



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** January 21, 2015  
**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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-227740 LDP**

#### **GENERAL INFORMATION**

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

**Owner:** Brooklyn's Best Design Co LLC  
3325 SE 12th Ave / Portland, OR 97202

**Site Address:** 3959 NE MALLORY AVE

**Legal Description:** BLOCK 13 LOT 3, ALBINA HMSTD  
**Tax Account No.:** R103063  
**State ID No.:** 1N1E22DD 03500  
**Quarter Section:** 2630  
**Neighborhood:** King, contact Leigh Rappaport at 503-490-8388.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Claire Adamsick at 503-388-9030.  
**Zoning:** Residential 2,500 (R2.5) with the "a" Alternative Design Density overlay.  
**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 proposes to divide the 5,000 square foot site into two new narrow lot parcels for development of attached houses. Each parcel will be 2,500 square feet in area with a lot width of 25-feet. The existing residence will be removed. Stormwater disposal will be managed by on-site drywells. The parcels will share a single point of access to NE Mallory Avenue for the proposed driveways.

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 5,000 square foot site is developed with a single family residence that is proposed to be removed. The site has an average slope of 3 percent, sloping down towards NE Mallory Street. The vicinity is characterized by single and multi family development and commercial uses along NE Martin Luther King Jr. Blvd. and N Williams Ave. The neighborhood exhibits a well developed street grid, with curbs, gutters and sidewalks.

### Infrastructure:

- **Streets** – The site has 50 feet of frontage on NE Mallory Street. There is one driveway entering the site that serves the existing house on the site. At this location, the City’s Transportation System Plan (TSP) classifies NE Mallory as a Local Service street for all transportation modes. According to City GIS, NE Mallory is improved with 36-ft of paving and a 4-6-2 pedestrian corridor within a 60-ft ROW. Tri-Met provides transit service approximately 620 feet to the west at N Williams Ave. and N Vancouver Ave. and 520 feet to the east at NE MLK Jr. Blvd.
- **Water Service** – There is an existing 6-inch water main in NE Mallory Avenue. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 16-inch public combination sewer line in NE Mallory Avenue.

**Zoning:** The R2.5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the “a” overlay.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **November 18, 2014**. One written response (Exhibit F.1) has been received from a notified property owner in response to the proposal. No responses have been received from the Neighborhood Association in response to the proposal.

**BDS Response:** The written response expresses an interest in a tree located at the site, which is exempt from the tree preservation requirements because it is located partially off site and is a nuisance tree. The City does not require removal of the tree, and there are no requirements for the tree to be preserved or for the tree to be replaced if removed. However, all new development must meet the Title 11 tree planting requirements at the time of development, which will result in the planting of new trees at the site. Please refer to Criterion B below for a discussion of tree preservation at the site.

## 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:
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.
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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density is one unit per 2,500 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The site has a minimum required density of 1 unit and a maximum density of 2 units. The applicant is proposing 2 single dwelling parcels for attached houses. 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	N/A	36	40	30
Parcel 1	2,500		25	100	25
Parcel 2	2,500		25	100	25

\* 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.

Narrow Lots

Parcels 1 and 2 are each 25-feet wide, which is 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 Section 33.611.200.C.

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

The purpose of Lot dimension regulations are as follows: 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 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint (Exhibit C.3) that meets all applicable setback requirements and is oriented towards the street. Therefore they have demonstrated that the proposed lot(s) can accommodate a reasonably sized house and garage 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 compatible with existing lots because the neighborhood contains several narrow lots. The zoning map (Exhibit B) shows narrow lots on NE Rodney, NE Mallory Ave, NE Cleveland Ave within the same R2.5a zoning designation.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street

**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 attached houses; therefore, this standard does not apply.

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

- The site does not have access from an alley, so this standard 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***

- No garages are proposed at the time of development.

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

- Parcels 1 and 2 will have driveways that share a common access point to the public street. For each lot, the front building line is 28 feet deep, and the lot width is 25 feet, which results in an area of 700 square feet. The driveway area takes up approximately 252 square feet, or approximately 36 percent of the total area. Therefore, 64 percent of area remains for landscaping.

***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. Therefore, alley access and the garage limitation requirements described above must be met. However, the site has no alley access and garages are not proposed. The requirement is met by providing parking pads outside the front setback.

