



City of Portland, Oregon
Bureau of Development Services
Inspection Services - Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: October 8, 2015
To: Interested Person
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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 15-136010 LDP

GENERAL INFORMATION

Applicant: Robert Price/Planning And Development Services
3935 NE 72nd Avenue
Portland, OR 97213

Owner: Michael Righetti
456 Montgomery St #1400
San Francisco, CA 94104

Site Address: 107 NE FREMONT ST

Legal Description: BLOCK 15 W 54.25' OF LOT 9&10, ALBINA HMSTD
Tax Account No.: R010503410
State ID No.: 1N1E22DD 17001
Quarter Section: 2630
Neighborhood: Boise, contact Stephen Gomez at 503-819-8268.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: Northeast Coalition of Neighborhoods, contact Lokyee Au at 503-388-9030.
Zoning: Residential 2,500 (R2.5) with the "a" Alternative Design Density overlay zone.
Case Type: Land Division Partition (LDP)
Procedure: Type IX, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: The applicant proposes to divide the 5,632 square foot site into two parcels for development of a new single family residence. Parcel 1 will be 3,808 square feet and will contain the existing duplex. Parcel 2 will be 1,824 square feet and will be a vacant narrow

lot. The applicant proposes to use the Alternative Development Options of 33.110.240.E for Parcel 1, duplexes and attached houses on corners, which allows one extra unit of density when certain standards are met. The site contains trees subject to the tree preservation requirements of Titles 11 and 33.

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 site is characterized by an existing duplex, the building was constructed in 1894. The site topography is flat. The neighborhood is characterized by a mix of single and multi family residential development, with commercial and mixed use development along N Williams Ave and NE Martin Luther King Jr. Blvd. The street grid is regular and includes paved streets with sidewalks.

Infrastructure:

- **Streets** – The site has approximately 104 feet of frontage on NE Rodney Avenue and approximately 54 feet of frontage on NE Fremont Street. There is one driveway entering the site on NE Rodney Avenue that serves the existing duplex on the site. At this location NE Fremont is classified as a Transit Access Street, City Bikeway, City Walkway within a pedestrian district, and a Local Service Street for all other modes. It is improved with a 12-ft sidewalk corridor with a 4-6-2 configuration. NE Rodney is classified as a Local Service Street for all modes. It also is improved with a 12-ft sidewalk corridor with 4-6-2 configuration. Tri-Met provides transit service on NE Fremont Street via Bus 24.
- **Water Service** – There is an existing 12-inch water main in NE Fremont Street and an existing 8-inch water main in NE Rodney Avenue. The existing house is served by a 5/8-inch metered service from the main in NE Fremont Street.
- **Sanitary Service** - There is an existing 10-inch public combination sewer line in NE Fremont Street and an 8-inch public combination sewer line in NE Rodney Avenue that terminates approximately 5-feet in front of the site but does not extend through the street frontage of the site.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

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 **June 29, 2015**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
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	Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639).
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	No dead-end street or pedestrian connections are proposed or required.

	streets and pedestrian connections	
	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 2,500 square feet based on 80 percent of the site area. The site has a minimum required density of 2 units and a maximum density of 2 units. Because the minimum required density is equal to the maximum allowed density, the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to 1.

The applicant is proposing 2 parcels. Parcel 1 will contain the existing duplex and Parcel 2 is for a proposed single dwelling. The total density proposed at the site is 3 units, which exceeds the maximum density normally allowed for the site. However, Subsection 33.110.240.E, allows one extra unit of density in conjunction with a duplex on a corner lot when certain lot size and development standards are met.

As described above, these lots are being created through a provision that allows one extra unit of density when a duplex is proposed on a corner lot that is at least 3,000 square feet after the land division. As shown in the table below, the required lot size and dimension requirements are met. Therefore, a duplex is allowed on the corner lot (Parcel 1).

Because the standards of 33.110.240.E.4 are met, an additional unit of density is permitted and the density standards are therefore met. The lot sizes and dimensions required and proposed are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R2.5 Zone	1,600/3,000 **	NA	36	40	30
Parcel 1	3,808 **		70.18	54.25	54.25
Parcel 2	1,824		33.63	54.25	33.63

* 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.

