants propose to meet tree preservation requirements through mitigation efforts. Stormwater will be treated for quality and flow rates using drywells. The applicants also request approval of an Adjustment to allow a 2-foot setback between the eave on the south side of the existing home and the proposed property line between Lots 1 and 2.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110) and concurrent review (Adjustment) is required (see 33.660.110). For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots 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 criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones and 33.805.040 Approval Criteria for Adjustments.

## ANALYSIS

**Site and Vicinity:** The subject property is relatively flat and is improved with a single-family residence in the northwest corner of the site. Properties surrounding the site are developed with a heterogeneous mix of single-and-multi dwelling development, with craftsman style detached single-family residences predominant in the immediate vicinity of the site. Public rights-of-way are generally arranged in an orthogonal pattern in the surrounding area. The site incorporates 112.5 feet of frontage on SE Brooklyn Street and 95.11 feet of frontage on SE 85<sup>th</sup> Avenue. Southeast Brooklyn Street is classified as a City Bikeway, and in all other modes as a local service street, in the Transportation System Plan. Southeast 85<sup>th</sup> Avenue is classified in all modes as a local service street in the Transportation System Plan. Both rights-of-way are paved with existing curbs. Planter strips and pedestrian amenities are absent from the existing right-of-way improvements and parking is allowed on both sides of both streets.

**Zoning:** The R2 designation is one of the City's multi-dwelling zones, which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-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. This land division proposal is not using any of the provisions of the "a" overlay.

**Land Use History:** There are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on April 28, 2008.

- 1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.
- 2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

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

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

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

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
A	33.612	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	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 when the minimum density for the site 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	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.612.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.612 contains the lot standards applicable in the Multi-dwelling 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.

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 10,699 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. The applicant will be required to dedicate approximately 253 square feet of site area along the frontage of SE Brooklyn Street for right-of-way purposes (as described later in this report). Therefore the resulting lot size for calculating density is 10,446 square feet.

In this case, Lots 2 through 4 are proposed for single dwelling development, and Lot 1 is developed with an existing single-dwelling to be maintained with this land division. Therefore, the density requirements for this site are calculated as follows:

Minimum =  $10,446 \text{ (site area)} \div 2,500 \text{ (minimum density from Table 120-3)} = 4.18$  (which rounds down to a minimum of 4 units, per 33.930.020.A).

Maximum =  $10,446 \text{ (site area)} \div 2,000 \text{ (maximum density from Table 120-3)} = 5.22$  (which rounds down to a maximum of 5 units, per 33.930.020.B).

The applicant is proposing 4 lots. The density standards are therefore met.

### Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

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 612-1, Chapter 33.612 of the Zoning Code):

	<b>R2 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>	<b>Proposed Lot 3</b>	<b>Proposed Lot 4</b>
<b>Lots for Attached or Detached Houses</b>					
Minimum Lot Area	1,600 sq. ft.	3,236 sq. ft.	1,887 sq. ft.	1,887 sq. ft.	3,436 sq. ft.
Minimum Lot Width*	none	42.86 ft.	25 ft.	25 ft.	37 ft.
Minimum Lot Depth	none	75.5 ft.	75.5 ft.	75.5 ft.	92.5 ft.
Minimum Front Lot Line	10 ft.	42.86 ft.	25 ft.	25 ft.	37 ft.

\*Width is measured from the midpoints of the side lot lines.

The findings above describe how the applicable lot standards are met. 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 C.2). The inventory identifies the following trees on the site:

<b>Tree #</b>	<b>Species</b>	<b>Diameter (inches)</b>	<b>Significant? (On Table 630-1)</b>	<b>Exempt? (per 33.630.030)</b>	<b>To be retained?</b>
<b>353</b>	Blue Spruce	13	No	No	No
<b>354</b>	Blue Spruce	19	No	No	No

The applicant proposes to remove all trees on site, which does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options 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 detached housing, which is an allowed housing type in the R2 zone. The two preservation-eligible trees on the site are located on proposed Lot 4 in areas that will be impacted by the vehicle access and utilities needed to provide service to this lot, and within the proposed vehicle access for Lot 1, the lot with the existing single-dwelling. The location of the two existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet

the minimum density requirements and development standards of the R2 zone. Criterion C.4 above is met.

