



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

Date: November 10, 2016
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877 or Lois.jennings@portlandoregon.gov

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 16-134009 LDP

GENERAL INFORMATION

**Representative
& Applicant:**

Nathan Arnold,
Faster Permits
14334 NW Eagleridge Lane
Portland, OR 97229
503-438-8113 or Nathan@fasterpermits.com

Owners:

Adam and Samantha Gamboa
112 NE Ivy Street
Portland, OR 97212

Site Address:

3973 NE Rodney Avenue

Legal Description:
Tax Account No.:
State ID No.:
Quarter Section:

BLOCK 18 LOT 1, ALBINA HMSTD
R010503820
1N1E22DD 04600
2630

Neighborhood:

Boise, contact boiselanduse@gmail.com

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:

R2.5- Single Family Residential Zone (one unit per 2,500 s.f.) with an "a"-Alternative Design Overlay

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 is proposing a two (2) lot land division on the site. Proposed Parcel 1 will retain the existing house and will be 3,200 s.f. in area. Parcel 2 will be 1,800 s.f. in area, which allow for development of a new single family residence. There are no existing trees on the site. The existing house will retain it's on-site parking within an existing garage with access from N.E. Rodney Avenue. The future development on Parcel 2 will have a parking space on-site with access from a driveway off of N.E. Shaver Street. The applicant is proposing to provide sanitary service to the future Parcel 2 from N.E. Rodney through a 5 ft. wide private sanitary easement over Parcel 1. A drywell is proposed for stormwater management for the future development on Parcel 2.

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 two lots. 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**.

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. This application was submitted on March 11, 2016 and determined to be complete on August 26, 2016

FACTS

Site and Vicinity: The site contains an existing single family residence with porch over the existing basement garage with access from NE Rodney Street. The main entrance is accessed from concrete stairway along NE Rodney Street. The site gradually slopes upward from the street approximately 3- 4 feet and then is flattening out on site. This incline in elevation is more noticeable from NE Shaver street side of this frontage and reflected by the stairways up to the front porch along NE Rodney Street frontage. A second driveway currently exists from NE Shaver Street's frontage which provides for an additional parking for the house. The existing curb-cut/driveway approach on NE Shaver Street will be used for the driveway for the future house on Parcel 2. Therefore the existing driveway will be removed/reconfigured at the time of development on Parcel 2.

Within the vicinity there are detached and attached single family residences and some duplexes. Approximately 260 feet to the west there is commercial development within the EX zone along N. Shaver and N. Williams Avenue. On the corner of NE Rodney and NE Failing to the south of the site is a church. Approximately 460 feet to the east is RH- High Density Mutli-Family zoning.

This corner lot is at the southwest intersection of NE Shaver Street and NE Rodney Avenue. The full block extends between NE Shaver and NE Failing Streets and NE Rodney and NE Cleveland Avenues. The block is approximately 400 feet north-south by 200 feet east-west.

Infrastructure:

- **Streets** -The site has approximately 50 feet of frontage on NE Rodney Avenue and 100 feet of frontage along NE Shaver Street. There are two driveways entering the site that serves the existing house on the site. At this location, the City's Transportation System Plan (TSP) classifies NE Rodney and NE Shaver as a Local Service Streets for all modes. Tri-Met provides transit service approximately 780 feet from the site at NE Martin Luther King Boulevard via TriMet Bus line #6 and approximately 260 feet from the site at N. Williams and approximately 560 feet at N. Vancouver Avenue via TriMet Bus line #44.

According to City GIS data, both roadways are improved with 36-feet of paving and 4-6-2 sidewalk corridors within a 60 foot right-of-way.

- **Water Service** – There is an existing 8-inch CI water main in NE Rodney Street and a 4-inch CI water main in NE Shaver Street. The existing house is served by a metered service from this main within NE Rodney Street and may continue to use the existing service. The static pressure is 59-74 psi for the 4-inch water main in NE Shaver Street which is available to future Parcel 2.
- **Sanitary Service** - There is an existing 16-inch VSP public combination sewer line in NE Rodney Avenue (BES as-built 20419). There is no public sanitary sewer available in NE Shaver Street. The applicant is proposing to provide sanitary service from the main in NE Rodney Avenue to Parcel 2 via an easement over Parcel 1 (discussed later in this report under Approval Criterion 33.652).
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Applicant is proposing to provide on-site stormwater disposal via a drywell for the future Parcel 2 (discussed later in this report under 33.63.030).

