



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** April 23, 2014  
**To:** Interested Person  
**From:** Shawn Burgett, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-100630 LDP AD**

#### **GENERAL INFORMATION**

**Applicant:** Rob Humphrey / Faster Permits  
14334 NW Eagleridge Lane / Portland, OR 97229

**Owner:** Brent Keys / Bristol Creek Homes & Development Co  
3055 NW Yeon Ave / Portland OR 97210

**Site Address:** 4725 N Congress Ave

**Legal Description:** BLOCK 19 LOT 6, CLIFFORD ADD  
**Tax Account No.:** R163903410  
**State ID No.:** 1N1E22BD 00800  
**Quarter Section:** 2529  
**Neighborhood:** Humboldt, contact Brian Murtagh at 503-962-9194.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Claire Adamsick at 503-388-9030.

**Zoning:** R2.5a (Single Family Residential 2,500 with "a" alternative design density overlay)

**Case Type:** LDP (Land Division Partition) with AD (Adjustment)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.  
**Proposal:**

The applicant is proposing a 2-lot land division resulting in two 2,500 square foot lots for detached housing. The existing house on the site will be demolished. The applicant has requested an adjustment to the Zoning Codes side setback standards. Zoning Code section 33.110.220 (table 110-3) requires 5 foot side setbacks. The applicant is proposing 3 foot side setbacks between each proposed dwelling unit along the interior property boundary of each lot

This partition proposal is reviewed through a Type II<sub>x</sub> procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment Review) is proposed (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.

**Relevant Approval Criteria:**

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

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

**ANALYSIS**

**Site and Vicinity:** The site is located on an interior lot with frontage along N Congress Avenue. The house on the site was built in 1925. The development surrounding the site is primarily made up of single family residential type development. The property located directly east of the site (across N. Congress Ave) has an existing church located on it.

**Infrastructure:**

- **Streets** –The site has approximately 50 feet of frontage on N Congress Avenue. At this location, N Congress Avenue is classified as a Local Service Street for all other modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 630 feet from the site along N Albina Ave via bus line number 4.

Based on City GIS resources N Congress Avenue includes a “variable sidewalk corridor” with a 4-foot wide planter area and curb, 6-foot sidewalk and 2-foot buffer at the back of the sidewalk (4-6-2 configuration). However, based on the applicants surveyed plans, the existing planter area measures 4 feet, 9 inches with a 6 foot sidewalk and a 0.75 foot buffer at the back of the sidewalk.

- **Water Service** – There is an existing 6-inch water main in N Congress Avenue. There is an existing 3/4-inch metered service from this main that may be potentially used by Parcel 1.
- **Sanitary Service** - There is an existing 12-inch public combination sewer line located in N Congress Avenue available for development on this site.
- **Stormwater Disposal** – There is no public storm-only sewer available to the site. The applicant has proposed onsite infiltration within drywells for each of the proposed structures.

**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. Exhibits “E” contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **February 28, 2014**. No written responses have been received 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 trees are located fully 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	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections 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. Maximum density in the R2.5 zone is one unit per 2,500 square feet. The site is approximately 5,000 square feet in area and has a maximum density of 2 lots. The applicant is proposing two single family lots. The density standards are therefore met.

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

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R2.5 Zone</b>	1,600	NA	36	40	30
Parcel 1	2,500 square feet		25 feet**	100 feet	25 feet**
Parcel 2	2,500 square feet		25 feet**	100 feet	25 feet**

\* 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.

\*\* Parcel 1 and 2 are considered “narrow lots” please see discussion below

Narrow lot standards

Parcels 1 and 2 are each 25 feet wide — narrower than the minimum width for the R2.5 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of 33.611.200.C for the R2.5 zone.

***Consistent with the Purpose of Lot Dimension Regulations***

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant has demonstrated that the proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements (except for the interior setback adjustment request from 5 feet to 3 feet which is discussed later in the report) and is oriented towards the street. Therefore they have demonstrated that the proposed lot(s) can accommodate a reasonably sized house and parking pad while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street
- The proposed lots are compatible with existing lots in the area within the R2.5 zone, exceeding the minimum lot area in the zone of 1,600 square feet. For example, four lots

approximately 25 feet wide accommodating detached single family residential development are located at the corner of N. Congress Ave and N Humboldt Street approximately 180 feet from the subject site. In addition, two lots approximately 25 feet wide accommodating detached single family residential development are located along N Commercial Avenue approximately 250 feet from the subject site.

***The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***

- The lots will be developed with detached houses. The proposed parcels are both at least 25 feet wide.

***If the narrow lot abuts an alley, then vehicle access is allowed only from the alley***

- The site does not abut an alley; therefore this requirement does not apply.

***Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development***

- The applicant has demonstrated, with Exhibit C-1 that each lot will be built with a house that has vehicle access from the street. A garage is not proposed on either lot. The proposed homes will be set back 28 feet, which will allow the new homes to accommodate onsite parking in front of each proposed home outside of the 10 foot front setback.

***60 percent landscaping requirement for attached houses***

- The applicant has indicated that the lots will be developed with detached houses, so this criteria does not apply. However, if the applicant did propose detached houses in the future on these lots with 9 foot driveways, this would leave plenty of room to meet the 60 percent landscaping requirement at the time of future development on this site.

