



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

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Date: April 24, 2019
To: Interested Person
From: Brandon Rogers, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 18-219371 LDP

Applicant: Brad Kaul | Kaul Design Architecture PLLC
1733 Ferndale Ave SE | Renton, WA 98058
bradkaul@kauldesignarchitecture.com | 506-200-0015

Owner: Bernie Kumar LLC
4512 SE 82nd Ave. | Portland, OR 97266

Site Address: 1125 N Schmeer Rd
Legal Description: TL 900 2.19 ACRES, SECTION 10 1N 1E
Tax Account No.: R941100020
State ID No.: 1N1E10BB 00900
Quarter Section: 2129
Neighborhood: East Columbia NA, contact Anthony Giltner at eastcolumbialanduse@gmail.com

Business District: Columbia Corridor Association, contact at info@columbiacorridor.org

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Zoning: General Employment 2 (**EG2**) with the Aircraft Landing Zone "**h**" overlay and the Prime Industrial "**k**" Overlay Zone

Case Type: Land Division Partition (LDP).
Procedure: Type Ix, an administrative decision with appeal to the Hearings Officer.

PROPOSAL: The applicant proposes a land division partition of a 94,653 square-foot site to create two parcels. Parcel 1 is proposed to be 48,509 square feet in area and will contain the existing hotel. Parcel 2 is proposed to be 46,144 square-feet in area and is vacant. Sanitary sewer and water service are proposed to be provided by existing utilities located in N Schmeer Road. Driveway access is proposed to be shared and connects to N Schmeer Road.

This partition proposal is reviewed through a Type Ix land use review because: (1) the site is in a commercial, employment, or industrial zone; (2) fewer than four lots are proposed; (3)

none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.662.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create two units of land. Therefore, this land division is considered a partition.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section 33.662.120, Approval Criteria for Land Divisions in Commercial, Employment, and Industrial zones.

FACTS

Site and Vicinity: The site is characterized by an existing hotel and vacant area, with primarily level topography. The site abuts Portland Meadows to the north, with the Columbia Slough located approximately 500-feet south of the site. Properties within the vicinity of the site are primarily zoned Industrial (I) and Employment (E) with environmental overlay zones along the Columbia Slough. The Interstate 5 Freeway is located approximately 400-feet west of the site. Delta Park is located less than a half mile north of the site.

Infrastructure:

- **Streets** – The site has approximately 488-feet of frontage on N Schmeer Road. There are two driveways entering the site serving the existing hotel on the site. At this location N Schmeer Road is classified as a Neighborhood Collector, City Bikeway, Major Emergency Response Street. The site is within a freight district. The street is improved with a 10-ft sidewalk corridor with a 4-6-0 configuration. Tri-Met provides transit service approximately 1,000 feet from the site at N Hayden Meadows Drive via Bus Route 6.
- **Water Service** – There is an existing 16-inch water main in N Schmeer Road. The existing hotel is served by a 3/4-inch metered service from this main.
- **Sanitary Service** - There is an existing 24-inch public sewer line in N Schmeer Road.
- **Stormwater Disposal** – There is an existing 18-inch public storm sewer in N Schmeer Road.

Zoning: “EG2” General Employment 2 with the “h” Aircraft Landing Overlay Zone and the “k” Prime Industrial Overlay Zone.

- The **EG2 zone** allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.
- The **Aircraft Landing (“h”)** overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.
- The purposes of the **Prime Industrial (“k”)** overlay zone are to protect land that has been identified in the Comprehensive Plan as Prime Industrial, and to prioritize these areas for long-term retention. Prime Industrial Land is suited for traded-sector and supportive industries and possesses characteristics that are difficult to replace in the region. In Portland, Prime Industrial land consists of the Portland Harbor, Columbia Corridor, and Brooklyn Yard industrial districts. These freight-hub districts include

Oregon's largest seaport, rail hub, and airport. Existing and potential multimodal freight access in these districts support interregional transport, exporting industries, and associated industrial businesses and activities. The regulations protect these areas by preventing, or requiring an off-set for, conversion of the land to another zone or use that would reduce industrial development capacity.

