



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

FROM CONCEPT TO CONSTRUCTION

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Date: November 3, 2016
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 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 15-281281 LDP

GENERAL INFORMATION

Applicant: Nathan Arnold, Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229
(503) 522-3165

Owner: Christopher L Botero
PO Box 13121 / Portland, OR 97213-0121

Site Address: 203 NE GRAHAM ST

Legal Description: BLOCK 15 LOT 22, ALBINA
Tax Account No.: R009605350
State ID No.: 1N1E27AD 10300
Quarter Section: 2730

Neighborhood: Eliot, contact Mike Warwick at 503-284-7010.
Business District: North-Northeast Business Assoc, contact at chair@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070.

Plan District: Albina Community
Zoning: R2a- Multi Dwelling Residential with "a" Alternative Density Design Overlay

Case Type: LDP- Land Division Partition
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to divide the 7,396 square foot site into two parcels. The site is located in the Albina Community Plan District and the Eliot Conservation District. Parcel 1 is proposed to be 2,962 square feet. Parcel 2 is proposed to be 4,432 square feet and is proposed

to be a flag lot. The applicant is using the “a” Alternative Design Density Overlay in order to create a flag lot in the R2 zone. The existing duplex and ornamental cherry tree on the site will be retained. Utility and driveway access are available from NE Graham Street.

There is a concurrent Historic Design Review for the new home proposed on Parcel 2 under a separate application (LU 15-281242 HR). Historic Design Review is required because the applicant is using the provisions of the “a” overlay to propose a flag lot. The Eliot Conservation District requires that new development either meet the Community Design Standards or go through Design Review and flag lot development cannot meet Community Design Standards.

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 located in the Albina Community Plan District and the Eliot Conservation District. The site is relatively flat and has an existing duplex built toward the front of the site. The area surrounding the site consists primarily of single dwelling residential structures. NE Martin Luther King Boulevard, a commercial corridor, is just to the east of the site. The street network provides good connectivity throughout the area around the subject site.

Infrastructure:

- **Streets** –The site has approximately 50 feet of frontage on NE Graham Street. There is one driveway entering the site that serves the existing house on the site. At this location, NE Graham Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). The site is located within the Eliot Pedestrian District. Tri-Met provides transit service approximately 400 feet from the site at NE MLK Jr. Blvd. via Bus #6.

NE Graham Street has a 30-foot curb to curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage the pedestrian corridor includes a 3-foot wide planter area, curb, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (3-6-1 configuration).

- **Water Service** – There is an existing 6-inch CI water main in NE Graham Street. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 12-inch VSP public combination sewer line in NE Graham Street
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R2 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves

existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division is using any provisions of the “a” overlay.

Land Use History: City records indicate there is one prior land use review for this site. LU 15-281242 HR approved a new single family residence with a basement accessory dwelling unit to be built on Parcel 2 of this land division. The Historic Design Review was required prior to preliminary approval of this land division.

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 **January 27, 2016**. 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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 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	No public dead-end streets or pedestrian connections exist that must be extended onto the

	and pedestrian connections	site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 1 single family parcel and 1 duplex parcel.

Single-dwelling or duplex development is proposed for some or the entire site, therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3. This site is in the R2 zone and a duplex is proposed to remain on Parcel 1.

Minimum density in the R2 zone is one unit per 3,000 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 7,497.5 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required that totals 100 square feet. Therefore, the resulting lot size for calculating density is 7,394 square feet. The site has a minimum required density of 2 units and a maximum density of 3 units

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)	Min Flag Lot area (square feet)	Min. Flag Pole width (feet)
Duplexes	2,000	33	50	30		
Detached Houses- Flag Lot	-	-	-	-	1,600	12
Parcel 1 – duplex	2,962	38	77.95	38	-	-
Parcel 2- flag lot					4,432	12

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

The applicant has proposed a flag lot using the “a” Alternative Design Density Overlay provisions for flag lots in the R2 zone. A flag lot is allowed in the R2 zone if the lot is at least 1,600 square feet in size and has a pole portion of the lot that is at least 12 feet in width for its entire length. Proposals taking advantage of “a” Overlay provisions must be approved through Design Review or meet the Community Design Standards in Chapter 33.218. The proposed dwelling on Parcel 2, the flag lot, has been approved through Design Review. Parcel 2 is 4,432 square feet in size and has a 12-foot wide pole.