***If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

- Parking is required. There is no alley at this location; garage limitation requirements described above must be met. The applicant has proposed parking on site using parking pads (9' by 18') outside of the 10 foot front setback. No garages are proposed.

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. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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 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. The applicant has already finalized a demolition permit for the existing detached

garage on the site under permit 13-193910 RS. In addition, a demolition permit for the existing house has been applied for under permit 13-193904 RS, this permit has not been finalized at this time.

In addition the applicant has an active building permit to reuse the excavated basement for the new house. Prior to final plat approval, Site development will require the Dangerous Building Case 13-195285-DB, for the re-use of the basement excavation of the former residence to be closed.

With these conditions, 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,**

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

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.

Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

The following discussion is based on PBOT's assessment of the transportation impacts for this proposal. The proposed land division will create 2 parcels from the current lot in order to accommodate 2 new detached single-family homes (the existing single-family detached house on the site will be demolished). Referring to the ITE Trip Generation Manual, 9<sup>th</sup> Edition, there will be 1 new AM peak hour trip and 1 additional PM peak hour trip (10 additional total new daily trips) that may result from the development proposal on the site. The new peak hour trips will have minimal impacts to the area's nearby intersections and do not warrant any mitigation to said intersections. The intersections will continue to operate at current levels without further degradation from the vehicle trips generated by the proposed project factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service along N Albina, west of the subject site via Tri-Met route #4 [Division/Fessenden] and by Tri-Met route #44 [Capitol Hwy/Mocks Crest], east of the subject site along N Vancouver Ave. There are existing sidewalk corridors throughout the vicinity that facilitate pedestrian travel. There are identified bike facilities

(Portland Bike/Walk Map) in the area including a Neighborhood Greenway/Signed & Marked Route along NE Blandena, south of the site and a Shared Roadway along N Albina, north of the site.

With regard to impacts to on-street parking, the new residences that will be developed on the site will include on-site parking opportunities for at least one vehicle on each parcel, with access via a shared curb cut/driveway. The existing curb cut along the site frontage will need to be closed, therefore, there will be no net gain or loss of physical on-street parking opportunities related to the proposed development.

However, in association with the proposed development on the site, there will be an increase in on-street parking demand that needs to be factored. The parking demand that is expected to be generated as a result of the proposed project is estimated using rates from the Institute of Transportation Engineers (ITE), *Parking Generation Manual, 4th Edition, 2010*. The data utilized to determine the parking demand for the one additional dwelling unit on the site was for land use #210, *Single-Family Detached Housing*. Based upon this data, the 85<sup>th</sup> percentile peak parking demand for the one additional dwelling unit is 2 parking spaces. With on-site parking opportunities for at least one vehicle on each of the proposed lots, on-street parking impacts will be minimized.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the street within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

Frontage improvements will not be required along the site's frontage. There are no partial rights-of-way nor are there any configurations that allow for future extensions of streets or pedestrians connections in the area.

At this location, the City's Transportation System Plan classifies N Congress as a Local Service street for all modes.

#### **Driveways and Curb Cuts (17.28.110)**

Curb cuts and driveway construction must meet the requirements in Title 17. Title 17 driveway requirements will be enforced during Building Permit review. The applicant's narrative indicates that the proposed attached housing development will be served by individual driveways. The applicant is advised that if the development is actually for attached homes, the driveways will need to be combined/shared to retain as much on-street parking as possible and to minimize impacts to pedestrians in the area.

#### **Street Improvements (17.88.020)**

The City Engineer requires a site's frontage to be improved to City Standards for any building permit or land use action that increases occupancy.

It is typical PBOT procedure to review existing roadway configurations by referring to City GIS database resources in order to determine the necessary dedications and/or improvements related to proposed land use cases. City staff *may* receive different information from the applicant's engineer with regard to the existing condition of the subject roadways based on the actual survey of the site.

At this location, based on City GIS resources, N Congress is improved with 32-ft of paving width and a 4-6-“Variable” sidewalk corridor within a 50-ft wide r.o.w. (in GIS, it appears as though there is 2-ft of r.o.w. behind the existing sidewalk, HOWEVER, according to the applicant's surveyed plans, the existing planter area [furnishing zone behind the curb] measures 4'-9” with a 6-ft wide sidewalk and a 0.75-ft wide frontage zone).

For Local Service streets abutting R2.5-zoned lots, the City's Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor comprised of a 0.5-ft curb, 4-ft wide furnishing

zone, 6-ft wide sidewalk and a 0.5-ft wide frontage zone. The site's existing r.o.w. conditions exceed current City standards. Accordingly, in relation to development on the subject site, no property dedication will be required. However, the existing curb cut/driveway will need to be closed and the applicant will be required to obtain a permit from PBOT for the new curb cut/driveway.