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 **January 11, 2019**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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 **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones**. 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 applicability of each criterion.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
H	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
I	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
K	33.654.110.B.2 - Dead end streets	No dead-end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I-zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.

	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.613 through 33.615 must be met.

Findings: Chapter 33.614 contains the lot standards applicable in the employment zones. The required and proposed lot dimensions are shown in the following table:

	Min. Lot Area (square feet)	Min. Dimensions (feet)	Min. Front Lot Line (feet)
EG2 Zone Standard A	20,000	100 x 100	35
EG2 zone Standard B	10,000	75 x 75	35
Parcel 1	48,509 <i>(49,470)</i>	250 x 194 <i>(255 x 194)</i>	250 <i>(255)</i>
Parcel 2	46,144 <i>(45,202)</i>	238 x 194 <i>(233 x 194)</i>	238 <i>(233)</i>

For land divisions of less than 10 lots, all but one lot must meet standard A. Only one lot may meet standard B. As discussed in the Development Standards section below, the lot line between Parcels 1 and 2 will be shifted to the east. As a result, the size of each parcel and parcel dimensions will be modified as shown in italics. As shown above, both parcels meet Standard A, even after the lot line is shifted, and this standard is met.

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

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees. To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets. If the site is in an overlay zone that has additional environmental resource protection requirements, the tree plan must demonstrate that the benefits from trees are maximized for the site as a whole.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites. Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey and arborist report (Exhibit A.2) that shows the location and size of trees on and adjacent to the site. The arborist report identifies each tree, its condition and suitability for preservation or its exempt status and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 44 trees, which provide a total of 393 inches of tree diameter are subject to the preservation requirements of this chapter. The site contains four trees measuring 20 inches DBH or greater in size (Tree #1, 30-inches; Tree #2, 47-inches; Tree #3, 34-inches; Tree #5, 24.5-inches), however the applicant's arborist report states that these trees are dead, dangerous or dying and are therefore exempt from the tree preservation standards. Specifically, trees #2 and #5 are rated "Very Poor", which is consistent with a dying tree as defined by Title 11 based upon the arborist's "Tree Rating Key for Tree Condition" (Exhibit A.2, page 12). Therefore, these trees are exempt from the tree preservation standards. The arborist report states that tree #1 has a high risk rating, is noted to have a one-sided crown, is a hazard tree and is rated to be in "Poor" condition by the applicant's arborist, including major branch loss, greatly reduced growth, dead branches, bark loss and decay, root damage and insect or disease problems. The arborist states the health of this tree cannot be mitigated by pruning, and the tree is recommended for removal. Based upon the arborist's evaluation, the tree is consistent with the Title 11 definition of "Dangerous Tree" and is therefore exempt from the tree preservation standards per 33.630.030.C.

In addition, the applicant's arborist report has also identified trees (A, B, C, D) on the adjacent site to the east that are within 15 feet of potential disturbance area on Parcel 2. To protect the off-site trees from construction impacts, the arborist recommends root protection zones, as specified in the report.

The applicant's proposed tree preservation plan proposes preservation of 193 inches of tree diameter (49% of the total non-exempt tree diameter) and proposes to remove 200 inches of tree diameter at the site. This proposal is consistent with Option 4 of the tree preservation standards, which requires preservation of at least 35-percent of the total tree diameter on the site where all trees are less than 20-inches in diameter. Preservation and protection of trees 7, 8, 9, 20, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 47, 48, 49, 51, 52, 53, 54 as described in Attachment A.2 is required at the time of development. Protection of off-site trees A, B, C, D is also required, as discussed in the report. Removal of any off-site trees must be with the approval of the property owner and permitted by Portland Parks Urban Forestry. Trees 10-16 serve as perimeter landscaping and must be retained. IF changes are made to the parking lot area, landscaping must meet the standards in place at the time of development.

A review of the applicant's Proposed Development Plan (Exhibit C.4) reveals that the arborist's tree protection plan includes tree protection measures that are consistent with Title 11 Prescriptive Path of tree protection, however a final tree protection plan will be required prior to approval of the final plat, illustrating the trees to be preserved and protection measures consistent with 11.60.030.

