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

Date: November 1, 2012
To: Interested Person
From: Kate Green, Land Use Services
503-823-5868 / Kate.Green@portlandoregon.gov

NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in 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 12-145480 LDP

GENERAL INFORMATION

Applicant: Danelle Isenhart/Emerio Design
6107 SW Murray Blvd, Suite 147 / Beaverton OR 97008

Property Owners: Dilusso Homes LLC/Stratance LLC
PO Box 1251 / Clackamas OR 97015-1251

Site Address: 541 NE TILLAMOOK STREET

Legal Description: BLOCK 2 LOT 12, ALBINA
Tax Account No.: R009600580
State ID No.: 1N1E26CB 19800
Quarter Section: 2831
Neighborhood: Eliot, Mike Warwick at 503-284-7010.
Business District: North-Northeast Business Association, Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, Chris Lopez at 503-823-4575.
Zoning: Multi-Dwelling Residential 2,000 (R2)
Alternative Design Density (a)
Plan District: Albina Community
Other Designations: Eliot Conservation District
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 proposes a **Land Division-Partition** to divide an approximately 6,250 square foot lot into 2 parcels. Each parcel will be approximately 3,129 square feet in area.

In order to meet the minimum density requirements, the applicant proposes to demolish the existing house and garage and build an attached house development, with a house on Parcel 1 and a house together with a detached Accessory Dwelling Unit (ADU) on Parcel 2.

All existing trees are proposed to be removed from the site. New water services and sanitary sewer connections are proposed via public lines in NE Tillamook. Onsite drywells are proposed for stormwater management. The applicant also proposes an access easement for a shared driveway at the front of the proposed parcels.

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 (2 parcels). Therefore this land division is considered a partition.

Additionally, the site is located in the Eliot Conservation District, and all new development on the site must comply with Community Design Standards (33.218) or it will be subject to Historic Design Review (33.445.420), and the ADU must also comply with the Accessory Dwelling Unit Standards (33.205). Compliance with these standards will be evaluated at the time of building permits or, in the event the standards are not met, through a separate land use review process.

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 6,250 square foot site is located mid-block along NE Tillamook between NE MLK Jr. Boulevard (west) and NE 7th Avenue (east), within the Eliot Conservation District. The lot is long and narrow (50 feet by 125 feet), and is currently developed with a single-family residence and detached garage. According to city records, the residence was originally constructed in 1882 and is a one-story structure with a basement. The remainder of the site is landscaped with trees, shrubs, and lawn and garden areas.

The surrounding development is predominantly residential and a number of the homes were built between the 1880s and the early 1900s. Some mixed industrial and commercial uses are located along NE MLK Jr. Boulevard.

Infrastructure:
Streets: The site has approximately 50 feet of frontage on NE Tillamook. There is one driveway entering the site that serves the existing house.

City GIS database shows NE Tillamook is a 60-foot right-of-way, at this location. The street is improved with a 36-foot wide paved roadway, and a sidewalk corridor made up of a 4 foot wide planter, a 6-foot wide sidewalk, and a 2-foot buffer from the property. Parking is currently allowed on both sides of NE Tillamook. At this time there are no street trees in front of the subject site, though there are street trees along most other properties in the vicinity.

In this area, NE Tillamook is classified as a classified as a City Bikeway and it is within the Elliot Pedestrian District. For all other transportation modes the street is classified as a Local Service street.

Tri-Met provides transit service approximately 450 feet from the site at NE MLK Jr. Boulevard via Bus Line 6.

Water Service: There is an existing 6-inch CI water main in NE Tillamook Street.

Sanitary Service: There is an existing public 8-inch vitrified clay combined sewer in NE Tillamook Street (BES project # 20426).

Zoning: The site is located in the **Multi-Dwelling Residential 2,000 (R2)** zone, and in the **Alternative Design Density (a)** overlay zone. The site is also located within the **Eliot Conservation District** and the **Albina Community Plan District**.

