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

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Date: December 1, 2009

To: Interested Person

From: Sean Williams, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 09-140103 LDP

GENERAL INFORMATION

Applicant: Stephen Shroeder
6711 SE Thorburn Street
Portland, OR 97215

Representative: Kermit Carlile, PLS 921
20667 SW 216th Place
Sherwood, OR 97140
(503) 625 7046

Site Address: 5825 SE Holgate Boulevard

Legal Description: BLOCK E SE 1/4 OF LOT 1, OVERTON PK
Tax Account No.: R634403120
State ID No.: 1S2E07DD 09900
Quarter Section: 3436
Neighborhood: Creston-Kenilworth, contact Nellie Korn at 503-772-0521.
Business District: None
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: None
Zoning: Residential 5,000 (R5)
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:
The applicant is proposing to partition the subject property into two parcels of approximately 5,004 square feet (Parcel 1) and 5,848 square feet (Parcel 2). Proposed Parcel 1 is a standard lot that will retain the existing single family dwelling. Proposed Parcel 2 is a flag lot that will be made available for new development consistent with the R5 zone.

CITY OF PORTLAND
Bureau of Development Services
1900 SW Fourth Avenue, Suite 5000
Portland, OR 97201 **P524**
Land Use Decision Enclosed
Case # LU 09-140103 LDP

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Return Service Requested

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

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

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

ANALYSIS

Site and Vicinity: The subject property is located approximately 70 feet east of the intersection of SE 58th Avenue and SE Holgate Boulevard. Existing improvements consist of a single family dwelling located on the southern half of the property that will remain within proposed Parcel 1. No trees are located within the land division site subject to preservation standards. The vicinity is primarily composed of single dwelling zoning with corresponding development.

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 and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on August 19, 2009.

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

2. Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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	33.610	Lots	**Applicable - See findings below.**

Criterion	Code Chapter	Topic	Applicability Findings
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	**Applicable - See findings below.**
G	33.635 .200	Land Suitability	**Applicable - See findings below.**
H	33.636	Tracts and Easements	**Applicable - See findings below.**
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639).
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 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. 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 maximum and minimum density for this site is as follows:

Minimum = (11,185 square feet * .80) ÷ 5,000 square feet = 1.78 (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = 11,185 square feet ÷ 5,000 square feet = 2.23 (which rounds down to a maximum of 2 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1.

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

Lot Dimensions

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

The dimensions of the proposed lots as compared to the required lot dimension requirements are shown in the following table (this information is found in Table 610-2612 of the Zoning Code):

	R5 Zone Requirement	**Proposed Lot 1**	**Proposed Lot 2**
Minimum Lot Area	3,000 sq. ft.	5,004.4 sq. ft.	5,848.2 sq. ft.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	54.57 ft.	
Minimum Lot Depth	50 ft.	91.02 ft.	
Minimum Front Lot Line	30 ft.	54.57 ft.	
Minimum Flag Lot Width**	40 ft.		68.02 ft.
Minimum Flag Lot Depth**	40 ft.		70.26 ft.

* 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.

** For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed
Parcel 2 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots and additional driveways on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when one of the following are met:
(a) An existing dwelling unit or attached garage on the site is located so that it precludes a land division that meets the minimum lot width standards. The dwelling unit and attached garage must have been on the site for at least five years or
(b) The site has dimensions that preclude a land division that meets the minimum lot width standard of Paragraph 33.610.200.D.1;
(2) Up to three lots are proposed, only one of which is a flag lot; and
(3) Minimum density requirements for the site will be met.

In this case there is an existing house on the site that was constructed at least five years ago that would preclude the creation of standard lots. The house is located approximately 21 feet from the east property line and 11.6 feet from the west property line, which would preclude the creation of a lot that would meet the minimum width standard of the R5 zone of 36 feet.

Dimensions
The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet.

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

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

In this case, the pole portion of Parcel 2 will provide off street parking access for both the parcels. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. This access will be located in the area of the existing parking associated with the house on Parcel 1. Replacement parking will not be required for Parcel 1 based on the sites proximity to frequent transportation. However, if the owner of Parcel 1 chooses to provide parking then the pole portion of Parcel 2 shall be used for off street parking access. An access easement will be placed over the entirety of the pole to allow shared access. Therefore, Parcel 2 is allowed.

