



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: August 30, 2010
To: Interested Person
From: Kate Green, Land Use Services
503-823-5868 / kate.green@portlandoregon.gov

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 10-141255 LDP

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions
223 NE 56th Avenue
Portland OR 97213

Property Owner: Dan Andrew
3439 NE Sandy Boulevard #113
Portland OR 97232-1959

Site Address: 5036 NE 17TH AVENUE
Legal Description: BLOCK 27 LOT 5, VERNON
Tax Account No.: R860704920
State ID No.: 1N1E23AB 19200
Quarter Section: 2532

Neighborhood: Vernon, Larry Holmes at 503-314-4441
Business District: North-Northeast Business Assoc, Joice Taylor at 503-445-1321
District Coalition: Northeast Coalition of Neighborhoods, Shoshana Cohen at 503-823-4575

Zoning: Single Dwelling Residential 2500 (R2.5)
Alternative Design Density (a)
Aircraft Landing (h)

Case Type: Land Division-Partition (LDP)
Procedure: Type I, administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA)

Proposal: The applicant proposes to divide a 5,000 square foot lot into two "narrow lots" or 2,500 square foot "units of land" or "parcels" for single dwelling development. The existing house and garage and all trees are proposed for removal. Utility services are proposed to be provided via sanitary sewer and water facilities in NE 17th Avenue; and stormwater management is proposed via new drywells on each proposed parcel.

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 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. This proposal is to create two “units of land”, so this land division is considered 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.**

ANALYSIS

Site and Vicinity: The subject site is a relatively flat rectangular lot on the east side of NE 17th Avenue. The site is currently developed with a single story house with a basement and a detached garage and landscaped yard.

The site has approximately 50 feet of frontage on NE 17th Avenue, which is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. NE 17th Avenue is improved with a paved roadway, curbs, planting strips, and sidewalks. Parking is currently allowed on both sides of the street. There is one driveway entering the site that provides access to off-street parking for the existing house. Tri-Met provides transit service approximately 550 feet to the west of the site on NE 15th Avenue via bus #8, and approximately 150 feet south of the site on NE Alberta Street, via bus line #72.

The site is situated in an established residential area. Nearly all of the nearby lots are 5,000 square feet in area or smaller, and are developed with one or two-story detached or attached houses in the R2.5 zone.

A commercially zoned corridor is located along NE Alberta Street, which is located approximately 150 feet south of the subject site. About 900 feet north of the site is a high density multi-dwelling and commercial corridor along NE Killingsworth Street.

Zoning: The site is located in a **Single-Dwelling Residential 2,500 (R2.5)** zone, which is one of the City’s single-dwelling zones that is intended to preserve land for housing and to promote housing opportunities for individual households. The zone allows a mix of housing types with a single dwelling character while allowing attached houses and somewhat higher densities.

The site also has an **Alternative Design Density (a)** overlay designation. The purpose of the a-overlay is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The applicant has not proposed to use any of the a-overlay provisions.

The site is also within an **Aircraft Landing (h) overlay** zone, which limits the height of structures and vegetation within the vicinity of Portland International Airport. The h-overlay height limit at this location is less than the 35 foot building height limit typically allowed in the R2.5 zone, so the applicant will be required to apply for an exception to the h-overlay height limit from the *Federal Aviation Administration*.

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 **July 6, 2010**.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. The comments are addressed under the appropriate criteria for review of the proposal. Please see Exhibits E for details.

2. Neighborhood Review: No written responses have been received.

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	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site outside of environmental zones.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. These density and lot dimension requirements 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 minimum and maximum density for this site is as follows:

Minimum = (5,000 square feet * .80) ÷ 5,000 square feet = .8 (which rounds up to a minimum of 1 lots, per 33.930.020.A)

Maximum = 5,000 square feet (- 50 square foot dedication) ÷ 2,500 square feet = 2

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

Lot Dimensions: The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) 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; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

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

	R2.5 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area (square feet)	1,600	2,500 (2,475)**	2,500 (2,475)**
Maximum Lot Area (feet)	NA		
Minimum Lot Width* (feet)	36	25 (narrow lot)	25 (narrow lot)
Minimum Lot Depth (feet)	40	100 (99)**	100 (99)**
Minimum Front Lot Line (feet)	30	25 (narrow lot)	25 (narrow lot)

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

** Lot Area and Lot Depth for Parcels 1 and 2 will be reduced to accommodate a one-foot right-of-way dedication called for by Portland Transportation (see findings for Criterion K), and anticipated widths are noted in parenthesis.