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

**B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.**

**Findings:** The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter. The site contains one tree, which has been exempted because it is located partially off the property. The site contains does not contain any other trees that are subject to the preservation requirements of this chapter. Therefore, this criterion does not apply.

**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 at the site. 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. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. 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 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 and decommissioning of onsite septic system prior to final plat approval. With conditions of approval addressing these issues, the new lots can be considered suitable for new development, and 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 easement is proposed and/or required for this land division: A Reciprocal Access Easement is proposed to allow shared use of a shared driveway approach that will straddle proposed lot lines. As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the

easement described above and the driveway within the easement area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block, substantially similar to the following example:

*“A Declaration of Maintenance agreement for a reciprocal access easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

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

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

**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.

The regulations of this Chapter allow the traffic impacts caused by dividing and developing land to be identified, evaluated, and mitigated if necessary. The following approval criterion applies to all land divisions in all zones: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area.

Evaluation factors include: (1) street capacity and level-of-service; (2) vehicle access and loading; (3) on-street parking impacts; (4) the availability of transit service and facilities and connections to transit; (5) impacts on the immediate and adjacent neighborhoods; and (6) safety for all modes.

The applicant is proposing a 2-lot partition to allow for the development of attached houses on 2,500 square-foot lots with a lot width of 25-ft. In response to the transportation related approval criteria, the applicant submitted a written narrative. 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).

The site is located within an area that has an established street grid system with improved pedestrian corridors that enjoys direct access to the greater transportation network and area transit facilities, the closest of which is located at NE MLK Boulevard and NE Failing. Given the existing infrastructure in the vicinity and the surrounding development pattern, one additional dwelling unit will have a negligible impact upon the overall transportation system in the area.

However, PBOT has concerns regarding narrow lots (25-ft lot width or less) relative to the impact they could have upon on-street parking. Given the existing size of many of the lots along both sides of the block, there is the potential for further redevelopment/land divisions that could significantly impact on-street parking in the vicinity. Accordingly, staff requested that the applicant revise their site plan to show a shared driveway that is designed to maximize on-street parking to the greatest extent possible. As such, staff recommends that the land division be conditioned to require a driveway design that is consistent with the applicant's revised site plan submitted on November 13, 2014. As a condition of Final Plat approval, the applicant will also be required to record a reciprocal access easement for the taper area of the shared driveway. PBOT has reviewed and concurs with the information supplied and available evidence. 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><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. However, the existing service still resides in the name of the previous owner. Therefore, prior to approval of the final plat, the service must be transferred to the current owners name and account paid in full. This standard is met with a condition of approval as noted.</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. This standard is met.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p>
<p>Stormwater from Parcels 1 and 2 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. BES has indicated conceptual approval of the drywells. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. This criterion is met.</p>
<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 only 400 feet long. PBOT has stated that this area has an established lot and block pattern that achieves adequate pedestrian and vehicular connectivity. PBOT has no connectivity concerns or requirements in association with the proposed land division. This criterion is met.</p>
<p><b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment</p>
<p>In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.</p> <p>At this location, the City’s Transportation System Plan (TSP) classifies NE Mallory as a Local Service street for all transportation modes. According to City GIS, NE Mallory is improved with 36-ft of paving and a 4-6-2 pedestrian corridor within a 60-ft ROW. For a Local Service street, abutting R2.5 zoned property, the City’s Pedestrian Design Guide recommends an 11-ft pedestrian corridor (0.5-curb/4-ft furnishing zone/6-ft sidewalk/0.5-frontage</p> <p>While the site’s frontage meets the Pedestrian Design Guide in terms of width, it does not meet the standard in terms of configuration as the furnishing zone is only 3.5-ft. However, the site does meet the characteristics to qualify for an exception under Administrative Rule 1.22, “Infill Development on Streets with an Existing Sidewalk Corridor” and the applicant will only be required to make repairs as needed and close the existing driveway/curb-cut along the site’s southern boundary. This criterion is met.</p>
<p><b>33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)</b></p>
<p>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.</p>

## 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 can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
  - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.