The R2 zone is a low density multi-dwelling zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. *The proposal does not include application of the a-overlay provisions.*

A Conservation District is a collection of individual resources that is of historical or cultural significance at the local or neighborhood level. Information supporting a specific district's designation is found in the City's Historic Resource Inventory or the local evaluation done in support of the district's designation. *Based on city records, the existing house was built in 1882 and is listed as a non-contributing structure. Also, as noted above, all new development on the site must comply with Community Design Standards (33.218) or it will be subject to Historic Design Review (33.445.420), and the ADU must also comply with the Accessory Dwelling Unit Standards (33.205). Compliance with these standards will be evaluated at the time of building permits or, in the event the standards are not met, through a separate land use review process.*

The Albina Community Plan District implements the Albina Community Plan. The plan district's provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. Infill housing compatibility and affordability is encouraged by eliminating off-street parking requirements for small multi-dwelling housing projects. *The proposal does not include application of the plan district regulations.*

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 21, 2012**. Three written responses have been received and the letters have been forwarded to the applicant to foster continued communication about these primary concerns:

- Demolition of the existing house
  The neighbors note the house on the subject site is the oldest house in the neighborhood and it is important to the historic character of the area. According to city records, the existing house was constructed in 1882 and the site is located in the Eliot Conservation District. Generally, the demolition of historic resources in a conservation district requires review to ensure the resource's historic value is considered prior to or during the development process. The review period also ensures that there is an opportunity for the community to fully consider alternatives to demolition (per 33.445.430). However, the demolition of a structure that is identified as noncontributing to the historic significance of a Conservation District is exempt from demolition review and demolition delay review (per 33.445.430.C.2). In this case, though it is a very old house, the existing residence is listed as a non-contributing structure, so there are no zoning code regulations that prohibit its removal. As an alternative to demolition, the applicant or neighborhood residents may wish to contact heritage organizations, such as the Architectural Heritage Center, or house moving services to obtain information about building repair or relocation services.

- Tree removal
  The neighbors note concerns about the removal of the trees on the site. This issue is addressed in the findings in Criterion B, Tree Preservation below.

- Parking impacts
  The neighbors raise concerns about the availability of on-street parking and the demand the new units will have on parking in the area. See the findings in Criterion K, Transportation Impacts, below.

- Density
  The neighbors object to the amount of density proposed on the site. Based on the size of the lots in the area and the density provisions in the R2 zone, the proposed density will be a departure from the existing development pattern, as many of the adjacent lots are not developed to the density allowed by current zoning regulations. Density is further address in the findings in Criterion A, Lots, below.

- Shading of neighboring lots
  This land division does not include evaluation of a specific development proposal. At the time of permit review, any development on the site will be required to comply with the base zone standards for the R2 zone (33.120), as well as the Community Design Standards (33.218) and Accessory Dwelling Unit Standards (33.205). These standards are intended to promote compatibility and livability. In the event the standards are not met, the proposal will be subject to a separate land use review process, such as a Historic Design Review (33.445.420) or Adjustment Review (33.805).

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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones.

The minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 6,250 square feet. So, the site has a minimum and maximum density of 3 units.

As shown in the following table, the proposed lots are of sufficient width and area to allow attached or detached houses:

R2	Minimum lot area (square feet)	Minimum lot width (square feet)	Minimum lot depth (square feet)	Minimum front lot line (square feet)	Density	
					Minimum	Maximum
Attached Houses	1,600	15	none	15	--	--
Detached Houses	1,600	25	none	25	--	--
Parcel 1	**3,129**	**25**	**125**	**25**	**1**	**1**
Parcel 2	**3,129**	**25**	**125**	**25**	**2**	**2**

* Width is measured from the midpoints of opposite lot lines.

The applicant is proposing 2 parcels for an attached house development. One house is proposed on Parcel 1, and the other house as well as a detached Accessory Dwelling Unit (ADU) are proposed on Parcel 2. This will result in an overall density of 3 units.

However, after the land division, the proposed area of Parcels 1 and 2, individually, would only trigger a minimum density requirement of one unit per parcel. Therefore a condition must be made to ensure the site's overall minimum density requirement of 3 units is met at time of development, and at least one of the parcels is developed with 2 units. Since neither parcel is large enough to meet the lot standards that would allow duplex or multi-dwelling development; the condition must also designate that those 2 units must consist of a house (attached or detached) and an ADU (attached or detached). Please also note that accessory dwelling units are included in the minimum density calculations in the R2 zone, but are not included in the maximum density calculations (Section 33.205.040).

