Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
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TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: October 25, 2012
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / Sean.Williams@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 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 12-143905 LDP

GENERAL INFORMATION

Applicant: Stumptown Equity Solutions LLC
PO Box 13121 / Portland, OR 97213-0121

Representative: Mark Dane / Mark Dane Planning Inc
13630 SW Butner Road / Beaverton, OR 97005

Site Address: 3828 N Commercial Avenue

Legal Description: BLOCK 27 LOT 15, CENTRAL ALBINA
Tax Account No.: R146804700
State ID No.: 1N1E22DC 06700
Quarter Section: 2630
Neighborhood: Boise, contact James Weter at 503-358-3571.
Business District: North-Northeast Business Assoc, Joice Taylor at 503-445-1321;
District Coalition: Northeast Coalition of Neighborhoods, Chris Lopez at 503-823-4575.
Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density Overlay (a)
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 requesting to partition the subject property into two parcels of approximately 2,100 (Parcel 1) and 2,901 (Parcel 2) square feet in size. Parcel 1 is a standard lot and will retain the existing single family home and internal accessory dwelling unit and Parcel 2 is a flag lot that will be made available for future development.
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). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 2 units of land. Therefore this land division is considered a partition.

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

FACTS

Site and Vicinity: The site is located on the east side of N Commercial Avenue approximately 50-feet south of the intersection with N Failing Street. Existing improvements consist of a single family home and internal accessory dwelling unit located on the western half of the site. The site is relatively flat and contains two trees subject to preservation standards. An improved alley is located adjacent to the eastern property line. The surrounding vicinity is primarily composed of single family development with comparable zoning designations. Unthank Park is located approximately 100 feet north of the site.

Infrastructure:

- **Streets –** The site has approximately 50-feet of frontage on N Commercial Avenue. The site does not contain any on-site parking. At this location, N Commercial Avenue is classified as a Local Service street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 670-feet from the site on N Vancouver Avenue via Bus #44. Parking is currently allowed on both sides of N Commercial Avenue.

  At this location, N Commercial Avenue is improved with a 41-foot paved roadway surface and pedestrian corridor that consists of a 4-foot planter, 6-foot sidewalk and 2-foot setback to private property (4-6-2) within a 65-foot wide right-of-way.

- **Water Service –** There is an existing 8-inch CI water main in N Commercial Avenue. The existing house is served by a 3/4-inch metered service from this main.

- **Sanitary Service -** There is an existing 12-inch clay public combination sewer main in N Commercial Avenue. The existing house is served by a lateral from this main.

Zoning: The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is <u>not</u> using any of the provisions of the "a" overlay.

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. Please see Exhibits "E" for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 10, 2012**. One written response was received from a notified property owner in favor of the land division proposal (Exhibit F.1).

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.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. 611 contains the density and lot dimension requirements applicable in the R2.5 zone. The applicant is proposing one standard lot (Parcel 1) that will retain the existing development and one flag lot (Parcel 2). The minimum and maximum density for the site is as follows:

Minimum = (5,000 square feet * .80) ÷ 5,000 square feet = 0.8 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 5,000 ÷ 2,500 square feet = 2 lots

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)**	**Min. Flag Lot Width (feet)**	**Min. Flag Lot Depth (feet)**
R2.5 Zone	1,600	NA	36	40	30	40	40
Parcel 1	2,280		38	60	38	N/A	N/A
Parcel 2	2,640		N/A	N/A	12	50	40

* 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. A flag lot is allowed only when one of the following are met:

(1a)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
(1b) the site has a width of less than 50 feet if two lots are proposed and a width of less than 75 feet if three lots are proposed;
(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 the applicant is proposing 2 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5-years and is located so that it precludes a land division that meets minimum lot width standards. In addition, the site has dimensions which preclude a land division that meets the minimum lot width standard. The minimum density standards are met. Therefore, a flag lot is allowed to be created.

Dimensions
The proposed flag lot meets applicable Zoning Code standards found in 33.611.400 because it has a “pole” at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

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 parent parcel did not have on-site parking before the land division. Therefore, the applicant is not proposing or required to provide on-site parking for the existing dwelling to be retained within Parcel 1 after the land division. Parking for the flag lot (Parcel 2) will be accomplished via access from the adjacent alley. Therefore, Parcel 2 is allowed.