** Lots for duplexes must be at least 3,000 square feet in area per 33.110.240.E.3.b.3.c(1).

Narrow Lots

Parcel 2 is 33.63 feet wide — narrower than the 36 foot wide 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:

On balance, the proposed lots will have dimensions that are consistent with the purpose of this section (33.611.200.A); Purpose. The lot dimension regulations ensure that:

- Each lot has enough room for a reasonably-sized attached or detached house;
The applicant has provided a Proposed Improvements Plan (Exhibit C.1) showing that a reasonably sized house meeting the development standards of the R2.5 zone, can be built on Parcel 2.
- Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;
Parcel 2 is a vacant lot that exceeds the minimum lot size required by the R2.5 zone, as shown in the above table.
- 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;

Parcel 2 meets the minimum lot size for the R2.5 zone, and is not further dividable. There is no maximum lot size in the R2.5 zone.

- Each lot has room for at least a small, private outdoor area; *The R2.5 zone development standards require an outdoor area of 250 square feet, within a minimum dimension of 12 feet by 12 feet. Outdoor areas may be located within required building setbacks, but not within the front building setback. Parcel 2 has adequate outdoor area, as shown on Exhibit C.1.*
- Lots are wide enough to allow development to orient toward the street; *As shown in the table above, Parcel 2 is 2.37 feet narrower than the 36-foot lot-width minimum for the zone. Parcel 2 is deeper than it is wide and will be developed with a detached house that is oriented towards the street.*
- Each lot has access for utilities and services; *As described below in Section L, Parcel 2 has access to water, sanitary sewer and stormwater disposal and transportation facilities.*
- Lots are not landlocked; *Parcel 2 has access and frontage on NE Rodney Avenue.*
- Lots don't narrow to an unworkable width close to the street; and *As shown in the table above and with Exhibit C.1, Parcel 2 is rectangular in shape and does not narrow toward the street.*
- Lots are compatible with existing lots while also considering the purpose of this chapter; *The block on which the site is located contains two narrow lots (3616, 3620 NE Rodney Ave.) that are each 25-feet in width. Therefore, the proposed Parcel 2 is compatible with existing lots. Parcel 2 will meet all applicable development standards at the time of development and will therefore be consistent with the desired character of the zone.*

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

- Parcel 2 will be developed with a detached house. However, at 33.63 feet wide, Parcel 2 is greater than 25 feet wide.

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

- The applicant has demonstrated, with Exhibit C-1 that Parcel 2 can be built with a house that is greater than 22 feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.E can be met.

Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and

- Parcel 2 will be developed with a detached house, so this standard does not apply.

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

- Off street parking is required. Therefore, the garage limitation requirements described above must be met.

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 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees. To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the

greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets. If the site is in an overlay zone that has additional environmental resource protection requirements, the tree plan must demonstrate that the benefits from trees are maximized for the site as a whole.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites. Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.5) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved. The site contains a total of 32 inches DBH of non-exempt tree diameter; one 13-inch crabapple tree (tree #10) and one 19-inch pear tree (tree #8). Based on this information, one tree (tree #10), which provides a total of 13 inches of tree diameter, is selected to meet the preservation requirements of this chapter.

The tree proposed for preservation is in good condition, is a non-nuisance species, and is not 20 or more inches in diameter. The proposed root protection zone for the tree to be retained will allow for the type of development anticipated in the R2.5 zone and will not conflict with any existing utility easements, proposed services or site grading.

The applicant proposes to retain 13 inches of tree diameter, which is equivalent to 41 percent of the total non-exempt tree diameter. Therefore, the proposal complies with Option 4, which requires at least 35 percent of the total non-exempt tree diameter to be preserved at the site. Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcel 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.5). With conditions, 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 level and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. The site development section of BDS has commented that the existing structure on the site was built in 1894, but sewer wasn't available until 1900. Therefore, it is likely that there is a cesspool on the site. Historic records do not show the location of the cesspool, however. If construction is to occur within ten feet of an abandoned cesspool, the cesspool must be decommissioned prior to permits for new structures being issued. Site Development has requested the applicant to contact the group prior to making an application for building permits, but has not requested a condition of approval requiring decommissioning.

