



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: July 30, 2008
To: Interested Person
From: Ruth Shriber, Land Use Services/503-823-3032/rshriber@ci.portland.or.us

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 08-119962 LDP

GENERAL INFORMATION

Applicant: Advantage Equities LLC
3808 NE Rodney Ave
Portland, OR 97212

Representative: Rene Nelson, Lanpacific, Inc.
5125 SW Macadam Ave, Ste 140
Portland, OR 97239

Site Address: **3808 NE RODNEY AVE**

Legal Description: LOT 13 BLOCK 14, ALBINA HMSTD
Tax Account No.: R010503270
State ID No.: 1N1E22DD 11300
Quarter Section: 2630

Neighborhood: Boise, contact Christopher Sahli at 503-807-7905.
Business District: N-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.

Zoning: R2.5a Single-Dwelling Residential 2,500

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

Proposal:

The applicant is proposing to divide a 5,000 square foot lot into 2 parcels ranging from 2,014 to 2,986 square feet in size. The existing residence will remain on Parcel 1. A portion of the rear of the existing house on Parcel 1 is proposed for removal to provide room for on site parking. Parcel 2 is proposed to be a flag lot and will be made available for single

dwelling residential development. A shared drywell placed in an easement is proposed for stormwater management for the two lots. An Arborist Report has been submitted. The site is exempt from tree preservation standards due to hazard and diseased trees.

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 site is a 5,000 square foot lot with an existing residence that is raised from the street and separated in grade from the sidewalk by two rock retaining walls. A driveway is located on the south side of the residence. There is no garage. The area is comprised primarily of older, two story homes on originally platted lots. There are sidewalks with planting strips along both sides of NE Rodney. The site is located just two blocks west of the Albina Community District. The block to the east of the site is zoned R1ad. Zoning on other sides of the site is R2.5a

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 not using any of the provisions of the "a" overlay.

Land Use History: There are no prior land use reviews for this site.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on May 7, 2008.

- 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:** Two written responses have been received from one notified property owner in response to the proposal.

Comment: A concern was expressed that the proposal did not comply with Chapter 92.004.

BDS Response: *As stated in the Notice of Proposal dated May 7, 2008, in order to be approved, the project must comply with the approval criteria of Title 33. The relevant criteria are found in Section 33.660.120 and are outlined below, under approval criteria. These are discussed in detail in the body of this report.*

Comment: A next door neighbor wrote in opposition of the project. The neighbor recalled the gentrification process in the neighborhood, spoke about 'invasion of developers' and 'property flippers'.

BDS Response: *Land ownership is not a criterion for land divisions.*

Comment: The neighbor suggests in his letter that the creation of 2 parcels would be "counter to the theory behind residential zoning, residential density, green space....".

BDS Response: *The approval criteria used to evaluate the land division partition are based on title 33 code section 33.660.120.*

Comment: The neighbor suggests the proposal be evaluated from the perspective of living next door to it.

BDS Response: *The proposal is evaluated in accordance with approval criteria set forth in 33.660.120.*

Comment: The neighbor quotes Barack Obama's Oregon advertisements and encourages denial of the project.

BDS Response: *The contents of political advertisements have no bearing on criterion relative to approval or disapproval of a land division project. Decisions are made based on compliance with relevant approval criterion in 33.660.120.*

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	33.611	Lots	Applicable - See findings below
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 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.

