



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

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Date: January 24, 2017
To: Interested Person
From: Shawn Burgett, Land Use Services
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NOTICE OF A TYPE II_x 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 16-106519 LDS

GENERAL INFORMATION

Applicant: Sarah Radelet
Strata Land Use Planning
PO Box 90833
Portland, OR 97290

Owner: Dez Development LLC
10117 SE Sunnyside Rd #F1123
Clackamas, OR 97015-7708

Site Address: Vacant property located directly east of 54 NE Stanton St.

Legal Description: ALBINA, BLOCK 29, Lot 10 EXC W 35' OF N 72', Lot 11
Tax Account No.: R102482
State ID No.: 1N1E27AD 07000, 1N1E27AD 06900
Quarter Section: 2730
Neighborhood: Eliot, contact Mike Warwick at 503-284-7010.
Business District: North-Northeast Business Assoc, contact at chair@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070.

Plan District: Albina Community
Zoning: R2a (Multi-Family Residential 2,000 sq. ft. and "a" alternative design density overlay)

Case Type: LDS (Land Division Subdivision)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant has proposed a 4-lot land division and Common Green (Private street tract) on the 9,395 sq. ft. vacant site. Proposed Lot 1 will have frontage on NE Stanton St. and will measure approximately 2,133 sq. ft. and will accommodate a future detached dwelling unit. Proposed

Lots 2-4 will measure between 1,605 sq. ft. and 1,935 sq. ft. and accommodate attached dwelling units.

Lots 2-4 will be served by the Common Green, which is a type of Private Street tract that will provide street frontage for Lots 2-4. Common Greens are not designed to accommodate motor vehicle access and must have a paved path for pedestrians. Therefore, no parking is proposed on Lots 2-4.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 6 units of land (6 lots). Therefore this land division is considered a subdivision.

RELEVANT APPROVAL CRITERIA: IN ORDER TO BE APPROVED, THIS PROPOSAL MUST COMPLY WITH THE APPROVAL CRITERIA OF *TITLE 33*. THE RELEVANT CRITERIA ARE FOUND IN **SECTION 33.660.120, APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES.**

FACTS

Site and Vicinity: The site is vacant and has no trees on it. The area surrounding the site includes a mixture of single family detached homes and multi-unit apartment buildings. The Property located directly north of the site has an existing surface parking lot that faces the subject site and is home to an organization that assists children.

Infrastructure:

- **Streets** –The site has approximately 45 feet of frontage on NE Stanton St. At this location, NE Stanton St. is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 380 feet from the site at N Williams Avenue via Bus 4.

Based on GIS mapping, NE Stanton St. has an estimated 38-foot curb to curb paved surface within an estimated 62-foot right-of-way with parking on both sides. Along the 12-foot wide site frontage the pedestrian corridor includes a 4-foot wide planter area, curb, 6-foot sidewalk and a 2-foot wide buffer at the back of the sidewalk (4-6-2 configuration).

- **Water Service** – There is an existing 8-inch CI water main in NE Stanton St.
- **Sanitary Service** - There is an existing 10-inch public combination sewer line in NE Stanton Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

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

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the “a” overlay.

The Albina Community plan district is intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas.

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 **October 31, 2016**. One written response has been received from a notified property owners in response to the proposal.

Neighbor response: An organization (Friends of the Children) in the area was curious about future construction timing on the site, noting that their organization holds a large event on their property each May and needs to close the street (NE Stanton St.) for the event, which could impact construction.

BDS response: This correspondence was passed onto the property owner who indicated the following via an e-mail to the neighbor:

“We will hopefully have the new homes under construction in May of next year (2017). The home construction will be limited to our property and should not impact the street closure. That said, we understand that this even is a big fundraising event for your organization and will make sure to work with you to close the street for your event just like we did earlier this year.”