As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: 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 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. PBOT has provided the following findings (see Exhibit E.2):

Street Capacity and Levels of Service. The proposal will result in a net increase of 1 single-family residence. This residence can be expected to generate 10 daily vehicle trips with 1 trip occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

Connectivity. The site is a corner lot. Connectivity requirements do not apply.

Vehicle Access/Loading. The existing lot will have a driveway to provide access to parking and loading. The second lot has adequate frontage for an on-street parking space without impacting any neighboring site.

On-Street Parking Impacts. The existing will have at least one on-site parking space, the second lot has adequate frontage for an on-street parking space without impacting any neighboring site. Impacts to the on-street parking supply should be minimal.

Availability of Transit. Tri Met Bus Line #44 is available to serve the site 0.1 miles to the west at Williams/Fremont.

Neighborhood Impacts. The site is being developed with a new single-family residence in compliance with the existing R2.5 zoning. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles.

Safety for All Modes. Sidewalks along both sides of the area streets provide adequate pedestrian facilities. Given the low vehicle speeds and volumes on NE Rodney and NE Fremont, cyclists can safely share the roadway.

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>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 2 of this report. The water service standards of 33.651 have been verified.</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 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. BES has responded that Results of infiltration testing indicate onsite infiltration is not feasible; therefore, offsite discharge to the combined sewer system will be allowed by BES.</p> <p>The applicant has proposed the following stormwater management methods: Stormwater from Parcel 2 (the vacant parcel) will be directed to a flow through planter that will treat the water and conveyed to a discharge point along a route of service approved by the BES. Parcel 2 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 stormwater facilities.</p> <p>Stormwater from Parcel 1 (the parcel with the existing house) is proposed to be collected in new rain gutters and directed to splash blocks or a flow through planter that will treat the water and convey it to a discharge point along a route of service approved by the BES. BES has commented (Exhibit E.1) that a Development Review (DR) permit is required prior to final plat approval, which requires a Simplified Approach stormwater report to be submitted and that infiltration testing may be required. BES has required conditions of approval that must be met prior to final plat approval requiring the applicant to modify the stormwater disposal system serving the existing structure on Parcel 1 according to BES and SWMM requirements. Additionally, the applicant will be required to identify the as-built location of the stormwater disposal system serving the existing structure on Parcel 1.</p>
<p>33.654.110.B.1 Through streets and pedestrian connections</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. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. Additionally, the site is a corner lot, therefore through streets and pedestrian connections are not practicable at this location. For the reasons described above, this criterion is met.</p>
<p>33.654.120.B & C Width & elements of the right-of-way – 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>NE Fremont is classified as a Transit Access Street, City Bikeway, a City Walkway within a pedestrian district, and a Local Service Street for all other modes. NE Rodney is classified as a Local Service Street for all modes. NE Fremont Street and NE Rodney Street are both improved with a 12-ft sidewalk corridor with a 4-6-2 configuration.</p>

A Public Works Alternative Review (15-202780 PW, Exhibit E.2a) has been approved for the site. The Public Works Alternative Review Committee approved the applicant's request to accept the existing sidewalk configuration as it generally conforms to the pedestrian design guide standard. Therefore, no frontage improvements are required as part of this Land Use Review. 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.