Criterion	Code Chapter	Topic	Applicability Findings
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 33.611 contains the density and lot standards applicable in the R2.5 zone. These density and lot dimension standards 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 = (5,000 square feet * .80) ÷ 5,000 square feet = .8 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 5,000 square feet ÷ 2,500 square feet = 2 for a maximum of 2 lots, per 33.930.020.B)

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

Lot Dimensions

The lot dimension standards 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 too large relative to the planned density; (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 standards is shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

	R 2.5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2 (Flag lot)
Minimum Lot Area	1,600 sq. ft.	2014	2986

Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	38	flag
Minimum Lot Depth	40 ft.	53	flag
Minimum Front Lot line	30 ft.	38	-
Minimum Flag Lot Width**	40 ft.	-	50
Minimum Flag Lot Depth**	40 ft.	-	48

* Width is measured at the minimum front building setback line

** For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

Flag Lots

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 on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located 15 feet from the south property line and 2 feet from the north property line, which would preclude the creation of a lot that would meet the minimum width standard of the R2.5 zone of 36 feet. Two lots are proposed. As discussed above, minimum density has been met. 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. Therefore, Parcel 2 is allowed.

The findings above describe how the applicable lot standards are 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 required to be preserved in the areas where new development on the site is anticipated. This criteria 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.

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 required for this land division:

- A Reciprocal Access Easement is proposed to allow access over the pole portion of Parcel 2 to benefit Parcel 1;
- A Private Storm Sewer Easement is required across the relevant portions of Parcels 1 and 2, for a shared drywell that will provide stormwater disposal for both parcels.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements 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 (reciprocal access easement for the benefit of Parcel 1 across the pole portion of Parcel 2) 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 50 feet of frontage on NE Rodney Avenue. NE Rodney Avenue is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 610-feet from the site on the corner of N Williams and NE beech via bus #44. Parking is currently allowed on NE Rodney Avenue, on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

NE Rodney Avenue is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has noted that forward motion access to NE Rodney from Parcel 1 will be required as a condition of final plat approval. This must be demonstrated on a supplemental plan to the satisfaction of Portland Transportation. With that improvement, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

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

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

Findings: 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 8-inch inch water main in NE Rodney Avenue may continue to serve the existing residence and is available to serve the new residential unit. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 16-inch vitrified clay City-owned combination sewer in NE Rodney Avenue. A new service branch to the main line in NE Rodney will be required to serve the new construction on Parcel 2. Parcel 1 has an existing sewer service from that main. There are no City records showing the as-built location of the sewer line for the existing house. Prior to final plat approval, if continued use of the existing sewer line is proposed, the results of a sewer line video documenting the condition and location of the sewer line, locate markers on site, and a supplemental plan accurately showing the sewer line location to the satisfaction of Site Development. If the sewer line will be replaced in conjunction with permit 08-123280-RS, then prior to final plat approval Site Development will require a supplemental plan showing the as-built location of the sewer line. See Exhibit E-5 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.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. The site meets the through street and pedestrian connectivity requirements. As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable.

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.3 and A.4), and the Bureaus have responded as follows (Exhibits E-1 and addendums and E-5 and addendums)

- **Parcel 2** (flag lot): Stormwater from this lot will be directed to a shared drywell that will treat the water and slowly infiltrate it into the ground. The drywell will be used by Parcels 1 and 2 and will be placed in a 10-foot by 10-foot easement as shown on Exhibit C.3. The applicant has demonstrated that setback requirements can be met to the satisfaction of the Bureaus.
- **Parcel 1** (Parcel with the existing house): The existing house has downspouts that drain to the ground. Stormwater from this lot will be directed to the new shared drywell that will treat the water and slowly infiltrate it into the ground. This drywell will be used by Parcels 1 and 2 and will be placed in a 10-foot by 10-foot easement as shown on Exhibit C.3. Site Development has noted that prior to final plat approval, the applicant must obtain final approval of the plumbing permit required for installation of the drywell. In addition, prior to final plat approval, the applicant must install rain drains for the existing house and all gutters and downspouts on the existing house must be repaired and directed to discharge to the new drywell. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks.

With the conditions of approval described above, the stormwater management criteria can be met. As shown by the findings above, the Services and Utilities criteria are 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.

- 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 (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 3 and 14 feet from the new property lines. 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** – In this zone, one parking space per dwelling unit is required. A paved parking pad provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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/
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 aerial fire access roads/addressing requirements for flag lots. These requirements are based on the technical standards of Title 31 and the Fire Code.

