



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

FROM CONCEPT TO CONSTRUCTION

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

**Date:** November 17, 2016  
**To:** Interested Person  
**From:** Lois Jennings, Land Use Services  
503-823-2877 or [lois.jennings@portlandoregon.gov](mailto:lois.jennings@portlandoregon.gov)

## **NOTICE OF A TYPE II<sub>x</sub> DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **Approved** a land division amendment 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 16-232167 AP**

#### **GENERAL INFORMATION**

**Applicants/Owners:** Henry B. Shapiro  
2529 SE 32<sup>nd</sup> Avenue  
Portland, OR 97202

John B. Melscher and Thandose Kalinda,  
2523 SE 32<sup>nd</sup> Ave  
Portland, OR 97202

**Representative:** Benjamin Schonberger, Winterbrook Planning  
310 SW 4<sup>th</sup> Avenue, Suite 1000  
Portland, OR 97204

**Site Address:** 2529 SE 32<sup>nd</sup> Ave and adjacent property 2523 SE 32<sup>nd</sup> Avenue

**Legal Description:** LOT 1, PARTITION PLAT 2007-188; LOT 2, PARTITION PLAT 2007-188  
**Tax Account No.:** R649877490, R649877500  
**State ID No.:** 1S1E12BA 03301, 1S1E12BA 03302  
**Quarter Section:** 3333  
**Neighborhood:** Richmond, contact [richmondNA@yahoo.com](mailto:richmondNA@yahoo.com)  
**Business District:** Division-Clinton Business Association, contact at 503-706-3730.  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.

**Zoning:** R2.5-Detached or Attached Single Family Residential (1 unit per 2,500 s.f.)

**Case Type:** AP – Partition Amendment  
**Procedure:** Type I<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

**Proposal:** The applicant would like to create an off-street parking space for the existing house with the address of 2529 SE 32<sup>nd</sup> Avenue, legally described as Lot 2 of Partition Plat 2007-188. Both lots, Lot 1 and 2 of Partition Plat 2007-188 were created and approved by the City under

land use case file # LU 06-168836 LDP AD. Both of these lots were below the minimum lot width of 36 feet wide and therefore considered narrow lots. Lots less than 36 feet wide were required to meet specific standards as part of the land division approval criteria. One of the standards was “If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created”. To ensure this standard continued to be met at the time of development a condition of approval, C.1, was included as part of the Hearings Officer’s Decision for LU 06-168836 LDP AD. Condition C.1 specifically states “Lot 1 and Lot 2 must each have a minimum of 15 feet of uninterrupted curb space preserved along each lot’s frontage”. A minimum of 15-feet of uninterrupted curb space is unable to be met, with the applicant’s proposal to create an on-site parking space. The applicant is requesting a land division amendment to delete Condition C.1 of LU 06-168836 LDP AD of a 2007 Hearings Officer’s decision for a two lot minor 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 sections(s):

- **33.660.320.A- B Approval Criteria Changes**
- **33.660.120 A-L, Approval Criteria for Land Divisions in Open Space and Residential Zones.**  
**Specifically: 33.660.120.A Lots (33.611-R2.5)**  
**33.660.120.J Transportation Impacts**

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 August 26, 2016 and determined to be complete on September 28, 2016.

## FACTS

**Site and Vicinity:** The original house on Parcel 1 (2523 SE 32<sup>nd</sup> Avenue) has 27.12 feet of frontage on SE 32<sup>nd</sup> Avenue and currently has an on-site parking space which receives access from SE 32<sup>nd</sup> Avenue. This two story single family house is more prominent along the street frontage, where as two story house (2529 SE 32<sup>nd</sup> Avenue) on Parcel 2 is set back about approximately 51-56 feet from the front property line. There is a gradual 1-3 foot slope along this property’s frontage which abuts SE 32<sup>nd</sup> Avenue for 22.89 feet. A pedestrian connection via a stairway from the public sidewalk provides an access to the existing house at the rear of the lot.

To the north of the site is CS-Commercial Storefront zoning, which allows for a mix of commercial and apartment uses along SE Division Street. South of the site is R2.5-single family residential zoning, which contains a mixture of houses. On-street parking within this area is utilized by residents and the general public.