Future Development

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

- **Narrow Lots**-- development on Parcel 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.
- **Duplex on a Corner Lot.** The applicant's narrative (Exhibit A.2) explains how the development standards of 33.110.240.E.4 are met. The development standards of are listed below in italics, with the applicant's explanation of how the standards are met:
 - 33.110.240.E.4a *Entrances. Each of the units must have its address and main entrance oriented towards a separate street frontage. Where an existing house is being converted to two units, one main entrance with internal access to both units is allowed.* The applicant states that each of the two existing units have separate entrances, each oriented to separate street frontages.
 - 33.110.240.E.4b. *Height. If attached housing is proposed, the height of the two units must be within four feet of each other.* The applicant states that the height of the existing dwelling is basically the same. However, this standard applies to attached housing. Therefore, this standard is not applicable.
 - 33.110.240.E.4c. *On both units:*
 - (1) *Exterior finish materials. The exterior finish material must be the same, or visually match in type, size and placement.*
 - (2) *Roof pitch. The predominant roof pitch must be the same.*
 - (3) *Eaves. Roof eaves must project the same distance from the building wall.*
 - (4) *Trim. Trim must be the same in type, size and location.*
 - (5) *Windows. Windows must match in proportion and orientation.*
 The applicant states that the exterior finish materials (including trim) and roof pitch are the same throughout the building and that eaves project the same distance, and that windows are the same character and generally match in terms of proportion and orientation throughout the structure.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.) In this case, there are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing duplex identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot line. Alternatively, existing buildings must be set back from the new lot line in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 22 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. An existing curb cut and parking area and provides this required parking for the existing duplex on Parcel 2. As a result of this land division, the curb cut and required parking spaces for the existing duplex will be located on a different lot. In order to ensure that parking requirements continue to be met, a new curb cut, driveway and two parking spaces for the existing duplex must be constructed on Parcel 2 prior to final plat approval. A finalized zoning permit must be obtained to construct the new driveway and replacement parking spaces. Documentation of final inspection of this new parking space will be required prior to final plat approval.
- **Title 11 Tree Density Standards.** At the time of development, the individual parcels must also meet Title 11-Tree Code tree planting standards, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. Due to the land division, Parcel 1 (with the existing duplex) is moving out of conformance with Title 11. One non-nuisance species is proposed to remain on this parcel, a 16-inch pear tree. The other tree located on Parcel 1 (tree #6, European Holly) is a nuisance species and may not be credited towards the required Title 11 tree planting. The 3,808 square foot site requires 1,523 square feet of tree area. Prior to approval of the final plat, the applicant is required to plant additional trees to meet the Title 11 planting requirements. The applicant must meet this requirement by either planting adequate tree density to satisfy Title 11 tree density requirements or by making the equivalent payment into the City Tree Fund. A condition of approval will require a finalized Zoning Permit demonstrating on-site tree planting to satisfy the Title 11 tree planting requirements. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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 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: tree preservation, narrow lot development standards for Parcel 2, standards for the duplex on a corner lot for Parcel 1, stormwater management, replacement off street parking for Parcel 1. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition, that will result in one standard lot containing the existing duplex and one vacant narrow lot for single dwelling development as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review section 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 Condition C.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following

example: "An acknowledgement of special land use conditions has been recorded as document no. _____, Multnomah County Deed Records."

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

Utilities

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. Two off street parking spaces, a new driveway and curb cut shall be installed on Parcel 1. Each parking space must be a minimum of 9' x 18' and located out of the street side setback for the lot with the existing duplex, as illustrated on Exhibit C.1. The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: *This permit fulfills requirements of Condition C.2 of LU 15-136010 LDP.* The two new parking spaces must also be shown on the supplemental plan.
3. The applicant must meet the requirements of BES for the stormwater systems for the existing duplex on Parcel 1. The as-built location of the stormwater disposal system serving the existing structure on Parcel 1 must be provided. The applicant must modify the stormwater disposal system serving the existing structure on Parcel 1, according to BES and SWMM requirements, and obtain finalized permits as necessary prior to final plat approval.
4. The applicant must meet the Title 11 Tree Density standards on Parcel 1 with the existing duplex by either; planting trees on the lot, or making the equivalent payment into the City Tree Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents

5. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

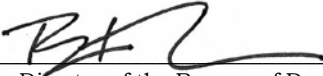
D. The following conditions are applicable to site preparation and the development of individual lots:

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.5). Specifically, tree #10 is required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. 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.

3. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal. 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 October 6, 2015**

By authority of the Director of the Bureau of Development Services

Decision mailed October 8, 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 March 18, 2015, and was determined to be complete on **June 23, 2015**.

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 18, 2015.

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: October 21, 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.

