



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

FROM CONCEPT TO CONSTRUCTION

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Date: July 7, 2014
To: Interested Person
From: Brandon Rogers, Land Use Services
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NOTICE OF A TYPE IX 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 14-125577 LDP

GENERAL INFORMATION

Applicant: Todd Lasher, Lasher Design
5632 N Atlantic Ave | Portland, OR 97217

Owner: Ben May
Po Box 20926 | Portland, OR 97294-0926

Site Address: 5034 NE FREMONT ST

Legal Description: BLOCK 153 E 50' OF LOT 1, ROSE CITY PK
Tax Account No.: R723125110
State ID No.: 1N2E30BA 01900
Quarter Section: 2735
Neighborhood: Rose City Park, contact Tamara DeRidder at 503-249-6977.
Business District: Beaumont Business Association, contact Dan Johnson at 503-445-2157.

District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Plan District: None
Zoning: R2h, Residential 2,000 with the "h" Aircraft Landing overlay zone.
Case Type: Land Division Partition
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is requesting a two parcel partition of a 3,845 square foot site in order to create two parcels; a 1,926 square foot parcel and a 1,924 square foot parcel for attached houses. The existing single dwelling is proposed to be demolished.

This partition is reviewed through a Type Ix 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 3,845 square foot site is a corner lot developed with a single family residence. The site does not contain any trees that are subject to the Tree Preservation requirements of Chapter 33.630, *Tree Preservation*. The site has street frontage on NE Fremont Street and NE 51st Avenue and is located at the northern edge of the Rose City Park neighborhood at its boundary with the Cully Neighborhood. The site is located near Beaumont Middle School and Rose City Park Cemetery. The surrounding neighborhood is characterized by a mix of residential and commercial uses along NE Fremont Street, with residential uses to the south of NE Fremont Street. The site is located at the eastern end of the Beaumont-Wilshire commercial area, which is located to the west of the project site long NE Fremont Street.

Infrastructure:

- **Streets** – The site has 50 feet of frontage on NE Fremont Street. At this location, NE Fremont Street is classified in the Transportation System Plan (TSP) as a Neighborhood Collector, a Transit Access street, a Local Service bikeway, a City Walkway, a Truck Access street, and a Major Emergency street. According to GIS, it is improved with 36-ft of pavement width and a 4-6-2 sidewalk corridor within a 60-ft right-of-way. For R2h zoned sites along a Neighborhood Collector and a City Walkway, the Pedestrian Design Guide recommends a 12-ft sidewalk corridor (0.5 curb zone, 4-ft furnishing zone, 6-ft sidewalk, 1.5-ft frontage zone). While the existing furnishing zone is only 3.5-ft, no additional dedications will be required as the site complies with Administrative Rule 1.22; Infill Development on Streets with an Existing Sidewalk Corridor.

The site has 77.03 feet of frontage on NE 51st Avenue. At this location, NE 51st Avenue is classified as a Local Service street for all modes. According to GIS, it is improved with 24-ft of pavement width and a 10-6-2 sidewalk corridor within a 60-ft Right-of-way. For R2h zoned sites along a Local Service street with 60-ft of ROW, the Pedestrian Design Guide recommends a 12-ft sidewalk corridor (0.5 curb zone, 4-ft furnishing zone, 6-ft sidewalk, 1.5-ft frontage zone). The existing sidewalk corridor along the site’s NE 51st frontage satisfies this standard.

Tri Met provides frequent transit service via bus line number 24, with a bus stop located directly adjacent to the site.

- **Water Service** – There is an existing 16-inch cast iron (CI) water main in NE Fremont Street, and an 8-inch CI water main in NE 51st Avenue. The existing house is served by a 3/4-inch metered service from the main in NE 51st Avenue.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line in NE 51st Avenue. The existing house is served by this line. The adjacent residence at 5024 NE Fremont is served by a party sewer line crossing the subject site.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant has proposed onsite infiltration with drywells for each of the proposed parcels.

Zoning: The R2 designation is one of the City’s multi dwelling zones which is intended to preserve land for urban housing and to promote housing opportunities for multi-dwelling housing.