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.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.E - Pedestrian	There are no pedestrian connections proposed or

	Connections	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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 1 lot for detached (Lot 1) and attached (lots 2-4) houses that will be served by a Common Green (private street). Single-dwelling development is proposed for the entire site; therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3. Site area devoted to streets is subtracted from the total site area in order to calculate minimum and maximum density. However, the area used for common greens and shared courts is not subtracted from the total site area to calculate maximum density. Additionally, the minimum density for lots accessed by a Common Green in the R2 zone is 1 unit per 3,000 square feet, per 33.120.270.E.2.

The total site area shown on the applicant's survey is 9,382 square feet. No street dedication is required. Therefore the resulting lot size for calculating density is 9,382 square feet. The site has a minimum required density of 3 units and a maximum allowed density of 4 units.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Lot 1	2,183	30	71	30
Attached Houses	1,600	15	none	15
Lot 2	1,654	25	59.75	32
Lot 3	1,605	26	61.75	26
Lot 4	1,935	26	69.25	19

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

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

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

Findings:
Clearing and Grading

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved and the construction of the common green will take minimal grading since it only involves the installation of utility laterals and a new sidewalk. This criterion is met.

No clearing and grading plan was submitted, however there is room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit indicate the location of stockpile areas and the limits of disturbance be extended to include these areas.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed common green (Private Street). The permit application must include a final clearing and grading plan, that must show the location of proposal stockpile areas and limits of disturbance. With a condition of approval that the applicant's final clearing and grading plan is shown on the Site Development Permit for construction of the common green and includes the location of stockpile areas and limits of disturbance. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: The following tracts are proposed:

- Tract A: Common Green and Public Utility Easement

With a condition that the proposed tract be owned in common by the owners of Lots 1 through 4 or a Homeowner's Association, this criterion can be met.

No private easements are proposed and/or required for this land division.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tract 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 (Common Green) has been recorded as document no. _____, Multnomah County Deed Records."

With the conditions 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.

The Solar Access Approval Criteria are superseded by other conflicting requirements in the 600's chapters of the Zoning Code, per 33.639.020. The proposed land division layout was in part dictated by the need to provide street frontage to each lot.

In this proposal, the site layout necessary to meet 33.654 is in conflict with the solar access criteria. Those other requirements supersede 33.639; therefore, the solar access criteria do not apply.

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

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

At this location NE Stanton is classified as a Local Service Street for all modes and is located within a pedestrian district.

Street Capacity and Levels of Service

The proposal will result in an increase of 4 single-family residences. These residences can be expected to generate 40 daily vehicle trips with 4 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

On-Street Parking Impacts

One of the new lots will have at least one on-site parking space with potentially an additional space in front of the garage. The applicant has submitted an on-street parking study. Within the study area there are approximately 41 on-street parking spaces. The three new lots without any on-site parking will create a demand for up to 6 parking spaces. Within the study area the 41 on-street parking spaces were occupied between 40-50% of the time. This leaves approximately 20 on-street parking spaces which is more than enough to accommodate the anticipated demand of the three new lots.

Safety for All Modes

Sidewalks along the site frontage will provide adequate pedestrian facilities. This section of NE Stanton has low enough traffic volumes and speeds that bikes can safely share the roadway.

PBOT has reviewed and concurs with the information supplied. 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 2 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 has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

Lot 1 will be served by a new connection to the combined sewer in NE Stanton Street within its frontage.

Lots 2, 3 and 4 will be served by separate connections located within the common green tract. The applicant has provided a conceptual plan (Exhibit A.11) showing how required separation distances between sanitary and water connections can be met. BES does not object to this conceptual proposal but would like to note that achieving these separation distances as described may be challenging once in the field. For both VSP and CSP, only one connection is allowed per section of pipe (per Portland's [Sewer and Drainage Facilities Design Manual](#)). At this time, the location and width of each pipe section is unclear, therefore we cannot confirm that the connection distances can actually be built as shown. This could result in replacement of a section of the public sewer pipe at the time of connection in order to fit the proposed connections within the common green tract and meet required separation distances to sanitary and water lines. BES also recommends that the applicant consider the feasibility of future maintenance for the sanitary laterals proposed to be located only 9 inches from the property lines.