**Infrastructure:**

- **Streets** – At this location, SE 32<sup>nd</sup> Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Southeast 32<sup>nd</sup> Avenue is currently improved with a 28-foot wide paved roadway with curbs within a 60-foot right-of-way. There is a 6-foot sidewalk within a 16-foot wide corridor between the face of curb and the property line.

Tri-Met provides transit service approximately 100 feet from the site at SE Division Street via Bus #4.

- **Water Service** – There is an existing 8- inch CI water main in SE 32<sup>nd</sup> Avenue. Both lots have existing service.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer line in SE 32<sup>nd</sup> Avenue. Both lots have existing service.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Each house currently disposes stormwater on-site.

**Zoning:** The R2.5 designation is one of the City’s single-dwelling zones which are 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.

**Land Use History:** City records indicate there is the following land use reviews for this site.

For both lots:

- **LU 06-168836 LDP AD :** April 2007 Hearings Officer’s Decision to approve a preliminary plan for a two-lot partition resulting in two narrow lots for attached or detached dwellings subject to conditions. The Hearings Officer’s decision denied the adjustment requests to side setbacks in association with the land division proposal for the existing house and future house.

For Lot 1 of Partition Plat

- **LU 13-198886 AD:** Approval to allow the required parking space to be within the front setback area.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **October 4, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development
- Life Safety Section of Bureau of Development Services

Bureau of Transportation Engineering and Development Review and the Bureau of Parks Forestry Divisions have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses for all Service Bureau’s comments.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on October 4, 2016 to notified property owners and the Neighborhood Association. Two written responses have been received in response to this proposal.

- A neighbor supports the amendment to eliminate the condition of approval, so the existing house will be able to have an off-street parking space.
- The Land Use & Transportation Committee Chair, Matt Otis, representing Richmond Neighborhood Association, supports the land division amendment to eliminate the condition of approval, to allow the existing residence to have the ability to construct an on-site parking space/driveway with access from SE 32<sup>nd</sup> Ave.

## ZONING CODE APPROVAL CRITERIA

### 3.660.320 Approval Criteria

**Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met:**

- Approval criteria for changes listed in Subsection 33.660.310.B. Changes to the Preliminary Plan that are listed in subsection 33.660.310.B must meet the approval criteria of Section 33.660.120, Approval Criteria.**

**B. Approval criteria for other changes. All other changes to the Preliminary Plan must meet the following approval criteria:**

- 1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;**
- 2. The approval criteria addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.**

**Findings:** A land division application under Land Use Case File #2006-168836 LDP AD to create two (2) narrow was preliminary approved by the Hearing's Officer with conditions on April 6, 2007. A final plat application was subsequently approved by the City on November 21, 2007 and the Final Plat survey was recorded with Multnomah County on December 12, 2007. The legal description for the new lots created is Parcel 1 and Parcel 2 of Partition Plat 2007-188. The applicant is proposing to eliminate condition C.1 of LU 06-168836 LDP AD. This change is processed through the same procedure type as was used for the preliminary plan a Type Iix. The approval criteria are Section 33.660.120.

The proposed request to eliminate Condition C.1 is not substantial enough to warrant a new review of the entire preliminary plan. A majority of the conditions of approval have been satisfied as they were required prior to final plat approval to create the lots. Condition C.1 specifically applies at the time of development of Lots 1 and 2, which is why both property owners are included as part of this land division amendment request. Condition C.1 "Lot 1 and Lot 2 must each have a minimum of 15 feet of uninterrupted curb space preserved along each lot's frontage.

The relevant criteria are found in Section 33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones.

The following table summarizes each criterion's applicability

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
A	33.610	Lots	<b>Applicable - See findings below.</b>
B	33.630	Tree Preservation	Not Applicable – No change
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable
F	33.634	Recreation Area	Not applicable
G	33.635 .100	Clearing and Grading	Not applicable – No change
G	33.635 .200	Land Suitability	Not applicable. No change
H	33.636	Tracts and Easements	Not applicable - No tracts or easements will be required.
I	33.639	Solar Access	Not Applicable – No change
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site outside of environmental zones.