The applicant proposes a tree mitigation plan that provides 12 diameter inches of trees at 1.5 inches each. These trees would be dispersed equitably on Lots 1 through 4. While the proposed mitigation trees meet the 11.2 diameter inches that would be required to be preserved under Tree Preservation Option 1 (preserve 35% of existing stem diameter), the small lot size and tree planting requirements at time of permit review would result in an impractical density of tree plantings on these lots. Section 33.248.020.H, known as the T1 tree planting standard, requires trees the planting of at least 2 inches of tree diameter per 1,000 square feet of site area, which would result in 8 inches of new trees planted on Lot 4 and 3 inches of new trees planted on Lots 2 and 3 in addition to the proposed mitigation plantings. Due to the small size of the proposed lots it is not practical to require trees to be planted for mitigation purposes in addition to trees required to meet the T1 standard without jeopardizing the overall health of all of the trees on the site.

As an alternative, the applicant will be required to plant two 2-inch trees (4 inches total) on Lot 1 and contribute payment of an amount equivalent to 7-inches of new trees into the City Tree Fund prior to final plat approval. Lots 2, 3 and 4 will be subject to the T1 tree-planting requirement at the time of building permit review.

Criterion B is met with a condition of approval requiring a minimum of two 2-inch trees to be planted on Lot 1, and payment contributed an amount equivalent to 7-inches of trees into the City's Tree Fund, prior to final plat approval. A Zoning Permit must be obtained, and receive final inspection approval verifying that these trees have been planted. Payment must be made to the Bureau of Development Services, who administer the fund for the Parks Bureau. A receipt must be submitted demonstrating payment into the tree fund.

**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. This criteria is met.

### **33.635.200 – Land Suitability**

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

**Findings:** 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.

The site is currently in residential use, and there is no record of any other use in the past. City records do not show that the septic system on the site was decommissioned at the time that the house was connected to the public sewer system. Prior to final plat approval, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility.

In addition, the downspouts on the existing house are connected variously to the ground and to underground pipes. There are no City records indicating where the pipes are directed. All stormwater facilities must be located on the same property as the structure they serve and must not be situated so as to adversely affect development on-site or on adjacent properties. Prior to final plat approval, the applicant must demonstrate that this requirement is met to the satisfaction of BDS Site Development. If a plumbing permit is required to modify the existing stormwater facilities, the permit must be finalized prior to final plat approval.

### **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 112.5 feet of frontage on SE Brooklyn Street and 95.11 feet of frontage on SE 85<sup>th</sup> Avenue. Southeast Brooklyn Street is classified as a City Bikeway, and as a local service street for all other modes, in the Transportation Element of the Comprehensive Plan. Southeast 85<sup>th</sup> Avenue is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 953 feet from the site on SE 82<sup>nd</sup> Avenue via bus No. 72. Parking is currently

allowed on SE Brooklyn Street and SE 85<sup>th</sup> Avenue on both sides of the street. There is one driveway entering the site that provides access to off-street parking for the existing house.

Southeast Brooklyn Street and SE 85<sup>th</sup> Avenue along the site frontage are improved with 32 feet of pavement and curbs on both sides of the street. There are no 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. In this case Portland Transportation has determined that sidewalk and planter strip improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, additional right-of-way must be dedicated along the SE Brooklyn Street frontage of the site prior to final plat approval. With those improvements, three additional dwellings can be safely served by this existing streets without having any significant impact on the level of service provided.

This criterion is met, with the condition that sidewalk improvements are made, and the required right-of-way dedication on SE Brooklyn Street is shown on the Final Plat.

**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. This site has an existing 5/8-inch metered water service located to the east side of SE 85<sup>th</sup> Avenue, 39 feet south of SE Brooklyn Street. This existing service may continue to provide water to the house located in Lot 1. There is an existing 6-inch water main in SE Brooklyn Street located approximately 13 feet north of the north property line and an existing 8-inch cast iron water main in SE 85<sup>th</sup> Avenue located approximately 13 feet west of the west property line. Water is available to serve the proposed development from the water mains in SE Brooklyn Street and SE 85<sup>th</sup> Avenue. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 10-inch CSP public sanitary sewer located in SE Brooklyn Street that can serve the sanitary needs of proposed Lot 4. Lot 1 has an existing sewer service from that main. There is an existing 8-inch PVC public sanitary sewer located in SE 85<sup>th</sup> Ave that can serve the sanitary needs of proposed Lots 2 and 3 by means of a newly constructed service branches. BES has commented that the sanitary sewer connection for the existing house on Lot 1 needs to be shown on the site plan. Prior to final plat approval, the applicant must provide a supplemental plan showing the sanitary sewer connection for the existing house on Lot 1. 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):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards with sidewalks and landscape strips (discussed earlier in this report). New sidewalks and planter strips are required, but the curbs already exist. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.
- **Lots 2 through 4:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells.
- **Lot 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground and into underground pipes. Site Development has noted that there are no City records indicating where the pipes are directed. The applicant must also document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development. If the stormwater disposal system for the existing house will not be fully located on the parcel it serves after the land division, then appropriate easements must be provided on the final plat. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of Site Development and obtain finalized plumbing permits for the modifications prior to final plat approval.