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 applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Cedar (Thuja Plicata)	6	No	Yes	6’
2	Fruit tree	8	No	No	N/A

The total non-exempt tree diameter on the site is 14-inches. The applicant proposes to preserve trees #1 (6” Cedar), which comprise of 6-inches of diameter, or 42 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Preliminary Partition Plat showing the preserved tree and the required root protection zones (Exhibit C.2).

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.

This criterion is met, subject to the condition that development on Parcel 2 be carried out in conformance with the Preliminary Partition Plat (Exhibit C.2) and the applicant's arborist report (Exhibit A.2) 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 are no trees located within the land division site subject to preservation standards. 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. 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,

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
The water standards of 33.651 have been verified and noted earlier in this decision. Water is available to serve the proposed development from the main in N Commercial Avenue. Therefore, this criterion is met.
33.652 Sanitary Sewer Disposal Service standards - See Exhibit E.1
The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. The public combination sewer main located in N Commercial Avenue can serve the sanitary needs of the proposed development. Therefore, this criterion is met.
33.653.020 & .030 Stormwater Management criteria and standards– See Exhibit E.1
BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods: • **Parcel 1 (the parcel with the existing house):** The existing house has downspouts that connect to sub-grade piping, assumed to be tightlined to the sewer due to the age of the structure and the lack of records indicating that an on-site infiltration system (such as a drywell) was ever constructed. Parcel 1 includes adequate area between the structure and the proposed property lines to accommodate a drainage system built with typical construction practices. • **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. The Bureau of Environmental Services (BES) has reviewed the Applicant's Simplified Approach infiltration test (Exhibit A.3) with results of 20 inches per hour near the proposed drywell location. This parcel 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 Bureau of Environmental Services has indicated conceptual approval of the drywell.
33.654.110.B.1 -Through streets and pedestrian connections **33.654.130.B - Extension of existing public dead-end streets & pedestrian connections** **33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections**
Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2): *No street connections have been identified in the vicinity of this property in the Portland*

Master Street Plan document. The 530-ft spacing goal for public through streets is satisfied in the surrounding area/blocks. However, the 330-ft spacing goal for pedestrian connections (in the north-south direction) is not satisfied on the subject block or beyond given that the blocks are approximately 400-ft in length. However, the subject block is representative of the block pattern in the general area in terms of orientation and length. Further, 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. No further pedestrian connections are physically possible without impacting existing development on the subject block and beyond. Providing any further connectivity elsewhere on the subject block would lead to no other connection points, again, given the existing, long established development pattern throughout this area. Portland Transportation has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

For the reasons described above, this criterion is met.

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

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 generally do not require a formal transportation impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

The proposed land division will create one new parcel which will accommodate a new detached residential unit. The estimated 1 new AM peak hour and 1 additional PM peak hour trips (10 total daily trips) that potentially may result from the development proposal on the site, are an insignificant number of trips that 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 intersection at N Commercial/N Failing, just north of the subject site, appears to be currently operating at acceptable levels (related to the City's performance measures) and will continue to operate at acceptable levels with the vehicle trips generated by the proposed project factored into the analysis. Given the robust grid pattern of streets throughout the neighborhood, trips generated by the proposed partition can disburse throughout the networked street system thereby minimizing impacts to one intersection in particular.

Aside from the on-street parking factor, which will be addressed below, 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 N Mississippi/ N Fremont (west and south of the site via Tri-Met route #4 Division-Fessenden) and along N Vancouver (east of the site via Tri-Met route #44 Capitol Hwy-Mocks Crest). There are existing sidewalk corridors throughout the vicinity, including along the site frontage that meet/exceed City standards and facilitate pedestrian travel. There are identified bike facilities (Portland Bike/Walk Map) in the area including bike lanes to the east along N Vancouver/N Williams and shared roadways west of the site along N Mississippi and north of the site along N Failing.