Criterion	Code Chapter	Topic	Applicability Findings
K	33.641	Transportation Impacts	<b>Applicable – See Findings below</b>
L	33.651	Water Service	Not applicable – No change in service
	33.652	Sanitary Sewer Disposal Service	Not applicable – No change in service
	33.653	Stormwater Management	Not applicable – Bureau of Environmental Services notes “The propose amendment to delete the condition requiring uninterrupted curb in front of the subject property does not appear to impact existing storm for the lots. If the proposed new driveway will add greater than 500 s.f. of impervious area, pollution reduction, flow control and disposal requirements of the SWMM will be triggered. The applicant may be required to submit a stormwater management plan at the time of permit review.” (see Exhibit E.2).
	33.654.110. B.2-B.4	Connectivity & Location of Rights-of-Way	Not applicable- No change
	33.654.120.A -G	Design of Rights-of-Way	Not Applicable – No change in streets
	33.654.120. H	Standard for Street Trees	<b>Applicable – See Findings below.</b>
	33.654.130.A -B	Utilities	Not applicable –No change in utilities

**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 standards applicable in the R2.5 zone. These density and lot dimension standards ensure that lots are consistent with each zone’s desired character while allowing lots to vary in size and shape provided each zone’s planned intensity is respected.

DENSITY STANDARDS

Density standards match housing density with service availability and with the land’s carrying capacity in order to promote efficient land use, and maximize the public benefits from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the area’s planned intensity, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected housing need.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small,

private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The lot dimension standards are shown in the following table (this information is found in Chapter 33.611):

	<b>R2.5 Zone Requirement</b>	<b>Existing Lot 1</b>	<b>Existing Lot 2</b>
Minimum Lot Area	1,600 sq. ft.	2,463 sq. ft.	2,538 sq. ft.
Maximum Lot Area	NA		
Minimum Lot Width*	36 ft.	22.89 ft.	27 ft.
Minimum Lot Depth	40 ft.	100 ft.	100 ft.
Minimum Front Lot Line*	30 ft.	22.89ft.	27.12 ft.

\*These lots are already platted Narrow Lots approved by the City under LU 06-168836 LDP.

In this case, density was already reviewed as part of the preliminary plan, LU 06-168836 LDP AD, which created these two lots. The minimum density was one and the maximum density was two. There is no change in density and therefore the standard continues to be met.

Each of these lots were approved in their current narrow lot dimensions by the City Approval of the Final Plat on November 21, 2016 and recorded with Multnomah County on December 12, 2007. In 2006 the land division code under Section 33.611.200.C allowed lots less than the minimum width of 36 feet wide to be created if the future development could meet the following standards:

- **If the lot abuts an alley, then vehicle access is allowed only from the alley;**
- **If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created under these provisions (lots that abut a pedestrian connection or common green are exempt from this standard).**
- **Lots must be configured so that at the time of development the length of the garage wall will be no more than 50% of the length of the street-facing building façade.**
- **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- **When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley; and**
- **Building height on these narrow lots will be limited to 1.5 \* times the width of the structure.**

To ensure these development standards would continue to be met at the time of development a condition of approval was included as part of the land division decision. Both of these lots are narrow lots and were approved under LU 06-168836 LDP with Condition C.1. Condition C.1 requires Lot 1 and Lot 2 must each have a minimum 15 feet of uninterrupted curb space preserved along each lot's frontage.

In 2009 when City Council Adopted Regulatory Improvement Code Amendment Package (RICAP) under Ordinances 182429 & 182474 which made changes to the land division code where lot dimension standards changed to regulations, and for lots less than 36 feet wide (narrow lots) the standard associated to the minimum requirement to have at least 15 contiguous feet of uninterrupted curb space for each lot was removed from the land division code sections. It was determined during legislative process for this RICAP that Portland Bureau of Office of Transportation (PBOT) will still have the authority to limit or combine curb cuts as part of their review, if there is a need to preserve on-street parking or address safety issues or

require alley access when reviewing Transportation Impacts as part of the land division proposal.

The applicant is requesting to remove this condition of approval (C.1 of LU 06-168836 LDP AD) associated to these lots to allow for an on-site driveway/parking space to be constructed on Parcel 2. This narrow lot standard requiring there to be at least 15-foot contiguous feet of uninterrupted curb space on abutting street for each lot being created is no longer a part of the regulations noted below.

Today's land division code now requires the following regulations to be met when a lot is being proposed below the minimum lot width of 36 feet in the R2.5 zone:

- On balance, the proposed lots will have dimensions that are consistent with the purpose of this section;
- The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet;
- If the lot abuts a public alley, then vehicle access must be from the alley. This requirement will be imposed as a condition of approval of the land division;
- Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.D, at the time of development;
- Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and
- In areas where parking is not required by this Title, lots may be proposed that will not accommodate onsite vehicle access and parking. Such lots do not have to meet the requirements of subparagraphs 2.c and d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:
  - (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;
  - (2) Meet the requirements of Section 33.700.060, Covenants with the City; and
  - (3) Be attached to, and recorded with the deed for the new lot.