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 site plan (Exhibit C.3) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.3) 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.

Based on this information, one tree, an ornamental cherry, which provides a total of 15 inches of tree diameter, is subject to the preservation requirements of this chapter.

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

Specifically, the applicant proposes to retain the only tree on the site, which is less than 20 inches in diameter, so the proposal complies with:

Option 4- All the trees are less than 20 inches and preserve at least 35% of the total tree diameter on the site. The applicant proposes to retain 15 inches of tree diameter, which is equivalent to 100 percent of the total tree diameter.

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the Parcel 1 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 1 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.3) and the Arborist Report (Exhibit A.3).

With the implementation of the noted conditions, the approval criteria will be met.

At the time of development, the individual lots must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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, the only tree required to be preserved is on a parcel that is already developed. 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. 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.

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

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

The following easements are proposed and/or required for this land division:

- A Private Access Easement is required over the flag pole of Parcel 2 to provide a shared access serving Parcel 1.
- An Emergency Vehicle Access Easement is required over the flag pole of Parcel 2 if the applicant does not apply the exception for fire department access with residential fire sprinklers.

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

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

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

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

Findings: The 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.

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 approximately 170-ft east of the north/south NE Rodney. Connectivity requirements do not apply.

Vehicle Access/Loading

The new and existing lot will have driveways to provide access to parking and loading.

On-Street Parking Impacts

The new lot will have at least one on-site parking space. The exiting lot will also provide an on-site parking space. Impacts to the on-street parking supply should be minimal.

Availability of Transit

Tri Met Bus Line #6 is available to serve the site at NE MLK Blvd and NE Knott.

Neighborhood Impacts

The site is being developed with a new single-family residence in compliance with the existing R2 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. Give the low vehicle speeds and volumes on NE Graham, 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: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. 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>The Water Bureau has indicated that prior to final plat approval, the applicant must provide a supplemental plan to show water service located a minimum of 5 feet from the sewer lateral and a minimum of 1.5 feet from the property line for the pole portion of Parcel 2. With a condition requiring the supplemental plan, this criterion is met.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 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.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> • Parcel 2: Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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 drywell. • Parcel 1 (the lot with the existing duplex): The existing duplex has downspouts that drain onto the ground. BES has noted that the downspouts on the northern portion of this site do not meet the setback requirements of the SWMM. The applicant has proposed to install a new Flo-Well to collect roof run-off from the northeast downspout. BES has indicated that the northwest downspout can be angled to meet setback requirements and has provided conceptual approval of the Flo-Well system to manage runoff from the northeast downspout. Modifications will be needed to redirect this and any other downspout that falls within the required setbacks. Prior to final plat approval, the applicant must modify the stormwater disposal system serving the existing structure on Parcel 1 according

to BES and SWMM requirements. The applicant must obtain finalized permits as necessary prior to final plat.

This criterion is met with these conditions.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment

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.

NE Graham Street fully improved with paving sidewalks and planter strips, but does not conform with the required sidewalk corridor in the Pedestrian Design Guide. In this case Portland Transportation has determined that sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, additional right-of-way must be dedicated along the frontage of the site and prior to final plat approval, the applicant must construct a 12-foot sidewalk corridor with 4.5-6-1.5 configuration for the parcel with the existing home. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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:

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 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 lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 7.2 feet from the new west property line with an existing outside stairway 3.2 feet from the west property line. In order to comply with the setback standard, the applicant must remove 10 inches from the stairway and landing on the west side of the existing duplex. To ensure this standard is met, prior to final plat, the applicant must obtain and finalize a building permit for the alteration of the stairway and landing in order to meet setbacks.