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

### **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 the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
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 – No new streets are proposed.
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:** This section requires street and pedestrian connections where appropriate and practical, taking a number of factors into consideration. This is a corner-lot location bounded on the south and east property lines by intersecting public rights-of-way improved to City standards. The current connectivity at this location is adequate.

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 existing 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.

### **APPROVAL CRITERIA FOR AN ADJUSTMENT**

#### **33.805.010 Purpose of Adjustments**

**The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.**

#### **33.805.040 Adjustment Approval Criteria**

**Adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F.**

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Findings:** The applicant requests an Adjustment to allow a 2-foot setback between the eave on the south side of the existing home and the proposed property line between Lots 1 and 2. To meet this criterion the proposal must be consistent with the purpose for setback standards, which are as follows:

### **33.120.220.A Setbacks – Purpose**

The building setback regulations serve several purposes:

- ◆ They maintain light, air, separation for fire protection, and access for fire fighting;
- ◆ They reflect the general building scale and placement of multi-dwelling development in the city's neighborhoods;
- ◆ They promote a reasonable physical relationship between residences;
- ◆ They promote options for privacy for neighboring properties;
- ◆ They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- ◆ They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- ◆ Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.

**Findings:** The adjustment request is consistent with the purpose of the regulation. The applicant's land division proposal utilizes the provisions of Section 33.120.270.D.1, Alternative Development Options for Detached Houses, which allow side building setbacks internal to the site to be reduced to 3 feet for land divisions in multi-dwelling zones. Per Section 33.120.220.D.1, eaves and other minor projections may encroach into required setbacks up to 20 percent the setback width, but may extend no closer than 3 feet from a lot line. It is not practicable to utilize the reduced interior setback provisions of Section 33.120.270.D.1 while meeting the encroachment and setback requirements of Section 33.120.220.D.1 on Lot 1 of the proposed land division.

The location of the south property line of Lot 1 is based on providing appropriate buildable widths for Lots 2 and 3, which must be maintained at a minimum of 25 feet to utilize the provisions of Section 33.120.270.D.1, Alternative Development Options for Detached Houses. Proposed Lot 2 is currently vacant. Future development on Lot 2 in compliance with the setback standards of Section 33.120.220.D.1 will be required to comply with the setback requirements of the base zone and this land use approval, and will maintain a reasonable physical relationship between residences. The separation distance provided by required setbacks between the existing dwelling and future development on Lot 2 would not have a significant detrimental impact on light or air between Lots 1 and 2, and privacy between these properties would be maintained. The Adjustment request has no impact on fire protection or access for fire fighting, and the Fire Bureau has responded with no objections to the request. The Life Safety/Plan Review section of BDS responded with comments that eaves closer than 3 feet to a property line must be protected on the underside as required for one-hour fire-rated construction. Fire protection requirements will be fulfilled prior to final plat approval.

Digital orthophotos available through the City's GARTH Geographic Information System confirm that several existing residences and accessory structures in the vicinity of the site appear to be closer than 3 feet to their side setbacks. The Adjustment request will allow development consistent with the placement of houses and accessory structures in the immediate neighborhood while fulfilling the site-design needs of the applicant. Finally, the submitted site plan shows required outdoor areas to be preserved with this proposal.

This criterion is met with a condition of approval that the applicant obtain and finalize a building permit for the fire-rating of the eave on Lot 1 that will be located 2 feet from the new property line to the south.

