



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

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**Date:** May 28, 2010  
**To:** Interested Person  
**From:** Sean Williams, 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 10-113843 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Eric Scheel  
Ladds Off Hawthorne LLC  
3422 SE Grant Ct.  
Portland, OR 97214-5734

**Representative:** Mark Person  
W.B. Wells & Associates, Inc.  
4230 NE Fremont Street  
Portland, OR 97213

**Site Address:** SE 20<sup>th</sup> Avenue & SE Market Street

**Legal Description:** BLOCK 1 LOT 5 EXC S 14', COLONIAL HTS  
**Tax Account No.:** R172100050  
**State ID No.:** 1S1E02DA 04400  
**Quarter Section:** 3232  
**Neighborhood:** Hosford-Abernethy, contact Kina Voelz at 971-207-9243.  
**Business District:** Hawthorne Blvd. Bus. Assoc., contact Peter Rossing at 503-231-8704.  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.  
**Plan District:** None  
**Zoning:** Residential 2,500 (R2.5)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**

The applicant is proposing a 3 parcel partition, that will result in 3 narrow lots all containing an approximate size of 2,766 square feet that will be made available for detached housing.

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

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

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

## ANALYSIS

**Site and Vicinity:** The subject property is located on the NE corner of the intersection of SE 20<sup>th</sup> Avenue and SE Market Street. Existing improvements consist of a commercial parking lot. No trees subject to preservation standards were present within the land division site at the time of application. A public water main extension is proposed within SE Market Street to serve new development. The vicinity south of the subject property is primarily comprised of single dwelling zoning and comparable development. Commercial and multi dwelling zoning and uses are present to the north of the site along the Hawthorne Boulevard corridor.

**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 that prior land use reviews include the following:

- **LU 08-105463 ZC:** Approval of a Zoning Map Amendment to change the zoning from Residential 5,000 (R5) to Residential 2,500 (R2.5).
- **PR 10-102124 PLS/PR10-102127 PLS:** The applicant recently executed and recorded two lot confirmation/property line adjustments (10-102124 PR & 10-102127 PR) for historic platted lots that existed within the subject tax account.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on March 19, 2010.

**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:** A total of four written responses have been received from notified property owners in response to the proposal. The main concerns expressed include transportation impacts, tree cutting violations and compatibility.

The Portland Bureau of Transportations (PBOT) has reviewed the proposed land division request and has concluded that no significant negative impacts are expected to occur regarding the evaluation factors which 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. See Exhibit E-2 and findings associated with Criterion K of this report.

Concerns were raised regarding the removal of trees within the land division site prior to application for the land use review. Title 20, Parks and Recreation regulates trees on

private property when a land division is not in process. Chapter 33.630, Tree Preservation of the zoning code regulates trees when a land division is requested. Because the applicant removed the trees prior to application for the land division the regulations of Title 20 apply. The applicant is currently in violation of Title 20 as the proper process for removal of the trees was not followed. Therefore, prior to final plat approval, the applicant shall meet the requirements of Urban Forestry for compliance with all tree cutting violations on the land division site. See Exhibit E-6 and Other Technical Requirements section of this report.

Concerns regarding compatibility of the proposed development are addressed in the findings associated with Criterion A, Lots.

## APPROVAL CRITERIA

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

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

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

Criterion	Code Chapter	Topic	Applicability Findings
A	33.611	Lots	<b>Applicable - See findings below.</b>
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	<b>Applicable - See findings below.</b>
G	33.635 .200	Land Suitability	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not applicable – Solar access standards do not express a of lot configuration preference based on the orientation of the proposed lots.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.

Criterion	Code Chapter	Topic	Applicability Findings
K	33.641	Transportation Impacts	<b>Applicable - See findings below.</b>
L	33.651 - 33.654	Services and Utilities	<b>Applicable - See findings below.</b>

**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 standards applicable in the R2.5 zone. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

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

Minimum =  $(8,300 \text{ square feet} \times .80) \div 5,000 \text{ square feet} = 1.66$  (which rounds up to a minimum of 2 parcels, per 33.930.020.A)

Maximum =  $8,300 \text{ square feet} \div 2,500 \text{ square feet} = 3.32$  (which rounds down to a maximum of 3 parcels, per 33.930.020.B)

The applicant is proposing 3 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):

	<b>R2.5 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>	<b>Proposed Lot 3</b>
Minimum Lot Area	1,600 sq. ft.	2,767 sq. ft.	2,766 sq. ft.	2,766 sq. ft.
Maximum Lot Area	NA			
Minimum Lot Width*	36 ft.	33.34 ft.	33.33 ft.	33.33 ft.
Minimum Lot Depth	40 ft.	83 ft.	83 ft.	83 ft.
Minimum Front Lot Line	30 ft.	33.34 ft.	33.33 ft.	33.33 ft.