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

With a condition of approval requiring a final tree protection plan to be submitted prior to approval of the Final Plat and that the proposed development be consistent with the applicant's tree protection plan, the standards and approval criteria of Chapter 33.630, Tree Preservation can be met.

F. 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. The applicant's Grading and Utility Plan (Exhibit C.5) indicates that 2,500 cubic yards of soil will be disturbed on the site for a minimal amount of change to the existing contours and drainage patterns of the site. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. There are no stockpiles proposed on the site. Therefore, no significant clearing or grading will be required on the site to make the new parcel developable.

Site Development has commented (Exhibit E.5) that the project area meets the criteria specified in City Code 10.30.030 as a Special Site with additional requirements for erosion, sediment and pollution control. An erosion control plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer will be required at the time of building permit application. A 1200-C permit from the Oregon Department of Environmental Quality is required for construction activities including clearing, grading, excavation, and stockpiling that will disturb one or more acres and may discharge to surface waters or conveyance systems leading to surface waters of the state.

In addition, trees will be preserved in the areas where new development on the site is anticipated. This criterion is met.

The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.5) that depicts the proposed work, including utilities, existing and proposed elevation contours, the overall limits of disturbed area, erosion control and the amount of soil to be disturbed. The proposed grading is reasonable for the proposed development

Based upon this information, this criterion is met.

Land Suitability

The site is currently in commercial use (Hotel). A residence was removed from the site in 2017 (RS17-126033) and received an approved final inspection, including capping of the sanitary sewer connection. 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.

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

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

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

- A Private Access and Parking Easement is proposed to allow shared use of a driveway that will serve both parcels;

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

"A Declaration of Maintenance agreement for a Private Access and Parking Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

J. 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: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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

Street Capacity and Levels of Service

The proposal will result in a site for a new hotel on its own lot. Dividing the site will not result in any increase in the number of vehicle trips already allowed by the EG2 zoning. PBOT's Administrative Rule TRN 10.27 does not require any LOS or street capacity analyses if the proposal will not result in any increase in vehicle trips than those already allowed by the base zone. No mitigation will be required.

Connectivity: The site is less than 200-ft east of north/south N Whitaker Rd.

Vehicle Access/Loading: The new lots will have driveways to provide access to parking and loading.

On-Street Parking Impacts: There is no on-street parking along this section of N Schmeer Rd. The new hotel will be required to provide on-site parking per 33.266.

Availability of Transit: Tri-Met provides transit service approximately 1,000 feet from the site at N Hayden Meadows Drive via Bus Route 6.

Neighborhood Impacts: The site is being developed with a new hotel in compliance with the existing EG2 zoning. Impacts should be minimal.

Access Restriction: There are no access restrictions along this section of N Schmeer Rd.

Safety: Sidewalks along the site frontage will provide adequate pedestrian facilities that connect to the sidewalks along N Whitaker Rd.

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.

K. 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.

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

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods

- **Parcel 2:** Stormwater from Parcel 2 will be treated on site and discharged to the public storm sewer in N Schmeer Road.
- **Parcel 1:** Stormwater from Parcel 1 is treated on site and discharged to the public storm sewer in N Schmeer Road.

BES has reviewed the proposal and indicated the proposal is sufficient to demonstrate that the stormwater management criteria and standards of 33.653 have been met.

33.654.110.B.1 -Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west and north-south through street provided in the vicinity of the site.

The property (Portland Meadows) to the north, east and west of the site appears to have potential to further divide under current zoning. However, sufficient frontage on an existing street is available to provide access to the interior of the property should the property be divided in the future. PBOT has indicated that there is no need for this site to extend a street to the north, east or west property boundaries.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

This criterion is met.

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

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

Portland Transportation has responded that at this location, N Schmeer Road is classified as a Neighborhood Collector, City Bikeway, Major Emergency Response Street and the site is within a freight district. N Schmeer Road is improved with a 10-ft sidewalk corridor with a 4-6-0 configuration. Based on the zoning (general employment) and street classification, an 11-ft sidewalk corridor with a 4.5-6-0.5 configuration would be required to provide adequate right of way width to accommodate the expected users. However, the applicant received approval of a Public Works Alternative Review (with Exhibit E.2) that allows the existing improvements to remain (18-167902 PW). The 1-ft dedication will be a condition of final plat approval.

