



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

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Date: June 30, 2009
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 08-101696 LDP

GENERAL INFORMATION

Applicant: Daryl Garner
DLG Development
Po Box 11322
Portland, OR 97211

Representative: Mark A Finlayson
David Bissett Architecture, LLC
208 SW 1st Avenue, suite 300
Portland, OR 97204
(503) 226-6785

Site Address: 4425 NE Rodney Avenue

Legal Description: N 75' OF NE 1/4 OF BLOCK D, ALBINA HMSTD
Tax Account No.: R010500530
State ID No.: 1N1E22DA 03600
Quarter Section: 2630
Neighborhood: Humboldt, contact Brian Murtagh at 503-962-9194.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.
Plan District: None
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 proposing to partition a 7,500 square foot lot into 3 parcels of equal size at 2,500 square feet. An existing single family dwelling is present on the site that is proposed for removal as a part of this review. The proposed parcels do not meet the minimum width

standard of the Residential 2,500 (R2.5) zone of 36 feet, therefore additional criteria relating to the creation of “narrow lots” shall apply. An alley easement is proposed from NE Prescott Street that will provide access to the rear 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).

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The subject property is located on the southwest corner of NE Rodney Avenue and NE Prescott Street. Existing development consists of a single family residence and detached garage that will be removed as a part of this review. Public water and sewer utilities serve the property from NE Rodney Avenue. Two trees are located within the land division site subject to preservation standards. A mixture of Multi Dwelling, Single Dwelling and Employment zoning is present within the vicinity of the site with development primarily consisting of detached residential homes.

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

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on March 2, 2009.

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

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

APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.611	Lots	Applicable - See findings below.
B	33.630	Trees	Applicable - See findings below.
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 - The proposed development is for something other than single-dwelling detached homes.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
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 = (7,500 square feet * .80) ÷ 5,000 square feet = 1.2 (which rounds down to a minimum of 1 parcel, per 33.930.020.A)

Maximum = 7,500 square feet ÷ 2,500 square feet = 3

The applicant is proposing 3 parcels. 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):

	R2.5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	1,600 sq. ft.	2,500 sq. ft.	2,500 sq. ft.	2,500 sq. ft.
Maximum Lot Area	NA			
Minimum Lot Width*	36 ft.	25 ft.	25 ft.	25 ft.
Minimum Lot Depth	40 ft.	100 ft.	100 ft.	100 ft.
Minimum Front Lot Line	30 ft.	25 ft.	25 ft.	25 ft.

* Width is measured at the minimum front building setback line

Narrow Lots

Parcels 1 through 3 are 25 feet wide, which is narrower than the standard minimum width for the R2.5 zone, as shown in the table above. 33.611.200.C of the Zoning Code, however, allows narrower lots if the future development can meet certain standards:

- **If the lot abuts an alley, then vehicle access is allowed only from the alley;**
- **If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created under these provisions (lots that abut a pedestrian connection or common green are exempt from this standard).**

- **Lots must be configured so that at the time of development the length of the garage wall will be no more than 50% of the length of the street-facing building façade.**
- **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- **When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley; and**

The applicant has demonstrated that Parcels 1-3 can meet the narrow lot standards for the following reasons:

Alley access:

- A 15-foot wide private driveway (alley) easement is proposed from NE Prescott Street, and the applicant has proposed (and will be required) to provide vehicle access to Lots 1, 2 and 3 from the alley.

Preserves on-street parking

- Exhibit C-1 demonstrates that 15-feet of uninterrupted curb space will be preserved for every narrow lot along NE Rodney Avenue. No curb cuts are provided along the frontage of the lots as vehicle access is proposed from the private driveway (alley). A condition of approval will require vehicle access from the alley to assure that this curb space will continue to be preserved when the lots are developed or re-developed.

50 percent garage wall limitation

- A private shared driveway (alley) will provide vehicle access to Lots 1, 2 and 3, so the garages can be located at the rear of the lots behind the street-facing building façade. This shared access is considered a private alley and can be located in a reciprocal access easement. Compliance with this standard can be demonstrated if a reciprocal access easement is shown and labeled on the final plat, and with a condition that Lots 1, 2 and 3 must take vehicle access from this easement.