CONCLUSIONS

The applicant has proposed a 2 lot 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 include stormwater management, fire bureau requirements, reciprocal access and private stormwater management easements, flag lot standards and transportation conditions. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in one standard and one flag lot 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 Portland Transportation 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;
- Replacement parking for Parcel 1.
- Forward motion access to NE Rodney from Parcel 1 must be demonstrated to the satisfaction of Portland Transportation.
- Accurate demonstration of the sewer line location to the satisfaction of Site Development.
- Stormwater facilities for both Parcels.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. 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.
2. A private storm sewer easement, for the benefit of Parcels 1 and 2, shall be shown and labeled over the relevant portions of Parcels 1 and 2.
3. A recording block for each of the legal documents (maintenance agreements), as required by Conditions C.7 and C.8 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: *“A Declaration of Maintenance Agreement for (Reciprocal Access Easement) has been recorded as document no. _____, Multnomah County Deed Records.”*

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

Streets

1. The applicant shall meet the requirements of the City Engineer to provide forward motion access to NE Rodney from Parcel 1.

Utilities

2. 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.
3. Final approval of a plumbing permit is required to install a shared drywell, and to install rain drains for the existing house on Parcel 1. The drywell must be sized to the satisfaction of Site Development.

4. If continued use of the existing sewer line is proposed, the results of a sewer line video documenting the condition and location of the sewer line, locate markers on site, and a supplemental plan accurately showing the sewer line location to the satisfaction of Site Development must be provided. If the sewer line will be replaced in conjunction with permit 08-123280-RS, then prior to final plat approval Site Development will require a supplemental plan showing the as-built location of the sewer line.

Existing Development

5. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. A copy of the final inspection approval for a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify parking requirements may be submitted at the Development Services Center. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.
6. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 1. Specifically, all gutters and downspouts on the existing house must be repaired and directed to discharge to the new drywell. The applicant must obtain finalized plumbing permits for this work 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.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.
8. A Maintenance Agreement shall be executed for the shared Private Stormwater Management 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. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot.
2. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.
3. The applicant shall provide forward motion access to NE Rodney as required by PDOT to the satisfaction of PDOT.

4. In the event that the existing sidewalk or curb is damaged or in poor condition, the applicant shall reconstruct each as required to City standards and to the satisfaction of PDOT.

Decision rendered by:  on July 28, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed July 30, 2008

Staff Planner: Ruth M. Shriber, ASLA

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 April 3, 2008, and was determined to be complete on May 5, 2008.

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 April 3, 2008.

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 by a total of 95 days in order to demonstrate to the Bureaus that on site stormwater management as feasible.

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 Statements
 - 1. Arborist Report
 - 2. Narrative
 - 3. Preliminary Storm Drainage Calculations dated April 2, 2008
 - 4. Stormwater Disposal and Treatment Information dated June 23, 2008
 - 5. 10 day extension Request
 - 6. 25 day extension request
 - 7. 60 day extension request
 - 8. April 29, 2008 Completeness Submittal
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan with Utilities (attached)
 - 2. Existing Conditions Plan (attached)
 - 3. Preliminary Storm Drywell Plan (attached)
 - 4. Cover Sheet
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services and Addendum A and Addendum B
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS and Addendum A. and Addendum B
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Robert Phillips, May 9, 2008 and May 12, 2008, Section 92.044, requesting denial, unaware of precedence for this type of proposal.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. General Correspondence – internal
 - 4. General Correspondence - external.
 - 5. Incomplete Letter of April 23, 2008

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

PRELIMINARY SITE PLAN W/ UTILITIES

PARTITION PLAT: 3808 NE RODNEY AVE.