PBOT has no objections to the proposed land division. Based on these requirements, this criteria are 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 criteria and standards are met as shown in the following table:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> <li>• <b>Parcels 1 and 2:</b> 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.</li> </ul>
<p><b>33.654.110.B.1 Through streets and pedestrian connections</b></p> <p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located meets the noted spacing requirements.</p> <p>No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject block and others in the vicinity satisfy the above referenced public street connectivity goal, but the pedestrian connection goal is only satisfied in the north-south direction. The subject block (and those west and south of the subject site) is approximately 410-ft (north-south length) x 210-ft (east-west length) in overall area. Though the subject site is located close to midway along the subject block, making it a desirable location to provide a pedestrian connection through the block, it is not feasible without eliminating existing development on abutting lot(s). Further, considering the existing size of the subject site, providing a pedestrian connection through the subject site (or block) would likely compromise the ability to create one of the proposed parcels. These impacts do not make further connectivity through the subject site or block feasible. PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.</p> <p>The site is within the Portland Master Street Plan for the North District. No through street or pedestrian connections are proposed at this location. Therefore, the proposal is consistent</p>



with the master street plan.

For the reasons described above, this criterion is met.

### **Title 33.805.10 Purpose of Adjustments**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the code's regulations would preclude all use of the site. Adjustment reviews provide flexibility for unusual situations and to allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

#### **33.805.40 Adjustment Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below are met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The applicant has requested Adjustments to the Zoning Code setback standards in order to construct two new detached dwelling units on each lot. The adjustments are to Zoning Code section 33.110.220.A and table 110-3 which require a 5 foot side setback. The applicant is proposing 3 foot interior side setbacks along the north property boundary (Parcel 2) and southern property boundary (Parcel 1) for the new detached dwelling unit (see exhibits C.1-C.3).

The purpose of the setback and parking regulations are listed below:

#### **Purpose 33.110.220 Setbacks**

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.*

The request to reduce the required interior side setbacks between the two homes proposed from 5 feet to 3 feet equally meets the purpose of the regulation. The proposed detached dwelling units will each be located 3 feet from the adjacent interior property boundaries separating the two parcels. The proposed structures will be set back approximately 28 feet from the public right of way (N Congress Ave) which will provide a larger front setback which promotes an open, visually pleasing front yard. The proposed dwelling units will have a façade which is 53 feet in length with building walls approximately 23 feet high encroaching 2 feet within the 5 foot setback along the interior property line separating Parcel 1 from Parcel 2. The 3 foot interior setback maintains light, air and separation for fire protection between the two units providing a total of 6 feet of separation between the two proposed homes. In addition, all exterior setback requirements (5 feet minimum) will be met in relation to the neighboring properties located to the north and south of the subject site. Furthermore, these lots could be developed with attached houses with a common wall along the shared lot line. Therefore, a reasonable physical relationship between residences will be maintained. This criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The proposal will not detract from the livability or appearance of the residential area. The detached dwellings proposed on Parcels 1 and 2 will be located 3 feet from the interior property lines separating the two parcels (for a total of 6 feet of separation). The structures will meet the minimum 5 foot side setbacks along all exterior property lines which abut neighboring properties – this helps to reduce adverse impacts on privacy for the neighbors and will not impact the livability or appearance of the residential area. The 6 foot setback between two units proposed will allow both proposed units to have windows along the facades facing the interior lot lines, enhancing the livability of the proposed units for the future residents by providing increased opportunity for light and air.

The proposed units will enhance the appearance of the residential area due to the unique architectural design of each unit which will blend in well with the modern architectural style of the four detached homes built 160 feet north of the site at the corner of N Congress Avenue and N Humboldt Street which contribute the areas unique blend of historic and modern architecture. In addition the front facades of each unit provide abundant window area (greatly exceeding the Zoning Codes minimum 15% standard) that will further connect the proposed units to the public realm along N Congress Avenue which will help enhance the livability of the residential area.

Based on this information, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** One Adjustment has been requested; therefore this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** As indicated above, the detached dwellings units proposed on Parcels 1 and 2 will be located 3 feet from the interior property lines separating the two parcels (for a total of 6 feet of separation). The structures will meet the minimum 5 foot side setbacks along all exterior property lines which abut neighboring properties, eliminating any adverse impacts on the neighbors. Therefore, no mitigation is necessary. This criterion is met.

- D.** City designated scenic resources and historic resources are preserved; and

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

**Findings:** The site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are not applicable.

## **DEVELOPMENT STANDARDS**

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

### **Future Development**

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

- **Narrow Lots**-- development on Parcels 1 and 2 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: where the street facing façade of a unit is less than 22 feet long, an attached garage is not allowed as part of that façade, per 33..110.253.E.3.b

**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.

**New Development.** It should be noted that the applicant has applied for a building permit (13-241432 RS) to construct a new detached dwelling unit on Parcel 2 after the demo permit for the existing house on the site is finalized. The footprint of this new dwelling unit must be shown on the supplemental survey. If this unit fully constructed or under construction prior to final plat approval, the “as built” location must be shown on the supplemental survey prior to final plat approval. In addition, any new trees planted on the site to meet the Zoning Codes T1 tree planting requirement (33.248.020.H.2.a) as part of the building permit approval will be required to be shown on the supplemental survey.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

## OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; if required, recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire

suppression sprinklers; meeting fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

- Street trees will be required along all public frontages depending on planting conditions and will be reviewed and approved by the City Forester during building permit application. Tree species and location to be determined by the City Forester during plan review. Street trees required for residential sites are to be 2 inch caliper in size. Underground utilities shall not conflict with street tree planting.