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"-Alternative Design Density 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 not using any 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 **August 31, 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:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
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.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey, the site area is 5,000 square feet. The maximum density is one unit per 2,500 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The site has a minimum required density of one (1) unit and a maximum density of two (2) units. The applicant is proposing two detached single dwelling parcels. The density standards are therefore met.

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

	Min. Lot	Max. Lot	Min. Lot	Min.	Min.
--	-----------------	-----------------	-----------------	-------------	-------------

	Area (square feet)	Area (square feet)	Width* (feet)	Depth (feet)	Front Lot Line (feet)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1	3,200 s.f.		50 ft.	64 ft.	50 ft.
Parcel 2	1,800 s.f.		36 ft.	50 ft.	36 ft.

* 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.

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

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

Findings:

Clearing and Grading

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, Parcel 1 is already developed. Parcel 2 has frontage along NE Shaver Street and relatively flat, except where there is a slight elevation change from 183 topographical elevations to approximately 188 topographical elevations on the southern $\frac{3}{4}$ of the property. There will be some minor grade changes at the time of development for Parcel 2. This site is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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 lot –Parcel 2 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 Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2.

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

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

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

I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.

Findings: The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

All of the proposed lots are on the south side of an east-west oriented street. Parcel 1 will be on the corner, and will be wider than Parcel 2. This criterion is therefore 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 (PBOT) 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 for full details): The applicant submitted a written narrative addressing this approval criterion (see Exhibit A.4).

The applicant has requested this partition in order to develop the site with a new single – family dwelling. The existing home on the property is proposed to remain. Accordingly, the proposed project will result in a net increase of one new dwelling. Based upon the trip generation estimates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition, the project is projected to generate the one additional trips during both the morning and evening peak hours (10 additional trips in total each day). The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

As proposed, the site will be developed with sufficient space to accommodate at least one on-site parking space on each lot and no additional curb-cuts/driveways, which would impact on-street parking, are being proposed in relation to the development of an additional dwelling at this site. The surrounding area has an established residential development pattern that predominately includes single –family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling.

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:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report. The water service standards of 33.651 have been verified.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services (BES) states: There is a 16-inch VSP combined

gravity main in NE Rodney Avenue (BES as-built #20419) and there is no sanitary sewer available in NE Shaver Street.

- Parcel 1: The existing house to be retained on Parcel 1 is currently connected to a combined sewer in NE Rodney Avenue via a lateral located approximately 24 feet from the south right-of-way line of NE Shaver Street, which does not conflict with the proposed new property line. The existing house may continue to be served by a lateral connected to the 16-inch VSP public combination sewer line in NE Rodney Avenue.
- Parcel 2: Parcel 2 will be served by a new connection to the combined sewer in NE Rodney Avenue. Legal access must be provided over Parcel 1 to access the public sewer in NE Rodney Avenue for Parcel 2. Access is typically obtained through a private sewer easement; however the applicant may seek private legal counsel to explore other options. Per BDS Private Sewer Easements Code Guide private sewer easement should be a minimum of 10 feet in width.

The applicant is proposing a 5-foot wide private sewer easement across the northern portion of Parcel 1 (see Exhibit C.2). A plumbing appeal to reduce easement width from 10 feet to 5 feet was granted under Plumbing Appeal ID # 13847. BES does not object to this proposed route of sanitary sewer service for Parcel 2.

BES will review the easement to ensure that a route of sewer service has been provided for the benefit of Parcel 2. BES will require proof of legal access prior to issuance of sewer connection permits. Connection to public sewers must meet the standards of the City of Portland's Sewer and Drainage Facilities Design Manual. New laterals required to serve the project must be constructed to the public main at the developer's expense during site development.

Bureau of Environmental Services is requiring as a condition of approval the applicant will need to demonstrate legal access (via easement or other legally acceptable instrument) to the sanitary sewer in NE Rodney Avenue at the time of final plat approval.

Therefore, if legal access is an easement for the private sewer line, as proposed by the applicant, then it must be provided on the Final Plat and a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. The final plat must show and label the easement over the relevant portions of Parcel 1. If a different instrument is chosen to provide legal access, then it must be submitted, reviewed and accepted by BES, City Attorney and BDS prior to final plat approval.

With the conditions of approval described above, this sanitary standard and this criterion will be met.