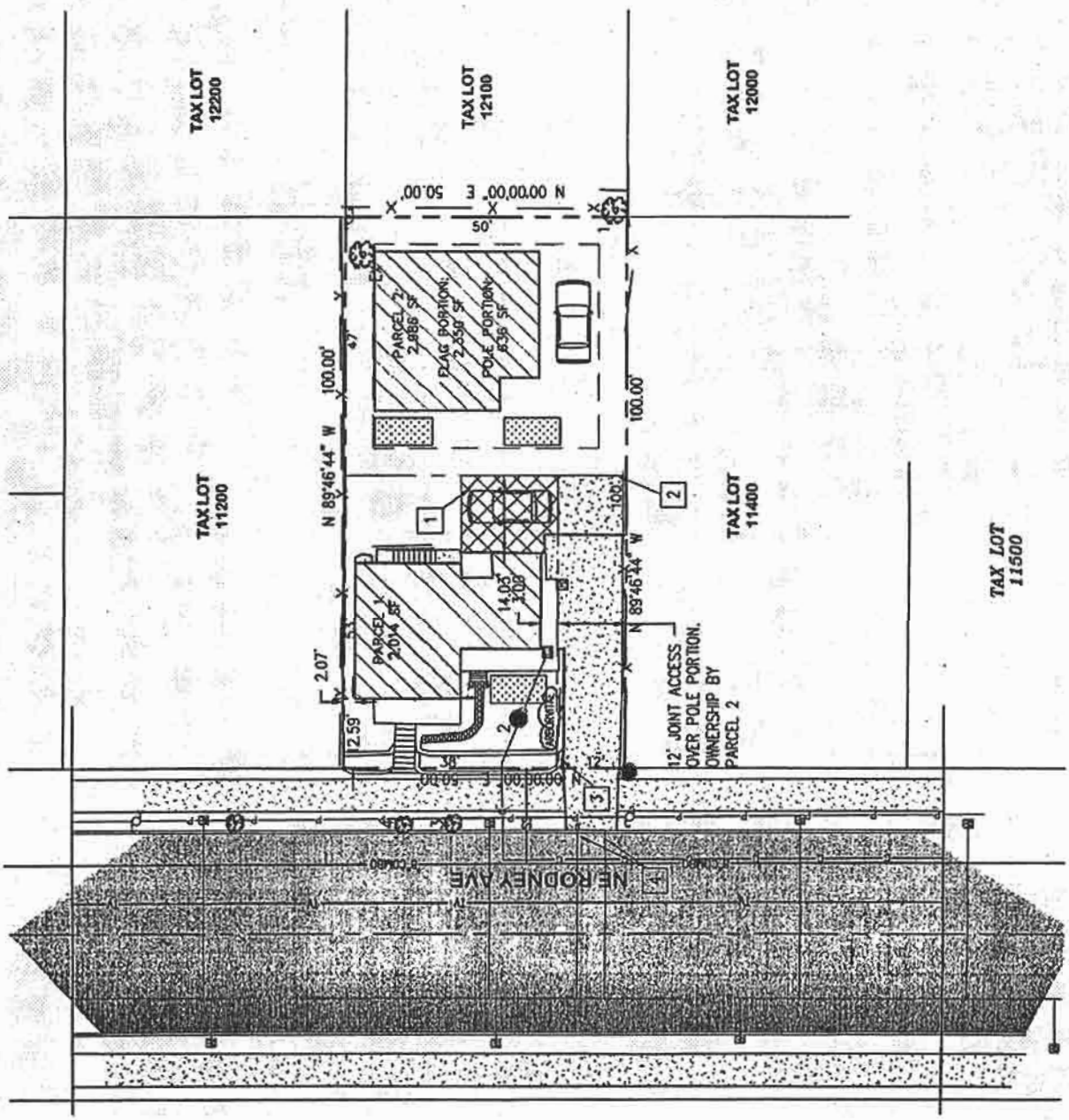


LEGEND

	EXISTING BOUNDARY LINE
	EXISTING ELECTRIC METER
	EXISTING POWER POLE
	EXISTING OVERHEAD POWER LINES
	EXISTING WATER METER
	EXISTING UNDERGROUND WATER
	EXISTING GAS METER
	EXISTING UNDERGROUND GAS LINE
	EXISTING SANITARY SEWER LINE
	EXISTING FENCE
	EXISTING BRICK WALKWAY
	EXISTING GRAVEL
	EXISTING CONCRETE
	EXISTING ASPHALT
	PROPOSED CONCRETE
	PROPOSED GRASSCOTE
	PROPOSED SAMPLE BUILDING FOOTPRINT
	PROPOSED LOT LINE
	PROPOSED SETBACK LINE
	STORMWATER MANAGEMENT FLOW-THRU PLANTER (PRELIM SIZE & LOCATION)

CONSTRUCTION NOTES

- 1 BACK AREA OF HOUSE TO BE REDESIGNED TO ALLOW FOR SMALL ON-SITE PARKING AREA GRASSCOTE. FINAL DESIGN TO BE SHOWN WITH BUILDING PERMIT
- 2 LIMITS OF ACCESS EASEMENT OVER PARCEL 2 FOR THE BENEFIT OF PARCEL 1
- 3 LANDSCAPE WALLS TO BE REMOVED TO REMAIN OUT OF PARCEL 2
- 4 PROPOSED SERVICE LOCATIONS FOR NEW PARCEL



C.1 (see C.3 for SW)

EXISTING CONDITIONS & DEMOLITION PLAN & TREE PRESERVATION
 PARTITION PLAT: 3808 NE RODNEY AVE.

FILE NO.	00-0432
DATE	04/28/08
PROJECT	3808 NE RODNEY AVE
DRAWN BY	CS
CHECKED BY	AT
DATE	04/28/08
PROJECT NO.	CSD008-001
CASE FILE NO.	PERM08
SHEET TITLE	EXISTING / DEMO / TREE PLAN
SHEET NUMBER	D2



LEGEND