Parcels 1 and 2 are proposed to be 25 feet in width, which is narrower than the minimum width for the R2.5 zone, as shown in the table above. Section 33.611.200.C.2 allows the minimum lot width to be reduced below 36 feet, if all of the following are met:

33.611.200.C.2

a. On balance the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) 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; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant notes that proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations since neither parcel will be landlocked to have an unbuildable width; the parcels will be of sufficient size to meet the density requirements in the R2.5 zone; and the parcels will be wide enough to develop with detached houses that will be oriented toward the street and have sufficient site area to provide the required outdoor area. Additionally, as noted in Criterion L, below, utilities are available or can be made available to serve the parcels. Therefore, the proposed parcel widths are consistent with the purpose of the lot dimension regulations.

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

The proposed lot width is 25 feet, so this provision is met.

c. If the lot abuts an alley, then vehicle access is allowed only from the alley. This requirement will be imposed as a condition of approval of the land division.

The site does not have access from an alley, so this provision 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.

An attached garage is not allowed on the street facing façade of a house that is less than 22 feet wide. Since both Parcel 1 and 2 are proposed to have a lot width of 25 feet, the lots are not wide enough to have houses that are 22 feet wide, and meet the required side setback standards. The applicant is aware of this requirement and indicates the proposed houses will not have attached garages along their street-facing facades.

In any event, the lots are of sufficient width to allow detached garages at the rear of each lot, which could be accessed by shared driveways that straddle the lots lines between properties.

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;

Detached houses are proposed, so this requirement 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.**

The subject site is located in an area where parking is not required; however, the applicant indicates parking will be provided on the site. As such, this provision is not applicable, and all parking must meet the applicable development standards at the time of development.

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

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	Root Protection Zone (RPZ)
1	Cherry	10.5	No	Hazard	No	N/A
2	English Holly	9.5	No	Nuisance	No	N/A
3	Cherry	30.5	Yes	No	No	N/A
4	Pear	7	No	No	No	N/A

The total non-exempt tree diameter on the site is 37.5 inches. The applicant notes that the location of the trees limits development to the allowed density, and requests use of the mitigation option, since none of the tree preservation options are met.

33.630.300 Mitigation Option

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

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

The applicant proposes to create two narrow lots to match the maximum density allowed in the R2.5 zone, and notes that the location of the trees limits development to the allowed density. The applicant also notes that the proximity of the trees to the structures to be demolished may further compromise their condition. So, to mitigate for the removal of the 37.5 inches of non-exempt tree diameter, the applicant proposes to install seven 2-inch diameter trees on the subject site, which would provide 14 inches of replacement tree diameter. The applicant notes the replacement tree inches will be equivalent to the Option 1 Tree Preservation Standard, which requires preservation of 35 percent of the total tree diameter on the site.

However, since the proposed parcels will be relatively small, and the applicant will be required to meet the landscaping standard for new houses (known as the T1 tree planting standard, 33.248.020.H), which will require at least 3 inches of new trees to be planted on each of the proposed parcels, it may be impractical to also install the required number of mitigation trees on

the site. Instead, if the applicant made a contribution to the City's Tree Fund, this would allow for the installation of trees in the watershed in which the site is located, and those trees will help absorb air pollutants and contamination, and contribute to the City's general beauty. The cost to purchase and plant trees is determined each year by the Urban Forester based on current market prices per inch for materials, labor, and maintenance. At this time, the requirement is \$300 per inch of tree to be installed.

With a condition that the applicant must contribute funds for 14 inches of tree diameter, prior to final plat, this will provide for the installation of trees in the watershed and serve to equally meet the purpose of the Tree Preservation regulations. With the implementation of this condition, this criterion will be 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. As such, 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 in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and 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).

As noted in the response from Portland Transportation, the estimated increase in daily trips is less than 10 total trips per day (for the proposed addition of one new SFR) with the majority of trips occurring during non-peak hours as provided by the Institute of Transportation Engineers – Trip Generation Manual (8th Edition). Additionally, given two possible route directions to and from this location, and sidewalks in both directions, as well as the availability of alternative modes of transportation (Tri-Met) located less than 500 feet from the subject property, Portland Transportation anticipates the minimal increase to the existing transportation system facilities and increased capacity from this proposed minor partition will not create a significant impact that warrants a transportation study at this time.

However, as outlined in the response from Portland Transportation, the existing 10-foot wide pedestrian corridor along this frontage does not meet the City's pedestrian corridor width standard (11-foot overall) for local service street classifications within R2.5 zoning. Therefore, a one-foot dedication will be required to meet the recommended standard for pedestrian corridor width along the NE 17th Avenue frontage. Additionally, Portland Transportation has noted that at the time of development on the parcels, continuous curb standards and minimum driveway widths and garage frontage setback requirements must be met to the satisfaction of Portland Transportation; and any damaged curb and/or sidewalk must be replaced to the satisfaction of the City Engineer.