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 provided a memo from UKA Construction LLC (dated 8/15/15) describing one infiltration test completed at a depth of 7 feet with measured infiltration rates of 20 inches per hour. The applicant also provided Simplified Approach forms for each of the 4 lots indicating that drywells will be installed on each lot to manage roof runoff.

The applicant has proposed the following stormwater management methods

Common Green: The limited amount of stormwater runoff from the sidewalk within the common green will be directed to the landscape areas adjacent to the sidewalk that are required as part of the common green. BES has indicated conceptual approval of this proposal.

Lots 1-4: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

The block on which the subject property is located meets the noted spacing requirements, NE Rodney Ave is located approximately 175 feet east of the subject site.

The site is within the Portland Master Street Plan for the Northeast District and is consistent

with the master street plan.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.

The proposal includes a private dead-end street, which will be located in the new street tract. As discussed under the findings for through streets above, a new public north-south through street is not required for this proposal. The private dead-end street will serve only 4 dwelling units and it is approximately 100 feet in length from the frontage along NE Stanton Street to the center of the radius turn-around. This criterion is met.

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

At this location NE Stanton is classified as a Local Service Street for all modes and is located within a pedestrian district. Based on City GIS the frontage is improved with a 12-ft sidewalk with a 4-6-2 configuration. Since the site is within a pedestrian district the sidewalk cannot remain per the administrative rule TRN 1.22.

As a condition of building permit approvals for lots 1-4, the sidewalk along NE Stanton St. must be reconstructed with a 4.5-6-1.5 configuration. This will be required as a condition of development on all lots .No dedications are needed

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

33.654.120.D. Approval criteria for common greens.

The applicant has proposed a common green to provide pedestrian access and street frontage to each lot. The common green is proposed to be within a 15-foot wide tract and include 400 square feet of grassy area, play area, or dedicated gardening space. The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a width of 15 feet for common greens and the zoning code requires at least 400 square feet of outdoor area. The proposed width will provide room for the construction of a 5-foot wide sidewalk and landscaping.

To assure that the improvements in the common green tract (the sidewalk and landscaping) are constructed a Site Development permit will be required to be submitted prior to final plat. In addition, new residential construction on Lots 2-4 will not receive final inspection approval until the common green is completed. The common green must be shown on the site plan for all of these permits. Access to the lots during the construction of the houses will come from the common green. Therefore, the common green should be built following the majority construction activities are complete for the attached houses on Lots 2-4. As indicated earlier, prior to final occupancy approval of building permits for the new units on lots 2-4, the Site Development permit for the construction of the common green must be final.

In this proposal, the applicant will be disposing of stormwater from the sidewalk in the landscaped portions of the green. This amount of runoff from the sidewalk is anticipated to be minimal, so this is acceptable.

This proposed tract width is sufficient to accommodate the elements of the common green and serve the expected users, and this criteria is met.

33.654.120.E. Approval criterion for the width of pedestrian connections.

Findings: A 5 ft. sidewalk required within in the common green will connect directly to the existing public sidewalk located along NE Stanton St. The new pedestrian connection within the common green will provide a straight line connection to the sidewalk located along NE Stanton St. This criterion is met.

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

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

DEVELOPMENT STANDARDS

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

Future Development

- **Building Coverage:** Zoning Code section 33.120.270.E.6 states that when a land division proposal includes a common green, maximum building coverage is calculated based on the entire land division site, rather than each lot. The combined building coverage of all buildings and structures in the common green may not exceed 15 percent. Any amount of building coverage remaining from the calculation for the area of the common green, shared court, alley, or parking tract will be allocated evenly to all of the lots within the land division, unless a different allocation of the building is approved through the land division decision. The building coverage allocated to the lots will be in addition to the maximum allowed for each lot.