**B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

**Findings:** Approval of this Adjustment request will not detract from the livability or appearance of the residential area. Residential properties located within a 500-foot radius of the site are developed with a heterogeneous mix of single-and-multi dwelling development, one-and-two stories in height, with several exhibiting side setbacks appearing to be 3 feet or less. The proposed eave encroachment into the south side setback on Lot 1 is limited to 44.5 linear feet narrowing toward the front lot line. Viewed from the street, the eave setback reduction will be negligible and will not detract from the appearance of the existing single-dwelling on Lot 1 or future development on Lot 2, nor be incompatible with surrounding residential development. Consequently, the proposal will not adversely affect the livability or appearance of the surrounding neighborhood. This criterion is met.

**C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**

**Findings:** The applicant does not request more than one Adjustment in conjunction with this land division. Therefore, this criterion does not apply.

**D. City-designated scenic resources and historic resources are preserved; and**

**Findings:** There are no city-designated scenic or historic resources at the site. Scenic resources are identified with an 's' on the City zoning maps. Historic resources are indicated by a reference dot. Therefore, this criterion does not apply.

**E. Any impacts resulting from the adjustment are mitigated to the extent practical; and**

**Findings:** No impacts are expected to result if the adjustment is approved, therefore no mitigation is warranted and this criterion is not applicable.

**F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

**Findings:** Not Applicable. The site is not located in an environmental zone.

## **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.

Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide.

This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Lot 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2 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 3.2 feet from the new property line between Lots 1 and 2. Therefore, the required setbacks are being met. The eave on the south side of the existing dwelling will be located 2 feet from the property line between Lots 1 and 2, which does not meet the 3-foot minimum setback standard of Section 33.120.270.D.1, Alternative Development Options for Detached Houses. The applicant has requested a concurrent Adjustment review to allow a 2-foot setback between the eave on the south side of the existing home and the proposed property line between Lots 1 and 2. To ensure setback standards consistent with this approval continue 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 and eaves relative to the adjacent new lot lines.
- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. An existing non-conforming gravel parking pad provides this required parking for the existing house on Lot 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 Lot 1 prior to final plat approval. The preliminary plan shows a replacement parking space located abutting the rear line of Lot 1 and indicates that an existing porch may require modification to accommodate this space. Permits must be obtained to construct a new parking space and modify the existing rear porch (if necessary) to accommodate the parking space. Documentation of final inspection of this new parking space and porch modification 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.

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

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

- Aerial Fire Department Access – As measured to the eave of the structure. This applies to Lots 2, 3, and 4, as created through this land division.** Buildings or portions of buildings exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height. Aerial fire apparatus road width may be reduced to not less than 20 feet (no parking allowed) when the building being served is fully sprinklered and access to the building face is from at least 2 directions. The sprinkler system shall be of a greater design than the minimum specified by the OSSC. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building and shall be positioned parallel to one entire side of the building. No development is currently proposed on Lots 2 through 4. At such time that development is proposed on Lots 2, 3 and 4, these requirements shall be met if buildings or portions of buildings exceed 30 feet in height above the lowest level of fire department vehicle access.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the required improvements to SE Brooklyn Street and SE 85<sup>th</sup> Avenue. This requirement is based on the standards of Title 20.
- The applicant must obtain and finalize a building permit for the fire-rating of the eave on Lot 1 that will be located 2 feet from the new property line to the south or an Appeal to the Building Code is required. Either the building permit must receive all final inspections, or the Appeal must be approved before the final plat can be approved. This requirement is based on the standards of ORSC R302.1

## CONCLUSIONS

The applicant has proposed a 4-lot subdivision, and requested approval of an Adjustment to reduce the eave setback to 2 feet between the existing dwelling on Lot 1 and the proposed property line between Lots 1 and 2, 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 issues identified with this proposal are:

- Tree Mitigation

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

## **ADMINISTRATIVE DECISION**

**Approval of an Adjustment** to allow a 2-foot setback between the eave on the south side of the existing home on Lot 1, and the proposed property line between Lots 1 and 2.

**Approval** of a Preliminary Plan for a 4-lot subdivision, that will result in 4 lots for single-dwelling development 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 on the site at the time of the final plat application;
- The location of the replacement parking space on Lot 1;
- The sanitary sewer connection for the existing house on Lot 1;
- The location of the stormwater disposal for the existing house, to the satisfaction of BDS Site Development;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed interior side setbacks for all of the lots utilizing the reduced setback provisions of Section 33.120.270.D.1;
- Any other information specifically noted in the conditions listed below.

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

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Brooklyn Street. The required right-of-way dedication must be shown on the final plat.