## CONCLUSIONS

The applicant has proposed a 2 parcel partition with an interior setback adjustment request reducing the interior side setbacks from 5 feet to 3 feet, as shown on the attached preliminary plan (Exhibits C-1-C.3). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

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

## ADMINISTRATIVE DECISION

**Approval** of Adjustments to 33.110.220.A (table 110-3) to reduce the north (side) setback for future development on Parcel 2 and south (side) setback for future development on Parcel 1 from 5 feet to 3 feet, per the approved site plans, Exhibits C-1 through C-3

**Approval** of a Preliminary Plan for a 2 parcel partition that will result in two narrow lots 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 BDS review and approval. The supplemental plan must show the location of the following:

- The proposed general location of future and existing building footprints and stormwater facilities for each of the vacant lots.
- If a new residential unit is fully constructed or under construction prior to final plat approval, the “as built” location must be shown on the supplemental survey prior to final plat approval
- Any new trees planted on the site to meet the Zoning Codes T1 tree planting requirement (33.248.020.H.2.a) as part of the building permit approval will be required to be shown on

Any other information specifically noted in the conditions listed below

### **B. The final plat must show the following:**

1. If required, a recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of Special Land Use conditions” as been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

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

## Existing Development

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

In addition, Site development will require the Dangerous Building Case for the re-use of the basement excavation of the former residence to be closed prior to final plat approval.

### **Required Legal Documents**

3. If required, per Conditions C.1 above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring new residential development to contain internal fire suppression sprinklers, per Fire Bureau Appeal no \*. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

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

1. The applicant must meet the addressing requirements of the Fire Bureau for Parcels 1 and 2. The location of the sign must be shown on the building permit.
2. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling units on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
3. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Staff Planner: Shawn Burgett**

**Decision rendered by:** S. Burgett **on April 18, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed April 23, 2014**

**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 3, 2014, and was determined to be complete on February 26, 2014.

*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 3, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. **The 120 days will expire on: June 26, 2014**

**Note: 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.

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 7, 2014** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 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.ci.portland.or.us](http://www.ci.portland.or.us) .

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**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.**

**Recording concurrent approvals.** The preliminary land division approval also includes concurrent approval of an adjustment. The adjustment approval must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

**Expiration of concurrent approvals.** The preliminary land division approval also includes concurrent approval of an adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application. The adjustment request done in association with this land division was done voluntarily.

Therefore, the concurrent adjustment approval expires three years from the date this land use decision was rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

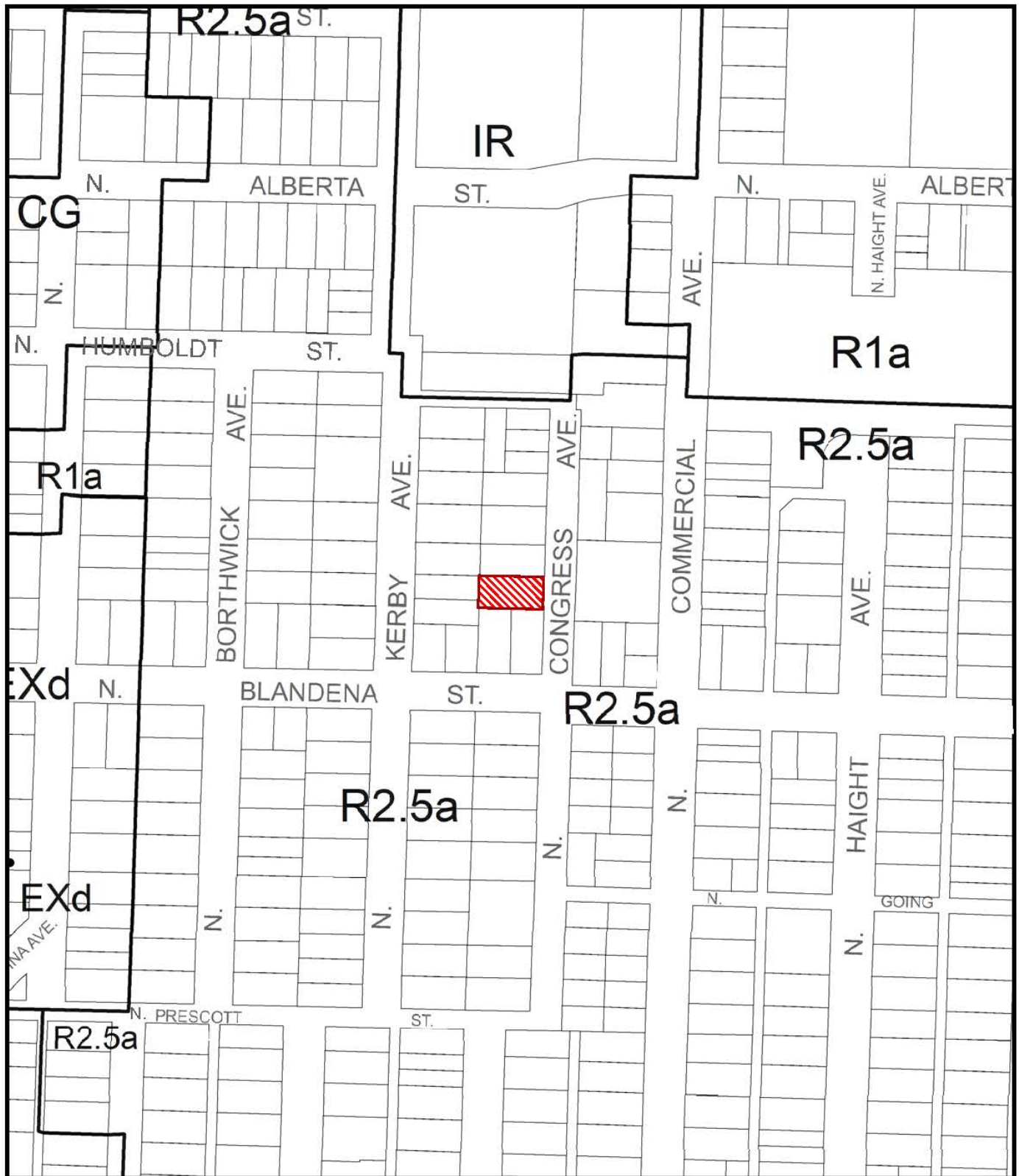
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Adjustment narrative
  - 3. Arborist report
  - 4. Early neighborhood notification
  - 5. SIM test
  - 6. Applicant response to incomplete letter
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Development Plan (attached)
  - 3. Elevations (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence: (None received)
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Land use History