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

#### Narrow Lots

Parcels 1-3 are all just over 33 feet wide — narrower than the minimum width of 36 feet in the R2.5 zone, as shown in the table above. Section 33.611.200.C of the Zoning Code, however, allows narrower lots if the future development can meet certain regulations:

- a. On balance the proposed lots will have dimensions that are consistent with the purpose of the section;**

**Findings:** The lot dimension regulations of the Residential 2,500 (R2.5) zone ensure that:

- **Each lot has enough room for a reasonably-sized attached or detached house;**
- **Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;**
- **Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;**
- **Each lot has room for at least a small, private outdoor area;**
- **Lots are wide enough to allow development to orient toward the street;**
- **Each lot has access for utilities and services;**
- **Lots are not landlocked;**
- **Lots don't narrow to an unworkable width close to the street; and**
- **Lots are compatible with existing lots while also considering the purpose of this chapter.**

The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore they have demonstrated that the proposed parcels can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code. The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services (Exhibit C-2). The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street.

The purpose of Chapter 33.611, Lots in the R2.5 Zone ensures that lots are consistent with the desired character of the zone while allowing lots to vary in size and shape provided the planned intensity of the zone is respected. The swath of zoning over the blocks between Hawthorne Boulevard and SE Market Street that extends east of this site is zoned R5 (R2.5) with the exception of properties that contain frontage on Hawthorne Boulevard which are zoned for commercial or multi dwelling use. Land south of Market Street is primarily zoned R5. While the aforementioned area the subject property is located in is currently zoned R5 there is a comprehensive plan designation of R2.5 as denoted by the parentheses. The planned intensity for this area is to be consistent with the R2.5 zone. This area is meant to be a transition between the more intense commercial and multi dwelling uses along the Hawthorne Boulevard corridor and the moderately lower density single family residential neighborhoods south of market Street.

While the applicants desired land division layout results in three parcels just under the minimum width for the zone, it should be noted that it would be feasible to orient two parcels on SE 20<sup>th</sup> Avenue and one parcel on SE Market Street and achieve parcels that would meet or exceed the minimum width of 36 feet. This conceptual layout wouldn't necessitate further scrutiny of creation of lots less than 36 feet and results in a negligible difference from the applicant's proposal. One could argue that this conceptual layout for creating standard lots would result in a less desirable configuration as the parcels fronting SE 20<sup>th</sup> Avenue would be wider but smaller in lot area thereby allowing for less practical open space. It also appears more appropriate to orient new residential units towards SE Market Street due to the lesser transportation classification which may result in fewer conflicts with various modes of transportation.

The land division site is of a size and contains dimensions that may yield the creation of three standard lots in which compatibility would not come into question as it is assumed that by meeting all of the lot dimension regulations the resultant product would be consistent with the desired character of the zone. However, in this instance it appears that a marginal reduction in lot width would result in a product that is more compatible with existing lots. As addressed in these findings, the proposed parcels are compatible with existing lots considering the purpose of this chapter. This standard is met.

- b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet;**

**Findings:** Proposed Parcels 1-3 are just over 33 feet in width. Therefore, the new parcels may be developed with detached houses.

- c. If the lot abuts a public alley, then vehicle access must be from the alley. This requirement will be imposed as a condition of approval of the land division;**

**Findings:** The site does not have access from an alley. Therefore, this standard does not apply.

- d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E, at the time of development;**

**Findings:** The garage limitation standards of Subsection 33.110.253.E state that the length of the garage wall facing the street may be up to 50 percent of the length of the street-facing building façade and an attached garage is not allowed when the street-facing of a unit is less than 22 feet long. The applicant has proposed lots that are just over 33 feet in width. Considering the minimum side building setback in the R2.5 zone of 5 feet, it will be feasible to construct new detached houses that contain a width of 22 feet. Therefore, an attached garage may be accomplished on the street facing façade of the new units and it is reasonable to presume that the garage will meet the 50 percent limitation. Therefore, this standard is met.

