



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

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: July 25, 2013
To: Interested Person
From: Rachel Whiteside, Land Use Services
503-823-7605 / Rachel.WhiteSIDE@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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. 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 13-115709 LDP

GENERAL INFORMATION

Applicant: Chris Fischborn,
ZTEC Engineers
3737 SE 8th
Portland, OR 97202

Owner: Loren Brimingham,
Tri County Developers
2474 SE Jasmine Way
Gresham, OR 97080

Site Address: 5414 SE MALL ST

Legal Description: BLOCK E NE 1/4 OF LOT 8, OVERTON PK
Tax Account No.: R634406280
State ID No.: 1S2E07DC 09500
Quarter Section: 3436
Neighborhood: Creston-Kenilworth Tyler King at 503-735-5818.
Business District: None
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Plan District: None
Zoning: R5

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

Proposal:

The applicant proposes to divide the 11,093 square foot site into two parcels that are 6,592 and 4,500 square feet in size. The site is currently developed with a single-family residence

and associated accessory structures which are proposed to remain on Parcel 1. Parcel 2 is intended for development with a detached, single-family home.

There are numerous trees on the site and the applicant has provided a Tree Preservation Plan prepared by a certified arborist. The applicant proposes to keep the 34-inch maple on the parcel with the existing house. Stormwater from the proposed new lot will be disposed of in a drywell, while the existing house on Parcel 1 has downspouts that drain onto the ground.

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

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

RELEVANT APPROVAL CRITERIA:

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

FACTS

Site and Vicinity: This flat corner lot is currently developed with a house and carport. The site contains extensive vegetation and several trees. During renovations of the existing house, much of the landscaping was pruned and manicured. The vicinity is characterized by modestly-sized single-family homes that are one- to two-stories in height. There is a pocket of commercial development at SE 52nd and Holgate and more intense commercial development east of the site along SE Foster Road.

Infrastructure:

- **Streets** – The site has approximately 66.57 feet of frontage on SE Mall Street and 166.62 feet on SE 55th Avenue. There is one driveway entering the site from SE Mall that serves the existing house to remain on Parcel 1. At this location, both SE Mall Street and SE 55th Avenue are classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 170 feet from the site at SE Holgate Boulevard via Bus #17 and 460 feet from the site at 52nd Avenue via Bus #71.

According to City records, SE Mall Street is improved with 28 feet of paving and an 11-foot wide sidewalk corridor (5-5-1 configuration) within a 50-foot wide right-of-way. SE 55th Avenue is a gravel-base 25-foot wide right-of-way (no asphalt, curb or sidewalk).

- **Water Service** – There is an existing 6-inch CI water main in SE Mall Street. The existing house is served by a 5/8-inch metered service from this main. There is also an existing 6-inch DI water main in SE 55th Avenue.

- **Sanitary Service** - There is a 12-inch CSP public combination sewer located in SE Mall (BES project # 1322). There is an 8-inch CSP public sanitary-only sewer located in SE 55th (BES project # 7097). There is an existing lateral in SE Mall 44 feet from manhole to the west that serves the existing house at 5414 SE Mall.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households.

The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 6, 2013**. One written response has been received from a notified property owner in response to the proposal. The letter raised concerns about the possibility of a three-story home being constructed on the vacant parcel. While this comment does not relate to any of the applicable approval criteria for the land division, the 30-foot maximum height of the R5 zone will apply at the time of development. It is not generally possible to construct a full three-story home within this height limit on a flat site such as this.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an 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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Minimum density in the R5 zone is 80 percent of the maximum density of one unit per 5,000 square feet. The site has a minimum required density of 2 units (based on rounding rules) and a maximum density of 2 units. The applicant is proposing 2 single family parcels. The density standards are therefore met.

The lot dimensions required and proposed are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	6,592		66.57	99.02	66.57
Parcel 2	4,500		67.60	66.57	67.60

* 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.