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

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.
The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

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

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

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
2. The Homeowners' Association for the area served by the tract;
3. A public or private non-profit organization; or
4. The City or other jurisdiction.

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

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easements are proposed and/or required for this land division:

- A Private Access Easement is proposed over the pole portion of Parcel 2 for the benefit of Parcel 1.

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 this area. 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, substantially similar to the following example:

"A Declaration of Maintenance agreement for Private Access Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

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

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

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

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

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

The site has approximately 66 feet of frontage on SE Holgate Boulevard. This street is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Minor Truck Street and Major Emergency Response Route in the Transportation Element of the Comprehensive Plan. Tri-Met provides frequent transit service along the sites frontage via bus #17. On-street parking on both sides of SE Holgate Boulevard is allowed at this location. There is one driveway entering the site that provides access to off-street parking for the existing house.

At this location, SE Holgate Boulevard is improved with a 36 foot paved roadway surface and pedestrian corridor that consists of a 7 foot curb tight sidewalk with no setback to private property (0-7-0) within a 50 foot wide right-of-way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The City of Portland Pedestrian Design Guide recommends a 12-foot wide pedestrian corridor width based on the designations at this location. Therefore, in this case Portland Transportation has determined that a 5 foot street dedication will be required along the sites SE Holgate Boulevard frontage. No improvements will be required at this time. However, in order to accommodate future pedestrian corridor improvements an existing fence that will now be located within the right-of-way after the required street dedication shall be removed or relocated.

This criterion is met, with conditions that the required right-of-way dedication is shown on the Final Plat and the existing fence along the sites frontage is removed or relocated prior to final plat approval.

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

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

- The water standards of 33.651 have been verified. An existing 12 inch water main is available in SE Holgate Boulevard. Water is available to serve the proposed development from the water main in SE Holgate Boulevard. As a result of the proposed land division, the water line that provides service to the existing home on Parcel 1 will no longer be located entirely on the same lot as the home. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat, the water service for the existing home must be relocated, so that the service connection will be located along the frontage of Parcel 1. The existing service shall be capped and may be used for future development on Parcel 2. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 30 inch concrete public combination public sewer located in SE Holgate Boulevard that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 may cross over Parcel 2 to reach the sewer main in SE Holgate Boulevard. Therefore, documentation of the location of the sanitary sewer line for the existing house shall be submitted to the Site Development Section of the Bureau of Development Services. If, as a result of final plat approval, the sanitary sewer line for the existing home will extend beyond the boundaries of Parcel 1 (the parcel with the existing home), then the applicant must either obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on

Parcel 1, or provide an easement for the sewer line on the Final Plat. If an easement is provided, 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. If a new sewer connection is established for the house, all plumbing permits must receive final inspection approval prior to Final Plat approval. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and

B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

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

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcel 1 (the parcel with the existing house):** The existing house has downspouts that drain into underground pipes. City records are insufficient to determine where these pipe discharge. The downspouts on the west side of the house have been diverted to drain to the ground from a height of approximately 5 feet above the ground surface, and the adjacent external pipe connections for these downspouts have been stuffed with plastic. The applicant has proposed to modify the stormwater system for the existing house by installing a new drywell, which Site Development has found to be acceptable based on the results of simplified infiltration testing provided by the applicant.

Therefore, prior to final plat approval, Site Development will require compliance with the stormwater retrofit requirements as specified in alert case file 09-153626 AL. This will require final approval of a plumbing permit to cap the existing rain drains, and to install new rain drains, new storm sewer, and the new drywell prior to final plat approval. All gutters and downspouts on the existing house must be connected to the new system.