**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 14-100630 LDS,AD  
 1/4 Section 2529,2530  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E22BD 800  
 Exhibit B (Jan 06,2014)

# PRELIMINARY SITE & UTILITY PLAN

LOT 6, BLOCK 19, AMENDED PLAT OF CLIFFORD ADDITION,  
SITUATED IN THE NORTHWEST QUARTER OF SECTION 22,  
TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,  
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

DATE: FEBRUARY 7, 2014 SCALE: 1"=10'  
FOR: BRISTOL CREEK HOMES

## LEGEND

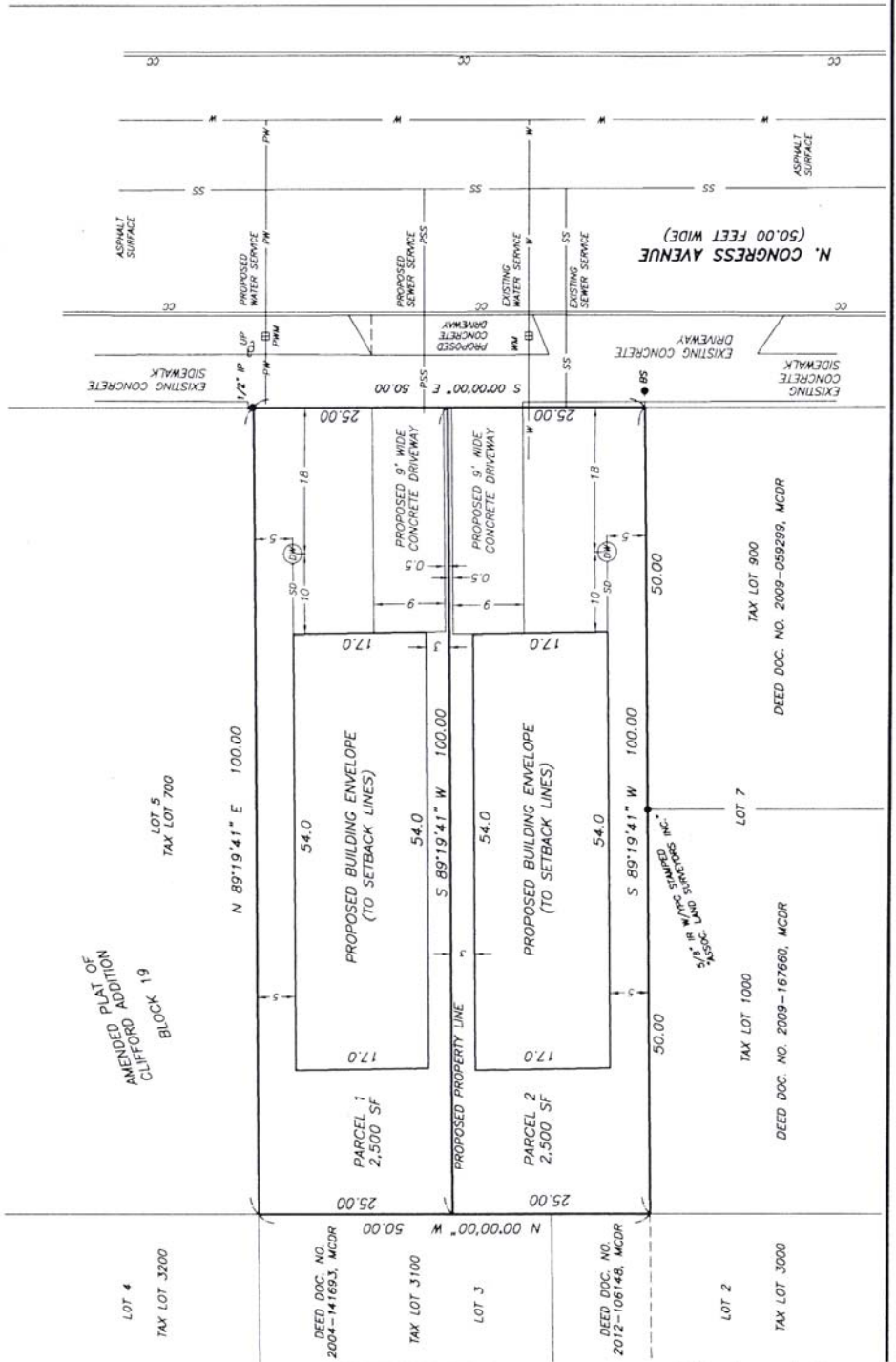
• = MONUMENT FOUND AS NOTED.