The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.3). Nine trees have been exempted because they are too small, unhealthy, or a nuisance species. Six trees are subject to the preservation requirements of this chapter.

The City Forester conducted a site visit and noted the following changes to the submitted arborist report:

- Tree #1: This tree is not a Norway maple tree but a Sycamore maple. It is probably a volunteer tree from tree #4. It should not be exempt. *(The tree is less than 6 inches in diameter so is still exempt.)*

- Tree #2: This tree is not an Incense cedar tree but a Port Orford cedar (*Chamaecyparis lawsoniana*). A small detail that should be noted in the LU since it is to be retained.
- Tree #13: This tree is a fruiting cherry tree. (variety unknown) Although it is not on the nuisance plant list it is in such poor condition it should be exempt.

The total non-exempt tree diameter on the site is 115 inches. The applicant proposes to preserve tree #4, which comprises of 34 inches of diameter, or 30 percent of the total non-exempt tree diameter. This proposal complies with Option 2 of the tree preservation standards, which requires at least 50 percent of the significant trees on the site and at least 30 percent of the total tree diameter on the site to be preserved. The tree to be preserved and the required root protection zone is shown on the applicant's Tree Preservation Plan/Preliminary Land Division Plan (Exhibit C.*).

Because of inconsistencies with the arborist report submitted with the preliminary review, an updated report that reflects the corrections by the City Forester and current health status of Tree #4 is required at the time of final plat review. In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat based upon the updated arborist report and a Supplemental Survey that reflects the final arborist report.

This criterion is met, subject to the condition that development on Parcels 1 and 2 be carried out in conformance with the Tree Preservation Plan/Preliminary Land Division Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3 and an Acknowledgement of Tree Preservation Requirements is recorded with the final plat.

G. 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.

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 is adequate room for a house on proposed Parcel 2 outside of the root protection zone for the tree to be preserved near the shared property line with Parcel 1. 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. An existing septic tank was decommissioned under permit 13-122192 SE. 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,

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services and has the following comments:

The proposed land division will create one new parcel (from the existing lot) in order to accommodate one new detached single family home (the existing house on the site will be retained on Proposed Parcel 1). Referring to the ITE Trip Generation Manual, 9th Edition, there will be 1 new AM peak hour trip and 1 additional PM peak hour trip (10 additional total daily trips) that may result from the development proposal on the site. The new peak hour trips are insignificant and do not warrant any mitigation to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The intersections will continue to operate at current levels without significant degradation from the vehicle trips generated by the proposed project factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service along SE Holgate, south of the subject site (via Tri-Met route #17 [Holgate]). There are existing sidewalk corridors throughout the vicinity that facilitate pedestrian travel. There are identified bike facilities (Portland Bike/Walk Map) in the area including shared roadway along SE 58th Avenue.

With regard to impacts to on-street parking, the new residence that will be developed on the site will include on-site parking opportunities for at least one vehicle. Given the conditions of the SE 55th Avenue right-of-way, on-street parking is not feasible in the conventional parallel direction. There are neighbors that park their vehicles in a perpendicular fashion, partially on private property and partially within the public right-of-way. There will remain ample frontage along the subject site's SE Mall frontage to accommodate some on-street parking. The future house on Proposed Parcel 2, with access from SE 55th Avenue, will not adversely impact on-street parking. With at least one on-site parking space being provided on both proposed parcels, the impacts to on-street parking will be negligible.

There appears to be clear and sufficient line of sight looking in any direction along the site's frontages to allow for safe access onto/from the proposed parcels. Both streets are straight, generally flat street with no sight obstructions. Parking is allowed on both sides of the street (SE Mall) and typical of any street that allows parking, sight distance can be partially obstructed by parked vehicles.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the street within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. For the reasons stated above, these criteria are 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: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

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

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

The applicant has proposed the following stormwater management methods

- **Public Street Improvements:** PBOT is requiring public right-of-way improvements in SE 55th Avenue as part of the proposed development. Public drainage improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual are required since the new impervious area is greater than 500 square feet. Stormwater will be conveyed north along the new curb in 55th and will drain to a UIC system in SE 53rd or SE 54th. The applicant has completed the concept review (30% design) phase of the public works permitting process.