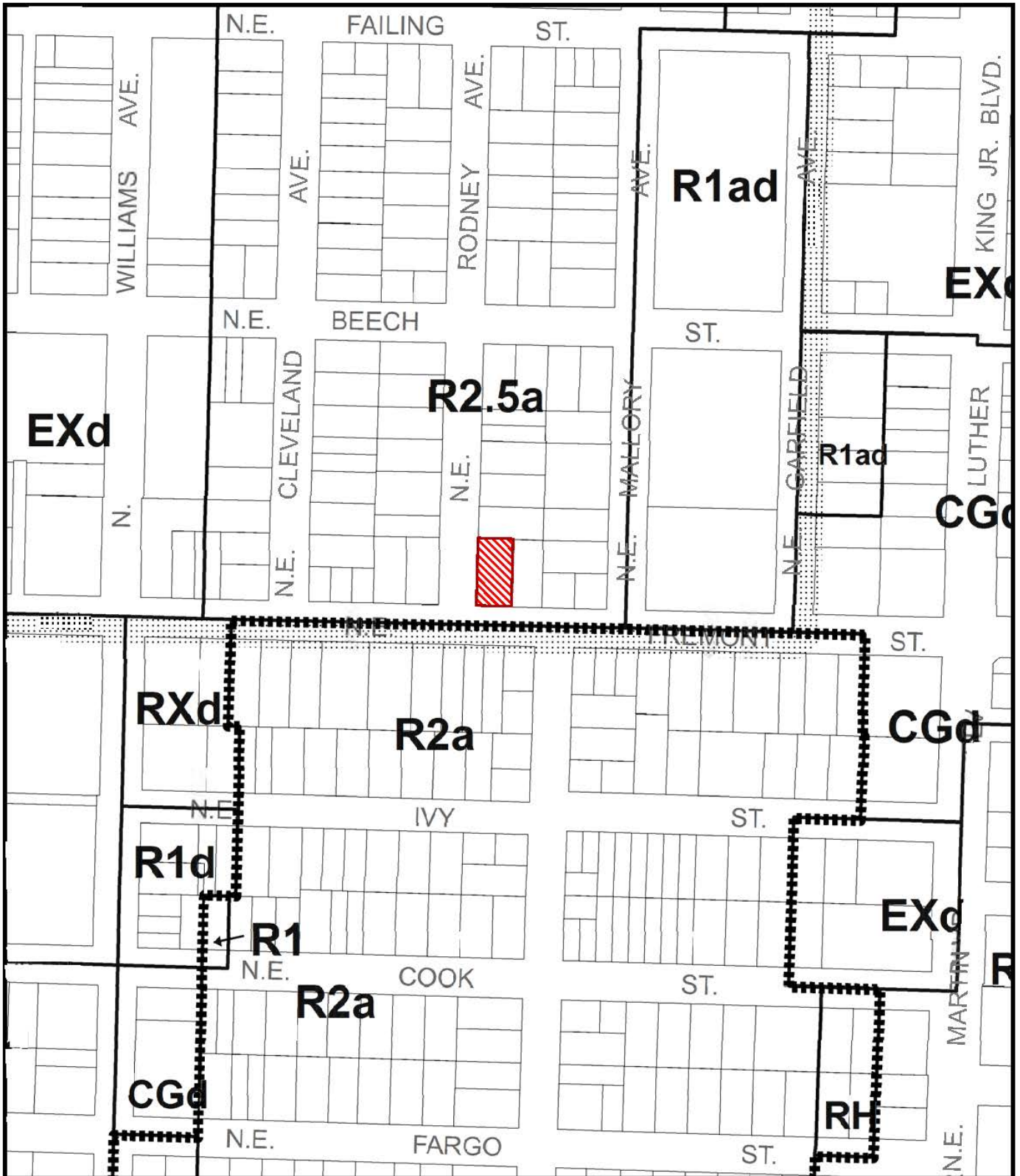
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicant's Narrative
 - 3. Applicant's Response to Incomplete Letter (supplemental narrative)
 - 4. Simplified Stormwater Report
 - 5. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division Plan/Proposed Improvements Plan & Tree Survey (attached)
 - 2. Existing Conditions 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
 - a. Public Works Alternative Review 15-202780 PW
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development section of BDS
 - 6. Urban Forestry
- F. Correspondence: none
- G. Other:
 - 1. Original Land Use 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 15-136010 LDP
 1/4 Section 2630
 Scale 1 inch = 200 feet
 State_Id 1N1E22DD 17001
 Exhibit B (Mar 20, 2015)

