



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: June 30, 2011
To: Interested Person
From: Sue Donaldson, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 10-202864 LDP

GENERAL INFORMATION

Applicant: Damir Karin,
12259 SE Greiner Ln
Portland, OR 97236-6260

Owner: Jarod Jamison,
621 High St
Oregon City, OR 97045

Site Address: 4327 SE 37TH AVE

Legal Description: BLOCK 1 EXC S 35' OF E 95' E 124' OF S 104.50' OF LOT 3,
WILLIAMS ADD 2

Tax Account No.: R916100030

State ID No.: 1S1E12DD 18700

Quarter Section: 3434

Neighborhood: Creston-Kenilworth co/SEUL Leah Hyman at 503-232-0010.

Business District: Greater Brooklyn, contact David Weislogel at 503-239-9050.

District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Plan District: None

Zoning: R2.5 Single Dwelling Residential 2,500

Case Type: LDP Land Division Partition

Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to divide a 9,633 square-foot lot into two parcels. The existing house will remain on Parcel 1, which will be a flag lot. The pole portion of the lot will be 14

feet wide and 50 feet long (700 square feet). The flag portion of the lot will be 6,158 square feet. Parcel 2 will be 2,775 square feet, measuring 55.5 feet deep and 50 feet wide. Three trees on the site will be protected in order to meet the requirement to save at least 35% of the total tree diameter inches on the site.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines parcel as a single unit of land created by a partition of land. The applicant's proposal is to create two units of land. Therefore this land division is considered to be a partition.

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**.

FACTS

Site and Vicinity: The site is developed with a two-story house, set back from the street approximately 60 feet. There is a driveway on the north side of the site which serves the house and which will be retained within a 14 foot wide flag pole. There is a shed on the north side of the driveway which appears to be encroaching onto the abutting flag lot to the north. There are ten trees on the site, seven of which are hemlocks planted in a row toward the front of the site. Three of them will be protected.

Nearby development south and east of the site is primarily single dwelling residential. There is a flag lot to the north of the site and west of the site. Development on that lot is set back approximately 145 feet from the street. There is an apartment complex on the next lot to the east that has a large open area in front that appears to be a garden. There are numerous multi-dwelling structures on large lots to the north and west of the site. The block pattern in this area is irregular. Blocks are large east and north of the site, making connectivity poor.

Infrastructure:

- **Streets** –Streets in this area are improved with curbs, sidewalks and planter strips, but street tree coverage is spotty.

The site has approximately 70 feet of frontage on SE 37th Avenue. A driveway entering the site serves the existing house, as noted above. The *Transportation System Plan* designates SE 37th Avenue as Local Service for all modes at this location. Tri-Met provides transit service approximately 600 feet from the site at SE 39th Avenue (Cesar Chavez) and SE Cora Street via Bus 17 and at SE Cesar Chavez and SE Holgate Street via Bus #75.

SE 37th Avenue has a 36-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the site frontage the pedestrian corridor includes a curb, 5-foot wide planter area, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (5-6-1 configuration).

- **Water Service** – There is an existing 8-inch CI water main in SE 37th Avenue. The existing house is served by a 5/8-inch metered service from the main.
- **Sanitary Service** - There is an existing 24-inch VSP public combination sewer line in SE 37th Avenue.

Zoning: The R2.5 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.

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 25, 2011**.

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.

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.

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 criteria that are not applicable.** Applicable criteria are addressed below the table.

Criterion	Code Ch/Section & Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an Industrial zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required

Applicable Approval Criteria are:

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

Findings: *Chapter 33. 611* contains the density and lot dimension requirements applicable in the R2.5 zone. The applicant is proposing 2 single family parcels.

