



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: July 25, 2011
To: Interested Person
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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 11-105724 LDP

GENERAL INFORMATION

Applicant: Ralph E. Austin,
Owner 2724 NE Cesar Chavez Blvd
Portland, OR 97212-2927

Site Address: 1208 SE ANKENY ST

Legal Description: BLOCK 265 LOT 1 & 2 TL 4600, AIKENS ADDITION
Tax Account No.: R005100260
State ID No.: 1N1E35CD 04600
Quarter Section: 3031

Neighborhood: Buckman, contact Susan Lindsay at 503-725-8257.
Business District: None
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Plan District: None

Zoning: CS - Storefront Commercial

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

Proposal:

Applicant proposes to divide a 4,832 square foot site into two parcels. The existing house will remain on Parcel 1, which will be 2,872 square feet. Parcel 2 will be 1,960 square feet. No new development is proposed on the site and the applicant wishes to retain the detached structure (formerly a garage) that will remain on Parcel 2. No use is proposed for the structure. The structure can remain if it meets the development standards for the CS zone. If not, it must be removed within 2 years after final plat approval. The site plan (Exhibit C.1) shows a private sewer easement along the east boundary of the site (width varies from 4.5 feet to approximately 10 feet). The purpose of the easement is to allow a sewer

connection to SE Ankeny Street for the adjacent property to the south at 114 SE 12th Avenue. The easement was required as a result of a Property Line Adjustment review (LU 08-109829 PR) in 2008, which separated the property at 114 SE 12th Avenue from the subject site. As a result of this land division, the easement will burden Parcel 2.

This partition is reviewed through a Type I land use review because: (1) the site is in a commercial, employment, or industrial 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 33.662.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land (two parcels). Therefore 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 33.662.120, Approval Criteria for Land Divisions in Commercial, Employment, and Industrial zones*.

FACTS

Site and Vicinity: The applicant’s site is a corner lot facing SE Ankeny and SE 12th Avenue. There is a two-story house on the site, built in 1906, according to City records. There are two dwelling units in the house. The site was graded to create a level area raised above the surrounding sidewalks. The main entrance faces SE Ankeny. There is a garage on the east side of the site that is built at sidewalk level, below the grade of the house. There is a mature hedge growing along the entire east side of the lot which extends south onto the adjacent residential property. It provides a wide buffer between the two lots and a church parking lot (zoned CS) on the east side of the hedge.

There is a church building one block east on the southeast corner of SE Ankeny and SE 13th Avenue). On the north side of SE Ankeny there is another church parking lot. A senior housing development above a structured parking garage was recently approved on the block to the east, bounded by SE Ankeny, SE 12th Avenue, SE Ash Street and SE 15th Avenue.

The properties south of the site, within the same block as the site, are zoned CG (General Commercial) and R1 (Residential 1,000) and are developed with multi-family and single-dwelling structures. To the west of the site, on the west side of SE 12th Avenue, properties are zoned EXd (Central Employment with a Design Overlay) and are developed with residential buildings that have been converted to commercial use, multi-dwelling structures, single-dwelling structures, and an office building. To the northwest of the site, across SE 12th Avenue and SE Ankeny, is a property with an EXd zoning designation that contains a billboard sign.

Zoning:

The site is zoned Commercial Storefront (CS) which is intended to preserve and enhance older commercial areas that have a storefront character. New development in these areas, under the CS zone standards, should be compatible with the desired character of the zone. The zone allows a range of retail, service and business uses. Small scale industrial uses may be allowed in some circumstances. Residential uses are allowed in the zone.

Infrastructure:

- **Streets** – The City’s *Transportation System Plan (TSP)* classifies SE 12th Avenue as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Major Truck Route, Major Emergency and Community Main Street. SE Ankeny Street is a City Bikeway and a Local Service Street for all classifications. Tri-Met provides transit service

approximately 320 feet from the site at E. Burnside Street and Sandy Blvd. via Bus #12. Parking is currently allowed on both sides of SE Ankeny Street and SE 12th Avenue.

The site has approximately 75 feet of frontage on SE Ankeny and 64.42 feet on SE 12th Avenue. There is one driveway, entering the site on the east side of the house from SE Ankeny Street. It leads to a garage, which, according to the applicant, has not been used for that purpose for many years.