Both lots are below the minimum lot width of 36 feet wide and are considered narrow lots. This site does not abut an alley and attached housing is not developed on this site. Each lot is already developed with a detached single family residence. No detached or attached garage is being proposed on either of the lots. The house on Parcel 1 (address 2523 SE 32<sup>nd</sup> Avenue) is 27 feet wide and contains an on-site parking/driveway space with access from SE 32<sup>nd</sup> Avenue.

Reviewing this land division amendment proposal and considering the existing lot dimensions in regards to today's regulation which states the lots "will have dimension that are consistent with the purpose of this section, we have to consider today's code would require a 25 foot wide lot for developing detached houses and would not allow a lot to narrow to an unbuildable width close to the street. Another purpose of the lot dimension standards is that lots are wide enough to allow development to orient toward the street. Parcel 2's irregular shape is due to retaining the existing house on Parcel 1. At the time final plat for LU 06-168836 LDP the house (2523 SE 32<sup>nd</sup> Ave) on Parcel 1 showed it was in compliance with Title 33 development standards (setbacks, building coverage and outdoor area). Today's code measures lot width at the front setback of 10 feet versus the front lot line, which therefore

ensures a lot is not created so it is so narrow that it prevents development closer to the street frontage.

Parcel 2 is 22.89 feet at the front lot line and then narrows to approximately 17 feet and then widens 32 feet at the rear of the lot. Due to the irregular shape of this narrow lot, the house on Parcel 2 is oriented toward the street but setback approximately 51-56 feet from the front lot line. The existing stairway/pedestrian connection provides the connection from the street to the main entrance to the house. The existing house on Parcel 2 when constructed under permit # 2010-108076 RS, showed this irregular shaped narrow lot is a size and shape which can allow a house to be developed on it and be in compliance with Title 33 development standards (setbacks, building coverage, trees, outdoor area and height etc).

The applicant is proposing to eliminate condition C.1 of LU 06-168836 LDP to allow an on-site parking space to be constructed on this lot. No parking is required for this site, since this property is within 500 feet of SE Division Street and frequent transit service is provided by the #4 -TriMet Bus line. The proposed on-site parking space/driveway (9 ft. x 28 ft) will be 40.6 percent of the frontage of this lot and depending upon what type pavement material is used could be the predominant feature along this street frontage. To ensure that there will be a focus on the main entrance of the house, the hard surface pedestrian connection between the main entrance of the house and the street must be retained when development occurs for the on-site parking space. The applicant is to consider landscaping, impervious pavers or other forms of pavement materials to soften the impact of driveway being the predominant feature along this street frontage and create an emphasis to lead the eye to entrance of the house.

The applicant's site plan is showing the proposed new on-site parking space, but does not show the location of existing trees on-site. The tree requirement in 2010 required new development to meet the T1-Tree standard of Chapter 33.248, Landscaping and Screening. This lot area would have required a minimum of 3 inches of tree diameter to be planted on the lot. This information is important since it appears the new parking space will remove the tree(s) which were required to meet the T1 tree requirement per the original approved site plan under permit #2010-108076 RS. Today's zoning code refers to Title 11 -Tree Density requirement for the trees required on a site when new development is proposed on a vacant lot. Title 11-Tree Density replaced the T1-Tree Landscape standard which applied to this site in 2010. The required outdoor area (250 s.f. which a 12 ft. x 12 ft. square can fit within) in 2010 was shown to be within front building line and outside the front setback. A portion of this outdoor area will now be the new on-site parking space/driveway, but shall still have enough area remaining to meet outdoor requirement. As part of the zoning permit for the construction of the new on-site parking space/driveway (9 ft. x 28 ft.) the applicant will need to show that the T1 tree requirement (Tree Density) of 3 caliper inches is being maintained with the existing trees (3 -caliper inches) and minimum outdoor area is still being maintained.

With the conditions noted above and with information provided by the applicant these existing platted narrow lots are consistent with the purpose of the lot dimension regulation without this original Condition C.1 still being required.