Minimum density in the R 2.5 zone is one unit per 5,000 square feet and the maximum density is one unit per 2,500 square feet unless there are site conditions reducing it further. The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

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

Minimum = 9,633 square feet ÷ 5,000 square feet = 1.66 (which rounds up to a minimum of 2 parcels, per 33.930.020.A)

Maximum = 9,633 square feet ÷ 2,500 square feet = 3.85 (which rounds down to a maximum of 3 parcels, per 33.930.020.B)

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

Lot Dimensions

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

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in *Chapter 33.611 of the Zoning Code*):

	R2.5 Zone Standard Lot Requirements	Proposed Lot 2	Flag Lot Requirement	Proposed Lot 1
Minimum Lot Area	1,600 sq. ft.	2,775 sq. ft.	1,600 sq. ft. <i>Flag pole area not included</i>	6,121 sq. ft.
Maximum Lot Area	N/A		N/A	
Minimum Lot Width*	36 ft.	55.50ft.	40 ft	69 ft.
Minimum Lot Depth	40 ft.	83 ft.	40 ft	83 ft.
Minimum Front Lot Line	30 ft.	33.33 ft.	n/a	n/a.

* Width is measured at the minimum front building setback line

Flag Lots

When allowed

Parcel 1 is a flag lot. A flag lot is allowed only when one of the following are met:

R2.5 Zone

- 1a *An existing dwelling unit or attached garage on the site is located so that it precludes a land division that meets the minimum lot width standards. The dwelling unit and attached garage must have been on the site for at least five years; or*
- 1b *the site has a width of less than 50 feet if two lots are proposed and a width of less than 75 feet if three lots are proposed;*
- 2 *Up to three lots are proposed, only one of which is a flag lot; and*
- 3 *Minimum density requirements for the site will be met.*

In this case the applicant is proposing 2 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5 years and the site's width along the street precludes a land division that meets the minimum lot width standard of 36 feet. The minimum density standard is met. Therefore, the *Zoning Code* allows a flag lot to be created.

Dimensions

The proposed flag lot meets applicable *Zoning Code* standards found in 33.610.400 because it has a "pole" wider than 12 feet that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the flag portion of Parcel 1 will be on the north side of the site. Trees to be preserved are south of the flag pole (see *Findings under B. Trees, below*). A shared access driveway in this location would prevent these trees from being preserved. Therefore a shared access is not feasible. No other alternatives beyond the proposed location are possible for vehicle access to Parcel 2. Therefore, Parcel 1 is allowed.

The findings above show that the applicable density and lot dimension standards are met, including those for flag lots. Therefore this criterion is 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 arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). There are nine trees on the site. Three trees are proposed to be retained. The trees to be preserved are near the front of the site and appear to have been planted in a row at the same time. The total non-exempt tree diameter on the site is 101 inches. Trees 101, 103 and 104 are proposed to be preserved which comprise 35 inches of tree diameter, which amounts to 35%. Tree #102 is not counted in the total diameter of trees to be preserved, but it is not clear from the Arborist report why it was excluded. Because of the close spacing, and because the root protection zone includes this tree, it is reasonable to assume that the tree will be protected along with the other three. It was not designated to be removed in the Arborist report. Protecting this tree would add another 7 diameter inches for a total of 42 inches or 41%. In either case, the proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. Exhibit C.2 shows the that four trees to be preserved and the required root protection zones.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat. This criterion is met, subject to the condition that development on Parcel 1 is carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.2) and an acknowledgement of tree preservation requirements is recorded with the final plat. Exhibit C.2 indicates that Tree #102 is included within the proposed root protection zone.

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

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

33.635.100 – Clearing and Grading

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

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

33.635.200 – Land Suitability

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

Findings: The site is currently improved with a two-story house and driveway. As indicated above, the site slopes down to the street but contains no known geological hazards. The site is currently in residential use, and there is no record of any other use in the past. Although the site was connected to the public sanitary sewer in 1912, plumbing records do not show where the old cesspool was located or how it was filled in. If the old cesspool is encountered during new building construction Site Development will require it to be decommissioned as part of the building permit process. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

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

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

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. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard - See Exhibit E-3 a & b for detailed bureau comments.
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<p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in 37th Avenue. Parcel 1 has an existing water service from that main but after the land division that line will no longer be on the street frontage. That line will be within the frontage of Parcel 2 and can be used for new development on the lot. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat, the water service for the existing home must be relocated, so that the</p>

service connection will be located along the frontage of Parcel 1.

