



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

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Date: May 11, 2012
To: Interested Person
From: Sue Donaldson, Land Use Services
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**NOTICE OF A TYPE IIx DECISION ON A PROPOSAL
IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 12-100953 LDS AD

GENERAL INFORMATION

Applicant: Richard Kassebaum
16081 S Moore Road
Oregon City OR 97045-9340

Representative: Kevin Partain, Urban Visions
223 NE 56th Avenue
Portland OR 97213

Site Address: 18 NE Stanton Street

Legal Description: BLOCK 29 LOT 4, ALBINA
Tax Account No.: R009610990
State ID No.: 1N1E27AD 07700
Quarter Section: 2730

Neighborhood: Eliot, contact Mike Warwick at 503-284-7010.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Plan District: Albina Community

Zoning: R1d Multi-dwelling Residential 1000 with Design (d) overlay

Case Type: LDS AD Land Division, Subdivision with Adjustment
Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer.

PROPOSAL: The Applicant proposes to subdivide a 5,948 square-foot property into three lots and a common green tract. Parcel 1 will be 1,450 square feet, Parcel 2, 1,513 square feet and Parcel 3, 1,514 square feet, respectively. In the R1 zone, there is no minimum lot area requirement for either attached or detached dwellings. Single dwelling development is proposed – one detached and two attached houses. The common green (Tract A) will be 1,470 square feet. Because the

common green is classified as a private street, it can provide street frontage to Parcels 2 and 3, but provides access for pedestrians and bicycles only. Parcel 1 will have vehicle access from SE Stanton Street. A shared drywell in the common green is proposed for stormwater management for the three lots.

There are 20 trees over 6 inches in diameter on the site, six of which the arborist has determined are exempt due to poor health or because they pose a hazard. The applicant proposes to retain at least 35% of the non-exempt tree diameter on the site. The retained trees will be within the common green. Because the site is within the Albina Community Plan District and has a Design (d) overlay, the development must meet Community Design Standards. If the standards are not met, the project must be reviewed through the Design Review process.

An Adjustment review is requested to reduce the side setback on Parcel 1 adjacent to the common green tract from the required 3 feet to 2 feet.

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 Oregon Revised Statutes (ORS) 92.010. ORS 92.010 defines a lot as a single unit of land created by a subdivision of land. The applicant's proposal is to create four units of land (3 lots and 1 tract). 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.**
- **Section 33.805.040, Approval Criteria for Adjustments**

FACTS

Site and Vicinity: The 5,948 square-foot site is relatively flat and narrow and is currently vacant. There are 20 trees on the site, of varying species and sizes. There are a number of institutional uses nearby, including St. Vincent de Paul which is adjacent to the site on the west and south sides. North of the site, across NE Stanton Street, is the Immaculate Heart Catholic Church, a Portland historic landmark, and a community school. The Eliot Conservation District boundary runs along the east side of the site and then along NE Stanton Street toward the west to encompass Dawson Park. Development to the east of the site is made up of older single dwelling residences, many of which are consistent with the historic character of the Conservation District.

Infrastructure:

- **Streets** – The site has approximately 40 feet of frontage on NE Stanton Street. At this location, NE Stanton Street is improved with 37 feet of paving. The sidewalk corridor along the site's frontage has a 4-foot planter strip, 6 foot sidewalk and a 2-foot buffer (4-6-2 configuration). NE Stanton Street is classified as a Local Service Street and at this location is within a pedestrian district. For this situation, the City's *Pedestrian Design Guide* recommends a 12-foot wide sidewalk corridor.

Tri-Met provides transit service approximately 200 feet from the site at NE Williams Avenue via Bus 4 and 44. Parking is currently allowed on both sides of NE Stanton Street.

- **Water Service** – There is an existing 8-inch CI water main in NE Stanton Street.
- **Sanitary Service** - There is an existing 10-inch clay combined sewer in NE Stanton Street.

Zoning: The site is located in the Multi-dwelling Residential 1000 (R1) zone, the Design (d) Overlay zone and the Albina Community Plan District.

The R1 zone is a medium density multi-dwelling zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The Design Overlay Zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved by requiring design review or compliance with the Community Design Standards.

The Albina Community Plan District provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. Infill housing compatibility and affordability is encouraged by eliminating off-street parking requirements for small multi-dwelling housing projects.

There is R2, multi-dwelling residential 2,000 on properties to the east of the site. Across N Williams to the west, is the Legacy Emmanuel Hospital complex, which is zoned IR (Institutional Residential).

Land Use History: City records indicate there are no prior land use reviews for this site.

Neighborhood and Agency Review: A Notice of Proposal in Your Neighborhood was mailed on March 12, 2012.

Neighborhood Review: No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

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 & Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No public 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.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts 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. This site is in the R1 zone. The applicant is proposing one detached dwelling lot and two attached dwelling lots, all adjacent to a common green.

Minimum density in the R1 zone, for sites less than 10,000 square, is one unit per 2,000 square feet and the maximum density is one unit per 1,000 square feet. When single-dwelling development is proposed for part or all of the site, the applicant must show how the proposed lots can meet the minimum density and not exceed the maximum density stated in Chapter 33.120.

The total site area shown on the applicant's survey is 5,948 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the *minimum* density. A common green (private street) street is proposed in a 1,471 square-foot tract. Therefore, the resulting site size for calculating minimum density is 4,477 square feet and the site has a minimum required density of 2 units.

The area used for common greens is not subtracted from the total site area to calculate *maximum* density (*per 33.612.100 Density*). The lot size is 5,948 square feet, so the site has a maximum density of 6 units (5.9 rounded up to next whole number). The applicant is proposing 3 lots, which meets the density requirement.