- e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and**

**Findings:** The applicant has proposed to develop the new parcels with detached houses. Therefore, this standard does not apply.

- f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not**

**have to meet the requirements of code section 33.611.200.C, subparagraph 2.c and 2.d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:**

- (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;**
- (2) Meet the requirements of Section 33.700.060, Covenants with the City; and**
- (3) Be attached to, and recorded with the deed for the new lot.**

**Findings:** The proposed parcels are exempt from minimum parking requirements due to their location within 500 feet of a transit street with 20-minute service. However, the applicant desires to provide parking with the new development. Therefore, this standard does not apply.

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

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

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

**33.635.100 – Clearing and Grading**

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

**Findings:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. 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 vacant asphalted parking lot that was associated with a use that is no longer present. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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

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

**33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.**

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

The site has approximately 83 feet of frontage on SE 20<sup>th</sup> Avenue and 100 feet of frontage on SE Market Street. SE 20<sup>th</sup> Avenue and SE Market Street are classified as local service streets for all modes in the Transportation Element of the Comprehensive Plan, except that SE 20<sup>th</sup> is also classified as a Transit Access street and a City Walkway. The site is currently improved as an abandoned commercial parking lot that is accessible from SE Market Street.

**Transportation Impacts (Section 33.641)**

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area based on a number of evaluation factors:

**Street capacity and level-of-service:**

Per the Portland Bureau of Transportation (PBOT): “The proposed land division will create three parcels to accommodate three new single family detached residences. The proposed land division is expected to generate 20 additional daily vehicle trips and 2 new trips into the surrounding transportation system during the morning and afternoon peak hours of travel. (NOTE: These identified additional trips are those beyond what would be generated by a single house on the subject site, which is allowed by right). The additional peak hour trips may distribute in any direction to connect to the broader transportation network in the area. The transportation system, in this case, is identified as the stop-controlled/unsignalized intersection at SE 20<sup>th</sup>/Market as well as the signalized



intersection of SE 20<sup>th</sup>/Hawthorne. The noted intersections are not expected to drop below the City's performance standards with the addition of the 2 peak hour trips in the morning and afternoon. This conclusion is reached given street classifications of the identified streets, the recognized capacity of said stop controlled intersections and given that the street along which the site fronts along serves to disperse localized traffic to the area's broader transportation network." See Exhibit E-2 for more details.

**Vehicle access and loading:**

The applicant has expressed a desire to develop the parcels with single family homes that contain front loading garages and individual driveways. Neighbors have expressed concerns regarding the proximity of a new vehicle approach associated with Parcel 1 to the intersection of SE 20<sup>th</sup> Avenue and SE Market Street. PBOT has indicated that curb cuts and driveway construction must meet the requirements of Title 17 (17.28.110.B) at the time of building permit. Generally, this requirement calls for a 25 foot setback for driveways from the corner of a lot where two streets intersect. Taking into consideration the minimum driveway width of 9 feet and the proposed lot width of 33.34 feet it appears this standard would not be met. While not explicitly stated, this standard is intended to avoid conflicts with an unrestricted right turn movement from the intersection. If the land division site were on the opposite side of SE Market Street this standard would garner further scrutiny. Based on a location north of SE Market Street, PBOT has granted conceptual approval of an individual driveway for Parcel 1. See Exhibit G-3 for more details.

**On-street parking impacts:**

Parking is currently allowed on both sides of SE 20<sup>th</sup> Avenue and SE Market Street. Neighbors have expressed concerns regarding the strained parking situation within the area. As noted above, the site is currently improved as an abandoned commercial parking lot that takes access from SE Market Street. The existing curb cut that serves this lot is approximately 20 feet in width. The presence of this curb cut precludes parking along this portion of the sites frontage. The minimum driveway width for residential development is 9 feet. Therefore, the existing curb cut/driveway already accounts for greater than two of the three driveways that the applicant will be constructing to serve new development. It is feasible there will be a net loss of 1 on street parking space as a result of the proposal. In order to retain as much on-street parking space as possible, private driveways associated with Parcels 1-3 shall be no greater than the minimum requirement of 9 feet wide. In addition, the driveways shall be located on the easternmost portion of each parcel. This should allow for one on-street parking space along the frontage of each parcel.