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

No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods

Parcel 1 (the lot with the existing house): The existing house has downspouts that drain into underground pipes. Originally the initial plans submitted with the proposed land division did not show the stormwater disposal location for the existing house to remain on Parcel 1. In order to confirm the disposal location for the downspouts and confirm that the proposed new property line would not impact the existing stormwater management system, the applicant scoped and dye tested the rain drains. The applicant provided a report and invoice from T & T Plumbing and Drains LLC (Exhibit A.17) indicating that they scoped the rain drains and completed a dye test which confirmed that the downspouts discharge to the

combined sewer.

Parcel 2 : The applicant is proposing to dispose of stormwater for the future development on Parcel 2 into a drywell that will treat the water and slowly infiltrate it into the ground.

Bureau of Environmental Services (BES) reviewed the project's Simplified Approach Stormwater report dated 7/12/16 (Exhibit A.6) that describes Simplified Approach infiltration test results of 2 inches per hour on this site. The applicant proposes to infiltrate runoff from the development on-site via a drywell (see Exhibit C.2) that appears to meet minimum setbacks as established in the facility design standards and Exhibit 2-1 of the SWMM.

BES finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division proposal against the stormwater management approval criterion.

The stormwater criteria and standards are met for this land division proposal.

33.654.110.B.1 Through streets and pedestrian connections - See Exhibit E.2 for bureau comment

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Pedestrian connections should be provided at least 330 feet apart. This a corner lot location, which already meets the above criteria for adequate street and pedestrian connectivity.

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 Bureau of Transportation (PBOT) 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 and existing development.

At this location, the City's Transportation System Plan (TSP) classifies NE Rodney and NE Shaver as Local Service Streets for all modes. According to City GIS data, both roadways are improved with 36-feet of paving and 4-6-2 sidewalk corridors within a 60 ft. Right-of-Way (ROW). For a Local Service Street, abutting an R2.5 zone site, the City's Pedestrian Design Guide recommends an 11-ft. wide sidewalk corridor comprised of a 0.5 -ft. curb, 4-ft. furnishing zone, 6-ft. sidewalk, and a 0.5 ft. frontage zone.

While the sites frontages meet standards in terms of width, they do not comply with the recommended configuration as the furnishing zone is 3.5-ft. where 4-ft. is required. However, the site does not qualify for an exemption under Administrative Rule 1.22 "Infill Development on Streets with an Existing Sidewalk Corridor." Accordingly, the existing sidewalk corridor configurations will be accepted as the standard sidewalk configuration for the blocks lengths. No ROW improvements or property dedication will be required in relation to the proposed partition request. PBOT notes that the corner of NE Shaver and NE Rodney is being reconstructed to ADA requirements by Maintenance Operations (T00269).

The existing driveway on NE Rodney is significantly damaged and will be required to be reconstructed to meet Title 17 requirements under a Minor Improvement (MIP) from the Bureau of Transportation prior to final plat approval. Cur cuts and driveway construction must meet the requirements in Title 17, specifically Section 17.28. The Title 17 driveway requirements will be enforced during the review of permits.

The repair/reconstruction of the driveway on NE Rodney Avenue will provide a safe pedestrian access within walkway section and also ensure safety for all other modes of transportation at this corner for this block.

With the condition the existing driveway within the right-of-way section of NE Rodney be

repaired/reconstructed to Title 17 requirements through a Minor Improvements Permit, prior to final plat approval, PBOT has no objection to this minor partition proposal.

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

33.654.120.H – Standard for Street Trees

The City Forester reviews this land division proposal for its impact on existing street trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Trees Code.

NE Shaver Street Frontage:

- Parcel 1: The site has approximately 64 feet of street frontage. The right-of-way is improved with pavement, curbs, planting strip, sidewalks. There are overhead power lines.
There are two street trees:
 - 1) Leprechaun Ash, eight inches in diameter and in fair condition and
 - 2) Red Maple, five inches in diameter in fair condition.
- Parcel 2: The site has approximately 36 feet of street frontage. The right-of-way is improved with pavement, curbs, planting strip, sidewalks. There are overhead power lines.
There are no street trees.

NE Rodney Avenue Street Frontage:

- Parcel 1: The site has approximately 50 feet of street frontage. The right-of-way is improved with pavement, curbs, planting strip, sidewalks. There are no overhead power lines.