SE 12th Avenue has a 36-wide paved roadway and a 12-foot wide pedestrian corridor within a 60-foot right-of-way. SE Ankeny Street has a 36-foot wide paved roadway and 12-foot wide pedestrian corridor within a 60-foot right-of-way.

- **Water Service** – There is an existing 12-inch CI water main in SE 12th Avenue. The existing house is served by a $\frac{3}{4}$ -inch metered service from the main. There is a 4-inch CI main in SE Ankeny Street.
- **Sanitary Service** - There is a 12-inch clay public combined gravity sewer in SE Ankeny Street. The existing site has service from that main.

Land Use History: City records indicate that prior land use reviews include the following:

07-106556 AD This decision approved three adjustments to pedestrian standards (*Section 33.130.240*) for two, 4-unit flex-use buildings. The site at that time included the site identified in this proposal and the adjacent property to the south. The proposal was to demolish both structures and replace them with the proposed new buildings. This project was not constructed and the decision is void.

08-109829 PR This review was for a lot confirmation and a property line adjustment. The site in this case was the subject site of this land division and the property to the south, at 114 SE 12th Avenue. The original property line divided the site east-west with the east parcel being 25 feet wide and the west one being 50 feet wide. The property line adjustment created two north-south parcels, Tract 1 and Tract 2, as shown on Exhibit G.4. Tract 2, the south parcel, was served by the sewer in SE Ankeny Street. When the property lines changed, the north-south segment of the sewer line ran through Tract 1, along the east side. Therefore, the property line adjustment plat showed a proposed sanitary sewer easement on Tract 1 to maintain the sewer connection for Tract 2 (now 114 SE 12th Avenue).

Agency and Neighborhood Review: A *Notice of Proposal in your Neighborhood* was mailed on **May 12, 2011**.

Bureau Responses:

Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

Neighborhood Response:

One written response to the proposal has been received from a notified property owner (Exhibit F.1). The property owner had no objections to the proposal as long as it remains in residential use. The applicant is proposing to retain the existing house, but no plans for Parcel 2 have been submitted. However, the site is zoned Storefront Commercial, which allows retail, service and business uses. If the owner decides to develop the lot with a commercial use, then the Zoning Code would allow it.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN A COMMERCIAL, EMPLOYMENT, OR INDUSTRIAL ZONE

33.662.120 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 **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial 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 Ch/Section and Topic	Findings: Not applicable because:
<i>B</i>	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site.
<i>C</i>	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
<i>D</i>	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
<i>E</i>	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
<i>H</i>	33.639 - Solar Access	Maintaining existing development on the site limits <i>new parcel configuration (33.610.200 supercedes 33.639)</i> .
<i>I</i>	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
<i>J</i>	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.613 through 33.615 must be met.

Findings: Chapter 33.613 contains the lot standards applicable in the Commercial zones.

Commercial Zones

Each lot must have a front lot line that is at least 10 feet long. Both proposed parcels meet this standard, as shown in the table above.

There are no minimum lot area, width, or depth standards in the Storefront Commercial zone except for a 10-foot front lot line requirement. Lots must be of a size, shape and orientation that are appropriate for the area and type of use contemplated. The desired

character of the Storefront Commercial zone includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners.

This site is in an area that transitions from small scale residential to higher density residential and commercial uses. The applicant has specified that the house on Parcel 2 will be retained and the house will retain some open area in the front and back. The applicant has written that Parcel 2 may be developed in the future with a one or two story commercial building. The size of the building will be constrained by the easement along the east property boundary and by setback requirements for the drywell at the rear of the parcel. However, the parcel can be developed with something that can have a storefront character and pedestrian orientation, as described in the purpose statement for the zone.

Parcel 1 will be large enough to allow the existing duplex to remain, providing a transition to the residential properties to the south.

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

Findings:

Clearing and Grading

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.

The site is not located within the Potential Landslide Hazard Area. The existing house sits on raised bench approximately four feet higher than the sidewalk. The small garage at the east side of the site is at sidewalk level, with its walls up against the bench at the side and back. The elevation behind the garage is the same as the west side of the lot.