**The availability of transit service and facilities and connections to transit:**

Tri-Met provides transit service approximately 270 feet from the site on SE Hawthorne Boulevard via bus #14. This service line meets the definition for peak hour service based on the frequency of operation less than 20 minutes per stop during peak hours. This designation exempts the applicant from minimum parking requirements. However, the applicant has chosen to provide parking with the new development.

**Safety for all modes:**

At this location, SE 20<sup>th</sup> Avenue is improved with a 30 foot paved surface and pedestrian corridor that consists of a .5 foot curb, 5 foot planter, 6 foot sidewalk and 2 foot setback to private property within a 55 foot wide right-of-way. SE Market Street is improved with a 24 foot paved roadway surface and pedestrian corridor that consists of a .5 foot curb, 4 foot planter, 6 foot sidewalk and 3 foot setback to private property within a 50 foot wide right-of-way. 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. The City's Pedestrian Design Guide recommends a 12-ft wide pedestrian corridor comprised of a 0.5-ft curb, 4-ft planter area, 6-ft sidewalk and 1.5-

ft setback to the property line. The existing pedestrian corridor of SE 20<sup>th</sup> Avenue and SE Market Street adjacent to the subject property exceeds the recommended standard noted above.

**Other evaluation factors:**

Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the new development can be safely served by this existing street without having any significant impact on the level of service provided considering the stated evaluation factors. With the conditions of approval described above, this criterion is met.

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

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. There is an existing 6 inch water main within SE 20<sup>th</sup> Avenue. There is no existing water service in SE Market Street along the sites frontage. The applicant has proposed to extend a new water main in SE Market Street from the existing water main in SE 20<sup>th</sup> Avenue to serve Parcels 1-3. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Portland Water Bureau prior to final plat approval. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 16 inch VSP public combination sewer line located in SE Market Street and an 8 inch VSP public combination sewer line located in SE 20<sup>th</sup> Avenue that can serve the sanitary needs of the proposed lots. 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-2), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcels 1-3:** 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.

With the conditions of approval described above, the stormwater management and Services and Utilities criterion 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	<b>Applicable - See findings below.</b>
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable – The proposal does not include any streets.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	<b>Applicable - See findings below.</b>
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

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

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

**Findings:** The subject property is located within an approximate 200 by 350 foot block that is bordered by north/south streets of SE 20<sup>th</sup> and 21<sup>st</sup> Avenues and east/west streets of SE Hawthorne Boulevard and SE Market Street. As noted above, through streets should generally be provided no more than 530 feet apart and at least 200 feet apart. The Portland

Bureau of Transportation has noted that the spacing goal for public through streets and pedestrian connections is generally satisfied on the subject block. In addition, no street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The pedestrian corridor of SE 20<sup>th</sup> Avenue and SE Market Street adjacent to the subject property is already improved and meets the Bureau of Transportation standards.

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 adjacent public 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**

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

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

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

Among the various development standards that will be applicable to this development, the applicant should take note of:

- Narrow Lots-- development on Parcels 1-3 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.2/1.5 times the width of the structure, per 33.110.215.B.2; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
  - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.

**Existing development that will remain after the land division.** The site is currently vacant, so the division of the property will not cause any structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2008 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:

- The applicant must meet the requirements of the Fire Bureau in regards to 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 must meet the requirements of Urban Forestry regarding compliance with a tree cutting violation that occurred prior to application for the land division. Prior to the land division request the applicant removed trees from the property without the proper tree removal permits. Therefore, the applicant shall resolve this issue prior to final plat approval. Street trees will be required at the time of building permit. This requirement is based on the standards of Title 20. See Exhibit E-6.

## CONCLUSIONS

The applicant has proposed a 3 parcel partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria

have been met, or can be met with conditions. The primary issues identified with this proposal are: narrow lot regulations and utilities.

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

### **ADMINISTRATIVE DECISION**

**Approval** of a Preliminary Plan for a 3 parcel partition, that will result in 3 narrow lots as illustrated with Exhibit C-1, subject to the following conditions:

**A. The following must occur prior to final plat approval:**

**Utilities**

1. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE Market Street.

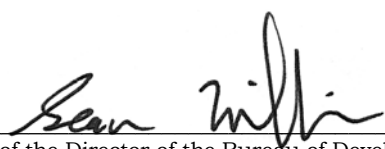
**Other requirements**

2. The applicant shall meet the requirements of Urban Forestry for compliance with all tree cutting violations on the land division site.