There are two street trees:
 - 1) Dogwood, four inches in diameter in fair condition.
 - 2) Silver Maple, 32-inches in diameter in good condition.

The Silver Maple is not approved for removal and must be preserved according to 11.60.030.Tree Protection Specifications.

Title 11, Section 11.50.060.C.1 requires one street tree must be planted or retained for each full increment of 25 linear feet. Street trees must be planted at a minimum 1.5 caliper inches. Trees will be required to be planted through building permit for the development on the future parcel (Parcel 2).

Prior to the land division there is room for four street trees within the right-of-way planting strip along NE Shaver Street frontage. After the proposed lot division there will only be room for three trees due to the 36 foot frontage and water meter location. A fee of \$450.00 is required for permanent loss of available planting space.

The applicant's preliminary site utility and improvement plan, did reflect retaining existing street trees and planting two street trees within the right-of-way planting strip along NE Shaver's frontage, but did not consider the location of the water line vault location. Therefore, Urban Forestry's requirement to require the applicant to pay a fee of \$450.00 for the permanent loss of street tree planting area and future tree canopy along NE Shaver's street frontage will be required to be paid prior to final plat approval.

PBOT is requiring the applicant to complete a Minor Improvement Permit to repair the driveway along NE Rodney's Avenue frontage, therefore the preservation of the Silver Maple within this right-of-way will be required to meet Title 11 requirements. The Urban Forestry must review any permits for Title 11 requirements at the time of development on the individual lots or for any work within the public right-of-way.

With the above listed conditions, the criterion for street trees is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The existing 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 house 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 a minimum 5 feet from the new property line. Eaves may only project 20% in to the required setback. To be able to meet the set back requirement the existing attached deck must be removed. If the uncovered attached deck is altered to remain on the site with the house, it still needs to be in compliance with 33.110.220. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey must document the removal of the existing attached deck and show the location of the existing building and eaves relative to the adjacent new lot lines. To ensure that this standard is met, a condition of approval is necessary.
- Outdoor Area- The existing house identified to remain on the site must meet the required Zoning Code for minimum outdoor area. The shape of the outdoor area must be such that a square of 12 ft. x 12 ft. will fit in entirely in the minimum outdoor area of 250 s.f. The preliminary plan proposed by the applicant is showing the existing house on its new parcel can meet this standard, but the plan was not stamped by a surveyor. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey where the surveyor shows the location of the existing building to the new property line and that the minimum 250 s.f. continuous outdoor area will be able to fit a shape of a square with the dimension of 12 ft. x 12 ft. within this required outdoor area.

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.

- Life Safety Section of the Bureau of Development Services:
There is an existing deck and stairs on the west side of the existing house. Not enough information provided regarding the height of the deck above grade. If the deck is to remain it must be shown on the survey and it must be shown to be a minimum of 3-ft. from the proposed property line or it must be shown to be less than 30-inches above the adjacent grade measured within 3 ft. horizontally. (ORSC 302.2.2.2.3 Exception).

If the deck is to be removed and the deck is more than 30-inches above the adjacent grade a separate building permit will be required to remove it.

If a new, smaller deck more than 30-inches above grade is proposed to replace this deck, a separate building permit will be required to replace it. This new deck must be located a minimum of 3-ft. from the proposed property line. A new deck must be designed to meet all applicable building code and ordinances.

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements, fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1 (See Exhibit E.4).

CONCLUSIONS

The applicant has proposed a two lot 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 with this proposal include; locating how the existing house disposed of stormwater, access to public sanitary in NE Rodney Avenue for Parcel 2, existing condition of driveway within right-of-way along NE Rodney's frontage, Title 11 requirements for street trees and meeting Title 33 development standards for the existing house on its new lot.

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 two standard single dwelling lots 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 review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental survey must show the surveyed location of the following:

- Any buildings (including eaves) 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;
- Dimensions of existing building and eaves to the new property line
- Identify the required outdoor area (250 s.f. which a 12 ft. x 12 ft. square can fit within the outdoor area) for existing house on Parcel 1.
- Document the existing attached uncovered deck has been removed from the site or altered to meet Title 33.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A private sanitary sewer easement, for the benefit of Parcel 2, shall be shown and labeled over the relevant portions of Parcel 1.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.4 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 repair of the existing driveway on NE Rodney Avenue's street frontage. The applicant must obtain an approved Minor Improvement Permit (MIP) from the Portland Bureau of Transportation to repair/reconstruct the driveway. The existing driveway on NE Rodney Avenue, along the frontage of Parcel 1, where the existing house will be retained, must be repaired and reconstructed consistent with Title 17 requirements prior to final plat approval. Urban Forestry requirements for tree preservation of street trees must be met.