60 percent landscaping requirement for attached houses

- Lots 1, 2 and 3 can meet the narrow lot standards because the applicant proposes a shared driveway in an easement to provide vehicle access to the rear of the lots. Because there will be no paved vehicle areas at the front of the lots, the applicant can landscape at least 60 percent of the area between the front lot line and the front building line. Lot width standards can be met, with the condition that a reciprocal access (driveway) easement is shown and labeled on the final plat.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, this criterion is therefore 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). Two trees are located within the land division site along the southern property line. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	True fir	10	No	No	No	N/A
2	Noble fir	11	No	No	No	N/A

The applicant proposes to remove all of the trees on the site. The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options of 33.630.300:

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
 - 1. Minimum density;**
 - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
 - 3. Implementation of an adopted street plan;**
 - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
 - 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**
 - 6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.**

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for attached housing, which is an allowed housing type in the R2.5 zone. The location of the existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R2.5 zone. Criterion C.4 above is met.

The two existing conifer trees within the land division site are located in the area of Parcel 3 approximately 1 foot from the southern property line and 30 feet from the eastern property line. The standard root protection zone for the True fir and Noble fir would be 10 and 11 feet respectively based on the diameter of the trees. The location of the two conifer trees and associated root protection zones, if preserved, results in significant development limitations for this narrow lot. Therefore, the applicant has met Criteria A, because no viable trees can be preserved.

The applicant has submitted a tree mitigation plan that proposes to plant at least 8 caliper inches of trees in the front yard of the new parcels. Option 1 of the Tree Preservation Chapter would require that 35% or approximately 8 inches of the existing non-exempt tree diameter on site be preserved. Mitigation for this amount of caliper inches is limited for this proposal based on the smaller size of the lots and presence of the shared driveway (alley), which occupies a significant amount of land area. Section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted on new lots as part of the approval of future building permits. For lots that are 3,000 square feet or smaller, at least 3 inches of tree diameter must be planted per lot. This would equate to two trees per lot based on the minimum planting size of 1.5 inches. Because of the small size of the parcels it is not practical for additional trees beyond the T1 standard to be planted without jeopardizing the overall health of all of the trees on the site. Therefore, tree planting as a form of mitigation is not feasible for this site.

In order to continue to meet the provisions of Chapter 33.630 and mitigate for the loss of the two conifer trees, the applicant shall be required to pay into the City Tree Fund for the amount equivalent to 8 inches of tree diameter. This figure is roughly equivalent to the amount of tree diameter that would be required to be preserved through Option 1 of the tree preservation chapter, which is 35% of existing non-exempt tree diameter on site. Payment into the Tree Fund will contribute to the general beauty and natural heritage of the City, if not directly on the site. Criteria B is met with a condition of approval requiring payment into the City Tree Fund for the amount equivalent to 8 inches of trees.

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 within the land division site. This criterion is met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist,

the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

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;

33.636.100 Requirements for Tracts and Easements

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

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

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

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

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

- A Reciprocal Access Easement is proposed to allow shared use of the private driveway (alley) that will provide access for Lots 1, 2 and 3.

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

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

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

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

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

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

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

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

The site has approximately 100 feet of frontage on NE Prescott Street and 75 feet of frontage on NE Rodney Avenue. NE Prescott Street and NE Rodney Avenue are classified as local service streets for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 375 feet from the site on N Williams Avenue via bus number 44. Parking is currently allowed on both sides of NE Rodney Avenue. At this location, parking is allowed on the north side of NE Prescott Street. There is one driveway entering the site from NE Prescott Street that provides access to off-street parking for the existing house.

At this location, NE Rodney Avenue is improved with a 36 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 60 foot wide right-of-way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that the existing improvements exceed the City's recommended standards. Therefore, no improvements are required along the sites NE Rodney Avenue frontage.

At this location, NE Prescott Street is improved with an 18 foot paved roadway surface and pedestrian corridor that consists of a 4.5 foot curb tight sidewalk and 1.5 foot setback to private property (0-4.5-1.5) within a 30 foot wide right-of-way. There is no planter strip between the curb and sidewalk. The recommended pedestrian corridor configuration for a street of this classification consists of a .5 foot curb, 4 foot planter, 6 foot sidewalk and .5 foot setback to private property. The recommended City standards for roadway width and

pedestrian corridor requirements are not met within the sites existing NE Prescott Street right-of-way frontage. However, given the lack of development potential in the vicinity for property fronting on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. Additionally, Portland Transportation has identified the likely loss of mature trees on adjacent sites should the existing pedestrian corridor be expanded to meet standards in the future. Therefore, no improvements or ROW dedication are required along the sites NE Prescott Street frontage.

Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by the existing street network without having any significant impact on the level of service provided. 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 water main is available in NE Rodney Avenue. No water service is available within NE Prescott Street. Water is available to serve the proposed development from the water main in NE Rodney Avenue. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 12 inch public combination sewer located in NE Rodney Avenue that can serve the sanitary needs of the proposed lots. No sewer service is available within NE Prescott Street. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- 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. Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The site is located on a corner and is approximately 75 feet by 100 feet and therefore meets the through street and pedestrian connectivity requirements. Additionally, No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. As a 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-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Private Driveway (alley):** As previously noted, vehicle access for Parcels 1, 2 and 3 will be accomplished via a private driveway (alley) located in an easement over the relevant area of these parcels. Stormwater will be directed to infiltration planters located within the private driveway (alley) easement area. The applicant has submitted stormwater calculations and soil test results (Exhibit A-3) that indicate the size of the proposed planters can accommodate the volume of stormwater runoff from the impervious areas of the driveway. The Site Development Section has indicated that the submitted stormwater report cannot be accepted as final supporting documentation due to deficiencies in calculations but is adequate enough for preliminary plan approval. Therefore, prior to final plat approval, Site Development has requested additional information to be shown on the supplemental plan as well as an addendum to the stormwater report to confirm that the proposed stormwater facilities will be sized in accordance with the Stormwater Management Manual. Alternatives were also identified by Site Development that would negate the need for additional stormwater testing.
- **Parcels 1, 2 and 3:** Stormwater from these lots will be directed to individual infiltration planters that will treat the water and slowly infiltrate it into the ground. Each of these lots 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. Site Development has indicated conceptual approval of the infiltration planters but is requesting additional information as noted above.

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

DEVELOPMENT STANDARDS

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

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

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

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

- Narrow Lots-- development on Lots 1,2 and 3 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b_Detached dwelling units are not permitted on lots that are less than 25 feet in width.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

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/

Bureau	Code Authority	Topic	Contact Information
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 department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code. See Exhibit E-4 for more details.

CONCLUSIONS

The applicant has proposed a 3 parcel partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation and stormwater management.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3 parcel partition, that will result in 3 narrow lots for attached housing as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use, BES and Site Development review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Conceptual building development footprints on each lot, stormwater facilities and proposed discharge locations, proposed utilities including storm sewer and sanitary sewer locations
- Buildings on adjacent property within 5 feet of the property line
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A variable width Reciprocal Access Easement shall be shown and labeled on the final plat for the shared driveway (alley) over Lots 1, 2 and 3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for and must reflect adequate area for associated stormwater management facilities.
2. A recording block for the maintenance agreement required by Condition C-3 below. The recording block 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:**Utilities**

1. An addendum to the stormwater report shall be provided to confirm that the proposed stormwater facilities for the proposed dwellings and driveway will be sized in accordance with the Stormwater Management Manual. This addendum shall be reviewed and approved by Site Development and the Bureau of Environmental Services.

Existing Development

2. A finalized permit must be obtained for demolition of the existing residence and detached garage 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.

Required Legal Documents

3. 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.

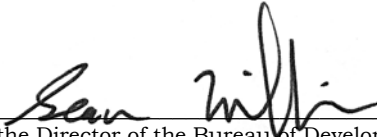
Other requirements

4. The applicant must pay into the City Tree Fund the amount equivalent to 8 inches of trees. Payment must be made to the Bureau of Development Services, who administer the fund for the Parks Bureau.

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

1. A minimum of 15 feet of uninterrupted curb space must be preserved along the frontage of Parcels 1, 2 and 3.
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. Vehicle access for Lots 1, 2 and 3 shall be accomplished via the shared driveway (alley) easement.

Staff Planner: Sean Williams

Decision rendered by:  **on June 26, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 30, 2009

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

Procedural Information. The application for this land use review was submitted on January 10, 2008, and was determined to be complete on July 8, 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 January 10, 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 waived the 120-day review period, as stated with Exhibit G-3.