Land Use History: City records indicate there are no prior land use reviews for this site. However, a application is being processed for an Adjustment (LU 14-150973 AD) that would allow the applicant to reduce the front yard setback along NE Fremont Street from 10 feet to five feet for a proposed duplex building. The applicant has proposed to construct the duplex prior to recording the final plat. Once the final plat is recorded, the Adjustment would not be required because the front lot lines would switch from NE Fremont Street to NE 51st Avenue. The purpose of the Adjustment is to facilitate early construction of the duplex building, which would become attached dwellings once the final plat is recorded.

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 **May 19, 2014**. A written response signed by 13 neighbors was received on June 9th, 2014 (Exhibit F.1) which does not directly address any land division approval criteria, but instead addresses the approval criteria for Adjustments. A written response from a neighbor (Exhibit F.2) was received on June 20, 2014. The response expresses concerns that the project does not blend with the neighborhood and that the project would create a visibility clearance problem at the corner of NE Fremont Street and NE 51st Avenue and concerns regarding impacts to property values.

Response: The comments of Exhibit F.1 are focused on the approval criteria for adjustments and centered on future development of the proposed parcels. The comments do not directly address any of the approval criteria required for land divisions. The comments regarding the adjustment are not pertinent to the land division because the adjustment is not required for approval of the land division. The neighbor’s comments were forwarded to the applicant.

The comments of Exhibit F.2 do not directly address any of the approval criteria required for land divisions. The concerns are focused on future development of the site. Future development of the site will be in conformance with the zoning standards for the R2 zone, including building setbacks from property lines.

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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is

		less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing two parcels for attached housing.

Density: This site is in the R2 zone and attached houses are proposed. Therefore, the minimum density is 1 unit per 2,500 square feet and the maximum density is 1 unit per 2,000 square feet of site area. The site area is 3,845 square feet. The site has a minimum density of 1 unit and a maximum density of 2 units.

Lot Dimensions:

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

R2	Minimum lot area (square feet)	Minimum lot width* (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Attached Houses	1,600	15	none	15
Parcel 1	1,926	38.55	50	38.55
Parcel 2	1,924	38.48	50	38.48

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

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. The demolition permit for the existing house will include standard erosion control requirements during demolition. Grading during construction will occur to prepare the site and to excavate for tucked under garages. The applicant has indicated that excess soil would be removed from the site. In addition, there are no trees required to be preserved so there is not conflict with tree preservation requirements such as root protection zones. This criterion is met.

Land Suitability

Although the site is currently connected to the public sanitary sewer, the Site Development section of BDS has indicated that there is an old cesspool on the site (Exhibit E.5). The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. 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 and sewer capping prior to final plat approval. With these conditions, the new lots can be considered suitable for new development. This criterion is met.

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

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

The following easements may be required for this land division:

- A Private Sanitary Sewer Easement may be required across the relevant portions of Parcel 2, for a sanitary sewer lateral connection that will serve the lot located at 5024 NE Fremont Street.

As discussed below in Criterion L, an existing sanitary sewer line serving the existing house also provides sanitary sewer service for a house located at 5024 NE Fremont Street. An easement may be necessary if the sanitary sewer line is proposed to remain on the project site.

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

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

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

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

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. 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 (PBOT) has reviewed the application for potential impacts regarding the right-of-way, traffic impacts and conformance with adopted policies, street designations and for potential impacts upon transportation services.

At this location, the City's Transportation System Plan (TSP) classifies NE 51st Place as Local Service streets for all modes. The TSP classifies NE Fremont as a Neighborhood Collector, a Transit Access street, a City Walkway, a Truck Access street, a Major Emergency Route, and a Community main Street.

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. In support of this partition request, the applicant submitted a written narrative addressing the evaluation factors associated with the transportation related approval criteria.

Street capacity and level-of-service

The industry standard used for estimating trip generation for new developments or redevelopments is the Institute of Transportation Engineers (ITE) Trip Generation Manual. ITE facilitates the application of technology and scientific principles to research, planning, functional design, operations and services for all modes of ground transportation. The most current Trip Generation Manual, 9th edition, was used in this analysis.