33.652 Sanitary Sewer Disposal Service standards - See Exhibits E.1, a & b, for detailed comments.

The sanitary sewer standards of 33.652 have been verified. There is an existing 24-inch VSP public combination sewer located in SE 37th Avenue that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. BES has commented that there is approximately 5 ½ feet between the existing lateral for 4319-4325 SE 37th Avenue, the flag lot to the north, and the property line between Parcels 1 and 2. With this separation, the rules of connection should be met. A new lateral is proposed to serve Parcel 2. If there is not enough space for a new connection between the existing lateral and the proposed tap, the applicant could be required to tap a new lateral for 4319-4325 SE 37th Avenue. BES has no objection to the proposal with the condition that the existing house on Parcel 1 connects to the sewer in SE 37th Avenue according to the Rules of Connection prior to final plat approval. This criterion is met with this condition.

33.653.020 & .030 Stormwater Management criteria and standards— See Exhibits E.1a & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

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

There is no public storm-only sewer available to serve this property. The applicant has proposed the following stormwater management methods

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground and new property lines will not conflict with setback requirements.
- **Parcel 2** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. There is sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a drywell.

BES and Site Development have reviewed the plans and have no objections. Therefore, this criterion is met.

33.654.110.B.1 -Through streets and pedestrian connections

33.654.130.B - Extension of existing public dead-end streets & pedestrian connections

33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Pedestrian connections should generally be provided no more than 330 feet apart. The site has adequate connectivity because the site is 300 feet from the intersection of SE Holgate and SE 37th Avenue. No additional connectivity is required.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030

33.654.120.B & C Width and elements of the street right-of-way

33.654.130.D Partial Rights of way

Based on the available evidence, PBOT estimates that the increase in daily trips will be less than 10 total trips per day, with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.). Other factors taken into consideration are two possible travel route directions to and from the site, pedestrian corridor improvements, as well as transit service available less than 1000 feet from the site. PBOT staff has determined that there will be a minimal impact on existing facilities and capacity and that a traffic study is not required at this time (see Exhibit E-2 for a detailed analysis).

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. SE 37th Avenue has a 36-foot wide paved roadway within a 60-foot right-of-

way at this location. This exceeds the standard of 32 feet for R2.5 for local service streets. Pedestrian corridor improvements on SE 37th Avenue include a 6-foot wide sidewalk within a 12-foot corridor (5-6-1 configuration). This meets the recommended standard in the *Pedestrian Design Guide*. No dedication or street improvements will be required. If any improvements within the right-of-way are damaged during development they must be repaired to City Engineer's satisfaction.

Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met with the condition that any damage to improvements within the right-of-way are remedied to the City Engineer's satisfaction.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways 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.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division.

The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

Flag Lots

Special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). No development is proposed for the flag lot, so, to ensure that required screening and setbacks are met, a finalized zoning permit for installation of screening 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 and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water

Bureau	Code Authority and Topic	Contact Information
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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

- The applicant must meet the requirements of the Fire Bureau for aerial access roads and driving surfaces (or recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 1 and Parcel 2), ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement, verifying hydrant spacing, addressing requirements for flag lots and posting of "No Parking" signs in the flag pole driveway. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing of structures, ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement and aerial fire department access roads. These requirements are based on the technical standards of *Title 31* and *Oregon Fire Code*. See Exhibit E.4.
- The applicant will be required to decommission the old cesspool on the site if it is found during construction of the new house on Parcel 2.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1 and C.2). 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: sewer services, tree preservation, and flag lot requirements

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

ADMINISTRATIVE DECISION

Approval of a preliminary plan for a two-parcel partition that will result in one flag lot and one standard lot, as illustrated in Exhibit C.1 and C.2, subject to the following conditions.