No significant clearing or grading will be required on the site to make the new lots developable. The existing house will remain and the applicant's plan (Exhibits C.5 & 6) shows a conceptual diagram of a structure that will be adapted to the existing change in grade from the front to the back of Parcel 2, so no excavation will be required. 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.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. There are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

G 33.636 - Tracts and Easements

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easement is proposed and required for this land division:

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 2 to maintain the sewer connection for the adjacent lot to the south at 114 SE 12th Avenue. As discussed above, under *Land Use History*, the need for the easement resulted from a 2008 Property Line Adjustment Review. The applicant signed a covenant agreeing to record the easement once one of the lots was sold. The lot was sold but the easement was not recorded. The proposed land division shows the easement on the east side of Parcel 2 (see Exhibit C.1). Recording the easement as part of the final plat process for this land division will allow the easement to be recorded and to burden only Parcel 2, rather than the whole site. The original intention of the easement will be preserved and the connection between the Parcel 2 and the property at 114 SE 12th Avenue will be established when the easement is shown on the plat and recorded.

As stated in *Section 33.636.100* of the *Zoning Code*, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and

facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for the agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, this criterion is met.

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

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

Findings: The regulations of *Chapter 33.641* allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. *Chapters 33.651 through 33.654* address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in SE 12th Avenue and in SE Ankeny Street. Parcel 1 has an existing water service from the main in SE 12th Avenue. Parcel 2 can get service from the main in SE Ankeny Street.</p> <p><i>Title 21</i> requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, water service for Parcel 2 must be established, so that the service connection will be located along the property frontage at the time of new development. the appropriate service and meter size for this location will be determined at that time. Due to high water pressure (68 psi -85 psi), Water Bureau will require the applicant to install a pressure reducing valve (PRV) on the private property side of the water meter in the public right-of-way at the time that the new service is established.</p>
<p>33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified. The existing public sanitary sewer located in SE Ankeny Street that can serve the sanitary needs of the proposed lots. The house on Parcel 1 has sewer service from that main. A new lateral will be required to serve development on Parcel 2.</p> <p>In addition, there is a private sanitary sewer easement, approximately 4.5 feet wide, along the east boundary of Parcel 2 that is for the benefit of the adjacent lot to the south of the site. That lot was created through a property line adjustment process, mentioned above, under <i>Tracts and Easements</i>. The easement allows the lot at 114 SE 12th Avenue to maintain their current sewer connection from SE Ankeny Street.</p> <p>At the time of the property line adjustment the applicant owned both sites, so it was not possible to create the easement at that time. However, the property owner was required to record a covenant agreeing to create the easement once the property was sold. The applicant no longer owns the lot to the south, so the easement must be created and recorded, as the covenant prescribes. Because the property is being further divided, the easement will now burden only Parcel 2. Therefore it is reasonable to wait until the final plat stage to record the easement on that parcel. This will be required as a condition of approval.</p> <p>A Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. This will be required as a condition</p>

of approval

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

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

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

The applicant has proposed the following stormwater management methods:

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. BES will require the stormwater system for the house to be shown on the supplemental plan. If the system does not meet standards, applicant will be required to finalize plumbing permits prior to final plat approval to make modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks. This will be required as a condition of final plat approval.
- **Parcel 2 –** Stormwater from Parcel 2 will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. BES has reviewed infiltration test results and found them to be acceptable. The applicant must show the location of the drywell on the supplemental plan to confirm that it can meet setback requirements for structures (on or off the site) and for property lines, to BES' satisfaction. This will be required as a condition of approval.

This criterion can be met with the conditions of approval noted above.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030
33.654.120.B & C Width and elements of the street right-of-way
33.654.130.D Partial Rights of way**

Based on the available evidence, PBOT estimates that the increase in daily trips will be less than 10 total trips per day, with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.). Other factors taken into consideration are two possible travel route directions to and from the site as well as transit service available less than 400 feet from the site. PBOT staff has determined that there will be a minimal impact on existing facilities and capacity and that a traffic study is not required at this time (see Exhibit E-2 for a detailed analysis).