With a condition that allocates the required density for each parcel, as noted above, the applicable density and lot dimension standards will be 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 provided an arborist report (Exhibit A) that inventories the trees within the land division site and evaluates their condition. Three plants were identified. One (a 12-inch lilac) is exempt since it is a shrub species. Another (a 14-inch diameter Bird Cherry) is exempt because it is a nuisance species. The third (a 44-inch diameter Western Red Cedar (Thuja plicata) is subject to the tree preservation standards. In the Tree Preservation regulations, western Red Cedar trees over 10-inches in diameter are designated as significant trees, and several neighborhood residents have noted the value of this tree as an important feature for the street and city.

However, the applicant proposes to remove the Western Red Cedar, so the proposal does not meet any of the tree preservation options in 66.630.100. Instead, the applicant proposes to use the mitigation options of 33.630.300.

The arborist report indicates the Western Red Cedar is located close to the front lot line on a slope, so the root zone is limited and has been impacted by the existing driveway and utilities. The arborist also notes this tree appears to have been cut or broken, which is causing some decay in the trunk. Additionally, the arborist notes that retaining the tree could result in a hazardous situation, since the proposed development will be within the root zone. The applicant notes the proposed development is an allowed housing type in the R2 zone and the conceptual design will preclude the retention of this existing tree.

To mitigate for the removal of the Western Red Cedar, the arborist recommends installing 10 mitigation trees on the site. The project plans show ten 1-1/2 inch caliper trees are to be installed on Parcel 1, for a total of 15 caliper inches of tree mitigation.

However, the proposed parcels will be relatively small, and the applicant will be required to meet the landscaping standard for new houses (known as the T1 tree planting standard, 33.248.020.H), which will require at least 3 inches of new tree diameter to be planted on each of the proposed parcels, so it may be impractical to also install the proposed 15 inches of mitigation tree diameter (10 trees) on the site.

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

With a condition that the applicant must contribute funds to replace the 44 inches of tree diameter presently provided by the Western Red Cedar, this will provide for the installation of trees in the same watershed as the site and serve to equally meet the purpose of the Tree Preservation regulations. With the implementation of this condition, prior to final plat, this criterion will be met.

Additionally, as noted in the Urban Forestry comments, an noted in the Other Technical Requirements section, below, street trees will be required along the frontage of each lot, and this will also contribute to enhancing the beauty of the street and replace some of the values removed by the existing tree.

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

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.

Clearing and Grading: In this case, the site is not located within the Potential Landslide Hazard Area. The majority of the site is approximately two to four feet above the adjacent sidewalk grade. The site will require grading for the proposed driveways and to accommodate the proposed building foundation and utilities. However, no significant clearing or grading will be required to make the new lots developable.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

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

Findings: No tracts are proposed or required for this land division. A Reciprocal Access Easement is proposed to allow for shared use of the joint driveway on Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

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

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

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 for detailed bureau comments.
The water standards of 33.651 have been verified. Water is available to serve the proposed development from an existing 6-inch CI water main in NE Tillamook Street.
33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.
The sanitary sewer standards of 33.652 have been verified. There is an existing public 8-inch vitrified clay combined sewer in NE Tillamook Street (BES project # 20426).
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. The applicant has proposed the following stormwater management methods: • **Parcels 1 and 2:** Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES has indicated conceptual approval of the drywells. Additionally, the applicant clarified that pervious surfacing will be used for the pathway along the east lot line of Parcel 2, so this eliminates the concern BES initially noted about potential runoff onto the neighboring property.
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. As noted in the response from Portland Transportation, the block on which the subject property is located does not meet the noted spacing requirements. However, no street connections have been identified in the vicinity of this property in the Portland Master Street

Plan document. Additionally, 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 street or pedestrian connections are physically possible without impacting existing development on the subject block and beyond. Given the 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 these reasons, this criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030
33.654.120.C Width and Design of the street right-of-way
33.654.130.D Partial Rights 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.
Based on the available evidence, including the applicant's parking analysis (Exhibit xx) and the *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed., Transportation staff determined that there will be a minimal impact on existing facilities and capacity.