The findings above show that the applicable density and lot dimension standards are met. Therefore, 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. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts: the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts.

The applicant provided information regarding on-street parking on this street and the adjacent neighboring driveway curbs adjacent to this site (see Exhibit A.10).

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

Portland Transportation/Development has reviewed this application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

PBOT has no objections to removing the condition for 15-feet of straight curb between driveways. The new driveway will create one on-site parking space with the loss of one on-street parking space. There will be no net change in parking availability in the immediate area.

There is existing transit in the vicinity and the nearest bus stop is located at SE 32<sup>nd</sup> Avenue and SE Division Street (TriMet #4) located less than 75 feet from the site. Access to transit is accommodated via a fully improved sidewalk corridor that meets City standards. The proposed land division amendment to remove Condition C.1 does not have any effect on transit service or any other mode of travel.

PBOT has reviewed and concurs with the information supplied by the applicant (Exhibit A.1 and A.8) and available evidence. 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:

<b>33.654.120.B &amp; C Width &amp; elements of the right-of-way – See Exhibit E.2 for bureau comment</b>
In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has indicated that the existing street is currently improved to City standards
The applicant applied for a Driveway Design Exception to reduce minimum 9-ft wide driveway to 7.83 ft. That request was denied under 16-123436 TR.
The applicant's site plan does not appear to accurately reflect the existing width and configuration of the sidewalk corridor adjacent to the site. Based on City GIS, there is a 16-ft. wide corridor consisting of the 0.5-ft. curb, 7.5-ft. furnishing zone, 6-ft. sidewalk, and a 2-ft. frontage zone between the back of the sidewalk and the property line. The applicant's site

plan does not identify the 2-ft. frontage zone. Any setbacks from the front property line, should account for the additional 2-ft. of the frontage zone including parking area requirements that the parking space not occur within the front setback. It appears the applicant is measuring the 10 ft. setback to the proposed 18-ft. on-site parking space from the back of the sidewalk rather than the actual property line.

#### Driveways and Curb Cuts (Section 17.28)

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.

Portland Transportation has not identified or been made aware of any factors related to this land division amendment request that lead to a conclusion other than the existing transportation system is capable of safely serving the existing houses at this site and other uses in the area. This criterion continues to be 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.

Urban Forestry comments:

#### 1. Existing Right-of-Way:

- SE 32<sup>nd</sup> Avenue (Lot 2): The site has approximately 23 feet of street frontage. The right-of-way is improved with pavement, curbs, planting strips and sidewalks. There are no overhead power lines. PBOT is not requiring any improvements.
- There are two street trees. Both trees are ornamental maple under six inches in diameter. Both trees are in good condition.

#### 2. Proposed Street Tree Removal and Required Mitigation (11.50.040):

- It appears that both of the trees may have to be removed for the new driveway. Due to the size and location of the trees they are both approved for removal and will not require any additional mitigation.

#### 3. Street Tree Planting (11.50.060.C):

No additional street trees are required for planting due to the frontage being less than 25 feet.

Urban Forestry has no objections to this proposal.

## **DEVELOPMENT STANDARDS**

Development standards that are not directly relevant to this land division amendment approval criteria review, which may not have not been addressed in the review, but will have to be met at the time development for the on-site parking space on Parcel 2.

### **Future Development**

The applicant is proposing to construct a new driveway/parking space on the site for the existing house, the following development standards will be reviewed for compliance with Title 33 development standards when the zoning permit application is submitted for review with the City:

- Parking (33.266.120.C-E) - The minimum requirement is a 9 feet by 18 feet parking space located at least 10 feet inside the front property line, or out of the front setback, whichever is greater. All driveways and parking areas must be paved. No more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. A lot is

allowed at least a 9-foot wide vehicle area. Please bring a scaled site plan (minimum of copies), showing proposed parking and driveways on the site, to the Development Services Center and obtain a Zoning Permit for the parking space.