The proposed land division will create one (1) new parcel from the current lot in order to accommodate two (2) new attached single-dwelling homes. The existing parcel currently is developed with a single-family home which will be razed. Referring to the ITE Trip Generation Manual, 9th Edition, the net new trips for the proposed land division will be one (1) new AM peak hour trip and one (1) additional PM peak hour trip (10 additional total new daily trips).

PBOT finds that site generated vehicle trips as a result of one additional dwelling unit will have negligible impacts to the capacity of nearby intersections. Additionally, the subject property is located in an area that has numerous opportunities for alternative modes of transportation including transit, biking, and pedestrian connectivity which could potentially reduce the number of vehicle trips generated by the additional dwelling unit.

Vehicle access and loading

Access to the proposed townhouse units will be via a shared driveway on NE 51st, classified as a Local Service street for all transportation modes. NE Fremont is classified as a Neighborhood Collector, a Transit Access street, a City Walkway, a Truck Access street, a Major Emergency Route, and a Community Main Street. As part of this partition, the existing curb-cut/driveway on NE Fremont will be closed. PBOT is supportive of shifting residential access from Collector/Arterial roadways such as NE Fremont to Local Service streets. The subject site can be easily accessed by motor vehicles as well as other modes. The site's frontage along NE 51st exceeds the recommended sidewalk corridor requirements and connects to a fully improved pedestrian and vehicular grid system.

Loading is expected to take place using the private driveways for individual homes and on-street parking. Loading activities associated with residential land uses are typically light and infrequent, and there is ample space for these activities to occur. Accordingly, vehicle access and loading space at this location are able to sufficiently accommodate the existing uses as well as the proposed land division.

On-street parking impacts

Each townhouse unit will have an on-site parking space via an attached garage and sufficient space has been provided in front of each garage to accommodate an additional

parked vehicle for a total of 4 on-site spaces. In response to PBOT direction, the applicant has modified their site design to accommodate a shared driveway at this location in the effort to preserve space available for on-street parking. An additional on-street parking space will be available on NE Fremont as a result of the driveway closure. Staff also notes that the site is located in proximity to a frequent service Tri-Met bus line and on-site parking is not required per the City Zoning Code.

Thus, staff finds the provision of adequate on-site parking, closure of the driveway on NE Fremont, and the provision of a shared driveway on NE 51st, will allow the development of one additional dwelling unit at this location without an appreciable impact to on-street parking in the area.

Availability of transit service and facilities and connections to transit

The site and area are well served by nearby transit via Tri-Met Route #24 with a stop at corner of NE Fremont and NE 51st. An existing and well connected system of sidewalk facilities provides excellent access to transit service.

Impacts on the immediate/adjacent neighborhoods

Traffic volumes on area roadways and at area intersections are not expected to change significantly upon approval of the proposed land division which will result in one additional dwelling unit. The additional site trips during the peak hours will have no noticeable impacts to immediate and adjacent neighborhoods. No significant operational or safety problems were identified and vehicle parking will be accommodated on-site minimizing the impacts that the additional dwelling unit could have upon on-street parking in the area.

Safety for all modes

Pedestrian and vehicle travel is accommodated in the vicinity of the site via a well connected sidewalk and street system that meets City standards. There are also identified bike facilities in the area (Portland Bike/Walk Map) including a Neighborhood Greenway on NE Klickitat located approximately 455-ft to the south and a Shared Roadway along NE 47th to the west. Additionally, a number of marked crosswalks are available in the surrounding area. The vicinity of the proposed 2-lot partition is currently safe for all modes and will not be adversely affected by the proposed new residence. No mitigation measures are needed or recommended.