With the condition that the required right-of-way dedication is shown on the Final Plat, the width of the right of way will be sufficient to accommodate the expected users and PBOT has approved the elements within the right of way. Therefore, 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. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Future Development: Among the various development standards that will be applicable to this lot, the applicant should take note of:

- **Existing development that will remain after the land division:** The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the development to move out of conformance or further out of conformance to any development standard applicable in the EG2 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

To ensure the existing parking lot perimeter landscaping at the eastern edge of Parcel 1 (existing hotel site) remains on Parcel 1 once the final plat is recorded, the proposed property line must be adjusted easterly by approximately 5-feet. This change is in compliance with Final Plat Approval Standards 33.663.200.A, which allows variations to the Preliminary Plan to occur with the Final Plat and must be shown on the Final Plat.

- **Minimum Setbacks:** – The existing building identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing building will be at least 81 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- **33.140.220 Building Coverage** – A maximum building coverage of 85% is allowed in the EG2 zone (Table 142-2, Chapter 33.140).
- **33.140.225 Landscaped Areas** – A minimum of 15% of the site area must be landscaped.
- **33.266.130.G.2 Landscaping:** A shared driveway access is proposed on Parcel 1 for the benefit of Parcels 1 and 2. The applicant proposes to relocate the existing garbage and recycling collection areas and to reconfigure the existing landscaping on Parcel 1 to accommodate the reconfigured parking area for Parcel 1, the proposed driveway access area for Parcel 2 and the parking lot landscaping for Parcel 2. However, prior to final plat approval, a supplemental plan must be provided to demonstrate the landscaping on Parcel 1 meets these standards, or an Adjustment to allow a variation has been approved.
- **33.140.227 Trees** (Title 11 Tree Density Standards) - Exterior alterations shall meet City specifications and standards in Chapter 11.60.
- **33.140.235 Screening** - Exterior garbage and recycling collection areas must be screened from the street and adjacent properties. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening.

- **33.140.240 Pedestrian Standards** - The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in developments in the employment zones. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.
- **33.140.295 Parking and Loading** – The standards of Chapter 33.266 must continue to be met at the time of development.
- **33.140.315 Recycling Areas** - Requirements for recycling areas are regulated by the Bureau of Planning and Sustainability. See Section 17.102.270, Businesses and Multifamily Complexes Required to Recycle, of the Portland City Code.

With a condition of approval requiring the applicant to submit a supplemental plan to demonstrate how the existing development on Parcel 1 will continue to meet the applicable development standards, or not move out of conformance with those standards, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; posting of "No Parking" signs in the private, shared driveway, ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; hydrant spacing, providing an Emergency Vehicle Access Easement and Maintenance Agreement over the private, shared driveway, fire apparatus access, including aerial access and driving surface and turning radius for fire apparatus access roads These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a two-parcel partition as shown on the attached preliminary plan (Exhibit C.2). 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: development standards for the existing development, an easement and maintenance agreement for a shared driveway, fire department access and tree preservation. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition as illustrated with Exhibits C.2, C.3, C.4 and C.5, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for review by the Land Use Services section of BDS. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - The fire access lane with a turning radius of 28 feet inside, 48 feet outside.
 - Any other information specifically noted in the conditions listed below.

B. final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for N Schmeer Road. The required right-of-way dedication must be shown on the final plat.
2. A Private Access Easement shall be shown and labeled on the final plat, as shown on Exhibit C-3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the private access easement/shared driveway area to the satisfaction of the Fire Bureau.
4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for a Private Access Easement has been recorded as document no. _____, Multnomah County Deed Records."
5. The proposed property line shall be adjusted easterly so that the existing 5-foot parking lot perimeter landscaping remains on Parcel 1.

