



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** May 19, 2016  
**To:** Interested Person  
**From:** Diane Hale, Land Use Services  
503-823-7705 / [Diane.Hale@portlandoregon.gov](mailto:Diane.Hale@portlandoregon.gov)

**NOTICE OF A TYPE II 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 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 16-137342 AD**

**GENERAL INFORMATION**

**Applicant/Owner:** Ronald Theda / (310) 720-3047  
3817 NE 33rd Ave / Portland, OR 97212-1754

**Site Address:** 3817 NE 33RD AVE  
**Legal Description:** BLOCK 15 LOT 1&2, OLMSTED PK  
**Tax Account No.:** R230337  
**State ID No.:** 1N1E24CD 00900  
**Quarter Section:** 2633  
**Neighborhood:** Alameda, contact Dave Johansen at 415-225-6202.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070.

**Zoning:** R5h – Single-family residential, 5,000 with an “h” Aircraft Landing Overlay Zone

**Case Type:** AD - Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant is requesting an Adjustment to the maximum lot area standard for lots in the R5 zone (33.610.200.A). The standard is 8,500 sq feet; the applicant is requesting to increase the lot area of proposed Tract 2 from 8,500 to 9,276 sq feet (see Ex C.1). This Adjustment request is part of an overall Property Line Adjustment (PLA)/Lot Confirmation (LC) proposal that will confirm an existing historic lot line on the site and flip it to be perpendicular to NE Bryce Street. The process will re-establish a historic lot that will face NE Bryce (Tract 1 on Ex. C.1). The existing house will remain on Tract 2. The increase in lot area is required to allow Tract 2 to be large enough to accommodate the existing house. Please note that the PLA/LC and any future development is not part of this land use review.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.805.040 Adjustments Approval Criteria

**ANALYSIS**

**Site and Vicinity:** The site is a 12,200 square foot lot developed with a single-family house and detached garage built in 1910. The vicinity is primarily developed with other single-dwelling residences on lots ranging in size from 3,950 square feet to 11,600 square feet. The predominant lot size in the area is ~5,000 square feet. Wilshire Park is located ~1 block to the north.

**Zoning:** The site is zoned R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. The maximum lot area in the R5 zone is 8,500 square feet. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

**Land Use History:** City records indicate there is one prior land use review for the site:

LU 06-167407 AD - Approval of an Adjustment to 33.110.255.C to allow a fence to exceed the 3.5 foot height limit in the front setback (adjacent to NE Bryce Street) up to six feet above a retaining wall.

**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 April 12, 2016. No written responses were received from the Neighborhood Association and no specific comments were received from neighboring property owners. Staff did receive phone calls and email messages with questions about the proposal and process. The questions generally related to the PLA/LC procedure and future plans to build a house on a newly created lot at the site, and what can neighbors do to stop it. Those topics are not part of this review. Staff provided information as to how to respond to this Adjustment proposal, explained the appeal process and directed neighbors to speak with the planner reviewing the PLA/LC for questions about the PLA/LC and future development. General zoning inquiries can also be addressed through the Zoning Hotline (503) 823-7526. Please see Exhibit F.1 for the written email correspondence.

**ZONING CODE APPROVAL CRITERIA****33.805.040 Approval Criteria**

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

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

**Findings:** The applicant requests one Adjustment to increase the maximum lot area in the R5 zone for proposed Tract 2 from 8,500 square feet to 9,276 square feet. The purpose of the zoning standards related to lot dimensions in single-dwelling residential zones is found in 33.610.200.A and states:

*The lot dimension regulations ensure that:*

- *Each lot has enough room for a reasonably-sized house and garage;*
- *Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*

- *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;*
- *Each lot has room for at least a small, private outdoor area;*
- *Lots are compatible with existing lots;*
- *Lots are wide enough to allow development to orient toward the street;*
- *Lots don't narrow to an unbuildable width close to the street*
- *Each lot has adequate access from the street;*
- *Each lot has access for utilities and services; and*
- *Lots are not landlocked.*

The proposal to exceed the maximum lot area by 776 square feet equally or better meets the purpose of the lot dimension requirements. The lot will have enough room for a reasonably-sized house and garage. The garage that serves the house will be located on a different lot after the PLA/LC; therefore as a condition of the PLA/LC the garage will need to be removed or moved onto Tract 2. Even without the garage, there is ample area in the existing driveway to accommodate off-street parking and enough area on the site to build a new garage if desired.