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

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

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

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

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

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

digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at www.portlandonline.com.

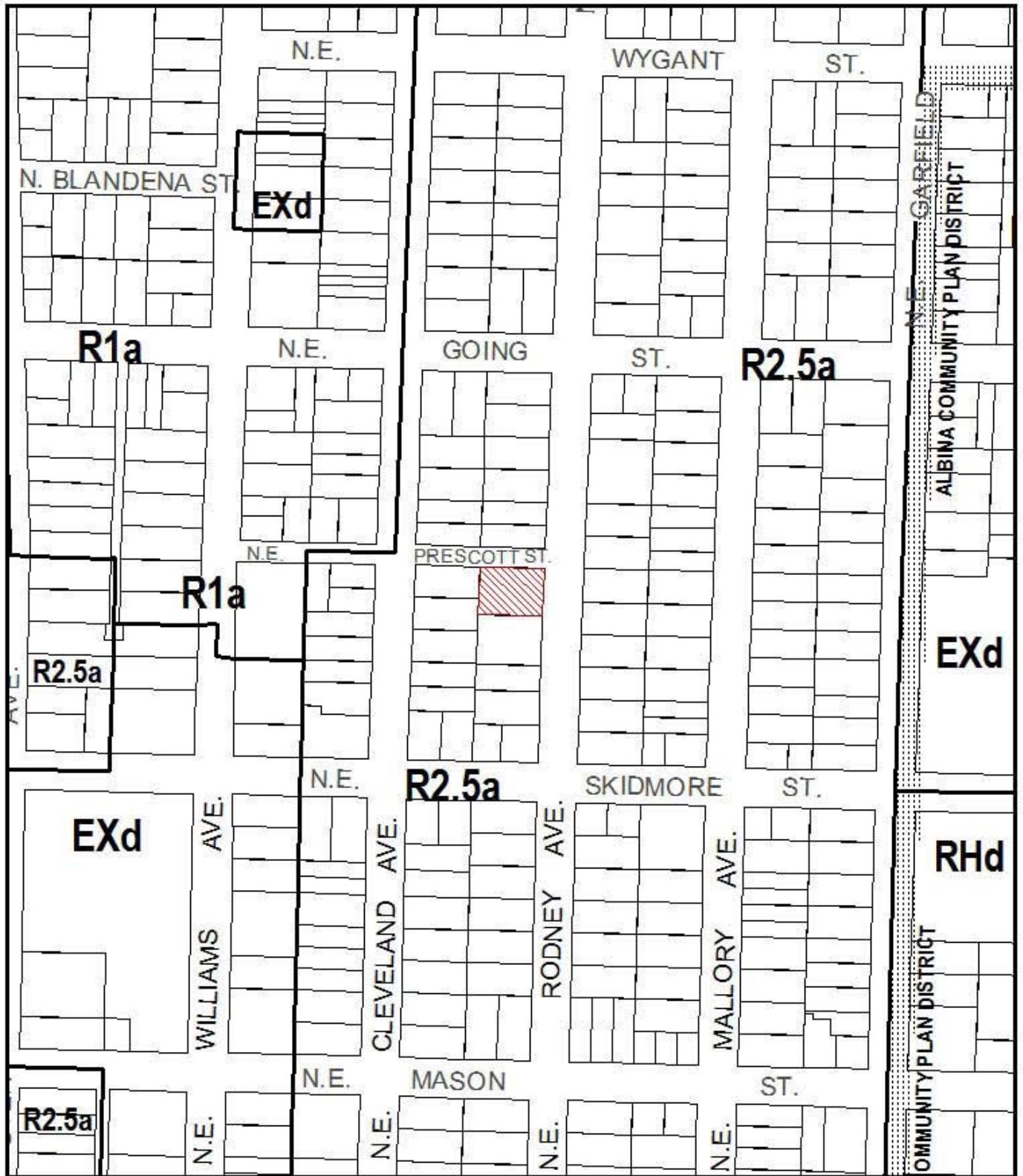
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Land Division Approval Criteria
 - 2. Arborist Report
 - 3. Drainage report
 - 4. Geotechnical report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing conditions
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services w/ addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS w/ addendum
 - 6. Bureau of Parks, Forestry Division; Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Request for 120 day extension
 - 4. Incomplete letter