- **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. The applicant has additionally proposed to manage stormwater from a new driveway via grass-crete with concrete strips. Site Development has indicated conceptual approval of the drywell for infiltration of roof-only stormwater and grass-crete with concrete strips for the flag pole driveway.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities 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	Not applicable – No street improvements are proposed or required.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	**Applicable - See findings below.**

Code Section	Topic	Applicability Findings
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: The site is located between SE 58th Avenue and SE 61st Avenue, which have a distance between them of approximately 700 feet. Block patterns within the vicinity of this site are varied and numerous street connections are offset or don't connect through some blocks. If the distance between these existing streets is evaluated against the optimum spacing requirement of 200-530 feet, one can conclude that there should be a north-south

through street provided in the vicinity of the site. However, it appears the most appropriate location to provide a new through street would be along the SE 59th Avenue alignment, which would continue a 300 foot wide block pattern as demonstrated with the five blocks east of this site along SE Holgate Boulevard. This alignment is approximately 150 feet east of the land division site. So, although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection in the vicinity of this site, there is no practicable opportunity to provide them in this land division. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. Additionally, a sidewalk is already present along the sites SE Holgate Boulevard frontage.

For the reasons described above, this criterion is met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

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

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the 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. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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

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

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

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F)

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 (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are two Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house 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 house will be 9 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.

- Required Off-Street Parking - A paved parking pad provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on a different lot, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service along the sites SE Holgate Boulevard frontage via bus number 17. Bus number 17 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.

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; 2002 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/

Bureau	Code Authority	Topic	Contact Information
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 addressing requirements for flag lots, Fire apparatus access, fire department access roads, turning radius and driving surfaces. These requirements are based on the technical standards of Title 31 and Oregon fire Code. See exhibit E-4 for further details.

- The applicant must meet the requirements of Urban Forestry for street tree planting behind the sidewalk in City right-of-way adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20. See exhibit E-6 for further details.

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: transportation impacts and stormwater management.

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 a standard parcel that will retain the existing house (Parcel 1) and a flag lot that will be made available for development consistent with the R5 zoning standards, 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, BES and Site Development 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;
- Surveyed location of individual sanitary sewer connections for each parcel.
- The as-built location of the new on-site stormwater management facilities on Parcel 1 shall be shown after required inspections are approved and permits are finaled.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Holgate Boulevard. The required right-of-way dedication must be shown on the final plat.

2. A Reciprocal Access Easement over "flag pole" portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.

3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C-7 below. The recording block(s) shall, at a minimum, include language 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."

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

Utilities

1. The applicant shall meet the requirements of the Water Bureau concerning relocation of the water service connection to the existing home.

2. Documentation of the location of the sanitary sewer line for the existing house shall be submitted to the Site Development Section of the Bureau of Development Services. If, as a result of final plat approval, the sanitary sewer line for the existing home will extend beyond the boundaries of Lot 1 (the lot with the existing home), then the applicant must meet one of the following:

   - Provide a private sewer easement at least 10 feet wide on the final plat, and record a maintenance agreement for the easement; or
   - Provide a finalized plumbing permit to relocate the sewer line so that it is located entirely on the same parcel as the house it serves, and show the as-built location of the new sewer line on a supplemental plan after all required inspections are approved and the permit is finaled.

3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Parcel 2. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

4. The applicant shall remove or relocate the existing fence in the front yard of Parcel 1 outside of the newly dedicated SE Holgate Boulevard right-of-way. Photographs shall be submitted to document this work has been completed.

5. Final approval of a plumbing permit to complete the stormwater system retrofit requirements specified in Alert Folder 09-153626-AL shall be obtained. Specifically, this will require final approval of a plumbing permit to cap the existing rain drains, and to install new rain drains, new storm sewer and the new drywell. All gutters and downspouts on the existing house must be connected to the new system.

6. The applicant must meet the requirements of Urban Forestry for street tree planting behind the sidewalk and in City right-of-way adjacent to 5825 SE Holgate Boulevard.

Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

Required Legal Documents

7. A Maintenance Agreement shall be executed for the Reciprocal Access Easement area described in Condition B-2 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.

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

1. If on site parking is provided for Parcel 1, vehicle access shall be accomplished via the driveway over the flag pole portion of Parcel 2.

2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot.

Staff Planner: Sean Williams

Decision rendered by: _____ **on November 25, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 1, 2009

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 June 30, 2009, and was determined to be complete on August 17, 2009.