The lot maintains a uniform shape and development meets setback and building coverage requirements, including an adequately sized outdoor area. The lot will not be of such a size that it could be further divided for detached housing. There is currently an allowance in the zoning code for attached housing on corner lots that are at least 4,500 sq ft (see 33.110.240.E). This site is eligible for the corner lot allowance and granting the Adjustment will not affect that eligibility.

Lots in the area (approximately 500 feet from the site) range from 3,950 square feet to 11,600 square feet. The predominant lot size in the area is ~5,000 square feet. Proposed Tract 2 at 9,276 sq ft will not be larger than the largest lots in the vicinity or smaller than the smallest lots in the vicinity; therefore compatibility with surrounding lots is maintained. Development on Tract 2 will continue to orient to the street and provide adequate access from the street. Width is maintained from the street to the rear of the lots. No lot will be landlocked. Each lot will maintain access for utilities and services.

Based on the information above, this criterion is met.

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

**Findings:** The site is in the R5 zone which is a residential zone. The residential area considered for evaluation is the area approximately 500 feet surrounding the site. Increasing the area of Tract 2 by 776 sq feet will not detract from the livability or appearance of the residential area as there are a variety of lot sizes in the area with lots both smaller and larger than the proposed Tract 2. Allowing the increase in size will allow the retention of the existing house built in 1910, which will help maintain the historic character of the area. No new development is proposed on Tract 2 at this time.

Based on the information above, Criterion B is met.

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

**Findings:** The applicant has requested only one Adjustment, therefore, this criterion is not applicable.

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

**Findings:** There are no City-designated scenic or historic resources on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

**F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

**Findings:** The site is not within an environmental zone, therefore this criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit. Approval of this Adjustment does not imply conformance with the development standards for existing or conceptually proposed future development.


## CONCLUSIONS

The request for an Adjustment to increase the maximum lot size (33.610.200) for proposed Tract 2 from 8,500 to 9,276 sq feet will not impact the livability or appearance of the residential area. Therefore, the Adjustment request should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum lot size (33.610.200) for proposed Tract 2 from 8,500 to 9,276 sq feet, per the approved site plans, Exhibits C.1 and C.2, signed and dated May 17, 2016.

**Staff Planner: Diane Hale**

**Decision rendered by**  **on May 17, 2016**  
By authority of the Director of the Bureau of Development Services

**Decision mailed May 19, 2016**

**About this Decision.** This land use decision is **not a permit** for development. 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, 2016, and was determined to be complete on April 6, 2016.

*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, 2016.

*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 August 4, 2016.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 2, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please 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).

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

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

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **June 3, 2016 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