PBOT has reviewed and concurs with the information supplied. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These 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>33.651 Water Service standard – 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 3 of this report. The water service standards of 33.651 have been verified. This criterion is met.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – 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 3 of this report. The sanitary sewer service standards of 33.652 have been verified.</p> <p>The existing sewer connection that serves the house located at 5024 NE Fremont Street crosses over proposed Parcel 2. Prior to approval of the Final Plat, the applicant must either obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house at 5024 NE Fremont or obtain a plumbing permit and provide an easement for</p>

the sewer line on the Final Plat. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. If a new sewer connection is established for the house, all plumbing permits must receive final inspection approval prior to Final Plat approval. This criterion can be met with conditions of approval.

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.5

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods

- **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. Site Development has indicated conceptual approval of the drywells. This criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

This section requires street and pedestrian connections where appropriate and practical, taking a number of factors into consideration. The following discussion is based on PBOT's assessment of the connectivity potential in the area. The City's spacing goals for public through streets and public pedestrian connections is a maximum of 530-ft and 330-ft, respectively.

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. While the spacing goal for public through streets is met in this area, the recommended pedestrian connections are not met as the subject property is located on a block that is approximately 450 feet long. The existing block and lot pattern, as well as the established residential development in the area, make it impractical to apply the pedestrian connectivity spacing goals in association with this land division. This criterion is met.

33.654.120 Design of Rights of Way

This section requires approval by PBOT for the elements within the right-of-way. The existing 10-6-2 sidewalk corridor on NE 51st exceeds the City standards. The applicant will be required to repair any portion of the sidewalk damaged as the result of construction.

The existing 4-6-2 sidewalk corridor on NE Fremont does not meet the configuration of a standard 12-ft sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/1.5-ft frontage zone). However, the site complies with Administrative Rule 1.22 *Infill Development on Streets with an Existing Sidewalk Corridor* and the applicant will only be responsible for repairing any damaged portion of the existing sidewalk. 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 existing dwelling must be demolished prior to approval of the final plat, so the division of the property will not cause the structures to move out of conformance of further out of conformance with any development standard applicable in the R2 zone.

However, the applicant has proposed to construct a duplex building prior to recording the final plat. The duplex building would be converted to attached housing once the final plat has been recorded. The applicant does so at his own risk and is advised that the proposed structure must be constructed in a manner that is consistent with all building codes regarding attached housing and also consistent with the approved preliminary plan. Any variations to the preliminary plan are subject to Section 33.663.200 of the zoning ordinance.

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 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	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 has indicated that they intend to apply for building permits to construct structures on the site during the review of the Final Plat. For purposes of zoning requirements, these units are considered a duplex which is a multi-family development with common walls between units intended for one lot. However, when the final plat is recorded and the new lot lines are created, the development will be converted to attached houses on individual lots with common property lines along a common wall. Attached houses require an Operations & Maintenance Agreement for all of the common building elements that will be shared between the units. This Agreement must be recorded with the Final Plat to facilitate the division of the units. The Operations and Maintenance Agreement must be submitted and approved by BDS prior to final plat. In addition the Final Plat must reference the agreement with a recording block substantially similar to the following example:

“An Operations and Maintenance Agreement for Common Building Elements has been recorded as document no. _____, Multnomah County Deed Records.”

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

CONCLUSIONS

The applicant has proposed a two 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:

- Sanitary Sewer service for the off-site lot located at 5024 NE Fremont Street.
- Construction of a duplex and conversion to attached housing.

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 lots for attached houses 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 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;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. 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 the conditions below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."
2. Any required private sanitary sewer easements shall be shown and labeled over the relevant portions of the Parcels.

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

Streets

1. Prior to final plat approval, the applicant must obtain a finalized Right Of Way permit from the Portland Bureau of Transportation to remove the existing driveway connection and construct the required sidewalk corridor along the NE Fremont Street frontage. The required shared driveway connection serving Parcels 1 and 2 may be constructed with development on each lot as per the City Engineer's discretion.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site prior to approval of the Final Plat.
3. The applicant shall provide information to the satisfaction of the Fire Bureau that Fire Hydrant spacing is adequate. If necessary, the applicant shall meet the requirements of the Fire Bureau for installing new fire hydrants. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of the fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water

Bureau will be installing the required fire hydrant, with the required fire flow and pressure.