In this case, the applicant did not propose any structures within the Common Green, and has requested (exhibit A.6) that the building coverage available from the area within the common green be evenly allocated to Lots 2 and 3. Therefore, at the time of development on Lots 2 and 3, each lot will be allocated 50% of the area within the common green tract to be added to their total lot area in order to be utilized for purposes of calculating maximum building coverage on each lot. The common green is 2,055 sq. ft. in area. 50% of the common green would equal 1,027.5 sq. ft. Maximum building coverage in the R2 zone is 50%. Therefore, for the purpose of determining max building coverage on Lots 2 and 3 at the time of future development, Lots 2 and 3 can each utilize 50 percent of the site area within the Common Green (Tract A) for the purpose of calculating maximum building coverage for each lot per Zoning Code section 33.120.270.E.6. Based on this distribution, the applicant would be allowed to add a 513 sq. ft. of building coverage to lot 2 and 3 in addition to the maximum amount allowed based on the lot size.

- **Setback:** Zoning Code section 33.120.270.E.4 states that the front and side minimum building setback from common greens are reduced to zero. In this case, the applicant is proposing a 3 foot side setback between the proposed home on Lot 1 and the Common Green.
- **Parking:** The applicant has not proposed to provide off street parking on lots 2-4. Per Zoning Code section 33.266.110.D, sites located less than 500 feet from a transit street with 20 minute peak hour transit service are not required to provide off street parking. In this case, Tri-Met provides frequent transit service approximately 380 feet west of the site along N. Williams Avenue via Bus 4.

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use

actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

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

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant is required to make improvements to the proposed common green. Several conditions are required, including provision of plans, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to Fire apparatus access. Fire apparatus access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Where a building is protected with an approved fire sprinkler system, an exception to the maximum distance is increased to 250 feet. The applicant is required to provide an Acknowledgement of Special Land Use Conditions form to be recorded and noted on the plat when the exception is taken. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

It should be noted that it appears that new development on the site will be within 150 feet of NE Stanton St, which will serve as the primary Fire apparatus access to the site. The rear lot line of lots 2 and 4 are approximately 153-155 feet from NE Stanton St. However, the Zoning Code requires a rear setback of 5 ft. which will ensure that new units built on these lots are both within 150 ft. of NE Stanton St. Prior to final plat approval the applicant must demonstrate fire apparatus access standards are met, or if the exception will need to be applied as described above.

CONCLUSIONS

The applicant has proposed a 4-lot subdivision and Common Green (Private Street tract), as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: the installation of utilities within the common green (meeting spacing requirements).

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 4-lot subdivision and Common Green (Private Street), that

will result in one lot for detached housing and three lots for attached houses as illustrated with Exhibit C-1 and C-2, subject to the following conditions:

A. The final plat must show the following:

1. The common green tract shall be noted on the plat as Tract A: Private Street (Common Green). In addition, a note on the plat must be included that reads "Tract A is a common green, a private pedestrian and bicycle access way for ingress and egress to Lots 1 - 4. Motorized vehicles are not permitted on Tract A."
2. A Public Access Easement must be shown over the sidewalk portion(s) of the street tract.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.5 and B.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (Tract A, Common Green) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall submit an application for a Site Development Permit for construction of the common green and utility construction for the new private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibits C.1 and C.2 and the Private Street Administrative Rule. In addition the street shall include the following:
 - The common green/pedestrian connection must meet the tree and landscaping standards in Section I of the Private Street Administrative Rule.
 - 5 ft. wide sidewalk is required
2. The applicant shall provide a clearing and grading plan with the Site Development permit required for the common green described in Condition B.1. The clearing and grading plan must show the following:
 - It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.
 - Construction access to lots 2-4

Utilities

3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way, as required in Chapter 5 of the Oregon Fire Code. The applicant must demonstrate that adequate Fire apparatus access is within 150 feet of each lot. Alternately, the applicant will be required to install residential sprinklers in the new house on any lots that cannot meet this standard, if applying the exception or per an approved appeal. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Required Legal Documents

4. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-4 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements. The maintenance agreement


must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

5. If required per Condition B.3 above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.

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

1. The Site Development Permit for the construction of the common green must receive final inspection approval before the permits for the house on lots 2-4 can receive final occupancy and final inspection approval.
2. Prior to finalizing the Site Development permit for the common green (private street); a plumbing permit must be obtained and finalized for the new utility lines that will be constructed within the common green.
3. The applicant must meet requirements of Portland Bureau of Transportation, prior to final building permit approval the following must occur:
 - A) Prior to final approval of new development on Lot 1, the owner will be required to reconstruct the sidewalk along NE Stanton St. abutting this lot with a 4.5-6-1.5 configuration;
 - B) Prior to final approval of new development on Lots 2-4, the owner will be required to reconstruct the public sidewalk along NE Stanton St. abutting the Common Green with a 4.5-6-1.5 configuration
4. 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.
5. If required per condition B.5 above, the applicant will be required to meet any requirements identified through a Fire Code Appeal/Fire Code exception and install residential sprinklers in the new dwelling unit identified. Please refer to the final plat approval report for details on whether or not this requirement applies.
6. Development on Lots 2 and 3 can each utilize 50 percent of the site area within the Common Green (Tract A) for the purpose of calculating additional maximum building coverage for each lot per Zoning Code section 33.120.270.E.6.

Staff Planner: Shawn Burgett

Decision rendered by:  on January 20, 2017
By authority of the Director of the Bureau of Development Services

Decision mailed January 24, 2017

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 January 15, 2016, and was determined to be complete on July 13, 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 January 15, 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 245 days as stated with Exhibit (Exhibit A.5). Unless further extended by the applicant, **the 365 days will expire on: July 13, 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 2/7/17** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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 .

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.

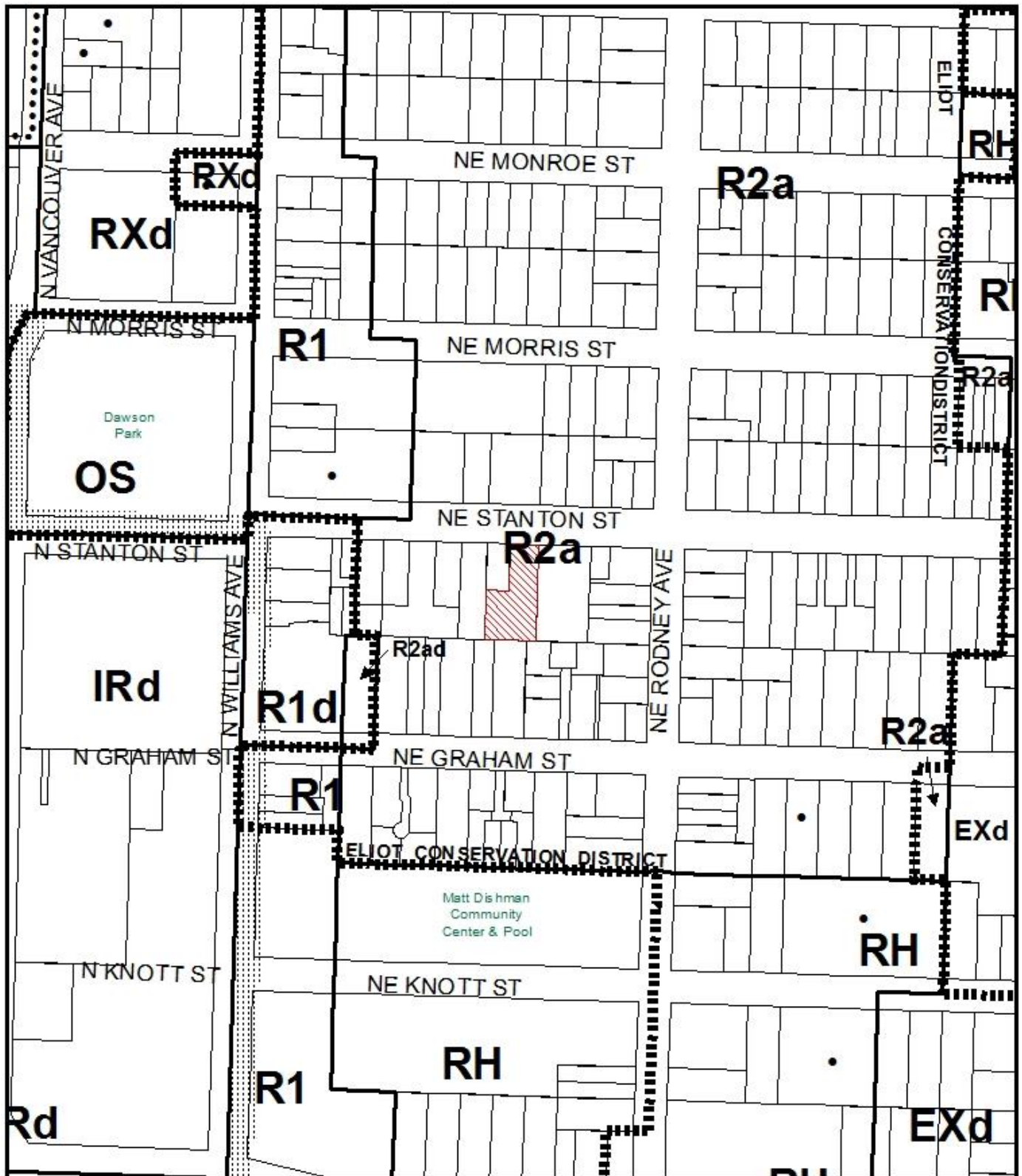
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicants Narrative
 - 2. Early Neighborhood Notification documentation
 - 3. Site Plan submitted 1/15/16
 - 4. Infiltration testing dated 8/20/15
 - 5. 245 day extension to 120 day clock
 - 6. Memo received 10/11/16
 - 7. On street parking analysis dated 4/4/16
 - 8. Tri-Met schedule for bus #4
 - 9. Fire Flow
 - 10. Stormwater Management Narrative
 - 11. Utility Plan dated 12/22/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Common Green Planting Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence:
 - 1. Meagan Golec, Friends of Children, 44 NE Morris St. Portland, OR 97212
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Land Use History

