



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

FROM CONCEPT TO CONSTRUCTION

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www.portlandoregon.gov/bds

Date: March 28, 2013
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / Sean.Williams@portlandoregon.gov

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

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 12-204930 LDP

GENERAL INFORMATION

Applicant: Mike Coyle / Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: Oregon Homeworks LLC / Eric Thompson
10940 SW Barnes Road, #339 / Portland, OR 97225

Site Address: 923 NE Fremont Street

Legal Description: BLOCK 17 LOT 9, LINCOLN PK
Tax Account No.: R497102610
State ID No.: 1N1E23CD 26900
Quarter Section: 2631
Neighborhood: King, contact Andrew Clarke at 503-863-7780.
Business District: North-Northeast Business Assoc, t Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, Shoshana Cohen at 503-823-4575.
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 requesting to partition the subject property into two equally sized parcels of approximately 2,425 square feet that may accommodate attached or detached houses.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land. Therefore this land division is considered a partition.

Relevant Approval Criteria:

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

FACTS

Site and Vicinity: The site is located on the northwest corner of the intersection of NE Fremont Street and NE 10th Avenue. Existing improvements consist of a single family home that will be removed. Stormwater management is proposed via individual infiltration facilities (drywells). No trees subject to preservation standards are located within the land division site.

The surrounding vicinity is primarily composed of single family zoning with comparable development. The nearest commercial corridor is approximately 1,300 feet west of the site along NE Martin Luther King Jr. Boulevard. Irving Park is directly south of the site.

Note: the original proposal requested to divide the property in conformance with the alternative development option of attached houses on corners (33.110.240.E) as not enough site area was available to achieve a density of two lots. A property line adjustment (07-151258 PR) was approved and recorded with Multnomah County but the map was not updated due to back taxes. The applicant has since resolved this issue and the updated site area is now large enough to achieve a density of two without using the above mentioned alternative development option.

Infrastructure:

- **Streets** – The site has approximately 100 feet of frontage on NE Fremont Street and 49 feet of frontage on NE 10th Avenue. At this location, NE 10th Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP) and NE Fremont Street is classified as a Neighborhood Collector Street, City Walkway, Local Service Bikeway, Transit Access Street, Local Service Truck Street, Major Emergency Response Route and Community Corridor in the TSP. Tri-Met provides transit service along the site’s NE Fremont Street frontage via Bus #24.

At this location, NE Fremont Street is improved with a 36 foot paved roadway surface and pedestrian corridor that consists of a 4.5 foot planter strip, 6 foot sidewalk and 1 foot setback to private property (4.5-6-1) within a 60 foot wide right-of-way. NE 10th Avenue is improved with a 30 foot paved roadway surface and pedestrian corridor that consists of a 3 foot planter strip, 6 foot sidewalk and 1 foot setback to private property (3-6-1) within a 50 foot wide right-of-way.

- **Water Service** – There is an existing 12-inch CI water main in NE Fremont Street and an 8-inch CI water main in NE 10th Avenue.
- **Sanitary Service** - There is an existing 20-inch VSP public combination sewer main in NE Fremont Street and a 10-inch VSP public combination sewer main in NE 10th Avenue.

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 Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **January 28, 2013**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required

	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The applicant is proposing two parcels that may accommodate attached or detached houses. The minimum and maximum density for the site is as follows:

Minimum = $(4,900 \text{ square feet} * .80) \div 5000 \text{ square feet} = 0.78$ (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = $4,900 \div 2,500 \text{ square feet} = 1.96$ (which rounds up to a maximum of 2 lots, per 33.930.020.B)

The required and proposed lot dimensions are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1	2,425		49.5	49	49.5
Parcel 2	2,425		49	49.5	49

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

The findings above show that the applicable density and lot dimension standards are met. Therefore this criterion is met.

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

Findings:

Clearing and Grading

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

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house 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.