Pollution reduction is required prior to discharge to a new UIC. New public stormwater facilities have been demonstrated to not be feasible through the BES Special Circumstance review process. In order to meet the pollution reduction requirement, the applicant has been approved to pay an offsite management fee in-lieu of standard requirements. As a condition of approval, BES requires that the applicant pay the offsite management fee in-lieu of the public pollution reduction improvements, prior to final plat approval.

- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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. BES has indicated conceptual approval of the drywell.

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that discharge to splashblocks. There is adequate space available from the proposed propertyline for onsite stormwater management.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject block is representative of the block pattern in the general area in terms of orientation and width/length. As with other blocks in the area, the subject block is primarily built out with the type and density of the expected housing for the area's zoning and satisfies the above referenced connection goals. PBOT has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition. For these reasons, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment

At this location, based on City GIS resources, SE Mall is improved with 28-feet of paving width and an 11-foot wide sidewalk corridor (5-5-1 configuration) within a 50-foot wide right-of-way and SE 55th Avenue is a gravel base 25-foot wide right-of-way (no asphalt, curb or sidewalk).

For R5-zoned lots located along a Local Service street (SE 55th Avenue), the City's public right-of-way standards require a 56-foot right-of-way width which will accommodate a 26-foot wide roadway (this will allow parking along both sides) and two 15-foot wide sidewalk corridors (0.5-foot curb, 8-foot wide stormwater management facility, 6-foot wide sidewalk & 0.5-foot wide frontage zone). The existing less-than-standard conditions of SE 55th Avenue

do not satisfy this standard.

The City Engineer requires a site's frontage to be improved to City Standards for any building permit or land use action that increases occupancy. Frontage improvements will be required along the site's SE 55th Avenue frontage. The applicant has submitted an alternative street improvement proposal for SE 55th Avenue for consideration via the City's Public Works Permitting process (13-159926 WT). This proposal has been approved through the 30% (conceptual) phase of the process and will be further reviewed for ultimate permit issuance and construction.

As a condition of Final Plat approval, the required frontage improvements must be designed by an Oregon licensed civil engineer and constructed under a Public Works Permit which is issued through PBOT, separate from the Building Permit process. A performance guarantee (for the estimated value of the improvement) and contract must be in place with the PBOT as a condition of Final Plat approval. The applicant is encouraged to provide Public Works with the required design information in order to expedite a final summation of performance guarantee requirements. Frontage improvements in association with the proposed partition shall be constructed to the satisfaction of the City Engineer.

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.

DEVELOPMENT STANDARDS

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

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

In this case, there is one Zoning Code standard that relates to existing development on the site:

- **Minimum Setbacks** – The existing house and carport identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing carport will be 5.1 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

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

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical

expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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 addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; fire apparatus access, including aerial access. 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 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: public street improvements and the associated stormwater treatment, tree preservation, and existing development.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in two standard 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 and Fire review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The fire access lane; and
- Any other information specifically noted in the conditions listed below.

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
2. Prior to final plat approval, BES requires that the applicant pay the Special Circumstances offsite management fee in-lieu of the public pollution reduction improvements.

Utilities

3. 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 to final plat approval.
4. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Required Legal Documents

5. The Fire Bureau has identified requirements that must be verified at the time of plat review. If the result of a Fire Code Appeal to Conditions B.3 or B.4 is the installation of residential sprinklers for the future development on Parcel 2, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
6. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

Other requirements

7. The applicant shall provide an arborist report that accurately identifies the species and sizes of trees on the site, as well as an update on the health of Tree #4.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation/Preliminary Land Division Plan (Exhibit C.1) and the updated arborist report required under Condition B.7. Specifically, tree #4 is required to be preserved, with the root protection zones indicated in the arborist report. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an

arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.