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

### **Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE Brooklyn Street and SE 85<sup>th</sup> Avenue abutting Lot 1. The applicant must obtain an approved Right of Way permit from the Bureau of Transportation Engineering and Development Review to install the required 6-foot wide sidewalk and 4-foot wide planter strip.

### **Existing Development**

2. A parking space shall be installed on Lot 1, in conformance with the applicable requirements of the Portland Zoning Code. The parking space must be a minimum of 9' x 18' and located out of the side street setback for the lot with the existing house. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Lot 1. The new parking space must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify parking requirements may be submitted at the Development Services Center. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.

If the rear porch of the existing home requires modification to accommodate the replacement parking space, a copy of the final inspection approval of a Building Permit

shall also be submitted documenting that porch has modified to accommodate the replacement parking space.

3. Documentation of the location of the stormwater disposal system for the existing house on Lot 1 shall be submitted to the Site Development Section of the Bureau of Development Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Lot 1 (the lot with the existing home), then the applicant must meet one of the following:
  - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
  - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing septic system on the site.
5. The applicant must plant street trees in the planter strip on SE Brooklyn Street and SE 85<sup>th</sup> Avenue adjacent to Lot 1. Street trees will be chosen from the City's approved street tree list for the 4-foot wide planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval. If a bond is provided for street improvements to be done after final plat approval, street trees will be included in the street plan which will satisfy this condition.
6. The applicant must obtain and finalize a building permit for the fire-rating of the eave on Lot 1 that will be located 2 feet from the new property line to the south or an Appeal to the Building Code is required. Either the building permit must receive all final inspections, or the Appeal must be approved before the final plat can be approved.

#### **Mitigation Plantings**

7. A minimum of two 2-inch trees to be planted on Lot 1 as shown on the attached Tree Mitigation Plan (Exhibit C.3), and payment contributed an amount equivalent to 7-inches of trees into the City's Tree Fund, prior to final plat approval. A Zoning Permit must be obtained, and receive final inspection approval verifying that these trees have been planted. In addition, a receipt must be submitted demonstrating payment into the tree fund. Payment must be made to the Bureau of Development Services, who administer the fund for the Parks Bureau.

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

1. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the eave line.
2. The applicant must obtain separate approved Right of Way permits from the Bureau of Transportation Engineering and Development Review to install street frontage improvements for Lots 2, 3 and 4 prior to final inspection of permits for development on these lots.

Decision rendered by:  on June 11, 2008

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 20, 2008.**

**Staff Planner: Jason Richling**

**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.** This application was submitted on February 19, 2008 and determined to be complete on April 17, 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 January 31, 2008.

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

**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 July 4, 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](http://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.