- EXISTING BOUNDARY LINE
- EXISTING DECIDUOUS TREE
- EXISTING CONIFEROUS TREE
- EXISTING ELECTRIC METER
- EXISTING POWER POLE
- EXISTING OVERHEAD POWER LINES
- EXISTING WATER METER
- EXISTING UNDERGROUND WATER
- EXISTING GAS METER
- EXISTING UNDERGROUND GAS LINE
- EXISTING COMBO (SS/SD) LINE
- EXISTING FENCE
- EXISTING BRICK WALKWAY
- EXISTING GRAVEL
- EXISTING CONCRETE
- EXISTING ASPHALT

CONSTRUCTION NOTES

- 1 EXISTING CYCLONE FENCE TO REMAIN.
- 2 EXISTING WOOD FENCE TO REMAIN.
- 3 PORTION OF EXISTING HOME TO BE REMOVED. TO BE NO CLOSER THEN 3' FROM NEW PROPERTY LINE.
- 4 EXISTING UTILITY METER LOCATION TO BE RELOCATED, COORDINATE WITH UTILITY COMPANY
- 5 EXISTING HOME TO BE REMODELED AND CHANGED TO ACCOMMODATE NEW PARCEL AND ALLOW FOR AREA OF GRASSCREE PARKING BEHIND HOUSE

TREE CHART

TREE NO.	TREE COMMON NAME	TREE SPECIES	TREE STATUS	DBH (IN)	DGL (FT)	PRESERVE
1	CHERRY	Prunus sp.	VARIABLE	27	4	YES
2	SHORE PINE	Pinus contorta	HAZARDOUS	6	0.5	YES
3	PLUM (FLOWERING)	Prunus sp.	PRESERVABLE	6	0.5	YES
4	PLUM (FLOWERING)	Prunus sp.	PRESERVABLE	6	0.5	YES

DBH = DIAMETER AT BREAST HEIGHT
 DGL = DIAMETER AT GROUND LEVEL
 TREE 1 IS OFF-SITE
 TREES 3 & 4 ARE STREET TREES

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