- Required Outdoor Area (33.110.235): The minimum outdoor area is 250 s.f. of contiguous area such that a 12 ft. x 12 ft. square will fit entirely within the outdoor area. The required outdoor area may not be located in the front building setback (10 feet).
- T1-Tree Requirement and current code Title 11 Tree Density Standard – At the time this existing residence was constructed the 2010 Portland Zoning Code required a minimum of 3-inches of trees to be planted on this lot. This site has a minimum tree density requirement per 11.50.050 which may be partially or totally met by trees planted to meet the T1 requirement in 2010. However, if trees are removed from the site to install an on-site driveway/parking space then T1 tree requirement/Tree density would be going out of compliance with the Zoning Code (33.258.070). The current submitted site plan does not reflect any existing tree(s) on the property (Exhibit A.10). The 2010 building permit showed trees being planted within this area, where the future driveway/parking space is being proposed. Existing tree(s) which were planted to meet T1 –Tree requirement may conflict with the construction of the on-site driveway/parking space being proposed. Therefore, prior to approval of the zoning permit for the construction of the on-site driveway/parking space (9 ft. x 28 ft.), the applicant must show that the T1 tree requirement (a minimum of 3-inches total –two trees a minimum of 1.5 inch each tree) is still being maintained on the site with existing trees, plant new trees on the site or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit. Existing trees must be preserved per 11.60. if maintaining to meet the T1 tree requirement.

With the conditions noted above, this land division amendment 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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

## CONCLUSIONS

The applicant has proposed a Partition Amendment to eliminate condition C.1 of LU 06-168836 LDP AD, which required Parcel 1 and Parcel 2 must have a minimum of 15 feet of uninterrupted curb space preserved along each lot's frontage. As discussed in this report, the Portland Bureau of Transportation finds that the applicable criteria are still met. Lot dimension regulations are still met and will continue to be met. Removal of the street trees will be permitted through the Zoning Permit for construction of the future driveway/parking space on-site. At the time of development for construction of the new driveway/parking space on Parcel 2, the site can continue to show compliance with Title 33 development standards. With a condition of approval that addresses this requirement, the relevant Land Division approval criteria, affected by this request to eliminate Condition C.1 of LU 06-168836 LDP AD continue to be met. As such, the Land Division-Partition Amendment should be approved.

## ADMINISTRATIVE DECISION

**Approval** of a land division/partition amendment to eliminate condition C.1 of LU 06-168836 LDP AD to allow a future on-site driveway/parking space to be constructed as referenced in Exhibit C.1 subject to the following conditions:

1. The hard surface pedestrian connection between the main entrance of the house and the street must be retained.
2. As part of the zoning permit to construct the on-site driveway/parking space (9 ft. x 28 ft) the applicant will need to show compliance with the following:
  - The existing tree density which was planted to meet T1 tree requirement [3 -caliper inches (2 trees at 1.5 caliper inches each tree)] in 2010 (per 2010-108076 RS) is still be maintained on site with existing tree (s) or if the existing tree(s) cannot be maintained due to the location of the new driveway/parking space then either plant new trees to maintain existing tree density (T1 tree requirement) or contribute into the tree fund. If planting then new trees must be shown on the site plan (common/scientific name) and must be planted prior to final inspection of the zoning permit.
  - The minimum required outdoor area (250 s.f. and 12 ft. x 12 ft.) is still being maintained on-site outside of the front building setback.
  - The site plan must accurately reflect the existing improvements (house, stairway/walkway and trees) in relationship to the property lines and accurately reflect the right-of-way frontage along this lot's street frontage.

**Staff Planner: Lois Jennings**

**Decision rendered by:** \_\_\_\_\_  
**15, 2016**



**on November**

By authority of the Director of the Bureau of Development Services

**Decision mailed November 17, 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 August 26, 2016, and was determined to be complete on September 28, 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 August 26, 2016.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: January 26, 2017**

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 1, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 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.ci.portland.or.us](http://www.ci.portland.or.us) .

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings

Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

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

### **Recording the final decision.**

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

- *Unless appealed*, The final decision may be recorded on or after **December 2, 2016 –(the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