Existing Development

2. If the removal/alteration of the existing attached deck requires a building permit, then the applicant must receive a finalized building permit prior to approval of the final plat. If removal/alteration of the attached deck does not require a building permit then the applicant must submit before and after photos of the removal (from the same perspective). Also if no building permit is required to remove/alter the attached deck, the surveyor will document as part of the supplemental survey the deck has been removed/altered and in compliance with Title 33 development standard of Section 33.110.220 (Setbacks). The removal and/or alteration of the existing attached deck will occur prior to final plat approval.

3. The supplemental survey will document how the existing house being retained on Parcel 1, will be in compliance with the minimum required outdoor area standard of Section 33.110.235.

Required Legal Documents

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

Other requirements

5. The City Forester requires the applicant is required to pay a fee of \$450,000 for the loss of available street tree planting area along NE Shaver Street's frontage prior to final plat approval.

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

1. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
2. Urban Forestry will be required to review any permits which affect the street trees along this site's street frontage, to ensure Title 11 requirements continue to be met.

Staff Planner: Lois Jennings

Decision rendered by:  **on November 8, 2016**

By authority of the Director of the Bureau of Development Services

Decision mailed November 10, 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 March 11, 2016, and was determined to be complete on August 26, 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 11, 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 requested that the 120-day review period be extended by 60 days as stated with Exhibit# A.13. Unless further extended by the applicant, **the 120 days will expire on: December 23, 2016.** The

applicant extended the time line by 60 days, and therefore the final date is February 21, 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.**

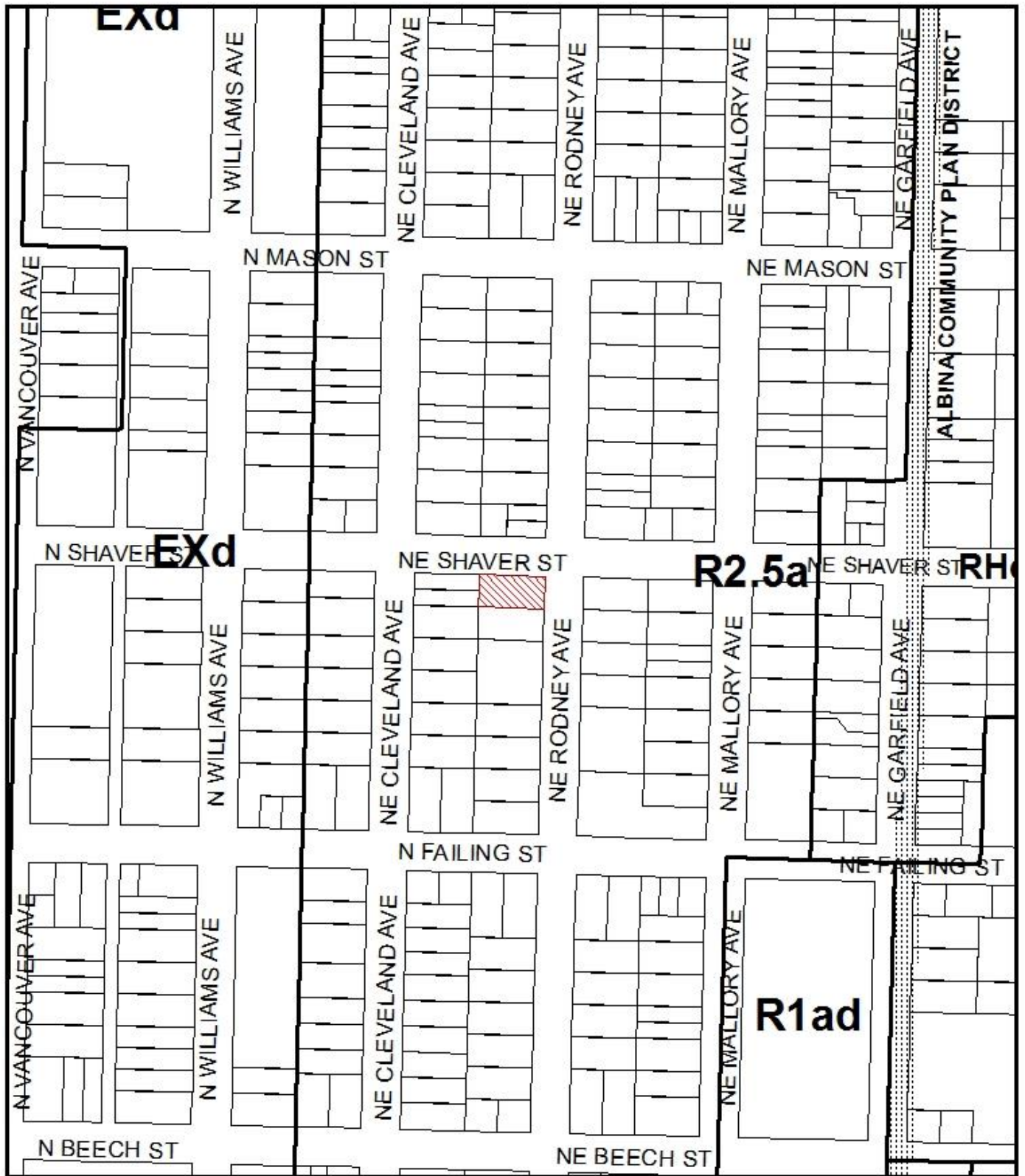
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Original Preliminary Plan Submittal with Surveyor’s stamp
 - 2. May 11, 2016 E-mail from Adam Gamboa to City giving Nathan Arnold authority
 - 3. August 23, 2016 Cover Letter from Consulting Firm & Preliminary Plans
 - 4. Narrative Addressing Approval Criteria submitted August 23, 2016
 - 5. Tree Plan from Arborist Submitted August 23, 2016
 - 6. Simplified Approach Form –Stormwater submitted on August 23, 2016
 - 7. Plumbing Appeal