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

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

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

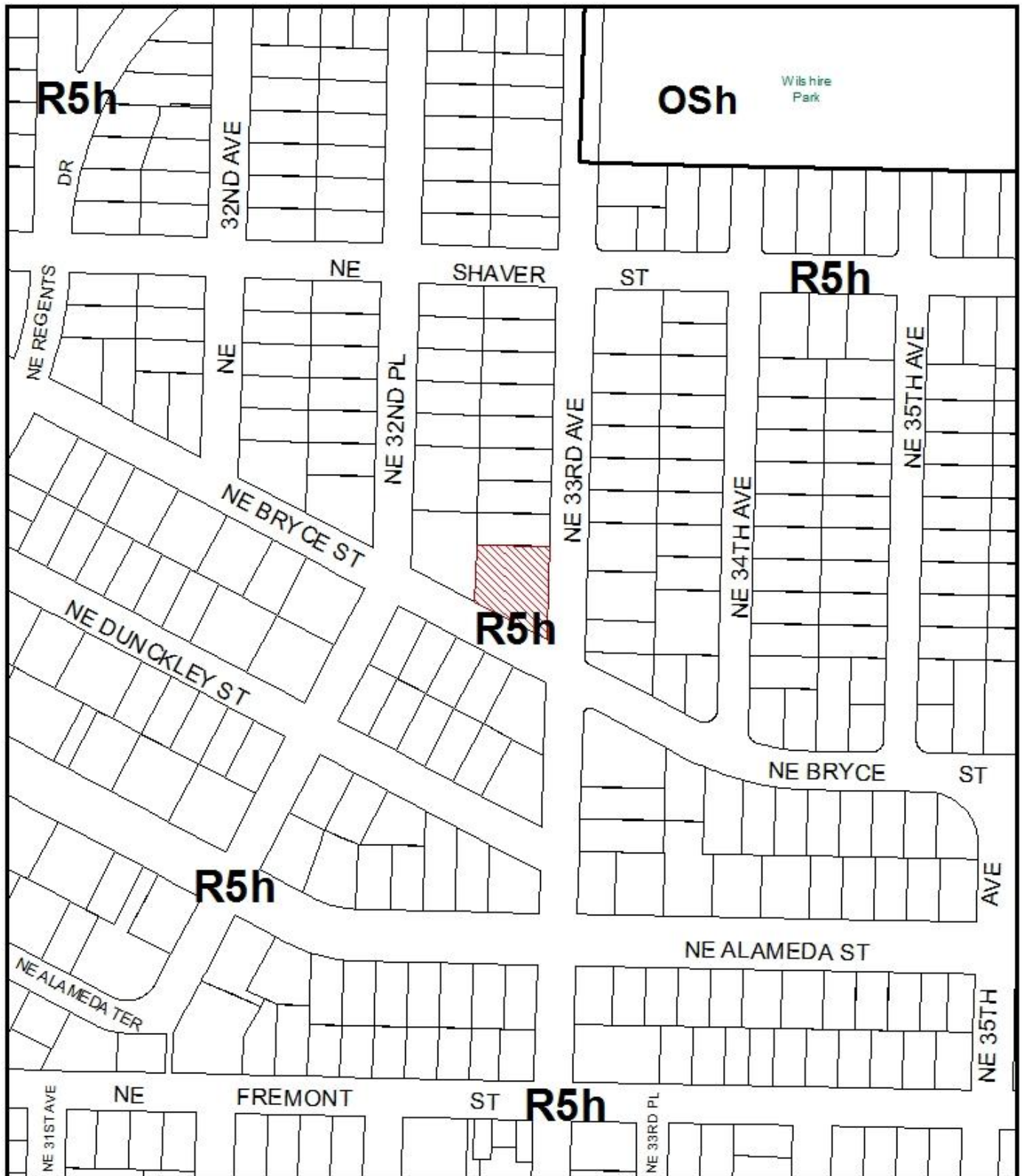
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED


- A. Applicant's Statement
  1. Original Submission
  2. Applicant's response, April 6, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Record of Survey
- 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. Life/Safety Review Section of BDS
- F. Correspondence:
1. Andrew Herman, April 24, 2016, 3817 NE 33rd
- G. Other:
1. Original LU Application

**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 16-137342 AD  
 1/4 Section 2633  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E24CD 900  
 Exhibit B (Mar 21, 2016)



# EXISTING CONDITIONS MAP

TAX LOT 900  
 LOCATED IN THE S.W. 1/4 SECTION 24, T.1N, R.1E, W.M.,  
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
 NOVEMBER 2, 2015 SCALE 1"=20'