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard - See Exhibit E.3</p> <p>The water standards of 33.651 have been verified and noted earlier in this decision. Water is available to serve the proposed development from the water main in either NE Fremont Street or NE 10th Avenue. This criterion is met.</p>
<p>33.652 Sanitary Sewer Disposal Service standards - See Exhibit E.1</p> <p>The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. There is an existing public combination sewer main located in both NE Fremont Street and NE 10th Avenue that can serve the sanitary needs of the proposed lots. This criterion is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards- See Exhibits E.1</p> <p>BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Parcels 1 and 2: Stormwater from these lots will be directed to individual drywells 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. The Bureau of Environmental Services has indicated conceptual approval of the drywells. This criterion is met.
<p>33.654.110.B.1 -Through streets and pedestrian connections 33.654.130.B - Extension of existing public dead-end streets & pedestrian connections 33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections</p> <p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):</p> <p style="text-align: center;"><i>In this case there is neither need nor opportunity for new streets, pedestrian connections, or alleys within the subject land partition site.</i></p> <p>For the reasons described above, this criterion is met.</p>
<p>33.641 – Transportation Impacts – 33.641.020 and 33.641.030 33.654.120.B & C Width and elements of the street right-of-way 33.654.130.D Partial Rights of way</p> <p>The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units generally do not require a formal transportation impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT’s Analysis (Exhibit E.2) is quoted, in part, as follows:</p>

The proposed land division will create two new parcels from the existing lot in order to accommodate two new attached homes. The existing single family home is to be demolished. Referring to the ITE Trip Generation Manual, 9th Edition, there will be a net increase of 1 new AM peak hour trip and 1 additional PM peak hour trip that may result from the development proposal on the site (10 new total daily trips). The new peak hour trips are insignificant and do not warrant any mitigation to nearby intersections. A Transportation Impact Study is not required at this time.

Vehicle access and loading will be via individual driveways to the two lots. There is one proposed driveway on 10th Ave at the same location as the existing driveway and there is one new driveway proposed on Fremont St that will remove approximately one on-street parking space. Although there is periodic demand for on-street parking generated by Irving Park on the opposite side of Fremont from the site, this impact is low. The added demand for on-street parking generated by the proposed development is also expected to be low given the opportunities for on-site parking to be provided on each parcel.

Tri-Met route 24, Fremont offers east/west service with stops along Fremont St adjacent to and across the street from the site. Tri-Met also offers north/south service. Route 8, Jackson Park/NE 15th is a frequent service route located 5 blocks to the east of the site. Route 6, Martin Luther King Jr. Blvd. is also a frequent service route located 6 blocks to the west of the site. The available transit service is adequate to serve the needs of the subject property.

The minimal number of expected additional vehicle trips that will be generated by the proposed project and the availability of on-site parking will result in insignificant impacts to the immediate and adjacent neighborhoods. The proposed 2 lot partition with attached homes will have no bearing on the safety of any mode of travel throughout the area.

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 sidewalk improvements must be made along the site's NE 10th Avenue frontage as well as reconstruction of the corner ramp at NE Fremont Street and NE 10th Avenue to meet ADA standards in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements additional right-of-way must be dedicated along site's NE 10th Avenue frontage. With these improvements, one additional dwelling can be safely served by the existing streets without having any significant impact on the level of service provided. With the conditions of approval described above, this criterion is met.

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

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

DEVELOPMENT STANDARDS

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

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.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plans (Exhibits C.1-C.4). 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 related to transportation impacts. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2 parcel partition that will result in two standard lots that may accommodate attached or detached houses, as illustrated with Exhibits C.1-C.4, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE 10th Avenue. The required right-of-way dedication must be shown on the final plat.

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

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the

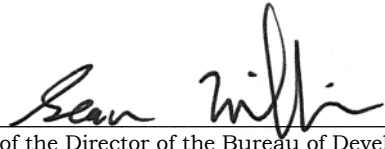
Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

2. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures.

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

1. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
2. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's NE 10th Avenue frontage. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. In addition, the sidewalk corner abutting the site at NE Fremont Street and NE 10th Avenue must be rebuilt to include ADA compliant curb ramps.