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

Utilities

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
2. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers if applying the exception. An

Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Required Legal Documents

3. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition A.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Other

4. A final tree protection plan, illustrating Title 11 tree protection measures for the trees to be preserved, shall be submitted prior to approval of the Final Plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan and arborist report (Exhibit A.2). Preservation and Protection of trees 7, 8, 9, 20, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 47, 48, 49, 51, 52, 53, 54, is required, with the root protection zones as described in Exhibit A.2. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under their supervision. Trees 10-16 shall be retained on the site until changes to the proposed parking area are permitted.
2. The applicant must post the Private Access Easement with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign(s) must be shown on the development permit.
3. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
4. The applicant must meet the addressing requirements of the Fire Bureau. The location of the sign must be shown on the building permit.
5. All fire access lanes shall have a turning radius of 28 feet inside, 48 feet outside and shall meet Fire Bureau requirements for driving surfaces.

Staff Planner: Brandon Rogers

Decision rendered by:  **on April 22, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed April 24, 2019

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 13, 2018 and was determined to be complete on December 28, 2018.

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 13, 2018.

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: April 27, 2019.**

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com

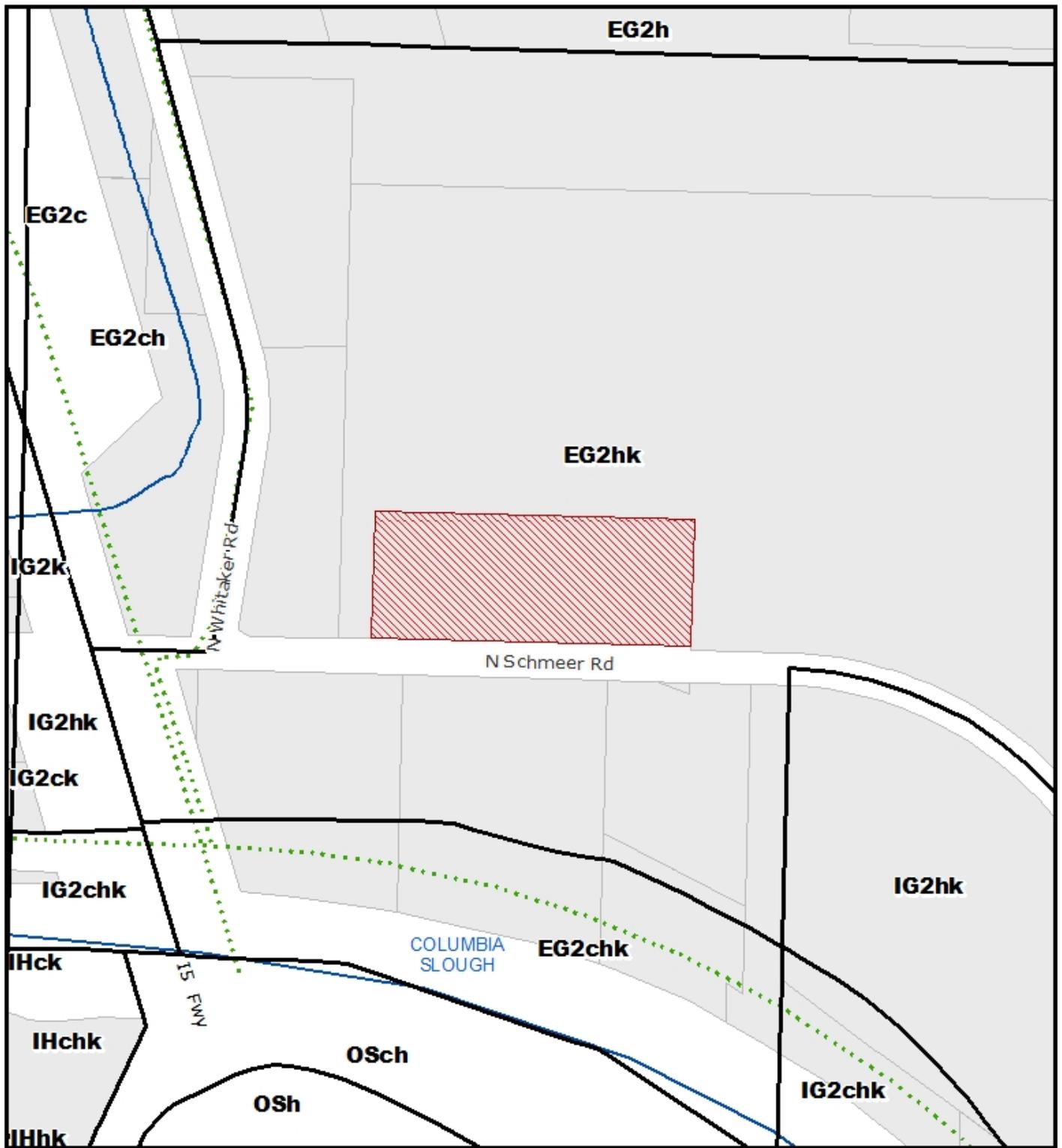
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Submittal/Applicant's Narrative
 - a. Revised Narrative Received 12/28/18
 - 2. Arborist Report
 - 3. Draft Maintenance Agreement for Shared Access Easement Area
 - 4. Storm Water Reports
 - a. Original Submittal
 - b. Revised 12/28/18
 - c. Revised 02/22/19
 - d. Revised 03/05/19
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Preliminary Land Division Plan (attached)
 - 3. Proposed Reciprocal Easement for Shared Access
 - 4. Proposed Development Plan
 - 5. Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services (Revisions: 02/08/19, 02/15/19, 03/07/19)
 - 2. Bureau of Transportation Engineering and Development Review and Public Works Alternative Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence: None.
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement Form
 - 3. Completeness Letter