As outlined in the response from Portland Transportation (see *Exhibit E-2* for a detailed analysis): *staff had a concern about the proposed land division with regard to impacts to on-street parking. It appears as though there is a high demand for on-street parking in the vicinity of the subject site, even though most, if not all of the homes in the area, have at least one on-site parking space for vehicle storage. The applicant is showing two on-site parking spaces for each of the proposed attached homes via a driveway and a garage for each unit. Said driveways are also shown to be connected, thereby minimizing/reducing the necessary interrupted curb length and maximizing the potential for retaining on-street parking spaces. With 4 potential on-site parking spaces, the applicant has demonstrated that impacts to on-street parking will be mitigated.*

The response from Portland Transportation further notes: *Curb cuts and driveway construction must meet the requirements in Title 17 and these requirements will be enforced during building permit review. Portland Transportation will require that the applicant combine the driveways for Parcels 1 and 2 as shown on the submitted site plan.*

Based on these factors and the details outlined in the response from Portland Transportation, 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. Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Conservation District: As noted above, the site is located in the Eliot Conservation District and all new development on the site must comply with Community Design Standards (33.218) or it will be subject to Historic Design Review (33.445.420), and the ADU must also comply with the Accessory Dwelling Unit Standards (33.205). *Compliance with these standards will be evaluated at the time of building permits or, in the event the standards are not met, through a separate land use review process.*

- Detached Houses: Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. The proposal does not currently include detached houses; however, in the event detached housing is proposed, this proposal is eligible to use these provisions. *To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.*

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

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.

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau in regards to fire flow, water supply, hydrant spacing, addressing of structures, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- **Urban Forestry:** At this time there are no existing street trees. Street trees will be required along all public street frontages and will be reviewed and approved by the City Forester during building permit application. The current site plan indicates underground utilities placed at the East and West end of the project. The utilities will have to be relocated on the site plan to accommodate the planting of street trees in these locations. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). The primary issues identified with this proposal and in the neighborhood comments are:

- Density
- Tree Removal
- Parking Impacts
- Removal of existing structures
- Future development
- Shared Access Easement and Maintenance Agreement

As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 2 parcels for attached or detached houses, plus an accessory dwelling unit, as illustrated with Exhibits, C.1 and C.2, subject to the following conditions:

A. The final plat must show the following:

1. A Shared Access Easement shall be shown and labeled on the final plat, across the joint driveway on Parcels 1 and 2, as shown on Exhibit C.1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. 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 B.4 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."

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

Utilities

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow and hydrant spacing.

Existing Development

2. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures.
3. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.

Required Legal Documents

4. A Maintenance Agreement shall be executed for the Shared Access Easement described in Condition A.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Other requirements

5. The applicant must pay into the City Tree Fund the amount equivalent to 44 inches of trees. Payment must be made to the Bureau of Development Services, which administers the fund for the Parks Bureau.

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

1. The minimum and maximum density for the lots in this land division are as follows:
   - Parcel 1 has a minimum and maximum density of one.
   - Parcel 2 has a minimum and maximum density of two; this density must be achieved with a house and an accessory dwelling unit on Parcel 2. The parcel is not of sufficient size to allow duplex or multi-dwelling development.

2. The applicant must meet the requirements of the Fire Bureau for addressing of structures, and aerial fire department access roads.

Staff Planner: Kate Green

Decision rendered by: _____ **on October 30, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed November 1, 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 30, 2012, and was determined to be complete on **August 17, 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 30, 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 requested that the 120-day review period be extended a total of 35 days (Exhibit G.4). Unless further extended by the applicant, **the 120 days will expire on: January 18, 2013.**