2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2. The location of the sign must be shown on the building permit.
3. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal, which could include installing residential sprinklers in the new dwelling unit on Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
4. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Rachel Whiteside

Decision rendered by: R. Whiteside **on July 22, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed July 25, 2013.

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 13, 2013, and was determined to be complete on May 1, 2013.

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 13, 2013.

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: August 29, 2013.**

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

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

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

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the

proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

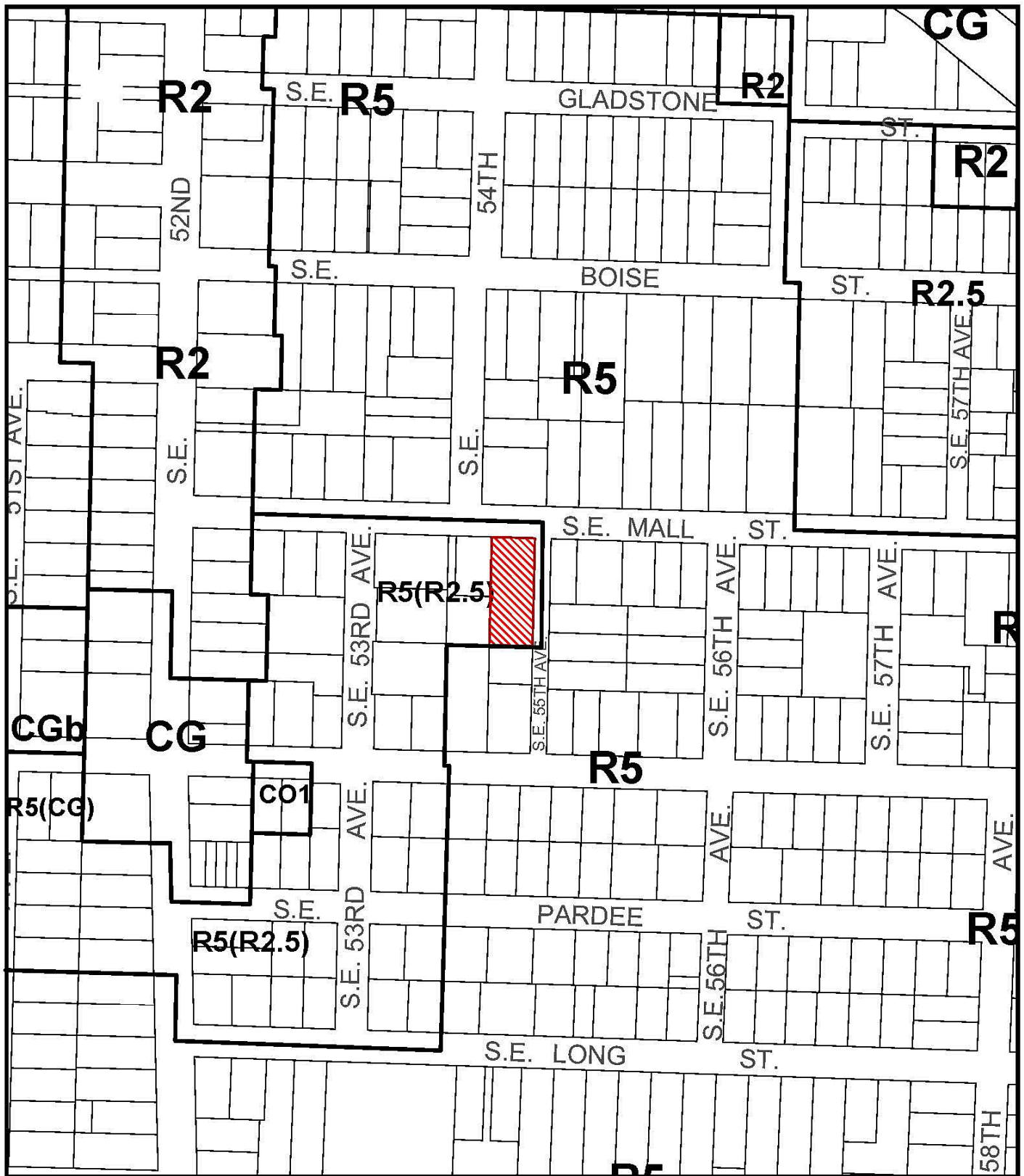
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original Narrative
 - 2. Incomplete Application Response
 - 3. Arborist Report
 - 4. Infiltration Test
 - 5. Street Improvement Plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division Plan (attached)
 - 2. Floor Plans for Parcel 2
- 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
- F. Correspondence:
 - 1. Letter with concerns received from Dawn Hirschfelt and Suzie Gorman, dated June 4, 2013
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter, sent March 6, 2013
 - 3. Communication with Applicant