A. Supplemental plan

Two copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application
- The location, dimensions and species for the required landscape buffer around the outside perimeter of Parcel 1, the flag lot, per 33.120.240.F
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;

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

1. The existing house on Parcel 1 must connect to the sewer in SE 37th Avenue in accordance with the Rules of Connection, as approved by BES.
2. The applicant shall meet the requirements of the Water Bureau for capping the existing service line serving Parcel 1 in order to allow new service to be established for development on Parcel 2. The existing house on Parcel 1 will require new water service from the main in SE 37th Avenue, as approved by the Water Bureau.

Existing Development

3. The applicant must obtain final approval of a Zoning Permit to verify that the required landscaped buffer around the perimeter of the flag lot has been installed in conformance with 33.110.240.F.

Required Legal Documents

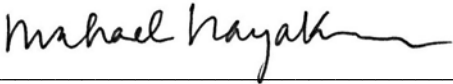
4. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 2, Trees numbered 101, 102, 103 and 104. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

Other requirements

5. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 1, the flag lot.
6. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as

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

1. 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, trees numbered 101, 102, 103, and 104 are required to be preserved, with the root protection zones indicated on Exhibit C.2. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the old cesspool on the site if it is found when Parcel 2 is developed.

Staff Planner: Sue Donaldson**Decision rendered by:**  **on June 28, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed June 30, 2011

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 December 21, 2010, and was determined to be complete on **March 23, 2011**.

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 December 21, 2010.

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, for the applicant requested that the 120-day review period be extended for 14 days as stated in Exhibit G.4. Unless further extended by the applicant, **the 120 days will expire on: August 5, 2011.**

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

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

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

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

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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.portlandonline.com.

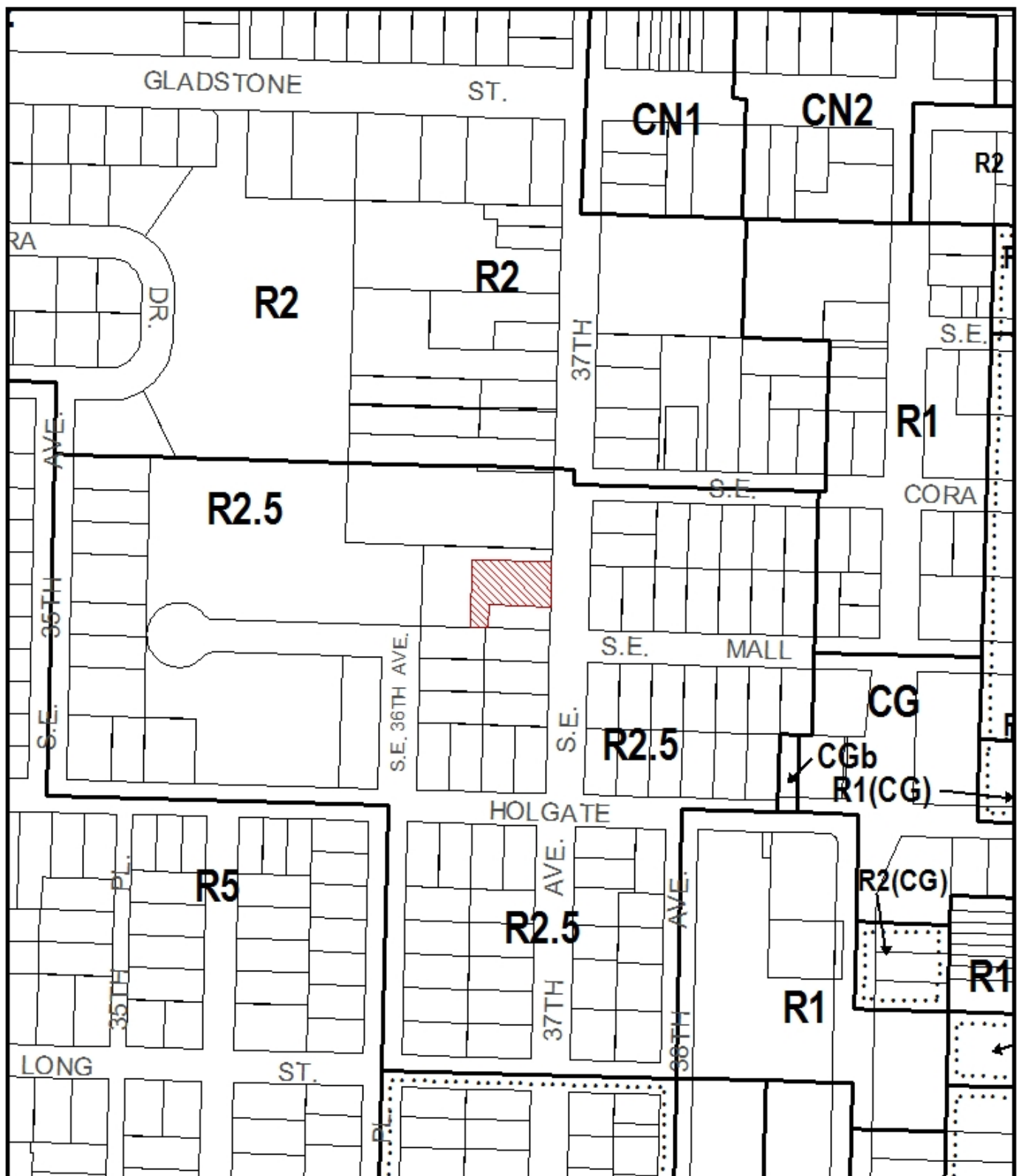
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Arborist Report
 - 3. Stormwater Calculations
 - 4. Ownership Verification
 - 5. Residential Sewer Line Inspection, Received March 3, 2011
 - 6. Memo from Joe Ferguson, re: additional information, Received March 3, 2011
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Tree Preservation Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - a. Response, dated May 2, 2011
 - b. Addendum, dated May 11, 2011
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research - none
 - 3. Incomplete letter
 - 4. 120-day waiver