With regard to impacts to on-street parking, the current residence on the site (which will remain on Proposed Parcel 1) does not have an on-site parking space. The submitted plans do not show a proposed parking space on this parcel, nor is one required to be provided. Proposed Parcel 2, which, based on the public notice for this proposal, will be accessed from the abutting rear alley and will provide an on-site parking space. It appears as though there is a high demand for on-street parking in the vicinity of the subject site, resulting from most the homes in the area not having any on-site parking spaces (few

garages and driveways, especially along the east side of N Commercial where there are none). By providing at least one on-site parking space for Proposed Parcel 2, the applicant will be minimizing the potential impact to on-street parking since the current condition along N Commercial will not change (the owner/ resident of the home to remain on Proposed Parcel 1 will likely continue to use the ample available on-street parking supply in the immediate area). Based on review of Google-Street view, the lack of curb cuts/driveways along N Commercial between N Failing and N Beech (in large part along both sides of the street), affords a considerable supply of on-street parking opportunities that appears to be more than sufficient to accommodate the expected demand. Further, the subject block, similar to many other blocks within the site vicinity, includes an improved alley the bisects the blocks (in a north-south direction). Said alleys provide additional access to the lots along the blocks, including to parking spaces/garages located at the rear of the lots. Said alley access and rear loaded parking spaces for at least several of the homes on the subject block also enhance the on-street parking opportunities along N Commercial (and other area-wide streets). With an on-site parking space being provided on Proposed Parcel 2, the impacts to on-street parking should be negligible.

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 streets 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.

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. Based on the preceding analysis, Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the development can be safely served by this existing street without having any significant impact on the level of service provided. Therefore, this criterion is met.

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

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

DEVELOPMENT STANDARDS

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

Future Development
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 R2.5 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 are several 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 7-feet from the south (side) property line and 6-feet from the east (rear) 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.

- Outdoor area: The minimum required outdoor area dimensions of 12-feet by 12-feet for the existing residence to be retained within Parcel 1 will not be met after the land division as there isn't a contiguous area due to the location of the existing deck. The applicant has proposed to modify the deck to provide a 12-foot by 12-foot contiguous area per the attached deck construction details (Exhibit A.4). Therefore, prior to final plat approval, the applicant must finalize a building permit for these improvements to demonstrate continued compliance with the Outdoor Area Requirements (33.110.235) after the land division is recorded.

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**	**Contact Information**
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements for flag lots, ensuring adequate hydrant flow from the nearest fire hydrant

and aerial Fire Department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.2). 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: tree preservation and compliance with flag lot and development standards.

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 one standard lot that will retain the existing dwelling (Parcel 1) and one flag lot (Parcel 2), as illustrated with Exhibit C.2, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use review and 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 as-built location of the deck on Parcel 1, required by Condition C.2;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for the Acknowledgement of Tree Preservation Requirements as required by Condition C.3 below. The recording block shall, at a minimum, include language substantially similar to the following example: *"An Acknowledgement of Tree Preservation Requirements has been recorded as document no. _____, Multnomah County Deed Records."*

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

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

2. The applicant must obtain a finalized building permit for modifications to the deck associated with the existing house that will remain on proposed Parcel 1 that demonstrates compliance with Required Outdoor Areas (33.110.235) in relation to the proposed new lot lines. The as-built location of the new deck must be delineated on the Supplemental Plan, required by Condition A above.

3. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 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.

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

1. Development on Parcel 2 shall be in conformance with the Preliminary Partition Plat (Exhibit C.2) and the applicant's arborist report (Exhibit A.2). Specifically, tree #1 (6" Cedar) is required to be preserved, with the root protection zone indicated on Exhibit C.2. 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 flag lot. The location of the sign must be shown on the building permit.

3. 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: Sean Williams

Decision rendered by: _____ **on October 22, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 25, 2012

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

Procedural Information. The application for this land use review was submitted on May 24, 2012, and was determined to be complete on August 8, 2012.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on May 24, 2012.