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling/two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

SE 12th Avenue has a 36-wide paved roadway within a 60-foot right-of-way. The pedestrian corridor has a 4-foot planter strip (including 6-inch curb), a 6-foot wide sidewalk and a 2-foot buffer located at the back of the sidewalk (a 4-6-2 configuration). The *Pedestrian Design Guide (PDG)* recommends a 0.5-4-6-1.5 configuration for a total corridor width of 12 feet. The SE 12th Avenue pedestrian corridor is consistent with development in this area and meets the 6-foot wide separated sidewalk and 12-foot overall width recommendation of the *PDG*. No dedication or improvements will be required.

SE Ankeny Street has a 36-foot wide paved roadway within a 60-foot right-of-way along the site's 75 feet of frontage. The pedestrian corridor has a 4-foot planter/curb area, 6-foot sidewalk and 2-foot buffer (a 4-6-2 configuration). The *PDG* recommendation for the corridor is the same as above. Therefore, the corridor is consistent with development in the area and with the *PDG*. No dedication or improvements will be required on the SE Ankeny Street frontage.

The existing driveway approach to the garage structure to remain on Parcel 2 must be closed and reconstructed to match the adjacent pedestrian corridor. If a new driveway is constructed when the parcel is redeveloped, it must meet City Standards (17.28.110). This will be required as a condition of approval.

Also, PBOT will require the applicant to reconstruct the sidewalks and/or curbs if they are found to be in poor condition. This will be required as a condition of development on both parcels.

With the conditions of approval described above, this criterion is met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the CS zone. *Per 33.700.015*, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see *Other Technical Requirements*, below, for Building Code standards.) Moving the property nearer to the side of the existing house will create a 3-foot side setback, which is allowed in the CS 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 and Topic	Contact Information
Water Bureau	<i>Title 21 - Water availability</i>	503-823-7404 www.portlandonline.com/water
Environmental Services	<i>Title 17; 2008 Stormwater Manual</i> Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	<i>Title 31 Policy B-1 - Emergency Access</i>	503-823-3700 www.portlandonline.com/fire
Transportation	<i>Title 17, Transportation System Plan</i> Design of public street	503-823-5185 www.portlandonline.com/transportation
Development Services	<i>Titles 24 –27, Admin Rules for Private Rights of Way</i> Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 www.portlandonline.com/bds

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

- Due to high water pressure (above 80 psi), Water Bureau will require a Pressure Reducing Valve (PRV) to be installed on the private property side of the water meter in front of Parcel 2.
- The applicant must meet the requirements of the Fire Bureau with regard to addressing, ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement and for aerial access for buildings exceeding 30 feet above the lowest level of fire department vehicle access. These requirements are based on the technical standards of *Title 31* and Fire Bureau *Policy B-1*.

CONCLUSIONS

The applicant has proposed a two-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 the private sewer easement on Parcel 2, stormwater management, water pressure and adequate fire flow.

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

ADMINISTRATIVE DECISION

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

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities on Parcel 2. The drawing must show that the proposed drywell meets setback requirements, to BES' satisfaction.
- The stormwater system for the house on Parcel 1, including dimensions downspouts, gutters and points of disposal.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A private sanitary sewer easement for the benefit of the adjacent lot to the south, 114 SE 12th Avenue, shall be shown and labeled over the relevant portions of Parcel 2.

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

Utilities

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that *Appendix B* of the *Fire Code* is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Required Legal Documents

2. A Maintenance Agreement shall be executed for the Private Sanitary Sewer Easement described in Condition B.1 above. The agreement shall include provisions assigning

maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Existing Development

3. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

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

1. The existing driveway approach for the garage structure on Parcel 2 must be closed and reconstructed to match the adjacent pedestrian corridor. If a new driveway and approach is constructed to serve future development on Parcel 2, the location must meet continuous curb requirements (setback distance) from intersections (17.28.110).
2. If existing sidewalks and/or curbs are found to be in poor condition, repairs will be required per the City Engineer's representative recommendations.
3. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2. The location of the address must be shown on the building permit.
4. The applicant must provide a fire access way that meets the Fire Bureau requirements for aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Sue Donaldson

Decision rendered by: _____ **on July 21, 2011.**

By authority of the Director of the Bureau of Development Services

Decision mailed July 25, 2011.