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 June 30, 2009.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has

included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

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

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage 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

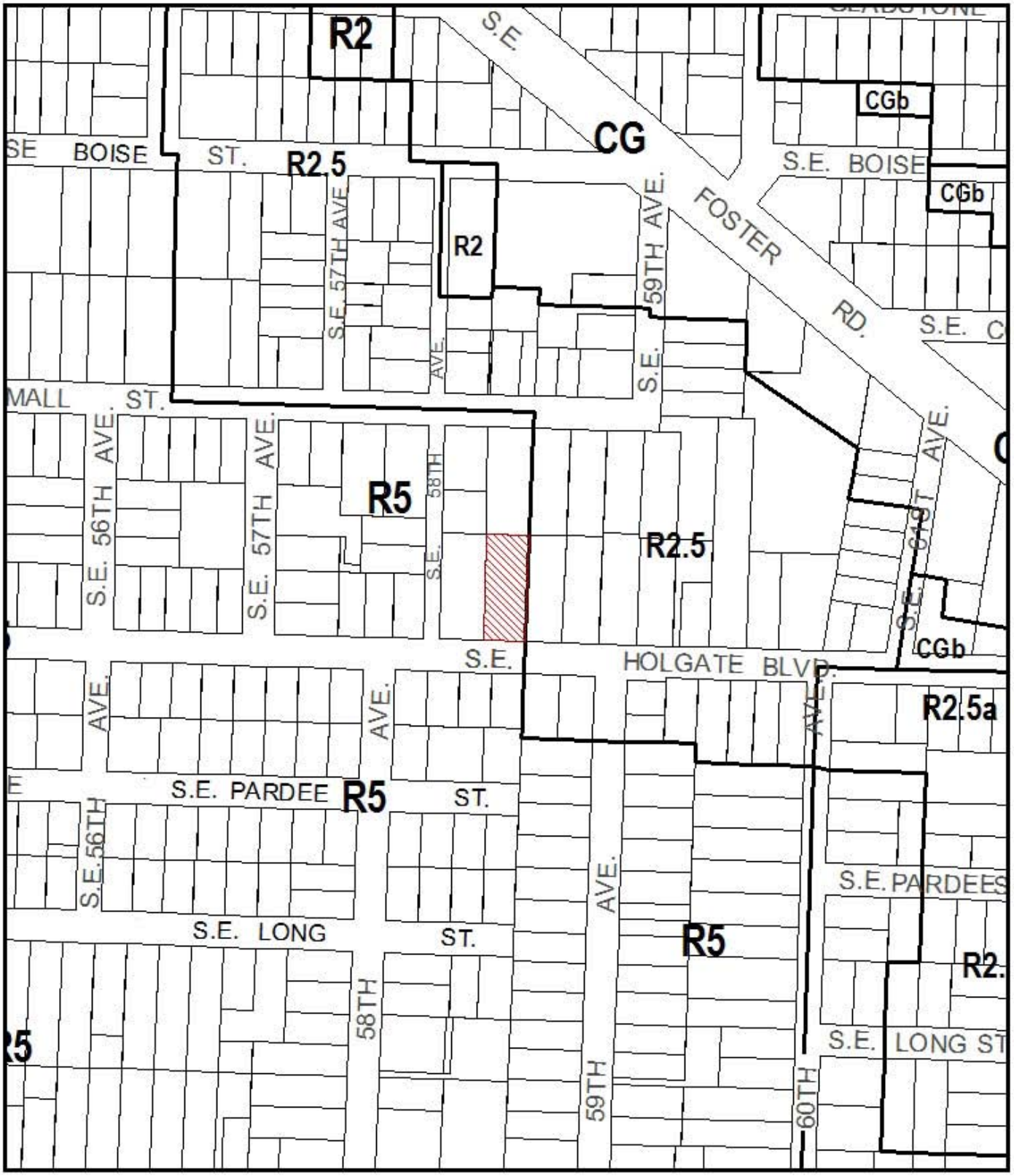
A. Applicant's Statement
   1. Land Division Approval Criteria
   2. Simplified approach infiltration testing
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Preliminary Partition Plat (attached)
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services w/ addendum
   2. Bureau of Transportation Engineering and Development Review
   3. Water Bureau
   4. Fire Bureau
   5. Site Development Review Section of BDS w/ addendum
   6. Bureau of Parks, Forestry Division

7. Life Safety Plans Examiner

F. Correspondence: none

G. Other:
   1. Original LU Application
   2. Site History Research
   3. Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).