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

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

## OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority 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; 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 2 parcel partition for narrow lots, 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: shared driveway access. 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 narrow lots for attached housing as illustrated with Exhibit C.1, subject to the following conditions:

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

1. A Reciprocal Access Easement shall be shown and labeled on the final plat, for the common driveway connection to SE Mallory Street as shown on Exhibit C.3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. 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.1 above. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for a reciprocal access easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

#### **Utilities**

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
2. 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.
3. The water service must be transferred to the current owners name and account paid in full prior to final plat approval.

#### **Existing Development**

4. 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**

5. A Maintenance Agreement shall be executed for the reciprocal access easement described in Condition A.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. 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 from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
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 unit on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
3. A shared driveway for Parcels 1 and 2 is required. The location and design shall be met as shown on Exhibit C.3. Individual driveways are prohibited.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **on January 16, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed January 21, 2015**

**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 October 20, 2014, and was determined to be complete on November 13, 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 October 20, 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. Unless further extended by the applicant, **the 120 days will expire on: March 13, 2015.**

**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](http://www.portlandonline.com).

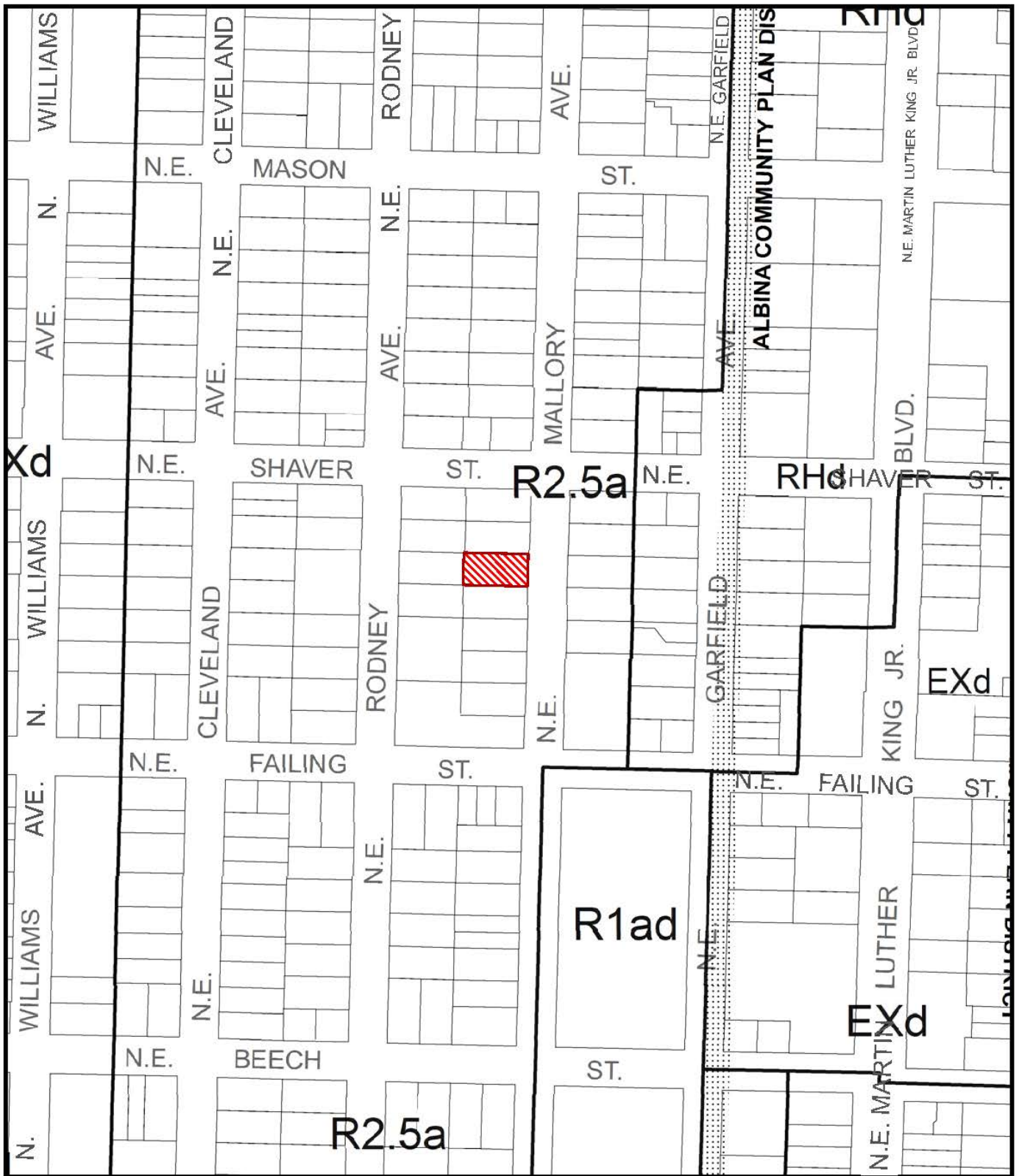
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Original Submittal
  - 2. Revised Submittal
  - 3. Stormwater Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Plan (attached)
  - 2. Existing Conditions Plan
  - 3. Preliminary Improvements Plan
  - 4. Preliminary Grading Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Life Safety Section of BDS
  - 6. Site Development Section of BDS
  - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Tracy Cozine, November 25, 2014, trees.
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter

**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 14-227740 LDP  
 1/4 Section 2630  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E22DD 3500  
 Exhibit B (Oct 22, 2014)

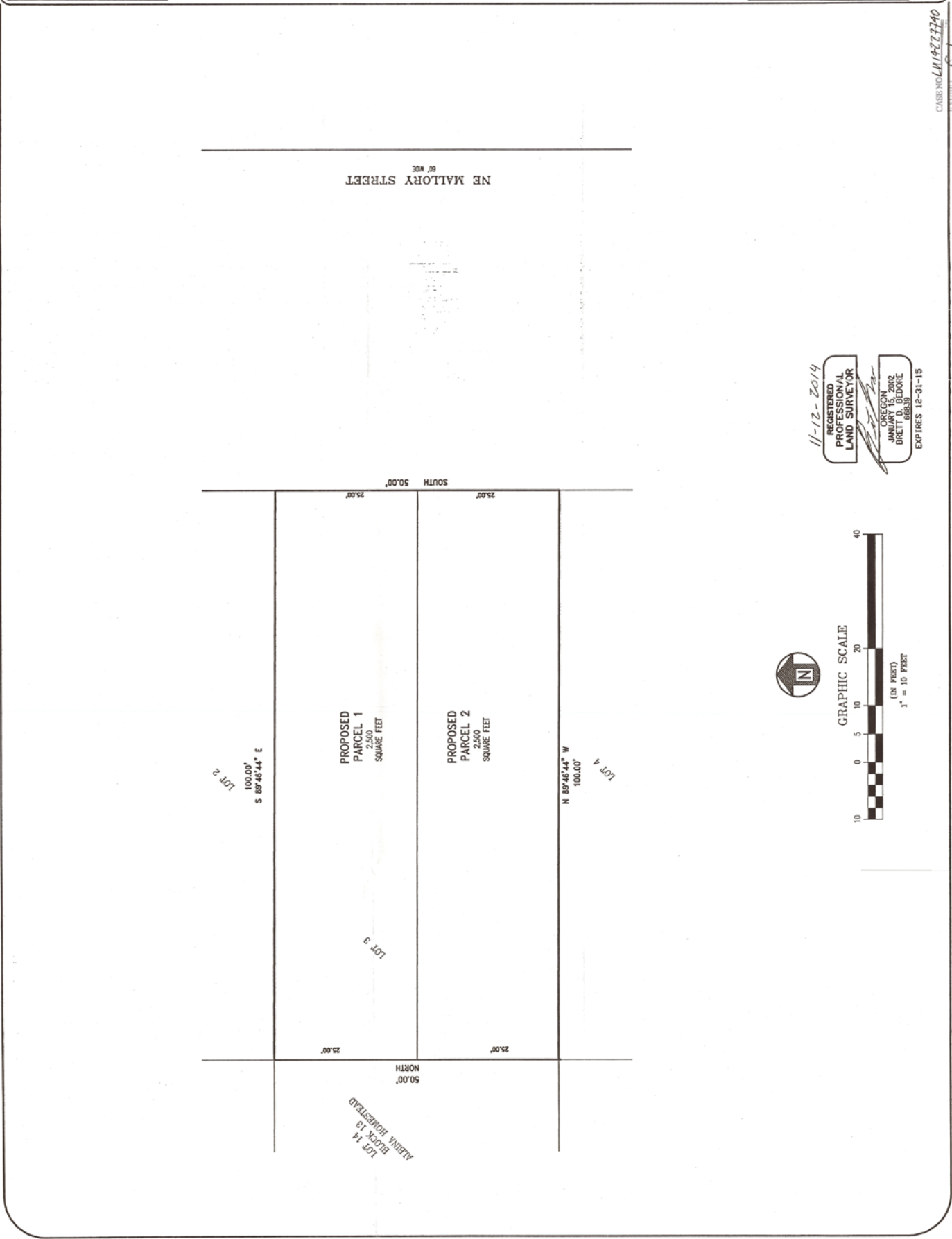
REVISIONS:

DATE: 10.8.2014	SCALE: 1"=10'
JOB NO: 14-143	
FILE: P:\14-143\14-143 SP.DWG	

PRELIMINARY LAND DIVISION PLAN  
 FOR  
 BROOKLYNS BEST DESIGN CO.  
 LOT 3, BLOCK 13 OF 'ALBINA HOVSEYD' LOCATED IN THE SE 1/4 OF SECTION 22, T11N, R12E, N1/2, N1/4, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

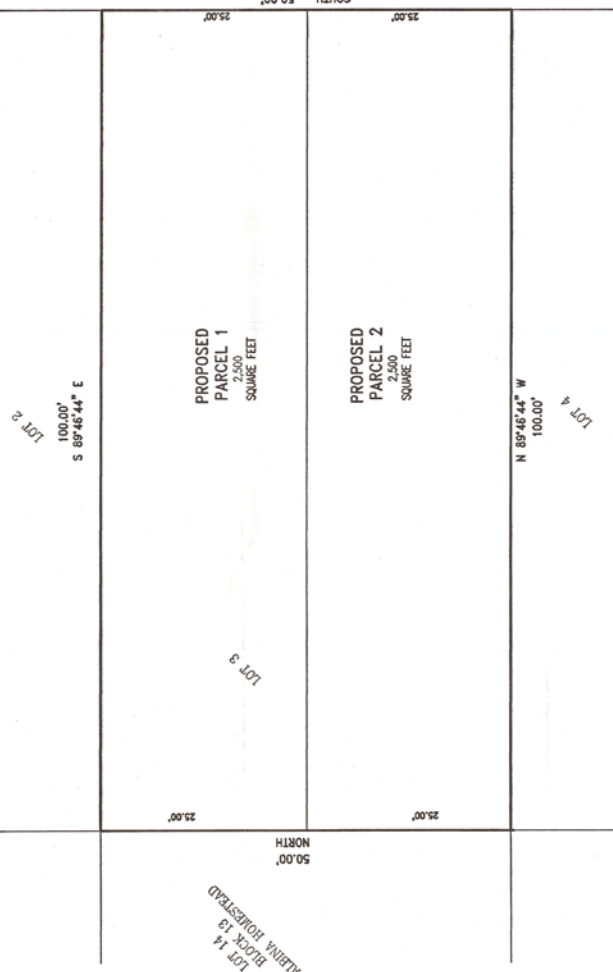
**W.B. WELLS**  
 ENGINEERS SURVEYORS & LAND ASSOCIATES, INC.  
 4200 NE FREMONT STREET  
 PORTLAND, OREGON 97213  
 PHONE: (503) 546-8100 FAX: (503) 546-8101  
 e-mail address: [wb@wells.com](mailto:wb@wells.com)

SHEET 2 OF 5

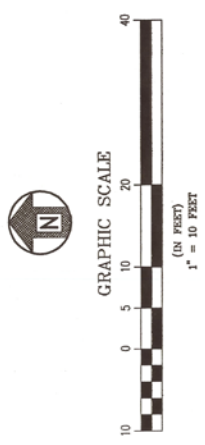


NE MALLORY STREET  
 60' W.B.

50.00' SOUTH



11-12-2014  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 OREGON  
 JANUARY 15, 2002  
 BRETT W. WOODRE  
 68839  
 EXPIRES 12-31-15



CASE NO. 14-22740

REVISED 11/15/14