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



ZONING



-  Site
-  Stream
-  Recreational Trails

File No.	LU 18-219371 LDP
1/4 Section	2129
Scale	1 inch = 200 feet
State ID	1N1E10BB 900
Exhibit	B Aug 16, 2018

CES | NW

15190 SW 68th Parkway, Suite 150
 Portland, Oregon 97222
 503.968.6653 cesnw.com
 CESNW PROJ: 3379

UNLICENSED
 PROFESSIONAL
 LAND SURVEYOR
PRELIMINARY
 MAY 21, 2013
 PAUL ALLEN KOHN
 BEARINGS 420/13

PARTITION PLAT NO.

LOCATED IN THE GEORGE W. FORCE D.L.C. NUMBER 37,
 IN THE NORTHWEST ONE QUARTER OF SECTION 10,
 TOWNSHIP 1 NORTH, RANGE 1 EAST, OF THE
 WILLAMETTE MERIDIAN, CITY OF PORTLAND
 MULTNOMAH COUNTY, OREGON

DATE: 7-28-2018

NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO ESTABLISH THE BOUNDARIES AND PARTITION THAT TRACT OF LAND DESCRIBED IN DOCUMENT NUMBER 2016-12632. THE BASE OF BEARING IS NORTH 89°59'00" EAST ALONG THE NORTH LINE OF NORTH SCHMEER ROAD AS ESTABLISHED FROM MONUMENT POINTS TO THE EAST AND WEST. THE MONUMENT POINTS ARE PER SURVEY NUMBER 57680, MULTNOMAH COUNTY SURVEY RECORDS. THAT RESULTING LINE WAS THEN OFFSET 20.00' SOUTH FOR THE NORTHERLY RIGHT OF WAY LINE OF N. SCHMEER ROAD PER DOCUMENT NUMBER 2002-089542, BEING THE SOUTHWEST CORNER OF THE SUBJECT TRACT. THAT RESULTING LINE WAS ALSO OFFSET 200.00' NORTH FOR THE NORTH LINE OF THE SUBJECT TRACT PER DOCUMENT NUMBER 2016-12632. THE EAST LINE OF THE SUBJECT TRACT IS A LINE FROM MONUMENT POINT TO THE EAST AND WEST. THE MONUMENT POINTS ARE PER SURVEY NUMBER 57680, MULTNOMAH COUNTY SURVEY RECORDS. THE WEST LINE WAS HELD DISTANCES PER SURVEY NUMBER 57680.