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

Procedural Information. The application for this land use review was submitted on January 21, 2011, and was determined to be complete on May 10, 2011.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the *Zoning Code* in effect on January 21, 2011.

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: September 8, 2011.**

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Narrative
 - 2. Approval Criteria
 - 3. Stormwater Calculations (Simplified Approach)
 - 4. Covenant to record future easement for Private Sewer
 - 5. Property Line Adjustment application (08-109829 PR)
 - 6. Notice of sewer inspection - separation from party line, dated 4/28/08
 - 7. Infiltration Test results, Adler Geotechnical Services, dated 4/22/07
 - 8. Water Bureau inspection receipt re 114 SE 12th Avenue, dated 4/6/08
 - 9. Memo re: additional information dated 3/24. 2011
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing Conditions
 - 3. Utilities and proposed new building footprint (Parcel 2)
 - 4. Section through Parcel 2 showing height of proposed new building
 - 5. Utility Plan, Parcel 2, revised July 18, 2011
 - 6. Section through Parcel 2 showing conceptual building and location of drywell.

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

1. Bureau of Environmental Services
 - a) Response
 - b) Addendum, dated July 12, 2011
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
 - a) Response
 - b) Revised response, dated July 18, 2011
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division (no concerns)

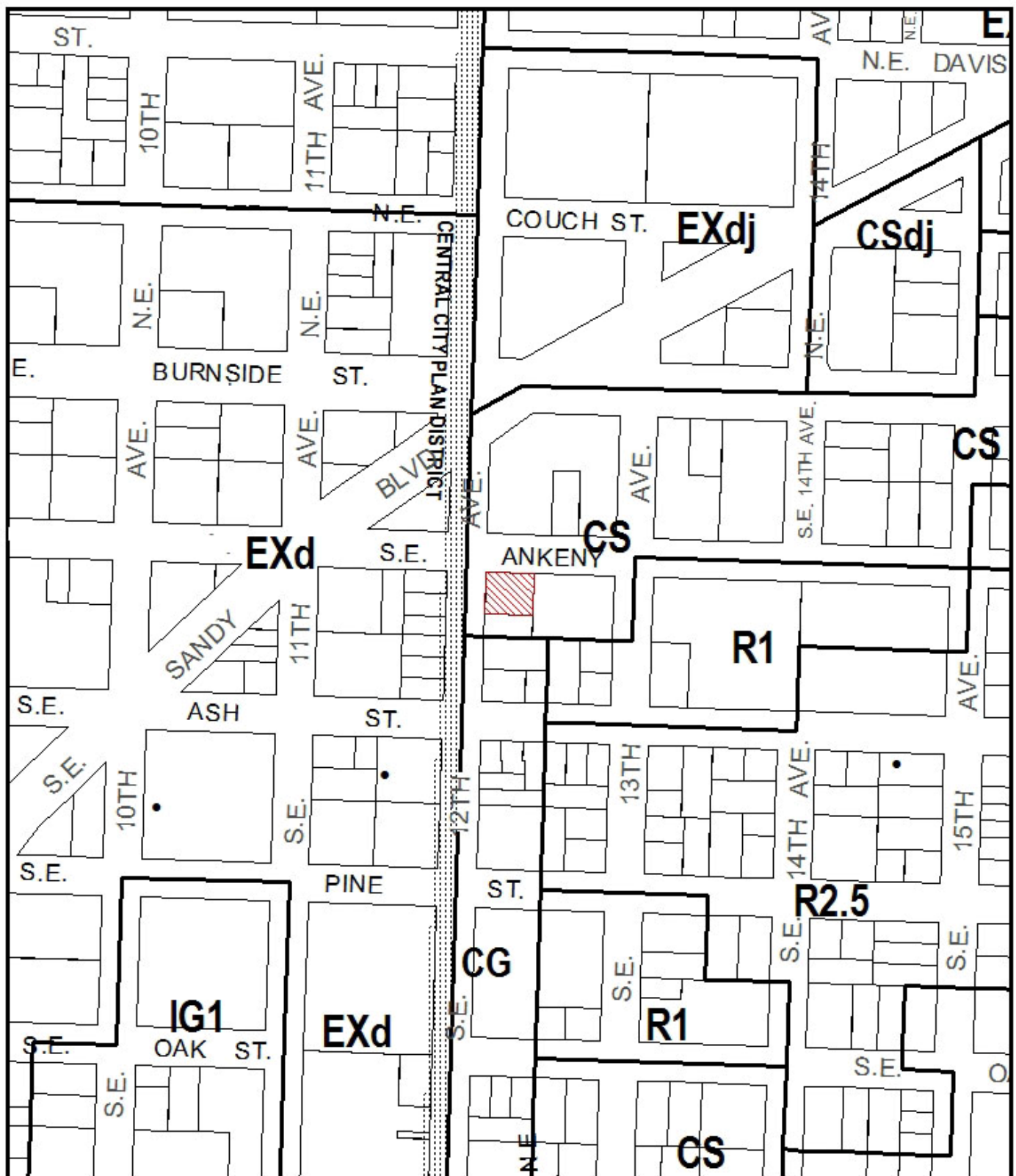
F. Correspondence:

1. Richard Brusatori, dated 5/27/11. Concern re: continuing residential use

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete letter
4. Proposed Plat approved through 08-109829 PR

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



Historic Landmark



NORTH

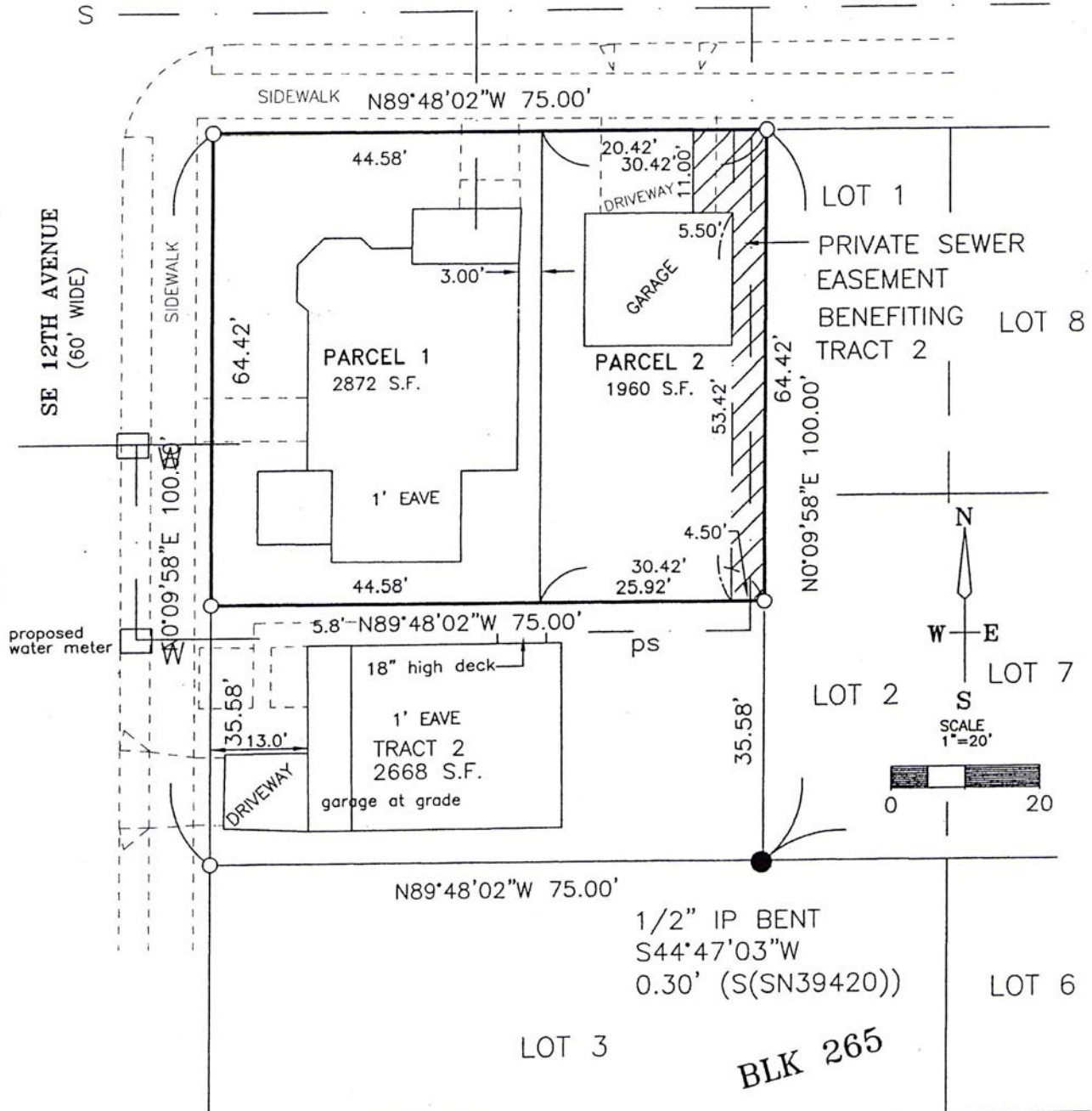
File No. LU 11-105724 LDP
 1/4 Section 3031
 Scale 1 inch = 200 feet
 State_Id 1N1E35CD 4600
 Exhibit B (Jan 27, 2011)