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: December 6, 2012.**

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.**

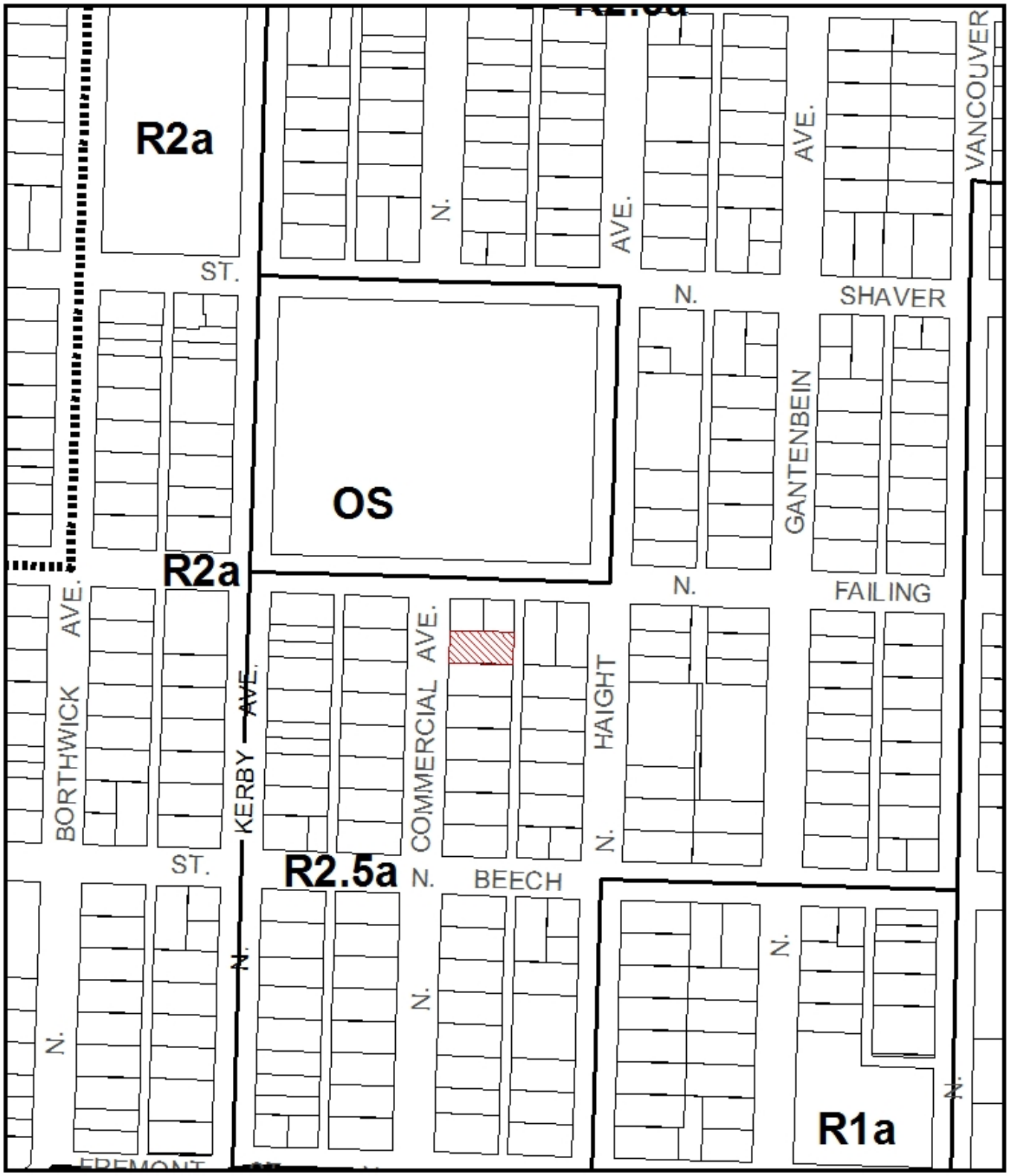
EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Narrative
   2. Arborist Report
   3. Simplified Approach Stormwater Report
   4. Deck Construction Details
   5. June 15, 2012 Correspondence
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Existing Conditions Survey
   2. Preliminary Partition Plat (attached)
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Bureau of Transportation Engineering and Development Review
   3. Water Bureau
   4. Fire Bureau
   5. Site Development Review Section of BDS
   6. Bureau of Parks, Forestry Division; Life Safety Plans Examiner
F. Correspondence:
   1. Sonia Kasparian (9/4/12)
G. Other:
   1. Site History Research
   2. Original LU Application

3. Incomplete Letter & RFC Responses

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).