## SURVEY NOTES:

THE DATA FOR THIS SURVEY IS BASED UPON CITY OF PORTLAND BOUNDARY NUMBER...  
 A TRIPLE SURVEY RECORD INSTRUMENT WAS USED TO COMPLETE A CLOSED LOOP FIELD...  
 THE BASIS OF REPAIRS FOR THIS SURVEY IS PER RECORDS FOUND AND YIELD PER...  
 THE PURPOSE OF THIS SURVEY IS TO ACQUIRE AND DETERMINE THE PRESENT BOUNDARY...  
 NO INSTRUMENTS ARE USED AS TO MATTERS OF UNWRITTEN TITLE SUCH AS ADVERSE...  
 NO TITLE REPORT WAS PREPARED OR USED IN THE PREPARATION OF THIS MAP.  
 THE UNDERGROUND UTILITIES AS SHOWN ON THIS MAP HAVE BEEN LOCATED FROM FIELD...  
 SURVEY OF ABOVE GROUND STRUCTURES AND AS Labeled BY OTHERS. THE SURVEYOR...  
 UTILITIES IN THE AREA OTHER THAN AS SHOWN OR LABELED. THE SURVEYOR FURTHER DOES...  
 NOT WARRANT THAT THE EXISTING UTILITIES ARE IN THE EXACT LOCATION INDICATED...  
 ALTHOUGH HE DOES CERTAINLY BELIEVE HE HAS LOCATED AS INDICATED AND...  
 UTILITIES, SEWERAGE AND DRAINAGE. CONDITIONS WERE NOT EXAMINED OR CORROBORATED...  
 AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF...  
 AS A PART OF THIS SURVEY. THE SURVEYOR DOES NOT CONSTITUTE A TITLE SEARCH BY...  
 DEVELOPMENT OF THIS TRACT. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY...  
 SURVEYOR.

## LEGEND:

- Some Symbols shown may not be used on map
- |  |                            |  |                            |
|--|----------------------------|--|----------------------------|
|  | DECIDUOUS TREE             |  | UTILITY AND LIGHT POLE     |
|  | ENERGY POLE                |  | LIGHT POLE                 |
|  | STORM SEWER MANHOLE        |  | CITY BASIN                 |
|  | SANITARY SEWER CLEANOUT    |  | ELECTRIC BOX               |
|  | SANITARY SEWER MANHOLE     |  | ELECTRIC METER             |
|  | WATER VALVE                |  | ELECTRICAL POWER PEDESTAL  |
|  | WATER METER                |  | ELECTRIC METER             |
|  | FIRE HYDRANT               |  | HEAT PUMP                  |
|  | GAS VALVE                  |  | OVERHEAD LINE              |
|  | GAS METER                  |  | GAS LINE                   |
|  | ROLLBACK                   |  | ELECTRICAL LINE            |
|  | SOLAR                      |  | COMMUNICATIONS LINE        |
|  | COMMUNICATIONS PEDESTAL    |  | SANITARY SEWER LINE        |
|  | COMMUNICATIONS MANHOLE     |  | STORM DRAIN LINE           |
|  | COMMUNICATIONS BOX         |  | WATER LINE                 |
|  | STREET UTILITY             |  | PERENNIAL                  |
|  | ROAD MONUMENT              |  | DOWN SPOUT TO SPLASH GUARD |
|  | DOWN SPOUT TO STORM SYSTEM |  | PROPRIETARY CONTROL VALVE  |