4. 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.
5. Prior to final plat approval, the applicant shall remove or relocate the sewer line shared with 5024 NE Fremont Street to the satisfaction of BES by capping and establishing new sanitary service for 5024 NE Fremont Street to the sanitary sewer main located within NE Fremont Street or relocating the sewer line within a BES approved easement. The plumbing permit must be finalized prior to final plat approval. A maintenance agreement is required if the sewer line is placed within an easement. The applicant must demonstrate to the satisfaction of BES that the sewer for 5024 NE Fremont Street is no longer crossing the footprints of proposed structures on the subject property.

Existing Development

6. 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.

Required Legal Documents

7. A Maintenance Agreement shall be executed for the common building elements. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities, consistent with the purpose of the easement and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
8. A Maintenance Agreement shall be executed for a sanitary sewer easement across Parcel 2 for service at 5024 NE Fremont Street. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities, 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.
9. If required per conditions C.2 or C.3 above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 1 and Parcel 2 to contain internal fire suppression sprinklers, per an approved Fire Bureau Appeal. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other requirements

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

1. The minimum and maximum density for the lots in this land division are as follows:

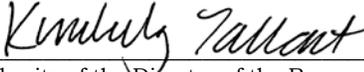
Lot	Minimum Density	Maximum Density
1	1	1
2	1	1

2. The applicant must meet the addressing requirements of the Fire Bureau for both parcels. The location of the sign must be shown on the building permit.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as

measured to the bottom of the eave of the structure or the top of the parapet for a flat roof

4. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Brandon Rogers

Decision rendered by:  **on July 2, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed July 7, 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 March 11, 2014, and was determined to be complete on May 8, 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 March 11, 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 extended the 120-day review period by 60 days. Unless further extended by the applicant, **the 120 days will expire on: November 4, 2014.**

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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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.