UP = UTILITY POLE  
WM = WATER METER

BS = BRASS SCREW  
CC = CONCRETE CURB  
DW = PROPOSED DRIVEWAY  
IP = IRON PIPE  
MCDR = MULTNOMAH COUNTY DEED RECORDS  
PSS = PROPOSED SANITARY SEWER LINE  
PW = PROPOSED WATER LINE  
PMM = PROPOSED WATER METER  
SS = SANITARY SEWER LINE  
UP = UTILITY POLE  
W = WATER LINE  
WM = WATER METER

## NOTES

1. A 48" INCH DIAMETER, 5 FOOT DEEP DRY WELL WILL BE INSTALLED ON EACH PARCEL FOR STORM WATER MANAGEMENT.
2. ZONING OF THE SUBJECT PROPERTY IS R2.5, RESIDENTIAL 2,500.
3. ALL TREES ARE EXEMPT AND ARE NOT SHOWN ON THIS MAP.
4. THE EXISTING SEWER AND WATER SERVICE WILL BE USED FOR THE NEW HOUSE ON PARCEL 2.
5. LOT 6 LOTS WILL BE DEVELOPED TO MEET THE NARROW LOT DEVELOPMENT CRITERIA.
6. AN INTERIOR BUILDING SETBACK ADJUSTMENT WILL BE REQUESTED AT THE TIME OF APPLICATION.
7. THERE IS NO GARAGE PROPOSED IN THE BUILDING FOOTPRINT



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Steve J. Biddle*  
JULY 17, 1986  
STEVEN J. BIDDLE  
RENEWED: 12/31/15

REPPETO & ASSOCIATES, INC.  
LAND SURVEYORS

Plaza 125, Building G  
12730 SE Stark Street  
Portland, Oregon 97233  
Phone: (503) 408-1507  
Fax: (503) 408-2370

DATE: FEB. 7, 2014 FILE: B13068-UP.DWG  
DRAWN BY: SPD JOB NO. B13068

CASE NO. 14-100630  
EXHIBIT C-1



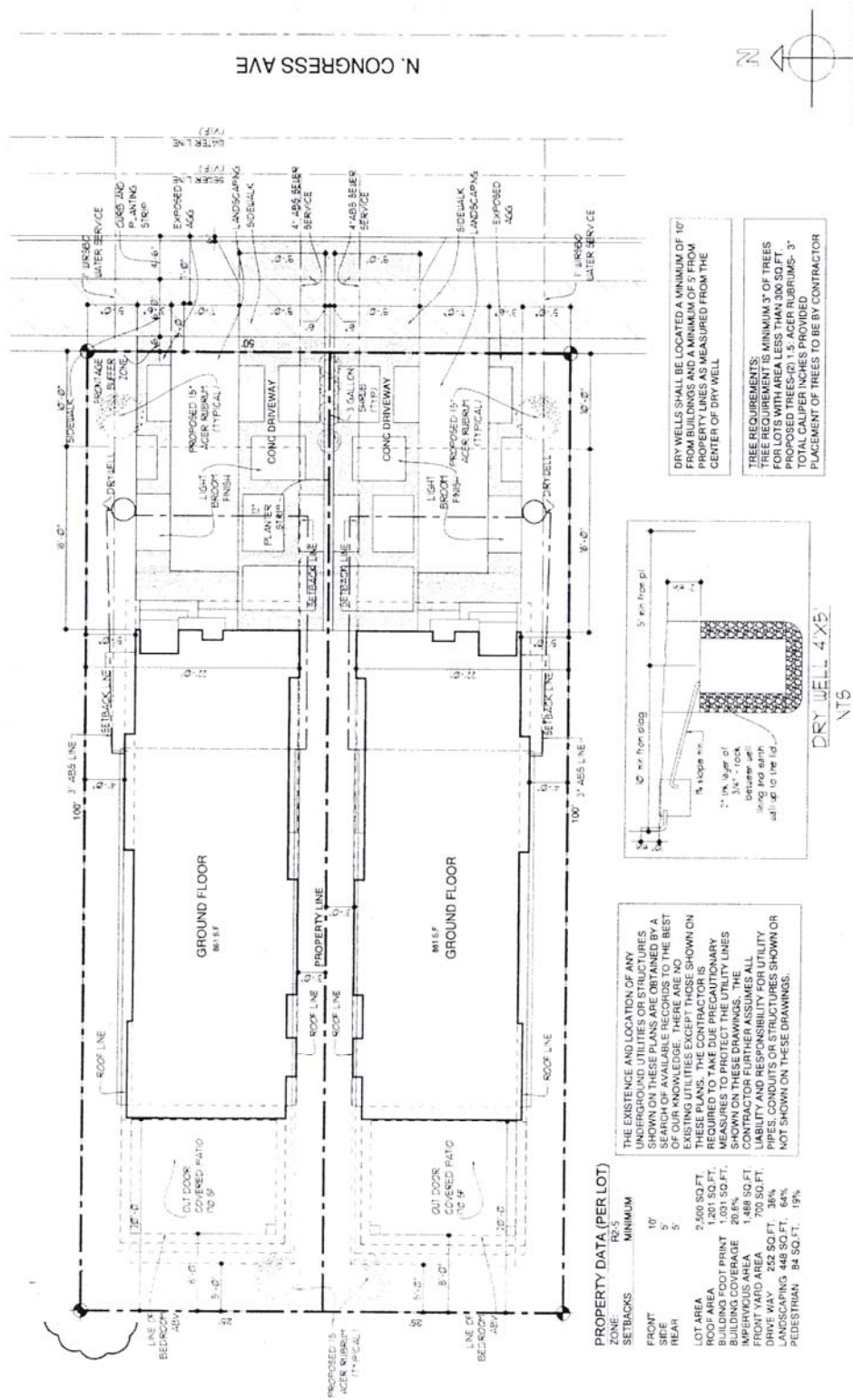
WINN ARCHITECTURE, LLC  
 29719 SW CHARLOTTE LANE,  
 WILSONVILLE, OR 97070  
 503 803 8998  
 EMAIL: LEE.R.WINN@GMAIL.COM