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

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

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

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

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

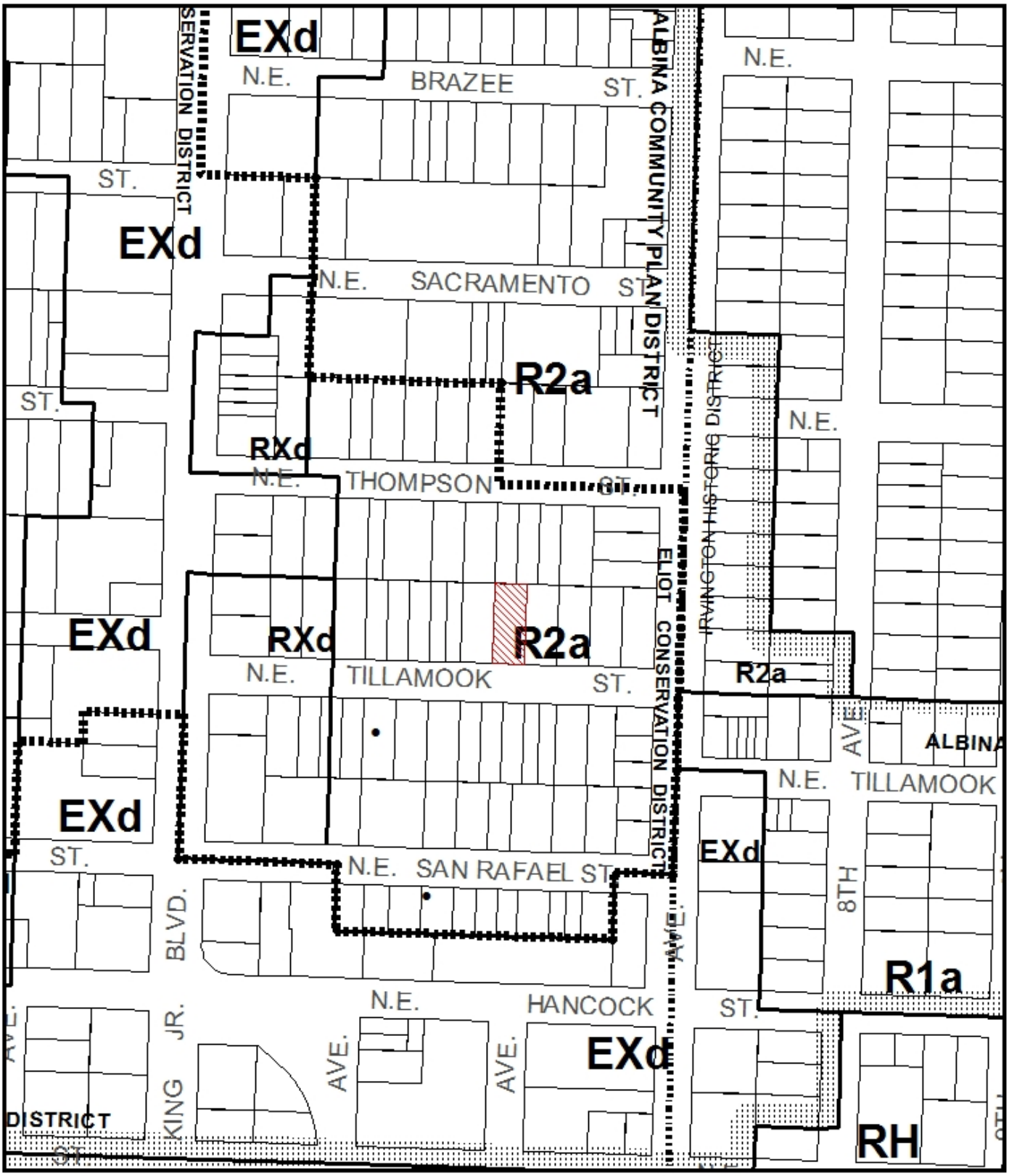
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and 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. Supplemental Narrative
   2. Transportation Report
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Preliminary Plat (attached)
   2. Preliminary Site/Utility Plan (attached for reference)
   3. Revised Plan Set
   4. Initial Plan Set
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Portland Transportation
   3. Water Bureau
   4. Fire Bureau
   5. Site Development Review Section of BDS
   6. Bureau of Parks, Forestry Division
F. Correspondence:
   1. Dorothy Grohs-Perkins, received September 20, 2012, concerns re: demolition of existing house, tree removal, parking impacts, and shading of neighboring lots.
   2. Mollie Hart, received September 20, 2012, concerns re: removal of oldest home in the neighborhood, tree removal, parking impacts, and density.
   3. Brian McCauley, received September 20, 2012, concerns re: removal of house and trees.
G. Other:
   1. Original LU Application
   2. Site History Research
   3. Letter to applicant re: incomplete application
   4. Timeline Extensions