Staff Planner: Sean Williams

Decision rendered by:  **on March 26, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 28, 2013

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 November 13, 2012, and was determined to be complete on **December 26, 2012.**

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 13, 2012.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit A.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 are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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

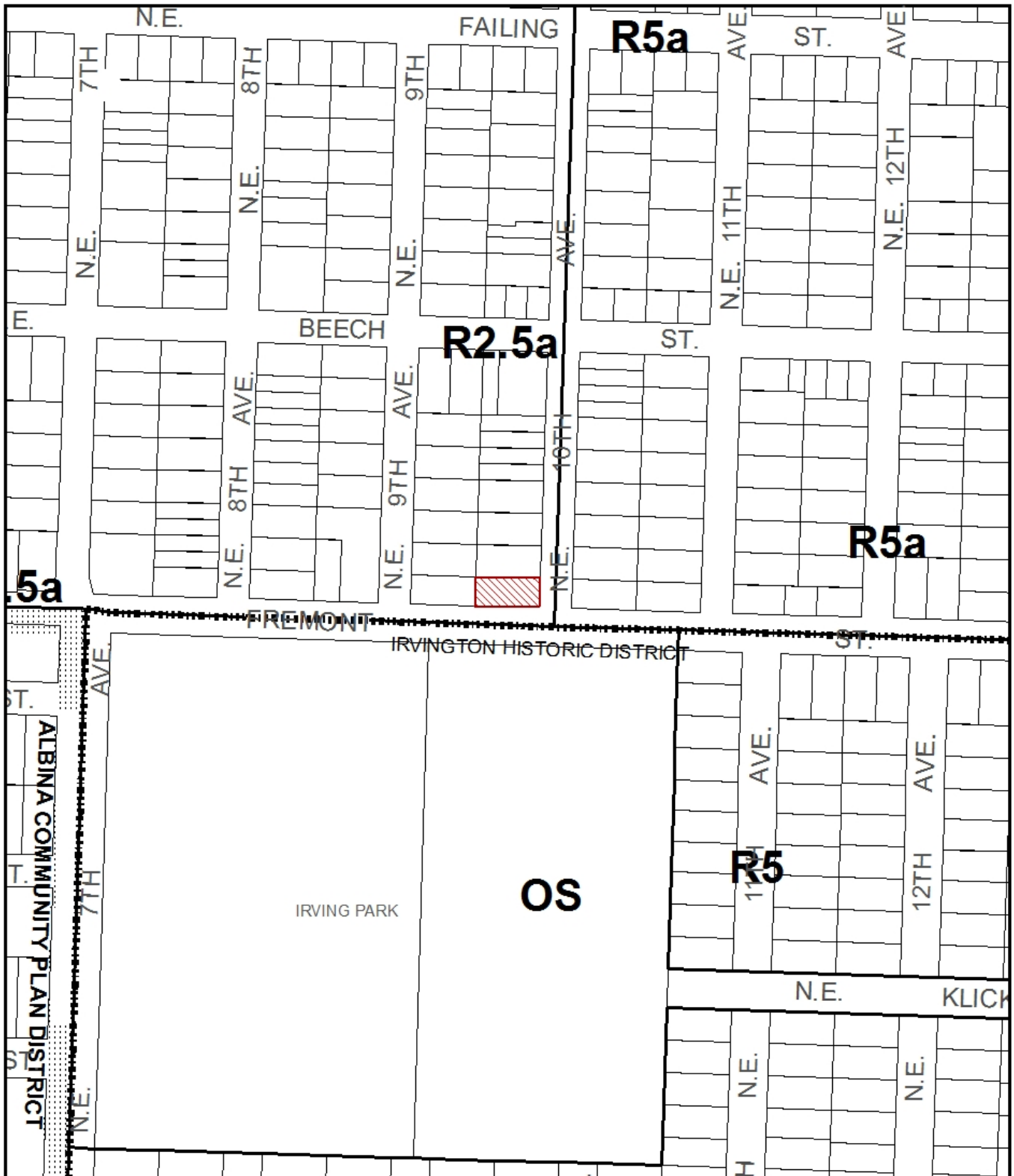
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Land Division Approval Criteria
 - 2. Simplified Approach stormwater report
 - 3. Extension of 120 day review period
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions
 - 2. Preliminary Plat (attached)
 - 3. Preliminary Site/Utility Plan (attached)
 - 4. Preliminary Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:

1. Original LU Application
2. Incomplete letter w/ RFC responses

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



ZONING  Site



File No. LU 12-204930 LDP
 1/4 Section 2631
 Scale 1 inch = 200 feet
 State_Id 1N1E23CD 26900
 Exhibit B (Nov 15, 2012)