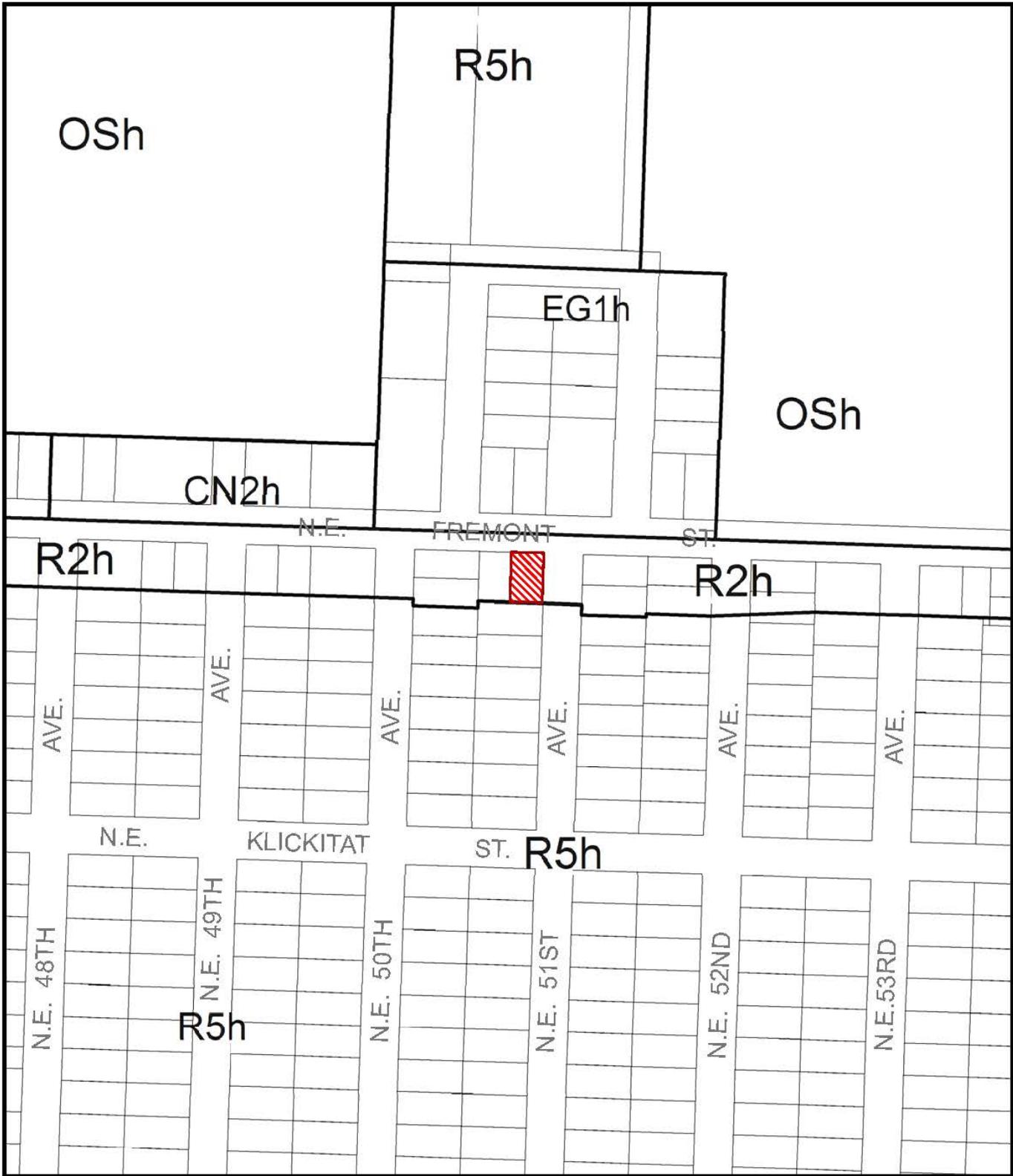
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicants Revised Narrative
 - 2. Simplified Approach
 - 3. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Existing Conditions, Proposed Improvements plan (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:
 - 1. Rick Peterson, Sharon Rich, Justin Boly, Stefanie and James Wood, Kate Glasser, George Scott Chandler, Georgia Gibson, Tim Hemstreet, Andrew L. Fogg, Ronald and Verna Hilburger, Mrs. Philip Woolf, Todd Cotton, June 9, 2014
 - 2. Kathleen McQuiston, June 20, 2014.
- G. Other:
 - 1. Original LU Application
 - 2. Applicant's Original Narrative
 - 3. Incomplete Letter
 - 4. Request for Extension

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 14-125577 LDP
 1/4 Section 2735
 Scale 1 inch = 200 feet
 State_Id 1N2E30BA 1900
 Exhibit B (Mar 12, 2014)



W.B. WELLS & ASSOCIATES, INC.
ENGINEERS, SURVEYORS, PLANNERS
4230 NE FREMONT STREET
PORTLAND, OREGON 97213
PHONE (503) 294-9966 FAX (503) 294-6530
e-mail address: info@wbwells.com

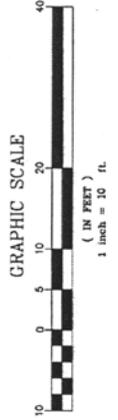
REGISTERED
PROFESSIONAL
LAND-SURVEYOR
EXPIRES 12-31-14
OREGON
MAY 12, 2005
DEGON 1, HAZEN

PRELIMINARY PLAT

FOR
BEN MAY

5034 N.E. FREMONT STREET
LOT 1, BLOCK 153 OF "ROSE CITY PARK"
LOCATED IN THE NW 1/4 OF SECTION 20, T1N, R2E, W1M, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

REVISIONS:	
DATE:	02-03-2014
SCALE:	1"=10'
DRAWN BY:	AMJ
DATE:	2-11-2014
JOB NO.:	14-012
FILE:	P:\14-012\14-012 SS.DWG



SITE AREA
3,850 S.F., 0.09 ACRES

LEGEND
S.F. SQUARE FEET
153 BLOCK NUMBER

N.E. 51ST AVE.
60' WIDE

N.E. FREMONT ST.
60' WIDE



CASE NO. 14-125577
EXHIBIT C-1