The existing duplex will be 10 feet from the new north property line. Therefore, the required setbacks are being met along the north property line. 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** - A paved parking pad provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on a different lot, and will no longer be available to Parcel 2. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 400 feet from the site on NE MLK Blvd via bus number 6. Bus number 6 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.

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 11 – 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; providing an Emergency Vehicle Access Easement over the private street tract (flag pole); recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C.3). 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: the alternative design density overlay, tree preservation and stormwater management.

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 one duplex lot and one flag lot, illustrated with Exhibit C.3, 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, Water, and BES 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;
- The location of the water service located a minimum of 5 feet from the sewer lateral serving Parcel 2;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Turning radius requirements for fire department access;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE Graham Street. The required right-of-way dedication must be shown on the final plat.
2. A Private Access Easement over “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portions of Parcel 2 to the satisfaction of the Fire Bureau.
4. 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 Conditions C.6, C.7, and C.8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site’s street frontage. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Parcel 1 where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of the undeveloped lot may be constructed with development on each lot as per the City Engineer’s discretion.

Utilities

2. The applicant shall meet the requirements of the 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 applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

4. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
5. The applicant must plant 2 street trees in the planter strip on NE Graham Street adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 4-foot planting strip. Tree size requirements for residential sites are to be 1.5-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.
6. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Lot 1 that demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.6 of LU 15-281281 LDP.*
 - 33.120.220 (Setbacks--specifically, the permit must show removal of sufficient portions of the stairway and landing on the north side of the existing duplex to meet the side setback requirement of only a 20 percent extension into the 5-foot setback in the R2 zone).

Required Legal Documents

7. A Maintenance Agreement shall be executed for the Private Access Easement as described in Condition B.2 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.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.
9. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers, if the applicant applies the exception for fire department access with residential sprinklers. The acknowledgment shall be recorded with Multnomah County, and referenced on the final plat.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C.3) and the applicant's arborist report (Exhibit A.3). Specifically, the Ornamental Cherry tree is required to be preserved, with the root protection zones indicated on Exhibit C.3. 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 supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot. The location of the sign must be shown on the building permit.
3. 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 Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
4. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
5. The applicant must provide a fire accessway that meets requirements for turning radius and driving surface if the applicant does not utilize the exception and install sprinklers in the new development.

Staff Planner: Leah Dawkins



Decision rendered by: _____ **on October 31, 2016**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) November 3, 2016

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 December 23, 2015, and was determined to be complete on January 22, 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 December 23, 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 requested that the 120-day review period be extended by 240 days, as stated with Exhibit A.12. Unless further extended by the applicant, **the 120 days will expire on: January 1, 2017.**