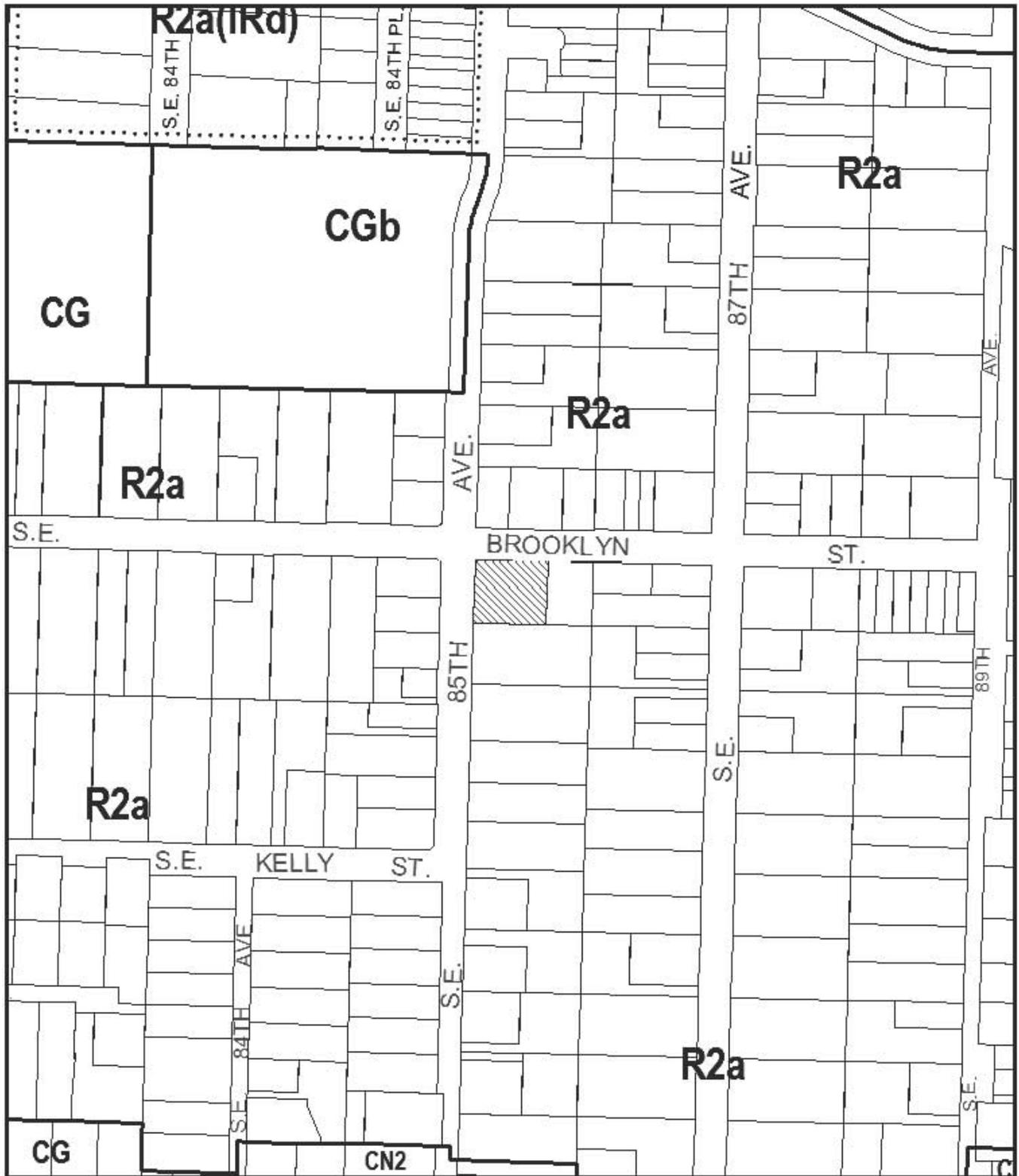
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Arborist's Report
  - 3. Tree Mitigation 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. Fire/Life Safety Review Section of BDS
- F. Correspondence: None Received
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

**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 08-109767 LDS,AD  
 1/4 Section 3339  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E09BC 4400  
 Exhibit B (Feb 21,2008)



**SUPPLEMENTAL DRAWING  
AND MITIGATION PLAN**  
A TRACT OF LAND DESCRIBED IN DOC.  
2007-148586  
SITUATED IN THE NORTHWEST 1/4 OF SECTION 9,  
T.15., R.2E., W.1E.,  
IN THE CITY OF PORTLAND, COUNTY OF  
MULTNOMAH, STATE OF OREGON.  
DATE: OCTOBER 30, 2007