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



ZONING

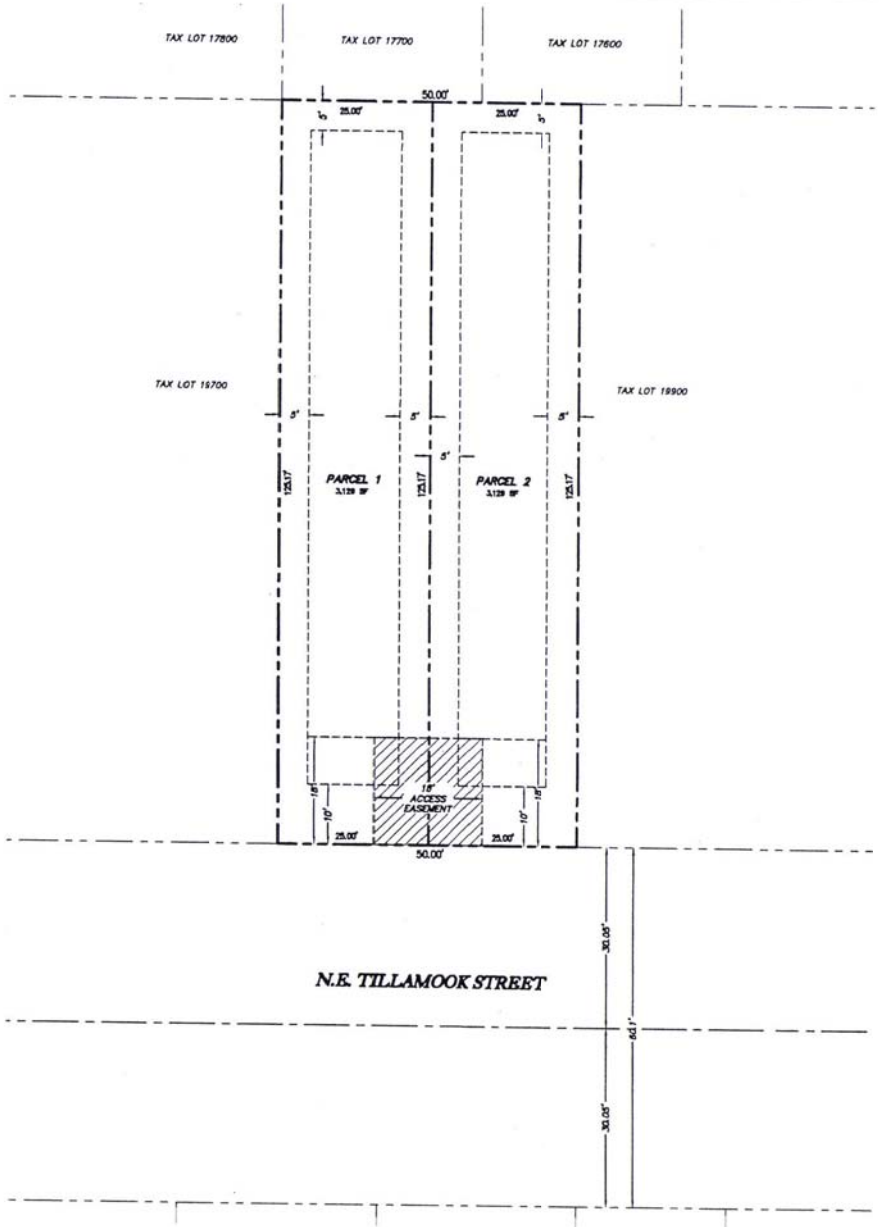
Site

Historic Landmark

NORTH

This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT
ELIOT CONSERVATION DISTRICT

File No.	LU 12-145480 LDP
1/4 Section	2831
Scale	1 inch = 200 feet
State_Id	1N1E26CB 19800
Exhibit	B (Jun 04,2012)



N

0 10'
SCALE: 1" = 10'