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



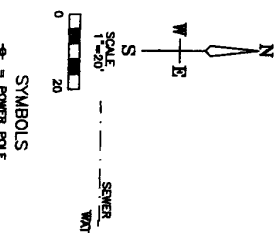
ZONING

-  Site
-  Historic Landmark

File No.	LU 16-106519 LDS
1/4 Section	2730
Scale	1 inch = 200 feet
State_Id	1N1E27AD 6900
Exhibit	B (Oct 27, 2016)

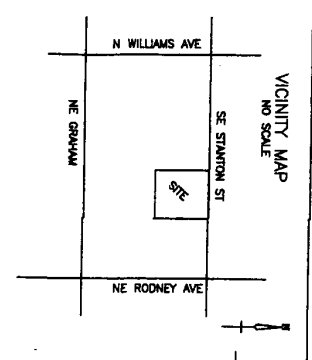


This site lies within the:
 ALBINA COMMUNITY PLAN DISTRICT
 ELIOT CONSERVATION DISTRICT



- SYMBOLS**
- ⊕ POWER POLE
 - ⊖ GUY ANCHOR
 - ⊗ WATER METER
 - ⊘ GAS METER
 - ⊙ ELECTRIC METER
 - ⊚ WATER VALVE
 - ⊛ GAS VALVE
 - ⊜ MANHOLE
 - ⊝ TELECOMMUNICATIONS MANHOLE
 - ⊞ CATCH BASIN
 - ⊟ FIRE HYDRANT
 - ⊠ DOWN SPOUT
 - ⊡ LINE TO CONFRONT
 - ⊢ WATER LINE
 - ⊣ GAS LINE
 - ⊤ ELECTRIC LINE
 - ⊥ SANI. SEWER
 - ⊦ PROPOSED DRYWELL
 - ⊧ PROPOSED WATER
 - ⊨ PROPOSED SEWER