REFERENCES

- (1) - S.M. 37680
- (2) - S.M. 46998
- (3) - S.M. 46998
- (4) - S.M. 46998
- (5) - SCHMEER'S FACTORY SITE ADDITION

DEED REFERENCES

- (01) - DOCUMENT NUMBER 2016-12632
- (02) - DOCUMENT NUMBER 2002-089542

LEGEND

- - REFERENCE MONUMENT WITH NO CO. IN USE, OTHERWISE NOTED
- - SEE SURV. 30' IN WITH ORANGE PLASTIC CAP INCLUDED
- - "CESNW INC" ON _____
- FTC = FROM TRUE CORNER
- S.F. = SURVEY FILE NO.
- S.P. = SECTION PLAT NO.
- P.U.E. = PUBLIC UTILITY EASEMENT
- W.P. = WATER RIGHT PER DOCUMENT NUMBER
- NR = RECORD OF ORIGIN NOT LOCATED
- IR = IRON ROD
- IP = IRON PIPE
- W/PC = WITH YELLOW PLASTIC CAP
- W/RC = WITH RED PLASTIC CAP
- W/YC = WITH YELLOW PLASTIC CAP
- W/YC () = INDICATES RECORD VALUE PER REFERENCE NUMBER
- [] = INDICATES RECORD VALUE PER REFERENCE NUMBER
- (###)###() = DENOTES RECORD DISTANCE PER REFERENCE NUMBER
- (###)###() = DENOTES FOUND MONUMENT NUMBER AND REFERENCE NUMBER

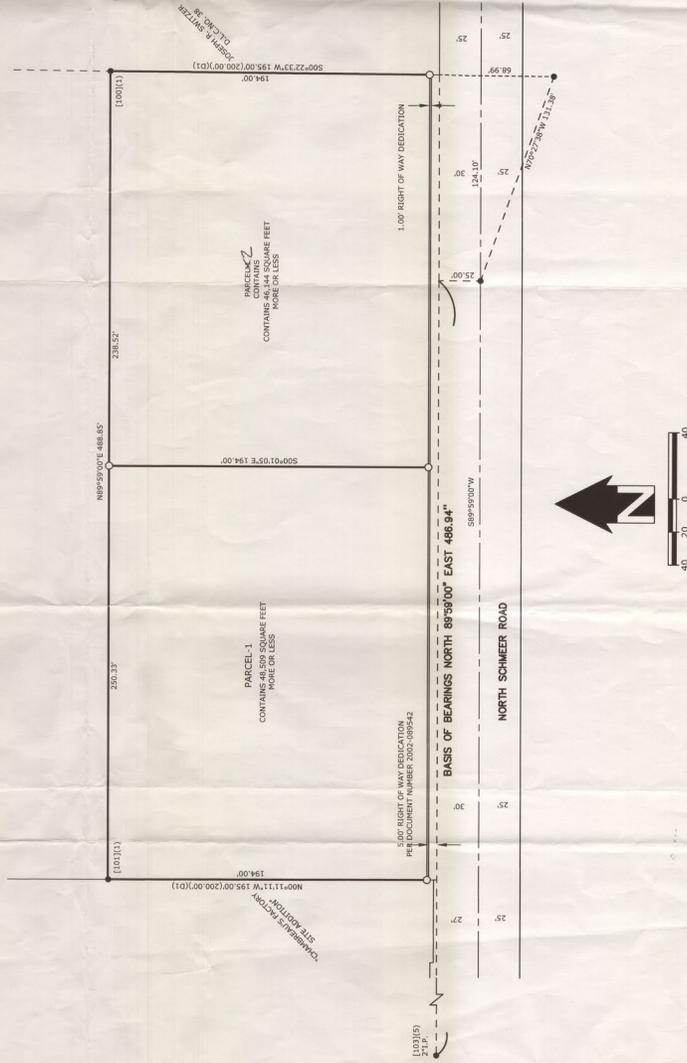


EXHIBIT C-2
 PRELIMINARY PLAT
 14, 18 - 21, 9 7 1, 10P