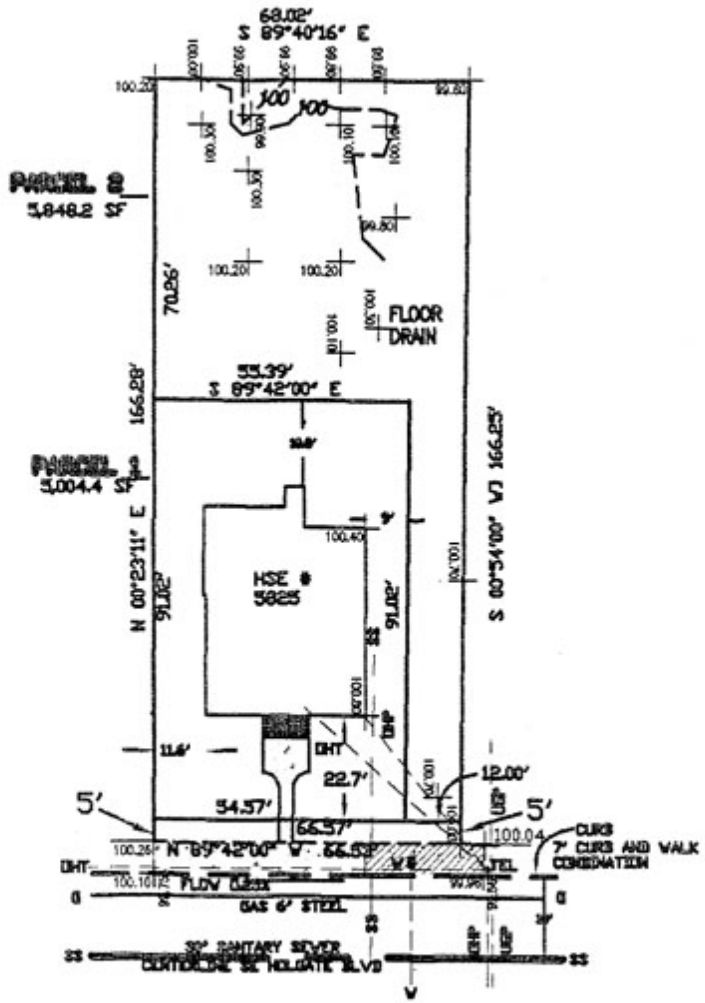


ZONING

Site

NORTH

File No.	LU 09-140103 LDP
1/4 Section	3436,3536
Scale	1 inch = 200 feet
State_Id	1S2E07DD 9900
Exhibit	B (Jul 01,2009)



A TENTATIVE PLAN FOR PARTITION PLAT OF THE SE 1/4 OF LOT 1 BLK "E" OVERTON PARK

HOUSE NO. 5825 - SE HOLGATE ST.

TAX LOT 9900

LOCATED

IN THE SE 1/4 OF SECTION7, T1S R2E, WM

CITY OF PORTLAND

MULTNOMAH COUNTY, OREGON

ASSESSOR'S MAP 1S 2E 7DD

APPLICANT
STEPHEN SCHROEDER
5835 S.E. HOLGATE BOULEVARD
PORTLAND, OR 97206
PH. 760-908-1551

CERTIFICATE FEE

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 17, 1979
KERMIT N. CARLILE
921

PAID TO 12/31/09

PREPARED MAY 25, 2009
BY: KERMIT CARLILE, PLS 921
20667 S.W. 216TH PL.
SHERWOOD, OR 97140
PH. 503-625-7046

N

SCALE 1" = 50'

- - - DENOTES CONTOUR
CONTOUR INTERVAL = 1'

- - - - - DENOTES CONTOUR
CONTOUR INTERVAL = 1'

DENOTES CONCRETE WALK

DENOTES CONCRETE DRIVEWAY APPROACH

OHP DENOTES OVERHEAD POWER

UGP DENOTES UNDERGROUND POWER

OHT DENOTES OVERHEAD TELEPHONE