With the conditions 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. As shown by the findings below, the Services and Utilities criteria are met.

- Water: The water standards of 33.651 have been verified. An existing 8-inch water main is available in NE 17th Avenue to serve Parcels 1 and 2. There is an existing 5/8" metered service (Serial #94041085, Account #2966627900) which provides water to this location from

the main in NE 17th Avenue. This meter may potentially be used to serve Parcel 1. See Exhibit E-3 for more details.

- **Sanitary Sewer:** The sanitary sewer standards of 33.652 have been verified. There is an existing 10-inch CSP public sanitary sewer located in NE 17th Avenue that can serve the sanitary needs of the proposed lots. The existing house has a sewer service from that main, which will need to be capped at time of demolition. BES notes the existing lateral may be used for Parcel 2 if it is still serviceable. A new service branch must be constructed to service Parcel 1 at the time of development. See Exhibit E-1 for more details.
- **Stormwater Management:** 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.

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, and the Bureaus have responded as follows (Exhibits E-1 and E-5):

Public Street Improvements: As note above, Portland Transportation is requiring a one-foot dedication along the site frontage. However, since the frontage is already developed, and the curb exists, the only likely improvements will include new driveways and/or repairs to the curb. As such, no additional impervious area is anticipated. In any event, all public street improvements must meet the requirements of the Stormwater Management Manual and Sewer Design Manual to the satisfaction of BES. BES notes that there are public underground injection control (UIC) systems located north and south of the subject site; however, these systems must be accessed before being used for any additional stormwater discharge and no private stormwater can be discharged to public sumps.

Parcels 1 and 2: Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES has noted no objections and indicates the Simplified Approach Form shows an acceptable infiltration rate (5-inches per hour). Site Development recommends that the drywells should be placed at least 15 feet from the basement fill area that will be installed as part of the house demolition.

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

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable - No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Applicable - See findings below.
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	Applicable - See findings below. Not applicable - There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable - No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable - No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable - There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable - No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable - No partial public streets are proposed or required.
33.654.130.E	Ownership of Alleys	Not applicable- No alleys 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: As noted in the findings for Criterion K, above, the site is located in an area with a developed street grid pattern that meets the desired spacing requirements, and no additional streets or street extensions are needed at this location. With a condition for a one-foot dedication, the desired pedestrian environment will be provided, and this criterion will be met.

33.654.120.C.1 Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

Findings: As noted in the findings for Criterion K and in the response from Portland Transportation, a one-foot dedication must be provided along the site frontage to provide sufficient width for the right-of-way. With a condition requiring this dedication to be provided prior to final plat, this criterion will be met.

33.654.120.E. Approval criterion for the width of pedestrian connections. The width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end.

Findings: As noted above, with a one-foot dedication along the NE 17th Avenue frontage, sufficient right-of-way width will be provided to accommodate the anticipated pedestrian system, and this criterion will be met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

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

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary; so 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 lot, the applicant should take particular note of:

Narrow Lots: Development on Parcels 1 and 2 will be subject to the following standards at the time of development permitting:

- Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
- 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.

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

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2008 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- The applicant must 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 Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-parcel (narrow lot) partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Demolition of existing development
- Right-of-way dedication
- Tree mitigation
- Fire department access

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in two “narrow lots” as illustrated with Exhibit C.1 subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE 17th Avenue. The required right-of-way dedication must be shown on the final plat.

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

Existing Development

1. A finalized permit must be obtained for demolition of the existing residence and garage on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures.

Other requirements

2. The applicant must pay into the City Tree Fund the amount equivalent to 14 inches of trees. Payment must be made to the Bureau of Development Services, which administers the fund for the Parks Bureau.

C. 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.

Staff Planner: Kate Green

Decision rendered by: Michael Nayak **on August 25, 2010.**
By authority of the Director of the Bureau of Development Services

Decision mailed on August 30, 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 May 28, 2010, and was determined to be complete on June 30, 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 May 28, 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. Unless further extended by the applicant, **the 120 days will expire on: October 28, 2010.**

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.