CASE NO. 08-109767-LOS AD  
EXHIBIT C-3

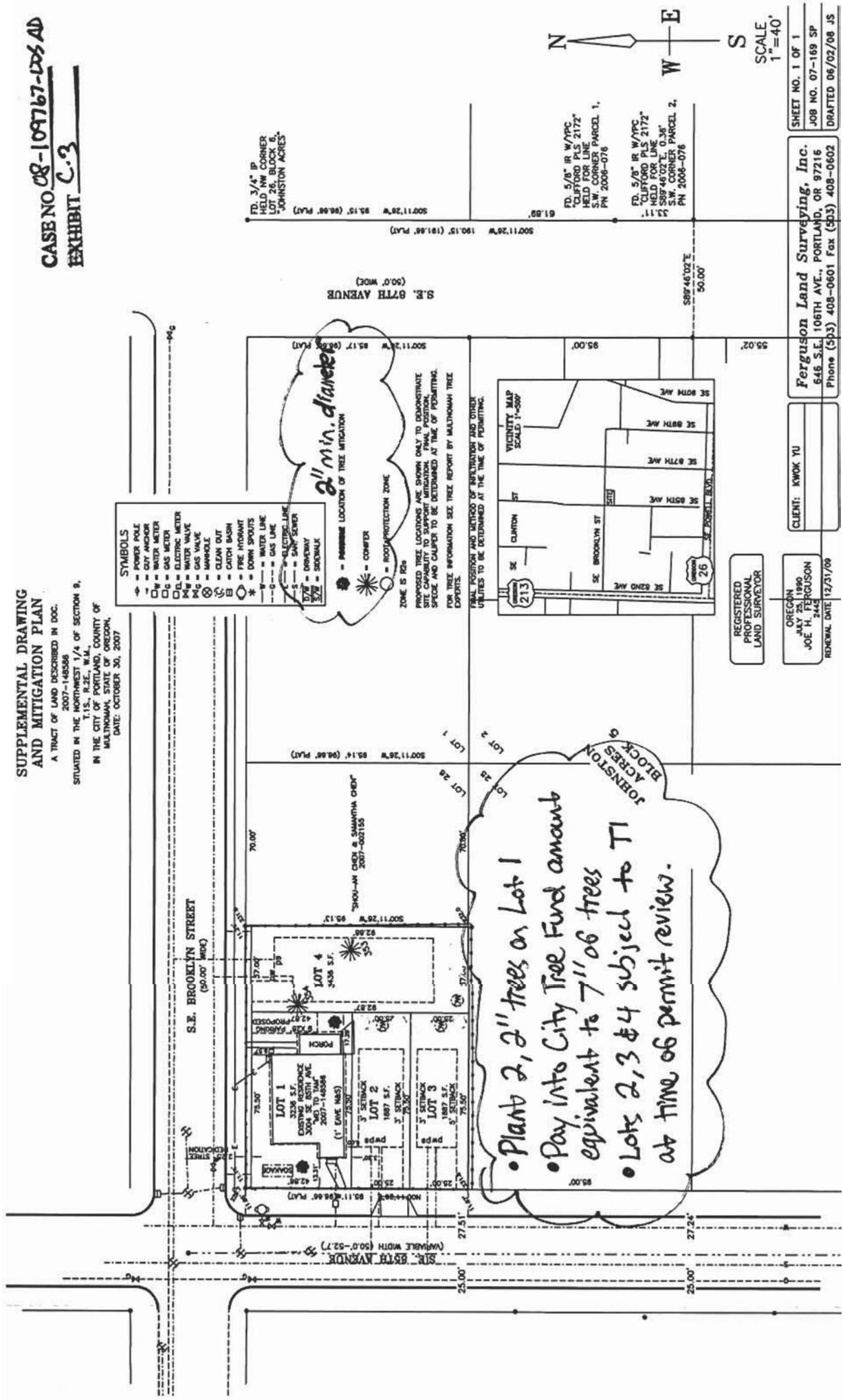
- SYMBOLS**
- ◊ POWER POLE
  - ◊ CITY ANCHOR
  - ◊ GAS METER
  - ◊ GAS METER
  - ◊ ELECTRIC METER
  - ◊ WATER VALVE
  - ◊ WATER VALVE
  - ◊ MANHOLE
  - ◊ CATCH BASIN
  - ◊ CLEAN OUT
  - ◊ FIRE HYDRANT
  - ◊ DOWN SPOUTS
  - ◊ WATER LINE
  - ◊ GAS LINE
  - ◊ ELECTRIC LINE
  - ◊ SAN SEWER
  - ◊ DRAINWAY
  - ◊ SIDEWALK

*2" min. diameter*

PROPOSED TREE LOCATIONS ARE SHOWN ONLY TO DEMONSTRATE SITE CAPABILITY TO SUPPORT MITIGATION. FINAL POSITION, SPECIES AND CALIPER TO BE DETERMINED AT TIME OF PERMITTING. FOR TREE INFORMATION SEE TREE REPORT BY MULTNOMAH TREE EXPERTS.

FINAL POSITION AND HEIGHT OF BURNSTACK AND OTHER UTILITIES TO BE DETERMINED AT THE TIME OF PERMITTING.

- Plant 2, 2" trees on Lot 1
- Pay into City Tree Fund amount equivalent to 7" of trees
- Lots 2, 3 & 4 subject to T1 at time of permit review.



SHEET NO. 1 OF 1  
JOB NO. 07-169 SP  
DRAFTED 06/02/06 JS

Ferguson Land Surveying, Inc.  
545 S.E. 106TH AVE., PORTLAND, OR 97216  
Phone (503) 408-0601 Fax (503) 408-0602

CLIENT: KWOK YU

REGISTERED PROFESSIONAL LAND SURVEYOR  
OREGON  
JULY 23, 1990  
JOE H. FERGUSON  
2445  
RENEWAL DATE 12/31/09