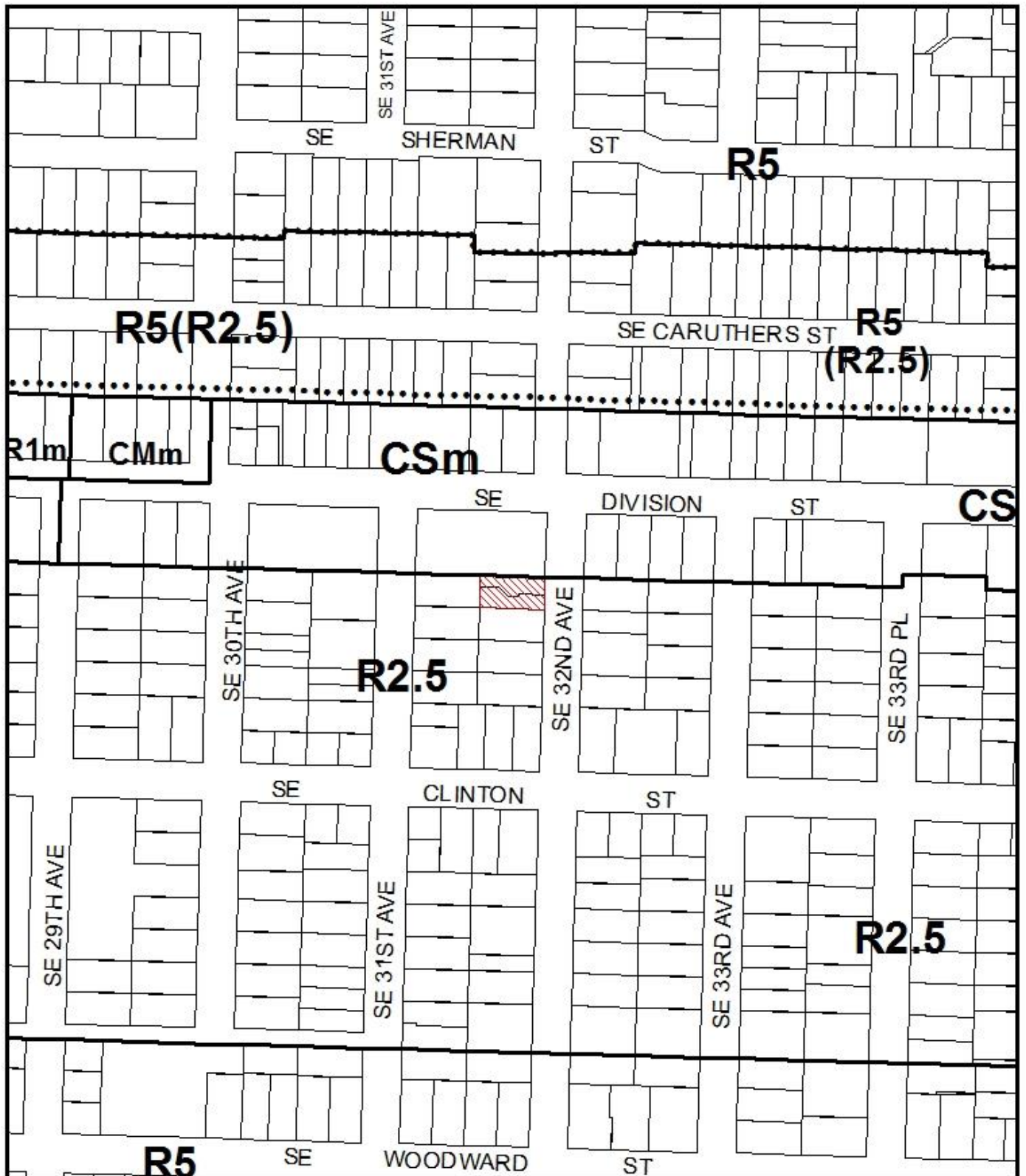
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative Addressing Land Amendment Approval Criteria
  - 2. Applicant's Exhibit A-Preliminary site plan
  - 3. Applicant's Exhibit B-Aerial Photo
  - 4. Applicant's Exhibit C- Record Plat
  - 5. Applicant's Exhibit D- LU 06-168836 LDP AD
  - 6. Applicant's Exhibit E- RICAP 4
  - 7. Applicant's Exhibit F- 16-123436 TR
  - 8. Applicant's Letter in response to incomplete letter dated 9/28/2016
  - 9. 9/28/2016 Existing Conditions site plan
  - 10. 9/28/2016 proposed site plan with on-site driveway/parking space
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Existing Conditions Site Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence:
  - 1. Agnes Lut, October 8, 2016, Support of land division amendment
  - 2. Matt Otis, Richmond Neighborhood Association, November 3, 2016, support of land division amendment.
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. 2010 Permit Site Plan Approval
  - 4. E-mails between applicant and City
  - 5. E-mail to let neighbor know I received her e-mail
  - 6. E-mail to neighborhood association to let them know I received