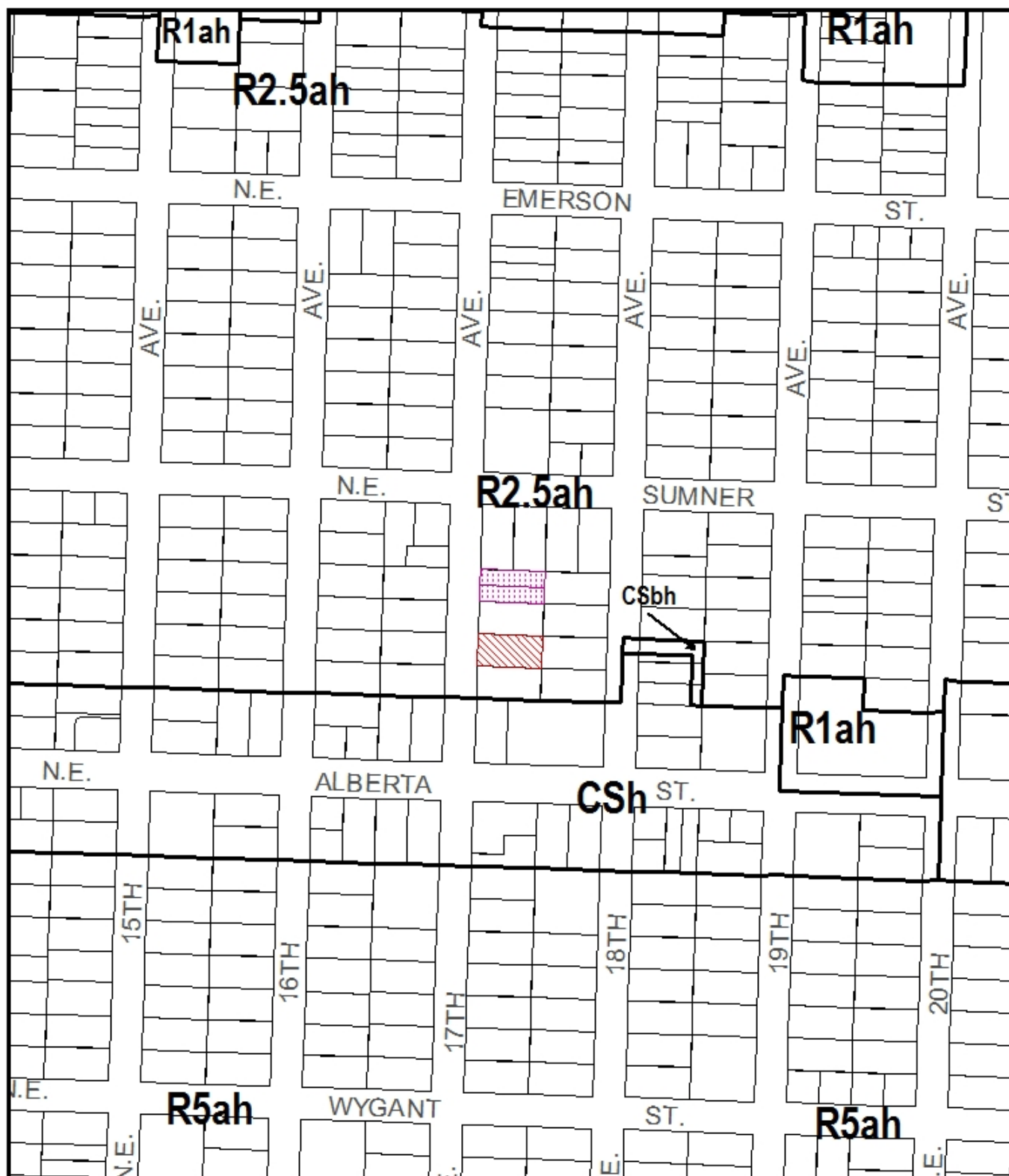
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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.**

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).

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Supplemental Narrative
 - 2. Revised Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (reduced copy attached)
 - 2. Conceptual Utility Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development
 - 6. Life Safety
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Letter to applicant re: incomplete application



ZONING

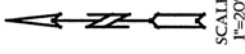
-  Site
-  Also Owned



File No. LU 10-141255 LDP
 1/4 Section 2532
 Scale 1 inch = 200 feet
 State_Id 1N1E23AB 19200
 Exhibit B (Jun 01,2010)

SITE PLAN

LOT 5, BLOCK 27 OF "VERNON", LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON.