CONSULTANT

4725 N. CONGRESS AVE. PORTLAND, OREGON 97217  
 BRENT KEYS  
 HOMES F KENTONIA, KY  
 SKYPE

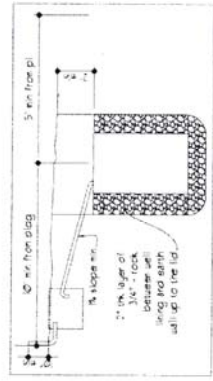
PROJECT: 4725 N. CONGRESS AVE. PORTLAND, OREGON 97217  
 DRAWING: 004  
 DATE: 12-13-14  
 EXPIRES: 12-13-14  
 PERMIT SET: 2.11.14

LDP-1  
 A0.1



DRY WELLS SHALL BE LOCATED A MINIMUM OF 10' FROM BUILDINGS AND 5' FROM PROPERTY LINES AS MEASURED FROM THE CENTER OF DRY WELL

TREE REQUIREMENTS:  
 THE CONTRACTOR IS TO PLANT A MINIMUM OF 3 TREES FOR LOTS WITH AREA LESS THAN 10,000 SQ. FT. PROPOSED TREES @ 1 1/2" ACER RUBRUM - 3" TOTAL CALIPER INCHES PROVIDED  
 PLACEMENT OF TREES TO BE BY CONTRACTOR



THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES OR STRUCTURES SHOWN ON THESE PLANS ARE OBTAINED BY A SEARCH OF ALL AVAILABLE RECORDS TO THE BEST OF OUR KNOWLEDGE AND BELIEF. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES EXCEPT THOSE SHOWN ON THESE PLANS. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITY LINES AND STRUCTURES. THE CONTRACTOR ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN OR NOT SHOWN ON THESE DRAWINGS.

PROPERTY DATA (PER LOT)

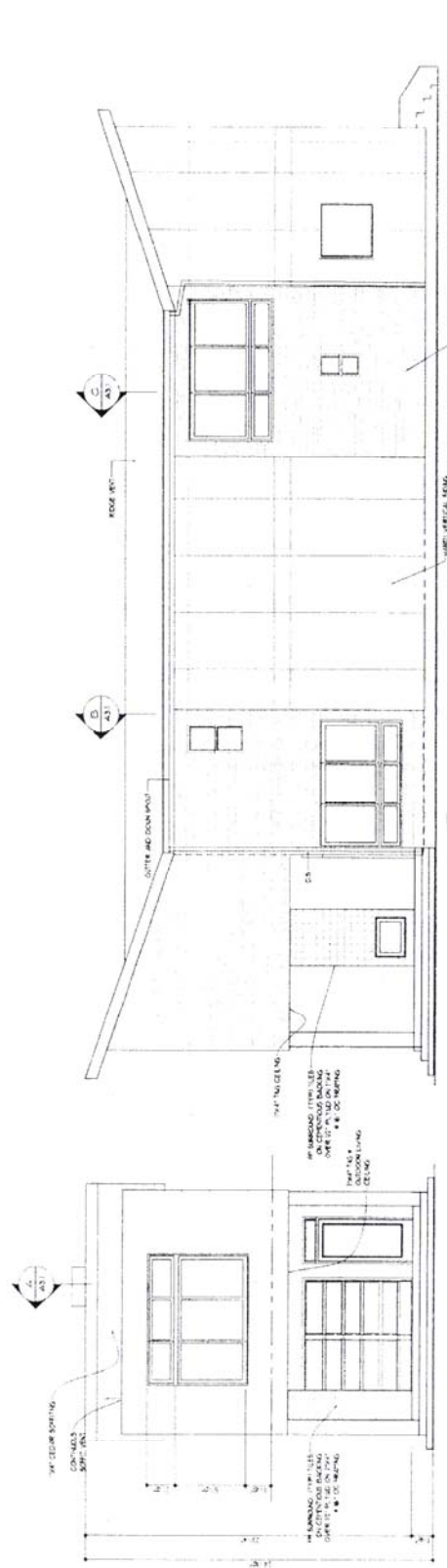
ZONE:	REQUIREMENT	MINIMUM
FRONT SETBACKS:		
REAR SETBACKS:		
LOT AREA:	2,500 SQ. FT.	
ROOF AREA:	1,201 SQ. FT.	
BUILDING FOOTPRINT:	1,031 SQ. FT.	
BUILDING COVERAGE:	41.2%	
IMPERVIOUS AREA:	1,488 SQ. FT.	
FRONT YARD AREA:	700 SQ. FT.	
DRIVE WAY:	252 SQ. FT.	38%
LANDSCAPING:	448 SQ. FT.	64%
PEDESTRIAN:	84 SQ. FT.	19%