**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

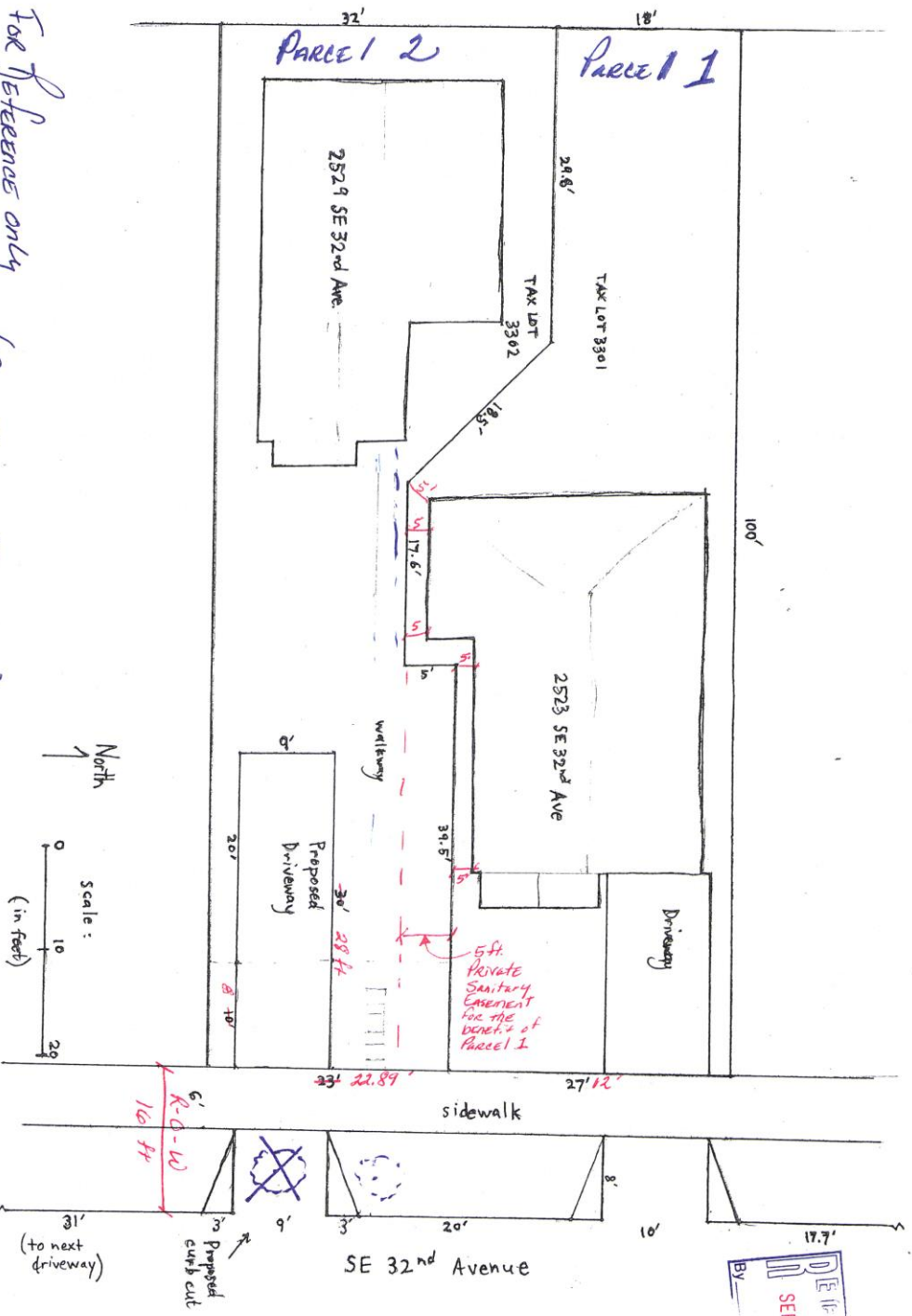


File No.	<u>LU 16-232167 AP</u>
1/4 Section	<u>3333</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E12BA 3302</u>
Exhibit	<u>B</u> (Aug 30, 2016)



For Reference only  
 Proposed CONDITIONS (future Driveway/Loading Space)  
 Not Approved (as part of this land use Review)

Source: Portland Maps



Case No. 2381167  
 EXHIBIT C.1  
 For Reference only  
 Not to Scale.

Not to Scale  
 Exhibit C.1  
 D.P. - only.