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

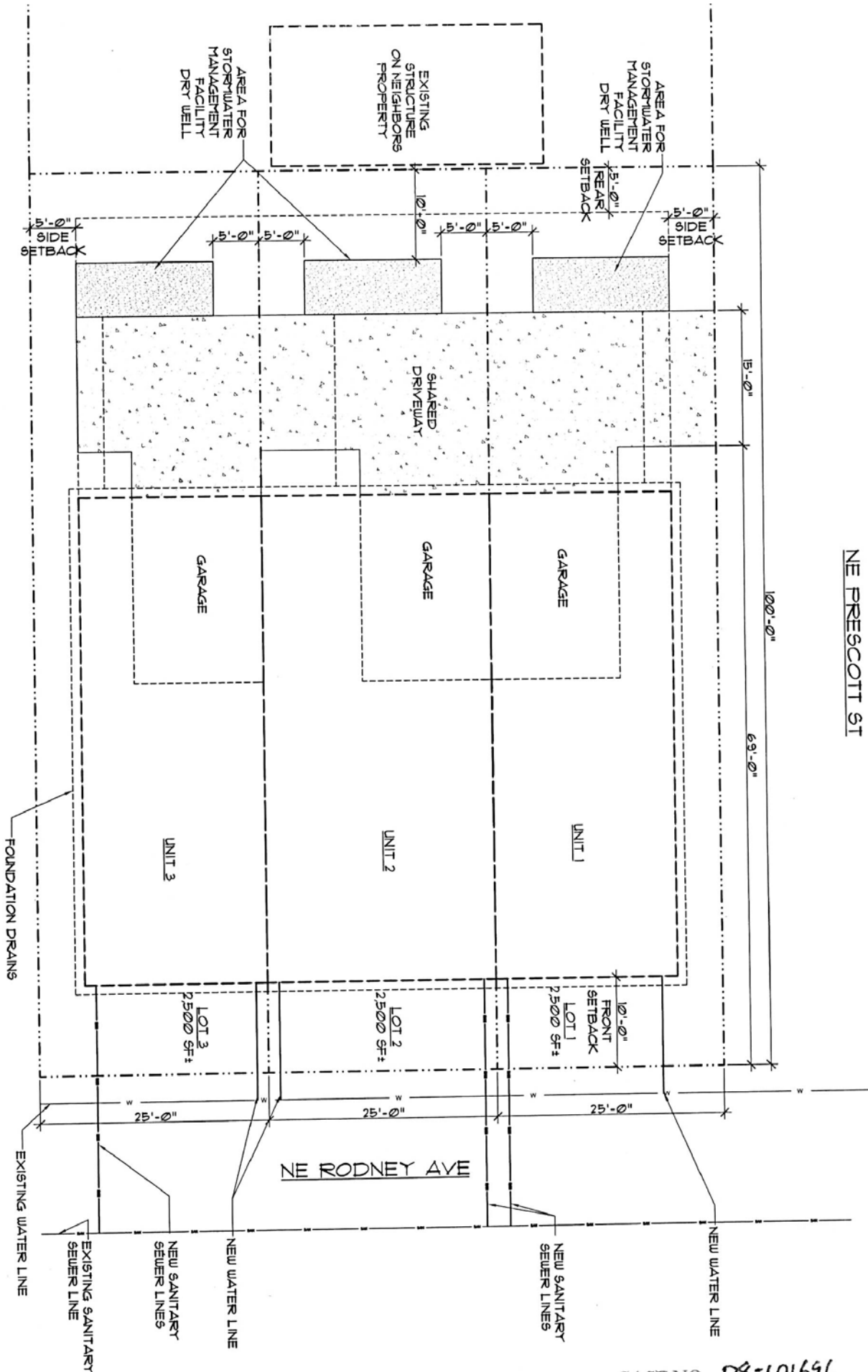


ZONING



File No.	LU 08-101696 LDP
1/4 Section	2630
Scale	1 inch = 200 feet
State Id	1N1E22DA 3600
Exhibit	B (Feb 25, 2009)

NE PRESCOTT ST



CASE NO. 08-101696
EXHIBIT C-1