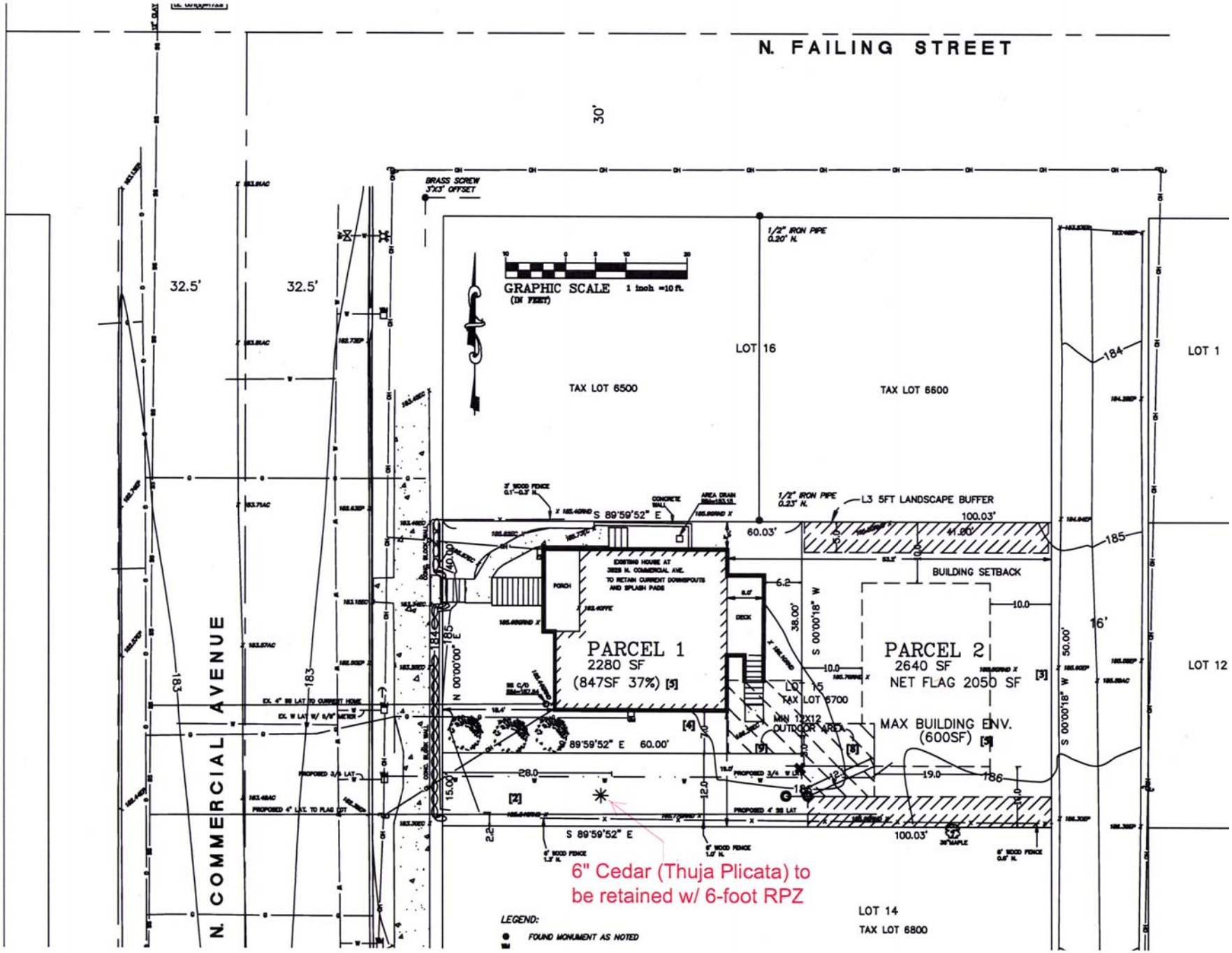


ZONING

Site

NORTH

File No.	LU 12-143905 LDP
1/4 Section	2630
Scale	1 inch = 200 feet
State_Id	1N1E22DC 6700
Exhibit	B (May 30,2012)



CASE NO. 12-145905
EXHIBIT C-2