Sec Note



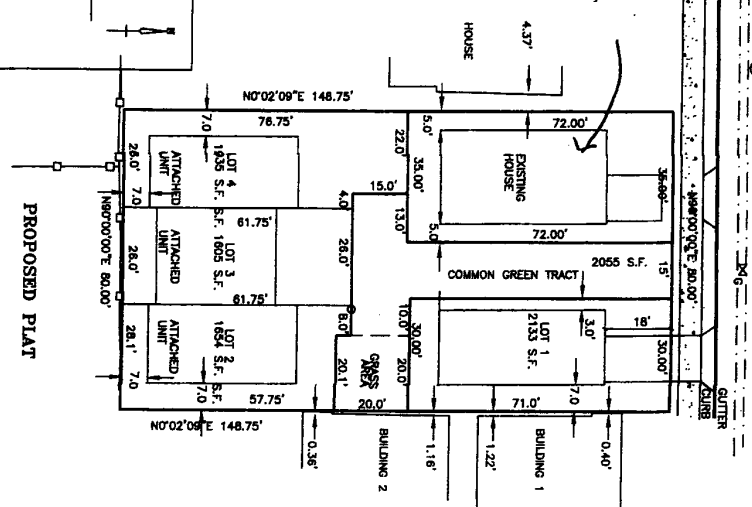
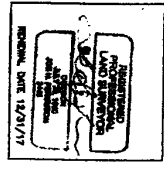
Ferguson Land Surveying, Inc.
 646 SE 106TH AVE, PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0802
 www.FergusonLandSurveying.com

SITE PLAN
 LOTS 10-11, BLOCK 29, "ALBINA,"
 IN THE NE 1/4, SECTION 28, T.1N., R.1E., W.1M.
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

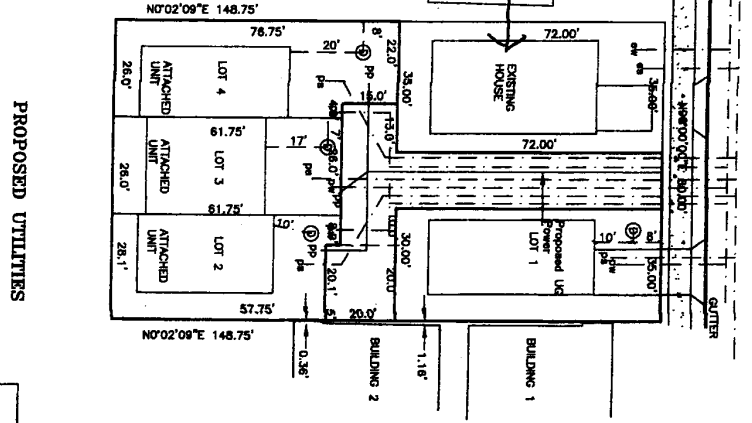
CLIENT: DEZ DEVELOPMENT
 SLACK DEZ
 SE WASHINGTON RD
 SUITE F 123
 CLATSOP COUNTY, OR 97015