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



ZONING



Site



File No. LU 13-115709 LDP

1/4 Section 3436

Scale 1 inch = 200 feet

State_Id 1S2E07DC 9500

Exhibit B (Jun 11, 2013)

LEGEND:

● MONUMENTS FOUND AS NOTED

IR. IRON ROD

IP. IRON PIPE

FO. FOUND

(M) MEASURED

— SA — EXISTING SINKER

— CS — EXISTING COMBINED SINKER

— ST — EXISTING STORM

— W — EXISTING WATER

— G — EXISTING GAS

— P — EXISTING POWER

— S — EXISTING SPRUCE

— T — EXISTING TREE

— C — EXISTING CONCRETE SIDEWALK

— X — EXISTING CONTOUR

— F — EXISTING FIRE HYDRANT

— B — EXISTING BRASS SINKER

— M — EXISTING MANHOLE

— P — EXISTING POWER POLE

— V — EXISTING VALVE

— M — EXISTING METER

— G — EXISTING GAS METER

— P — EXISTING PARTITION PLAT NO. 1992-008

— P — EXISTING PARTITION PLAT NO. 2001-045

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

NOTE:

ELEVATIONS TO C.O.P. DATUM BASED ON BM #508 B-0

AT N.E. CORNER OF S.E. 53RD & HOLGATE.

ELEV. = 220.26

SEE TBM = 888 IN P.D. ON NORTH SIDE OF WALL ST.

OPPOSITE N.E. PROPERTY CORNER.

ELEV. = 220.71

GRAPHIC SCALE

0 10 20 40

(IN FEET)

1 INCH = 20 FEET

LEGEND:

● MONUMENTS FOUND AS NOTED

IR. IRON ROD

IP. IRON PIPE

FO. FOUND

(M) MEASURED

— SA — EXISTING SINKER

— CS — EXISTING COMBINED SINKER

— ST — EXISTING STORM

— W — EXISTING WATER

— G — EXISTING GAS

— P — EXISTING POWER

— S — EXISTING SPRUCE

— T — EXISTING TREE

— C — EXISTING CONCRETE SIDEWALK

— X — EXISTING CONTOUR

— F — EXISTING FIRE HYDRANT

— B — EXISTING BRASS SINKER

— M — EXISTING MANHOLE

— P — EXISTING POWER POLE

— V — EXISTING VALVE

— M — EXISTING METER

— G — EXISTING GAS METER

— P — EXISTING PARTITION PLAT NO. 1992-008

— P — EXISTING PARTITION PLAT NO. 2001-045

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

NARRATIVE:

BASES OF BEARINGS: N 03°35' E BETWEEN THE BRASS SINKERS FOUND AT POINTS

"A" & "B", AS CALCULATED FROM PARTITION PLAT NO. 1992-008.

PURPOSE OF SURVEY: TO PARTITION THAT TRACT OF LAND DESCRIBED IN THAT DEED

RECORDED AS DOCUMENT NO. 2012-14743, MULTNOMAH COUNTY DEED RECORDS.