8. August 23, 2016 -E-mail from Applicant confirming request not to deem application complete.
 9. August 24, 2016 Fire Flow Information Submitted via e-mail
 10. E-mail from Applicant dated August 24,2016 – not to deem application complete
 11. E-mail from Applicant dated August 24, 2016
 12. August 26, 2016 New Existing Conditions, preliminary plan submitted with Surveyor's stamp on sheet 1 of 2 and sheet 2 of 2, but not sheet 3 of 3 (improvement/utility plan).
 13. Signed Request for Extension of 120-Day Review Period sent via e-mail
 14. September 30, 2016 New Utility Plan (Sheet 3 of 3) and other sheets submitted
 15. Plumbing Record Information submitted by applicant via e-mail on October 14, 2016
 16. October 25, 2016 Updated Utility Plan (Sheet 3 of 3) and other sheets
 17. October 27, 2016 hard copy of T & T Plumbing locate report and Invoice
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Preliminary Land Division Site Plan (attached)
 2. Preliminary Land Division proposed improvement plan with utilities (Sheet 3 of 3)
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
1. Original Application Form
 2. Incomplete Letter dated March 25, 2016 with Service Bureaus RFC comments
 3. E-mail communication with applicant ranging from August 23, 2016-October 26, 2016
 4. August 23, 2016 Warning Letter
 5. Tax Assessor's Maps showing different size of lots within this vicinity
 6. Returned 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