DATE: JULY 30TH, 2015
 REVISION: 07/20/15
 REVISION: 07/10/2016

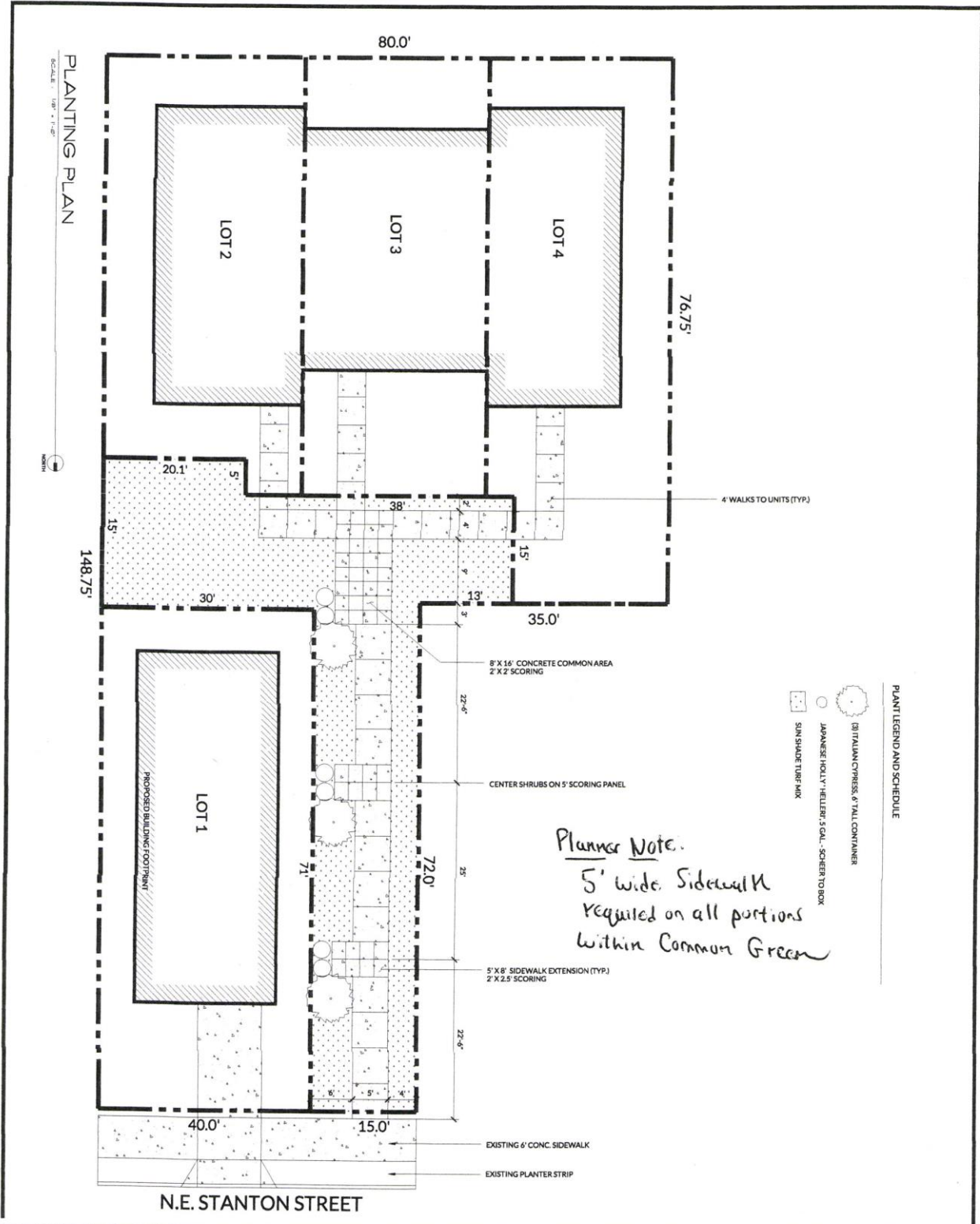
JOB NO. 15-135
 DRAFTED 7/20/15
 SHEET 1 OF 1



Note:
 Property addressed
 SH NE Station
 Not Part of
 Site



CASE NO. 16-106519
 EXHIBIT C-1



- PLANT LEGEND AND SCHEDULE
- ITALIAN CYPRESS, 6" TALL CONTAINER
 - JAPANESE HOLLY, HELLER'S GAL., SCREEN TO BOX
 - SUN SHADE TURF-MIX

Planner Note:
 5' wide Sidewalk
 Required on all portions
 within Common Green

	<p>DRAWING TITLE PLANTING PLAN NE STANTON STREET CITY OF PORTLAND, OREGON</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>REV.</th> <th>DATE</th> <th>COMMENT</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	REV.	DATE	COMMENT													<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>CAD:</td><td> </td></tr> <tr><td>APP:</td><td> </td></tr> <tr><td>DRAWN:</td><td> </td></tr> <tr><td>ENGR. SHERMAN:</td><td> </td></tr> <tr><td>CHECKED:</td><td> </td></tr> <tr><td>CODE:</td><td> </td></tr> <tr><td>ISSUED:</td><td> </td></tr> <tr><td>CREATED:</td><td> </td></tr> <tr><td>PLOTS/SCALE:</td><td> </td></tr> </table>	CAD:		APP:		DRAWN:		ENGR. SHERMAN:		CHECKED:		CODE:		ISSUED:		CREATED:		PLOTS/SCALE:	
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CASE NO. 16-106519
 EXHIBIT C-2