**B. 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 gutter line.
2. Private driveways associated with Parcels 1-3 shall be no wider than 9 feet at point of access with the public right-of-way and shall be located at the easternmost portion of each parcel.

**Staff Planner: Sean Williams**

**Decision rendered by:**  **on May 25, 2010**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 28, 2010**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on February 23, 2010, and was determined to be complete on March 18, 2010.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 23, 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, the applicant did not waive or extend the 120-day review period.

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

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

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

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

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

The file and all evidence on this case 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](http://www.portlandonline.com).

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

#### EXHIBITS

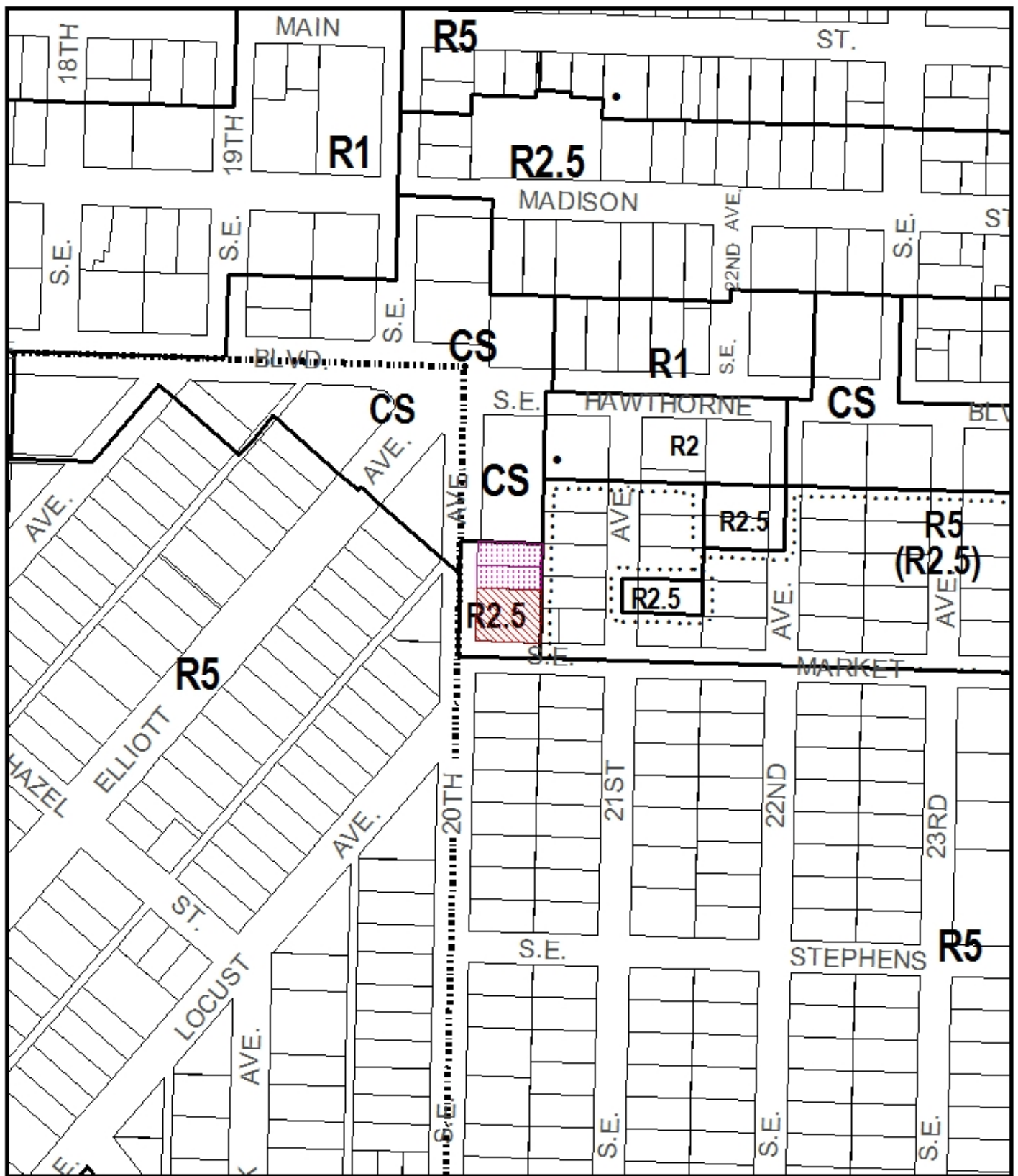
NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary partition plat (attached)
  - 2. Utility 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. Life Safety Plans Examiner
- F. Correspondence:
  1. Walter Keutel & Barbara Weiss; 1615 SE 20<sup>th</sup> Avenue (4/16/10)
  2. Patricia Schnabel; 2030 SE Market Street (4/5/10)
  3. Richard J Kozak; 2010 SE Market Street (4/17/10)
  4. James M Barrett; 1627 SE 20<sup>th</sup> Avenue (4/16/10)
- G. Other:
  1. Original LU Application
  2. Site History Research
  3. Email from Cherrie Eudaly (PBOT) regarding vehicle access