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site



File No.	<u>LU 10-202864 LDP</u>
1/4 Section	<u>3434</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E12DD 18700</u>
Exhibit	<u>B (Dec 27, 2010)</u>

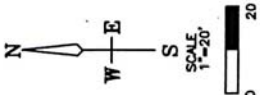
A PARTITION OF THE EAST 124.00 FEET OF THE SOUTH 104.50 FEET,
EXCEPT THE SOUTH 35.00 FEET OF THE EAST 95.00 FEET OF LOT 3,
BLOCK 1, "WILLIAMS ADDITION NO. 2",
LOCATED IN THE SE1/4 OF SECTION 12, T.1S., R.1E., W.M.,
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
DATE: DECEMBER 15, 2010

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Joe H. Ferguson

OREGON
JULY 23, 1990
JOE H. FERGUSON
2445

RENEWAL DATE 12/31/11



ZONE IS R2.5

FOR TREE INFORMATION SEE TREE REPORT BY MULTNOMAH TREE EXPERTS, LTD.

DORYWELL AND OTHER UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.

DOWNSPOUTS ON EXISTING HOUSE WILL BE DIRECTED TO SPLASHBLOCKS.

UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.

DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.

TOTAL SITE AREA = 9,633 SF



VICINITY MAP NO SCALE	SE GLADSTONE	SE 37TH	SE CORA	SE CESAR E CHAVEZ	SE 40TH
		SE 37TH	SE MALL		
					SE 38TH
					LONG

CASE NO. 10-20286
EXHIBIT C.1

CASE NO. 10-202864LDP
EXHIBIT C.1

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

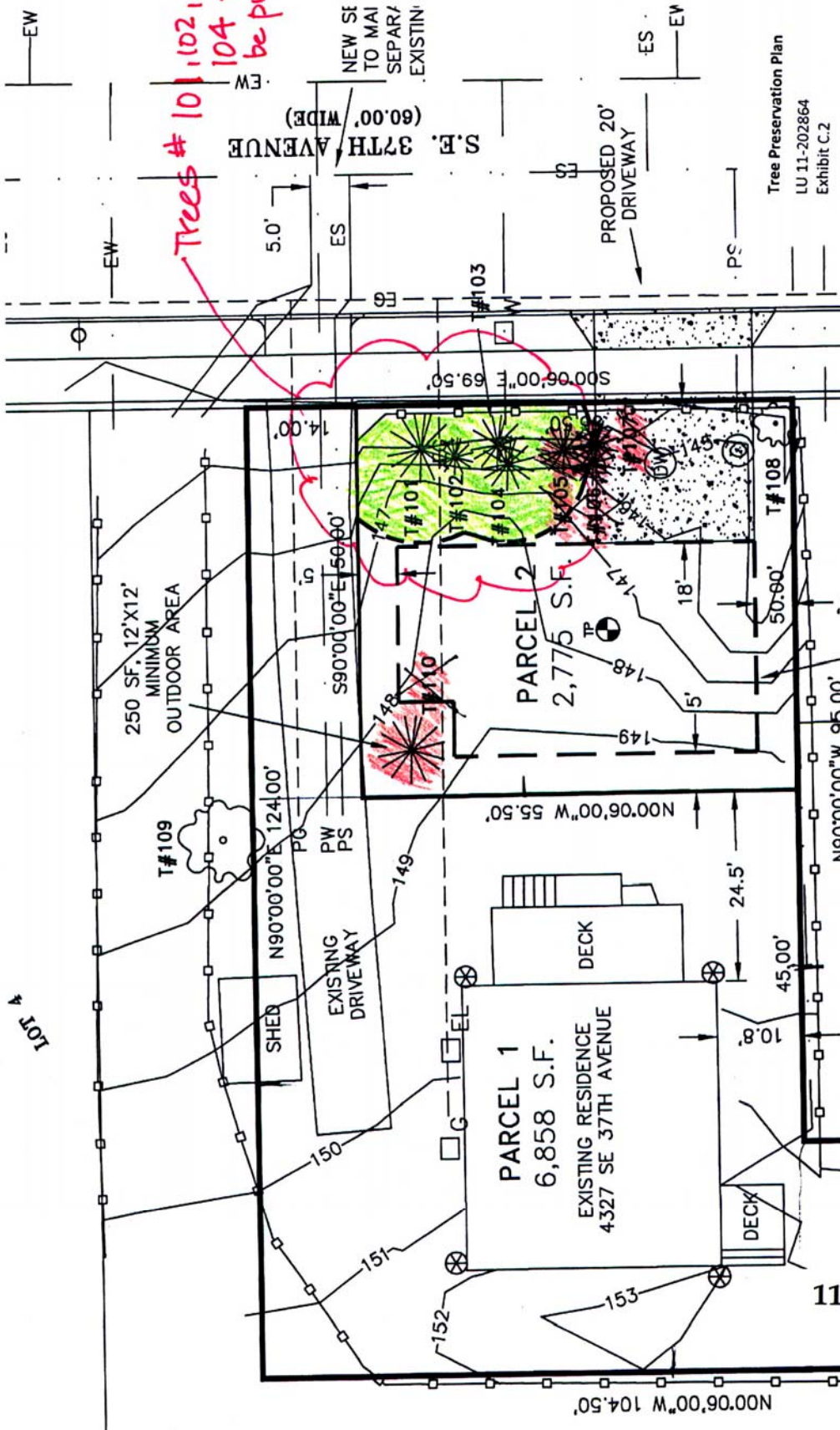
CLIENT: DK HOMES
12259 SE GRANIER LANE
PORTLAND, OR

SHEET NO. 1 OF 1
JOB NO. 10-099
REVISED 2.28.2011

RECEIVED
MAR 3 2011

Tree Preservation Plan

LOT 4



Trees # 101, 102, 103 & 104 to be preserved

11-202864 LDP
Exhibit C.2