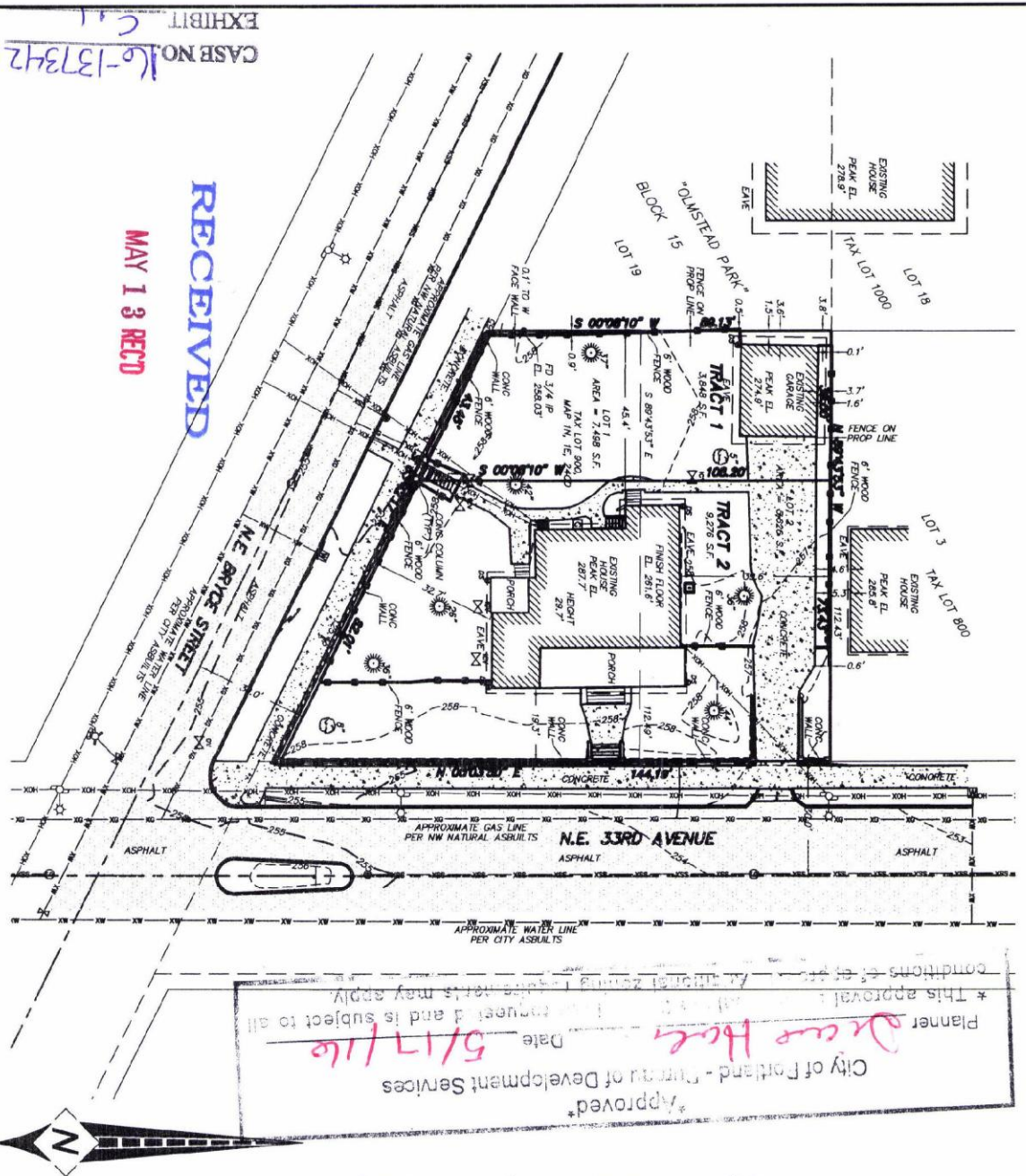
SIGNED ON: **12 MAY 16**  
**REGISTERED PROFESSIONAL LAND SURVEYOR**  
**OREGON**  
**JULY 13 2004**  
**TOR ALLEN**  
 REVISIONS: DECEMBER 31, 2015

**CENTERLINE CONCEPTS**  
 LAND SURVEYING, INC.  
 729 MICHALA AVE., SUITE 1 & 2  
 OREGON CITY, OREGON 97045  
 PHONE 503.650.0188 FAX 503.650.0189

**RECEIVED**

MAY 13 2015

CASE NO. 16-137342 AD  
 EXHIBIT C.1



Plot16c W:\PROJECTS\RENAISSANCE-33RD AVE-NE-3017-PLA\DWG\33rdp016