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.**

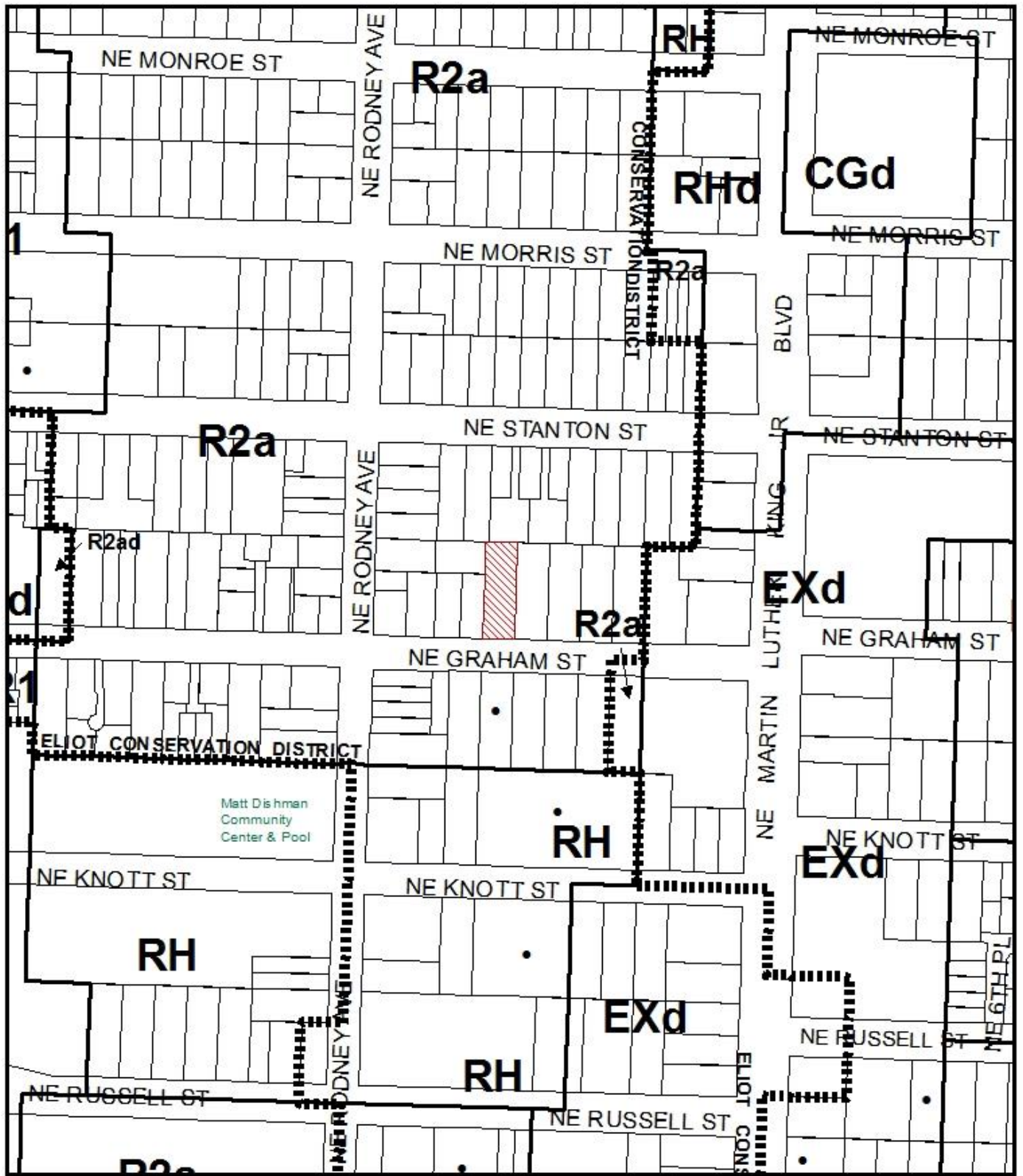
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Original Applicant Narrative
 - 2. Revised Applicant Narrative
 - 3. Arborist Report
 - 4. Fire Flow Request
 - 5. Historic Building Permits
 - 6. Applicant Response- 8/25/16
 - 7. Original and Revised Simplified Approach Forms
 - 8. Title Report
 - 9. Original Parcel 2 House Plans
 - 10. Approved Parcel 2 House Plans
 - 11. Original Land Division Site Plans
 - 12. 120-Day Waivers
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Preliminary Plat Plan
 - 3. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list

2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
- F. Correspondence: None Submitted
- G. Other:
1. Original LUR 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
-  Historic Landmark



This site lies within the:
 ALBINA COMMUNITY PLAN DISTRICT
 ELIOT CONSERVATION DISTRICT

File No.	LU 15-281281 LDP
1/4 Section	2730
Scale	1 inch = 200 feet
State_Id	1N1E27AD 10300
Exhibit	B (Dec 29, 2015)