HERITAGE SURVEYING
843 NE FAIRVIEW ST.
PORTLAND, OREGON 97220
(503) 255-6558

SURVEYED: MARCH 16, 2010
AT THE REQUEST OF:
ANDRE KOSMHEITSTRAM LLC
PO BOX 42670
PORTLAND, OREGON 97242

NOTE:

THIS DRAWING DOES NOT CONSTITUTE A BOUNDARY SURVEY. NUMEROUS EXISTING UTILITIES HAVE BEEN RECORDED AND UTILIZED TO VERIFY THE DEED DESCRIPTION HOWEVER, ELEVATIONS SHOWN ON THIS DRAWING ARE BASED ON CITY OF PORTLAND BENCHMARK NO. 439 HAVING AN ELEVATION OF 228.06'

LEGEND:

- EXISTING ASPHALT PAVEMENT
- EXISTING CONCRETE SURFACE
- EXISTING FENCE
- SEWER LINE
- WATER LINE
- GAS LINE
- WATER VALVE
- FIRE HYDRANT

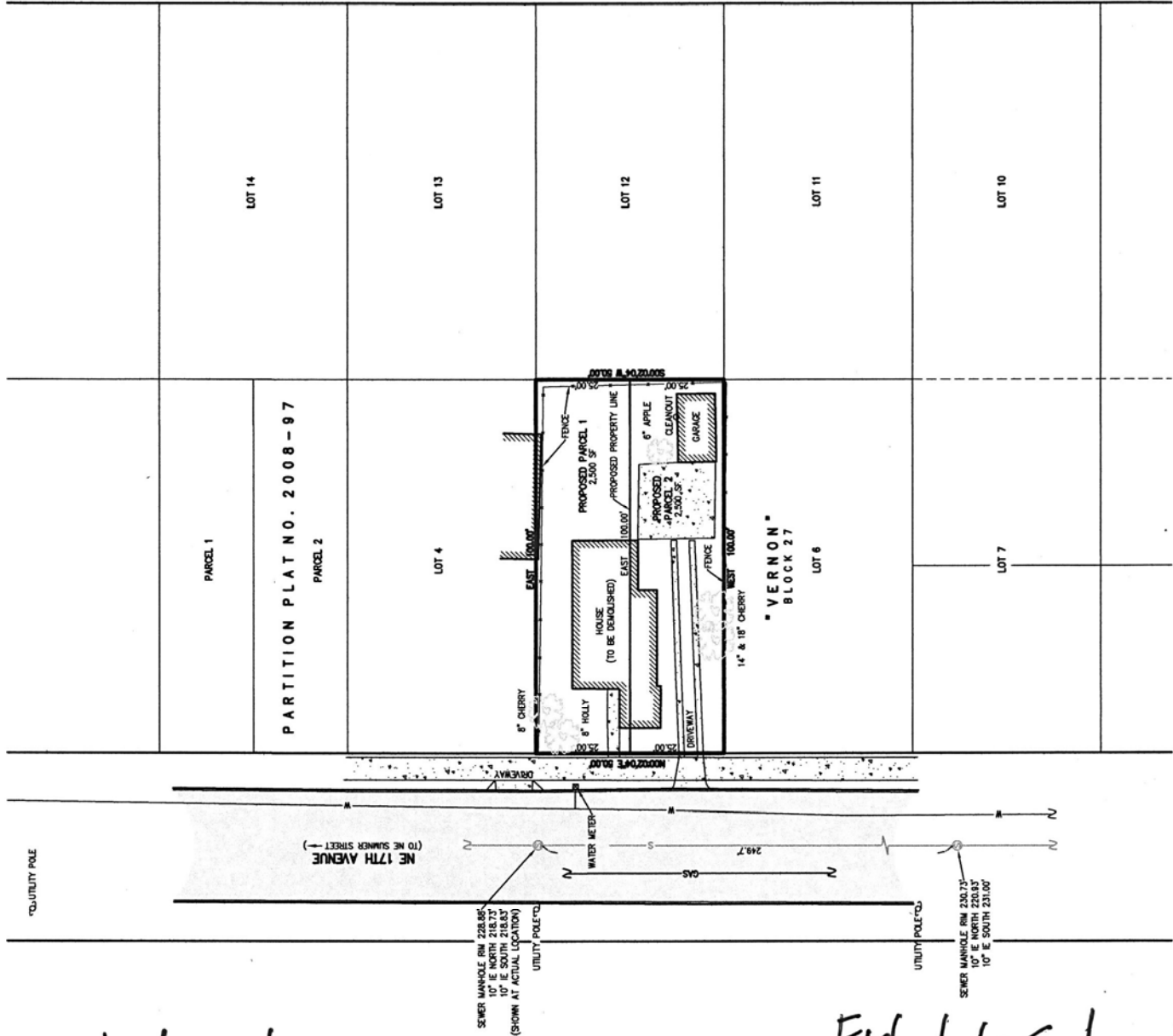
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
CITY LICENSE
MICHAEL H. HARRIS
57863

RENEWAL: JUNE 30, 2011

LM10-141255 LDP

SHEET 1/1
183-11-10



Reduced copy

Exhibit C.1