SITE MAP

PORTIONS OF LOTS 1 AND 2, BLOCK 265, "AIKENS ADDITION
SITUATED IN THE SOUTHWEST 1/4 OF SECTION 35, T.1N., R.1E., WM.,
CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

JANUARY 18, 2011

SE ANKENY STREET
(60' WIDE)



CLIENT:
RALPH AUSTIN

Ferguson Land Surveying, Inc.
646 SE 106TH AVE., PORTLAND, OREGON 97216
Phone (503) 408-0601 Fax (503) 408.0602

SHEET NO. 1 OF 1
JOB NO. 11-007a
REVISED 1.18.2010 js

2872sf
1960
4832

11-105724 LDI
Exhibit C.1

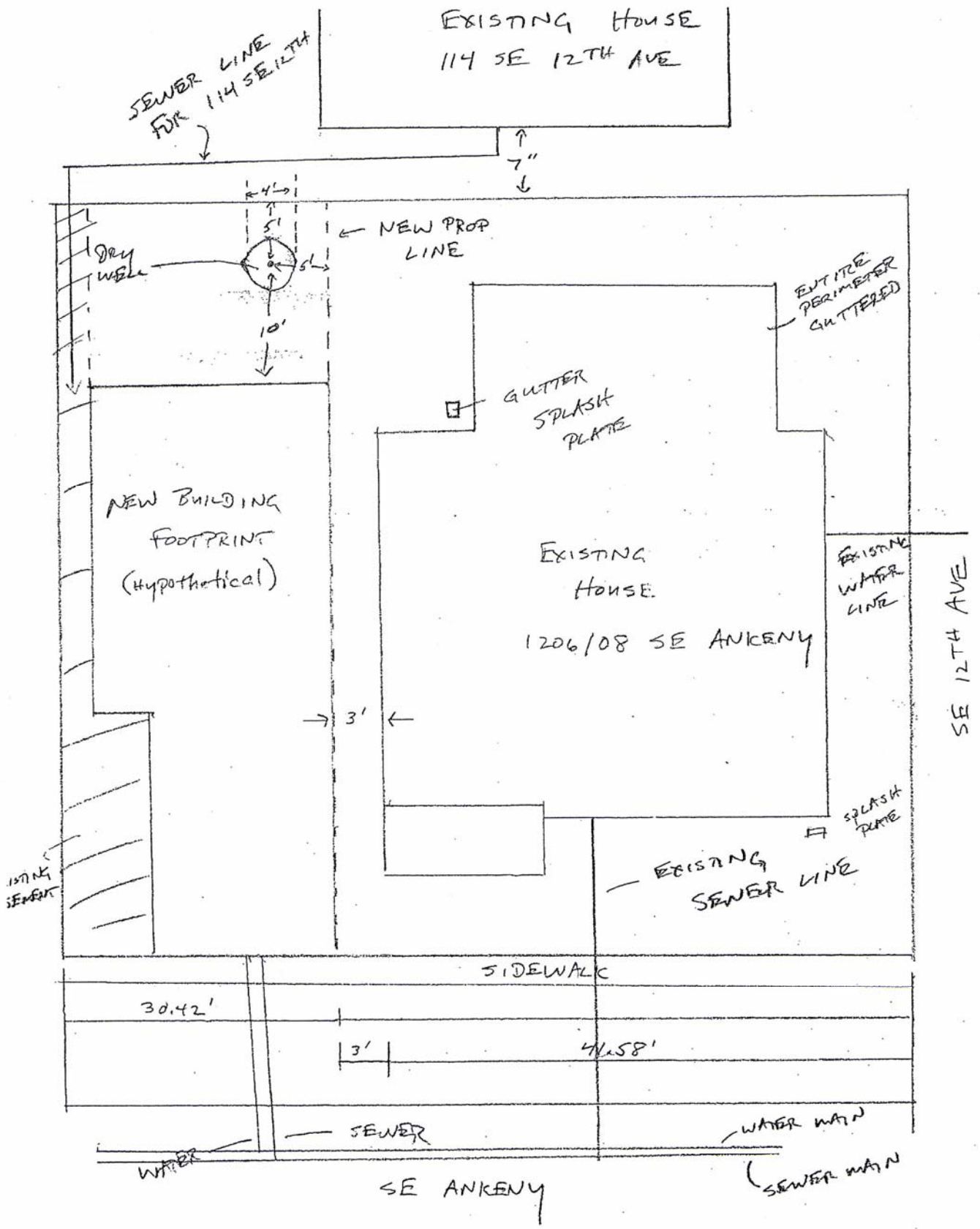


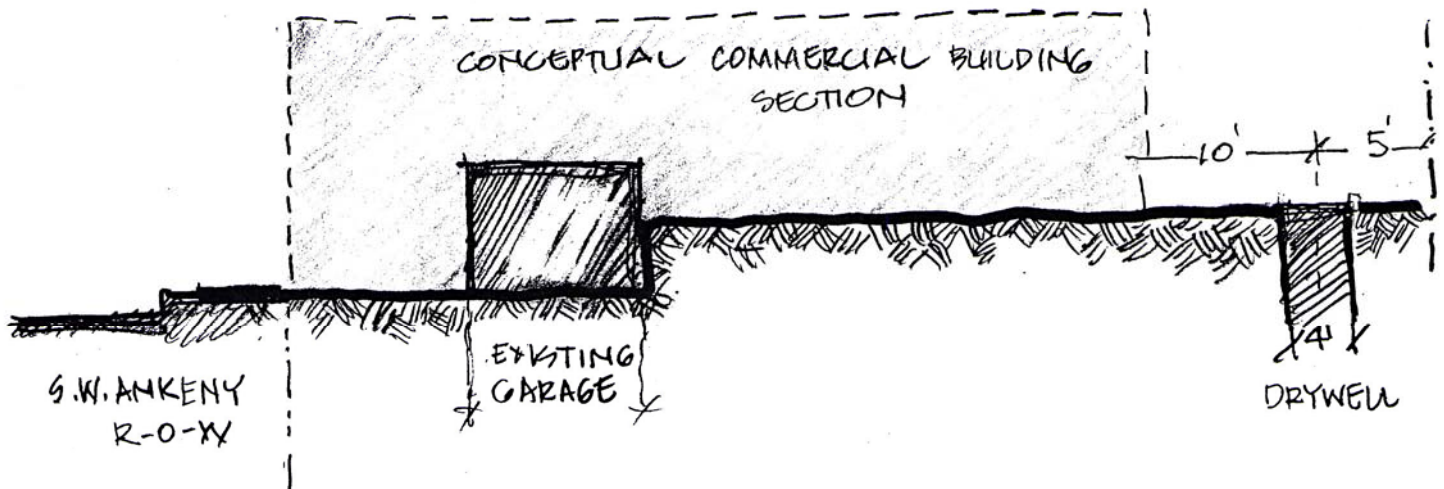
EXHIBIT A

CASE NO. 11-105724 LDP
EXHIBIT C.5

SECTION THROUGH PARCEL 2

PROPOSED STRUCTURE

SHOWING SETBACKS FOR DRYWELL



11-105724 LDP
EXHIBIT C.6