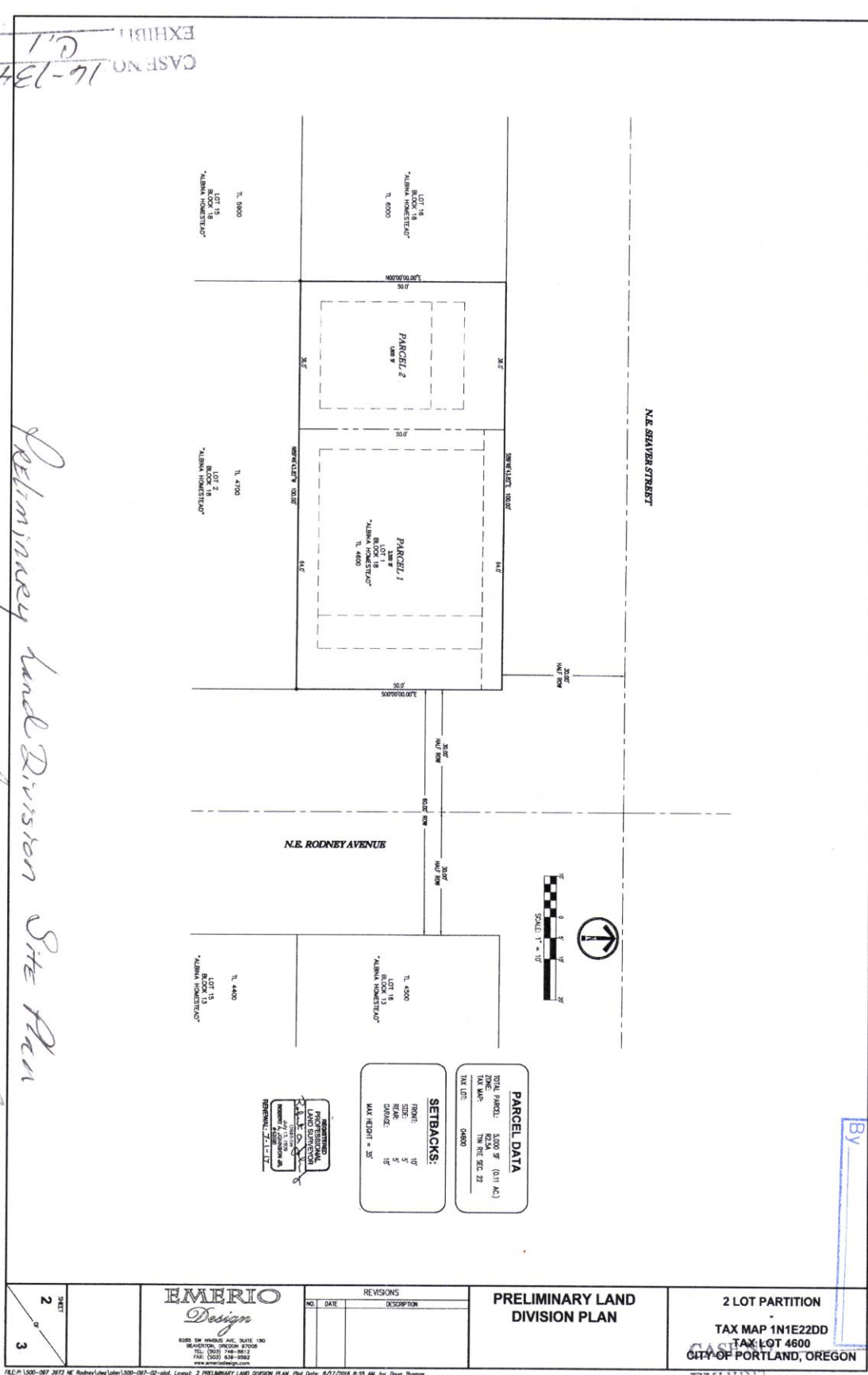


File No.	<u>LU 16-134009 LDP</u>
1/4 Section	<u>2630</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E22DD 4600</u>
Exhibit	<u>B</u> (Mar 11, 2016)

Reduced Scale

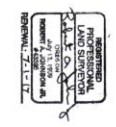
CASE NO. 16-134009
EXHIBIT C.1

Preliminary Land Division Site Plan
- Building footprints not part of this approval



PARCEL DATA
TOTAL PARCEL: 5,000 SF (0.11 AC.)
TOTAL LOT: 5,000 SF (0.11 AC.)
TAX MAP: 1N1E22DD
TAX LOT: 4600

SETBACKS:
FRONT: 10'
SIDE: 5'
REAR: 5'
CORNER: 5'
MIN HEIGHT: 5'



RECEIVED
AUG 26 2016

SHEET 2 3	EMERIO Design 8285 SW HANCOCK AVE, SUITE 100 SEASIDE, OREGON 97138 TEL: (503) 241-3434 FAX: (503) 241-3435 WWW.EMERIODSIGN.COM	PRELIMINARY LAND DIVISION PLAN		2 LOT PARTITION TAX MAP 1N1E22DD TAX LOT 4600 CITY OF PORTLAND, OREGON
		REVISIONS NO. DATE DESCRIPTION		

FILE: P:\500-087\3973 NE Rodney\Law\500-087-02-plot.dwg, Layout: 2 PRELIMINARY LAND DIVISION PLAN, Plot Date: 6/17/2016 8:53 AM, by: Doug Thomas

Exhibit C.1

C.1