**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
-  Also Owned
-  Historic Landmark



File No. LU 10-113843 LDP  
 1/4 Section 3232  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E02DA 4402  
 Exhibit B (May 19, 2010)

**W.B. WELLS**  
 & Associates, Inc.  
 ENGINEERS SURVEYORS ARCHITECTS  
 4200 NE FREMONT STREET  
 PORTLAND, OREGON 97213  
 PHONE: 503.241.0961 FAX: 503.241.0555  
 E-MAIL: [adams@wbwells.com](mailto:adams@wbwells.com)

N.T.S.

APPLICANT:	SCHTEL DEVELOPMENT ATTN: ERIC SCHTEL
PROPOSAL:	3422 SE GRANT COURT PORTLAND, OR 97214 PHONE: 503-348-2887
REPROPOSAL:	3-Lot Partition
SIZE:	R-2.5
ACREAGE:	8,400 SF
DATE:	W.B. WELLS & ASSOCIATES, INC.
LEGAL DESCRIPTION:	IS 15 07DA TAX LOT 4430

**LEGEND**

--SS-- UNDERGROUND SANITARY & STORM SEWER LINE  
--(SS)-- COVERED STORM MAN-HOLE  
--W-- UNDERGROUND WATER LINE  
G. FT. = SQUARE FEET  
[1] = BLOCK NUMBER  
DTP = DECIDUOUS TREE

**NOTE**

THE UNDERGROUND UTILITY LINES SHOWN  
OFFERED ARE FROM A GOVERNMENT  
SUPPLIED "AS-BUILT" MAPS AND ARE  
APPROXIMATE ONLY.

DRAWINGS:

1. PLAT / VICINITY MAP / INDEX OF DRAWINGS  
2. EXISTING CONDITIONS  
3. PRELIMINARY UTILITY PLAN  
4. CLEARING AND GRADING PLAN

WM 10-113843 WD P

COVER SHEET/PRELIMINARY PLAT  
SE 20TH AND MARKET PARTITION

2-22-10  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
BRADLEY S. SCHRAMM  
NOV 17 1981  
EXPIRES: 08-30-10

**Scheel Development**  
Attn: Eric Scheel  
3422 SE Grant Court  
Portland, OR 97214  
503-348-2887

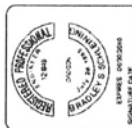
REVISIONS:	DESIGNED BY:	DRAWN BY:	M.O.P.
	CHECKED BY:	FILE NO.	09-000-ENG-DWG
	PLOT DATE:	mm. dd. yy.	
	JOB NO:	09-109	
		SCALE:	AS SHOWN