LEGEND

- BOUNDARY LINE
- ADJACENT/ADJOINING LOT LINE
- CENTER LINE ROW
- SETBACK LINE

541 NE TILLAMOOK STREET
TAX MAP T1N R1E 26CB
TAX LOT 19800
CITY OF PORTLAND, OREGON

PRELIMINARY PLAT

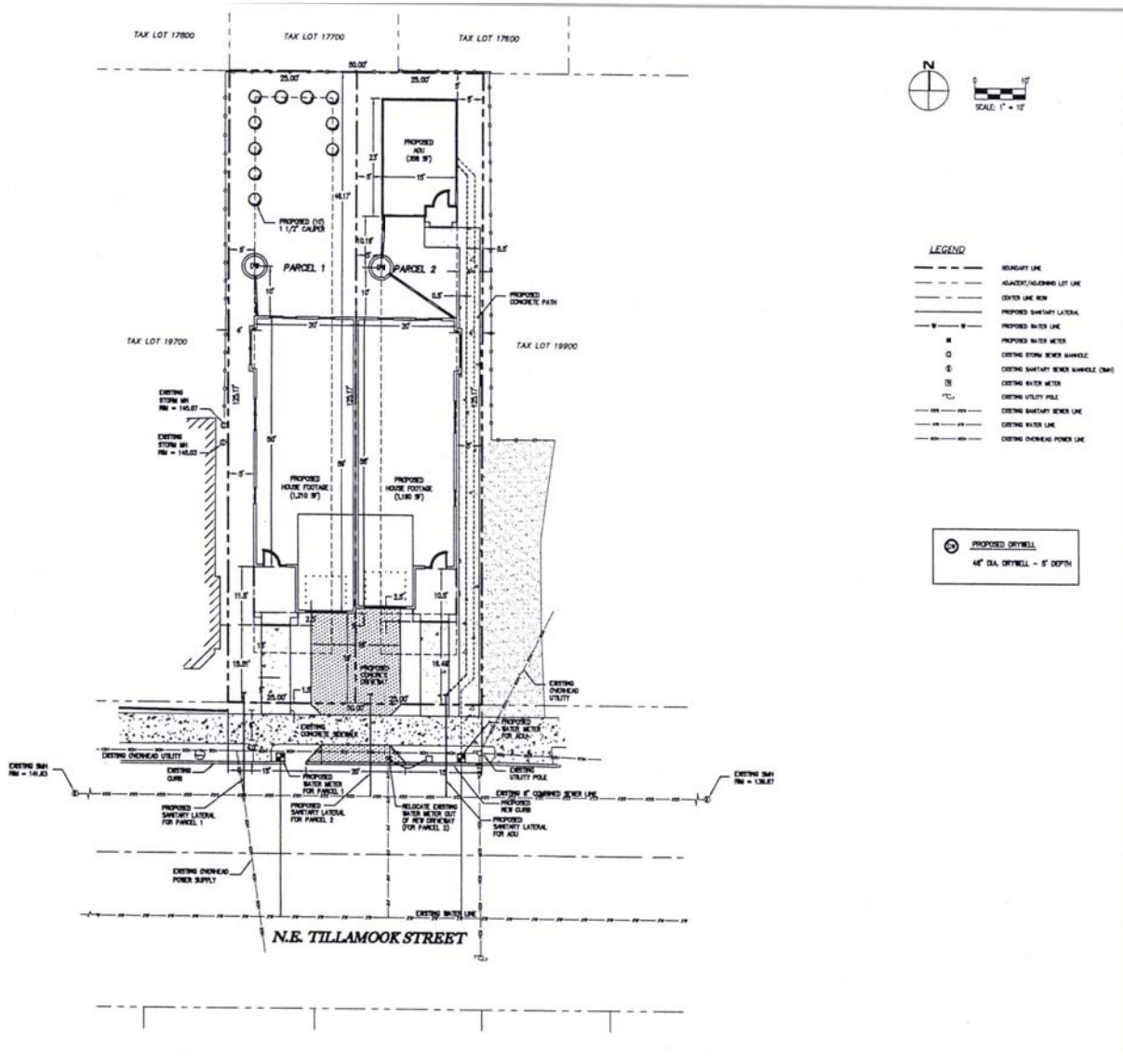
REVISIONS

NO.	DATE	DESCRIPTION

EMERIO Designs
6107 SW MURRAY BLVD. SUITE 147
BEAVERTON, OREGON 97008
PH: (503) 515-5528

SHEET 3 OF 5

Exhibit C.1
LU12-145480



541 NE TILLAMOOK STREET
TAX MAP T1N R1E 26CB
TAX LOT 19800
CITY OF PORTLAND, OREGON

PRELIMINARY SITE/
UTILITY PLAN

REVISIONS
NO. DATE DESCRIPTION

EMERIS Designs
8107 SW MURRAY BLVD. SUITE 147
BEAVERTON, OREGON 97008
PH: (503) 515-5528

SHEET
4
of
5

Exhibit C.2
LU12-145480