CASE NO. 14-100630  
 EXHIBIT C-2



REGISTERED ARCHITECT  
 2510  
 LEE R. WINN  
 PORTLAND, OR  
 ARCHITECTURE, LLC  
 29719 SW CHARLOTTE  
 WILSONVILLE, OR 97070  
 503 803 6996  
 EMAIL: LEE.R.WINN@GMAIL.COM  
 LEER.WINN@GMAIL.COM

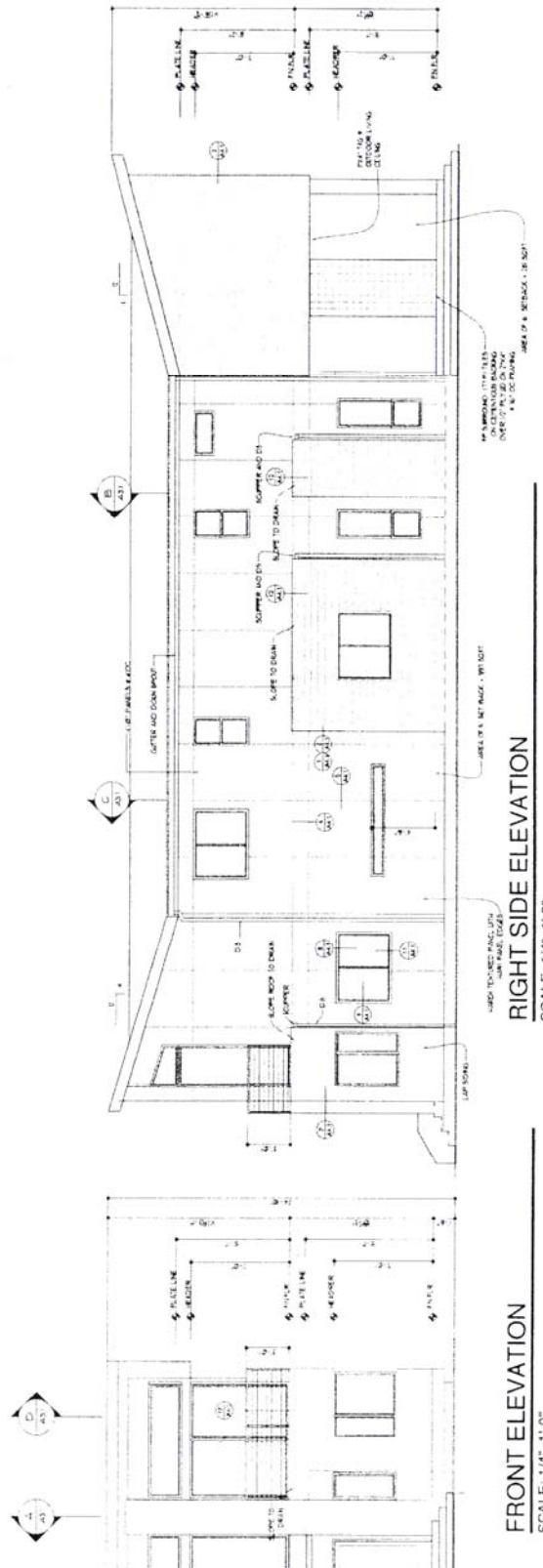
BRENT KEYS  
 4725 N. CONGRESS  
 AVE. PORTLAND,  
 OREGON 97217  
 PROJECT  
 PERMIT SET: 2.11.14  
 SHEET: A2.1  
 PERMIT SET: 2.11.14



**REAR ELEVATION**  
 SCALE: 1/4"=1'-0"

**LEFTSIDE ELEVATION**  
 SCALE: 1/4"=1'-0"

NOTE:  
 1. ALL WALL FINISHES ARE 1/2" GYPSUM BOARD.  
 2. ALL INTERIOR FINISHES ARE TO BE DETERMINED BY THE OWNER.  
 3. ALL EXTERIOR FINISHES ARE TO BE DETERMINED BY THE OWNER.  
 4. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.



**FRONT ELEVATION**  
 SCALE: 1/4"=1'-0"

**RIGHT SIDE ELEVATION**  
 SCALE: 1/4"=1'-0"

CASING 14-100636  
 EXTERIOR C-3

PERMIT SET: 2.11.14