SHEET 1 OF 4



# **PRELIMINARY UTILITY PLAN** **SE 20TH AND MARKET PARTITION**

CITY OF PORTLAND, OREGON  
 SCHEEL DEVELOPMENT  
 FOR



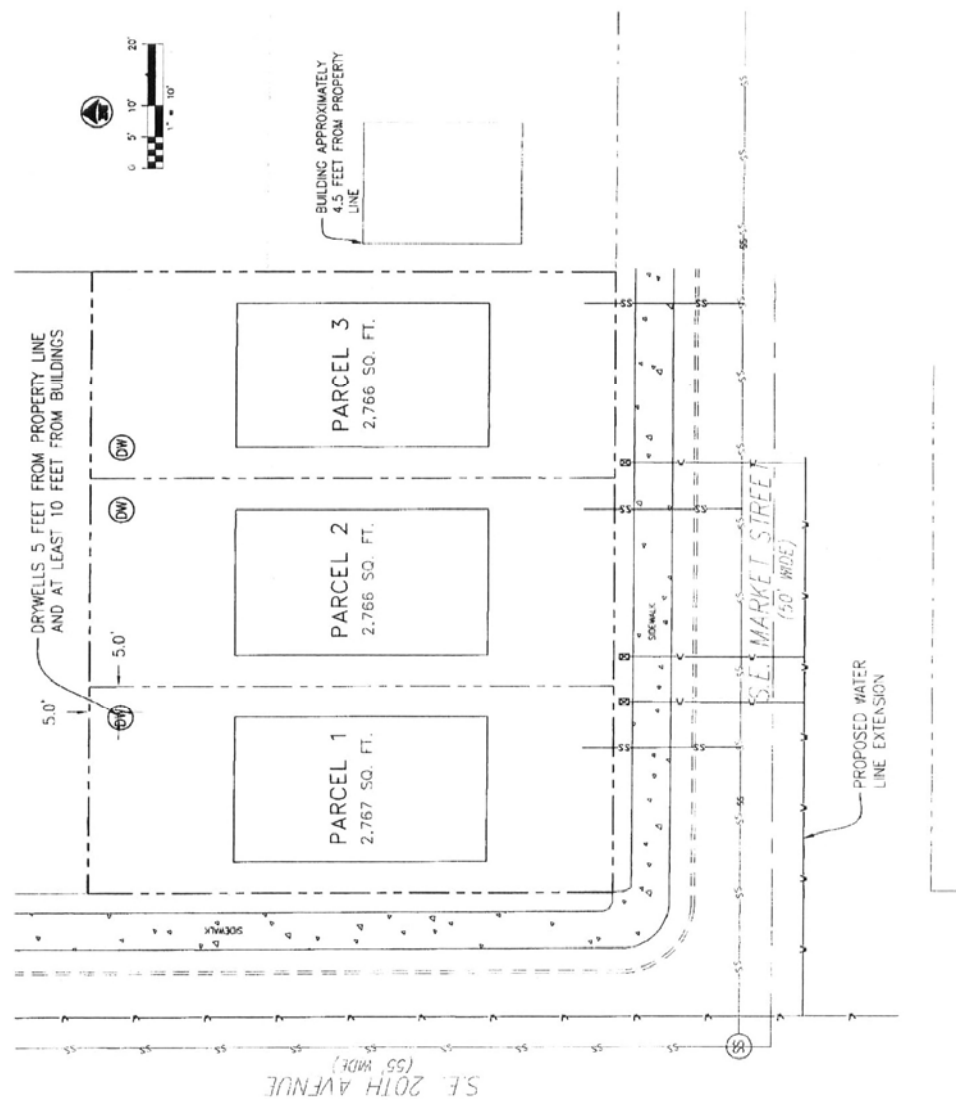
Scheel Development  
 Attn: Eric Scheel  
 3423 SE East Court  
 Portland, OR 97214  
 503-546-2887

DESIGNED BY	W.B. WELLS
DRAWN BY	M.D.P.
CHECKED BY	
FILE NO.	02-005-ENG-DWG
PLOT DATE	mm-dd-yy
XREF NO.	02-109
DATE	mm-dd-yy

## **LEGEND**

- EXISTING GAS LINE
- EXISTING SANITARY SEWER AND MH
- EXISTING STORM SEWER, MH AND CATCH BASIN
- EXISTING OVERHEAD UTILITY
- EXISTING CURB OF PAVEMENT
- EXISTING CURB
- EXISTING WATER LINE, METER & GATE VALVE
- EXISTING CENTERLINE
- EXISTING R.O.W.
- PROJECT BOUNDARY
- PROPOSED R.O.W.
- PROPOSED LOT LINE
- PROPOSED CENTERLINE
- PROPOSED CURB
- PROPOSED SANITARY SEWER
- PROPOSED STORM SEWER, INLET & MH
- PROPOSED WATERMETER & SERVICE LINE
- PROPOSED SALT FENCE
- PROPOSED CLEARING LIMITS

NOTE:  
 ON SITE STORMWATER WILL BE DIRECTED  
 TO INDIVIDUAL DRYWELLS



CASE NO. 10-113843  
 EXHIBIT C-2