S.E. WALL ST.: HELD THE BRASS SINKERS FOUND AT POINTS "B" & "C" AS 5.00 FOOT

OFFSETS TO THE SOUTH RIGHT OF WAY LINE OF S.E. WALL ST., AS INDICATED ON SN(1)

S.E. 53RD AVE.: HELD THE BRASS SINKER FOUND AT POINT "D" FOR EASTING AND

HELD THIS LINE AS PARALLEL WITH S.E. 53RD AVE., AS PER PP(1).

SOUTH BOUNDARY LINE: HELD THE 5/8 INCH IRON ROD FOUND AT POINT "E" FOR

NORTHING AND HELD THE PP(2) BEARING OF N 89°40'15" W FOR THIS LINE.

WEST BOUNDARY LINE: HELD THE BRASS SINKER FOUND AT POINT "C" FOR EASTING

AND HELD THIS LINE AS PARALLEL WITH S.E. 53RD AVE., AS PER PP(2) AND PP(3).

1 FUTURE SEWER SERVICE. LOCATE TO ACCOMMODATE PROPOSED DEVELOPMENT.

2 FUTURE WATER SERVICE. LOCATE TO ACCOMMODATE PROPOSED DEVELOPMENT.

3 FUTURE DRYWELL FOR ROOF RUNOFF DISPOSAL. SIZE TO ACCOMMODATE FUTURE

FOUNDATION. LOCATE 5' MIN. FROM PROPERTY LINE & 10' MIN. FROM BUILDING

FOOTING.

4 DOWNSPUTS ON EXISTING BUILDING TO DISCHARGE TO SURFACE 5' FROM

PROPERTY LINE AND 2' FROM BUILDING.

5 FUTURE CONSTRUCTION WITHIN PP(2) TO BE INSPECTED BY QUALIFIED ARBORIST.

6 OUTLINE OF POSSIBLE FUTURE HOME.

7 RELOCATED 0.6" POWER SERVICE FROM S.E. WALL PERMIT 13-10089-ET.

8 8"2 FENCING TO BE LOCATED PER ARBORIST REPORT (4-9-13).

9 16" WIDE A.C. PAVED SHARED STREET WITH CURB ON WEST SIDE. SEE PROT

DESIGN PLANS FOR ACTUAL IMPROVEMENTS.

10 4" WIDE LANDSCAPE/TREE AREA. SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

11 PROPOSED CATCH BASIN. SEE PROT DESIGN PLANS FOR ACTUAL IMPROVEMENTS.

12 PROPOSED 10" STORM CONNECTION TO EXIST. SED. M.H. SEE PROT DESIGN PLANS

FOR ACTUAL IMPROVEMENTS.

13 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

14 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

15 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

16 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

17 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

18 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

19 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

20 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

21 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

22 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

23 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

24 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

25 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

26 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

27 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

28 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

29 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

30 PROPOSED STREET TREE TYPICAL (3). SEE PROT DESIGN PLANS FOR ACTUAL

IMPROVEMENTS.

LEGEND:

● MONUMENTS FOUND AS NOTED

IR. IRON ROD

IP. IRON PIPE

FO. FOUND

(M) MEASURED

— SA — EXISTING SINKER

— CS — EXISTING COMBINED SINKER

— ST — EXISTING STORM

— W — EXISTING WATER

— G — EXISTING GAS

— P — EXISTING POWER

— S — EXISTING SPRUCE

— T — EXISTING TREE

— C — EXISTING CONCRETE SIDEWALK

— X — EXISTING CONTOUR

— F — EXISTING FIRE HYDRANT

— B — EXISTING BRASS SINKER

— M — EXISTING MANHOLE

— P — EXISTING POWER POLE

— V — EXISTING VALVE

— M — EXISTING METER

— G — EXISTING GAS METER

— P — EXISTING PARTITION PLAT NO. 1992-008

— P — EXISTING PARTITION PLAT NO. 2001-045

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER

— S — EXISTING SINKER