SHEET
3

EMERIO
Design

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

NO.	DATE	DESCRIPTION

PRELIMINARY PLAT

923 NE FREMONT STREET
TAX MAP T1N R1E 23CD
MULTNOMAH COUNTY, OREGON

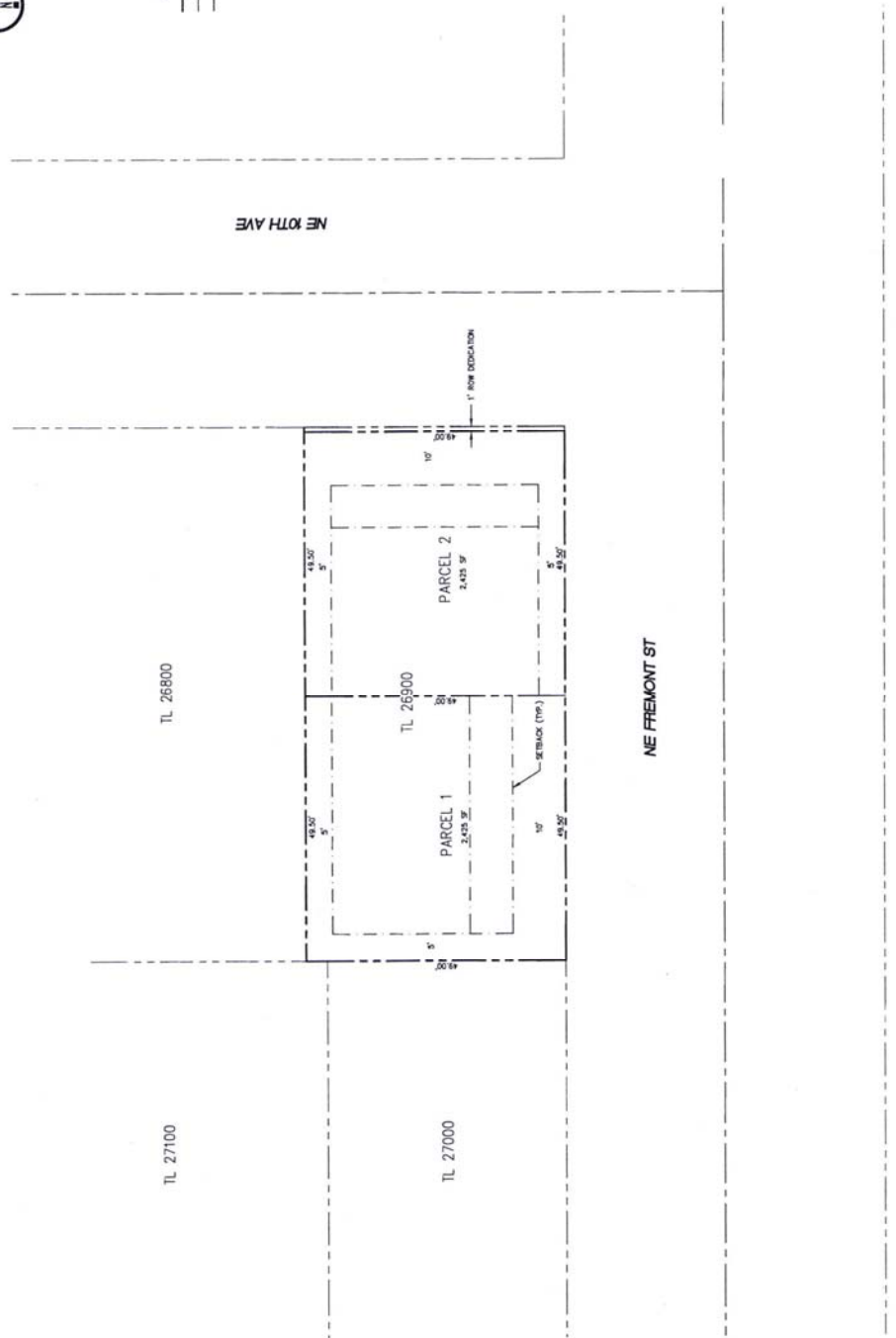


LEGEND

PROPERTY LINE

ADJACENT/UNKNOWN LOT LINE

OWNER LOT BOUNDARY



CASE NO. 12-204930

EXHIBIT C-2