However, in the R1 zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

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

R1 Zone	Detached	Lot 1 - detached	Attached	Lot 2 – attached	Lot 3 - attached
Min lot area (s.f.)	none	1,450 s.f.	none	1,513 s.f.	1,514 s.f.
Min. lot width (ft.)	25	25 ft.	15	20 ft.	20
Min lot depth (ft.)	none	58 ft.	none	75.7 ft	75.7
Min front lot line (ft.)	25	25 ft	15	75.7 ft	20 ft

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

The findings above show that the applicable lot dimension standards are met and the density standards are met and can continue to be met with a condition specifying the minimum and maximum density for each of the three lots. 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 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The Arborist Report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.3 and A.4). Trees 151, 152, 153, 156, 157 and 160 have been exempted because they are unhealthy, dead or pose a hazard. Trees 189, 190, 271, 272, 274 and 429 are proposed to be retained, according to the applicant's narrative. Tree #274 is designated as a 9-inch diameter Arborvitae (*Thuja sp*). *Thuja occidentalis* is the tree form of Arborvitae, but there are many garden forms, most of which are

classified as shrubs. In this case, tree #274 appears to be a shrub and therefore is not included in the total non-exempt tree diameter calculation or in the total diameter to be preserved. Also, there is a discrepancy between the applicant's narrative and the Arborist Tree Protection Plan. The plan shows Trees # 273 and #429 to be removed. The reason for this was that they are too close to Lot 1 to be saved.

According to the Arborist Report (Exhibit A.3) the total non-exempt tree diameter on the site is 223 inches. As discussed above, subtracting the 9-inch diameter Arborvitae results in a total of 214 inches. If trees 272 and 429 are removed, then the total diameter to be retained will be 80 inches, which is 37% of the total non-exempt tree diameter. Therefore, this proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. All of the trees to be preserved will be within Tract A, the common green.

The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C.2). However, there is a discrepancy between the building footprint showed on the Arborist Report and the building plan that the applicant submitted. The house on Lot 1 will be approximately 50 feet long and extends further back on the lot than the tree preservation plan shows. The back of the house will be approximately 60 feet from the front property line. According to the Arborist Report, there is a 27-inch Deodar cedar approximately 56 feet from the front property line and approximately 10-15 feet west of the proposed house. The cedar will be severely impacted by both excavations for the house and utilities construction. Even with careful constructions management, it may not be possible to save it.

As a condition of final plat approval, the applicant must submit a Supplemental Arborist Report that shows the location of the proposed house on Lot 1 and a current recommendation for preserving the tree. If the tree is removed because the arborist considers it to be impossible to save, the only trees that would remain protected are #189, #190, and #272, which have a total diameter of 58 inches. This amounts to 27 percent of the total tree diameter and would not meet Option 1. The minimum tree diameter that must be preserved is 75 inches (35 percent). In the event that the Deodar cedar must be removed, there would be 17 diameter inches to be mitigated. It would be difficult to meet this requirement on the lot, although it appears that at least three new trees (2-inch caliper) could be planted on the site. However, due to existing vegetation, it may not be possible to plant more than that. This would leave 11 diameter inches to be mitigated through payment into the tree fund. A condition of approval will allow for this contingency, in case the Arborist determines that the tree cannot be saved. Additional trees may be planted, as recommended in the supplemental Arborist Report. If mitigation trees are proposed to be planted on the site, the report must specify the number, species, size and location of the trees and the remaining number of diameter inches that must be paid into the tree fund.

Tree protection and construction management

The width of the common green in the area where the protected trees are located will be 15 feet wide. In addition, the house on Lot 1 will be within 2 feet of the east boundary of the common green (see Adjustment approval criteria later in this report). There will be a utility corridor and a sidewalk along the east 5 feet of the common green. As discussed above, this will make it very difficult to protect the trees. The sidewalk and utilities will be very close to the trunks of trees # 271 and #272. The Arborist Report comments on the measures needed to make sure the trees survive, including the required fencing, to remain in place until construction is complete. The report recommends that the arborist be on site during any excavation within 5 feet of any root protection zone fencing. However, the trees are so close to the proposed disturbance area, that the root zones cannot be protected very well. All that will be possible to do is to flag the trees and place fencing along the length of the boundary of Lot 1 and extending south across to the front lot line of Parcel 2. An addendum to the Arborist Report (Exhibit A.4) contains three additional recommendations. First, that a boring machine be used for utility installation in order to minimize impacts to the protected trees. *"The boring shall be conducted from 10 feet to the north and 15 feet to the south of the southwest boundary corner of Parcel 1 (for a total boring length of at least 25 feet)."* Second, that the pathway should be constructed at a

grade requiring the least possible excavation and that any excavation within 10 feet of trees #271 and #272 should be done by hand. Third, cutting of roots less than 2 inches in diameter should be cut cleanly back to sound wood and if larger roots are encountered, then the contract arborist should be contacted, and if possible, be on site. These recommendations will be included as conditions of approval.

The trees may survive if boring is used to place the utility lines and it will be essential for the arborist is on site during this time to consult. After boring is complete there should be no activity in the west side of the common green area until after construction on the lots is complete. The report also recommends protecting the soils in the area between the RPZ fencing and the footprint of the house on Lot 1 with a layer of landscape fabric and 6 inches of wood chips. Heavy equipment must not get access to the rear lots using the common green tract. This will be required as a condition of approval.

Construction fencing must be placed on this site before Final Plat approval. A Zoning Permit is required in order to verify that the fencing is placed as required. In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat. In addition, the ownership and maintenance agreement for the common green tract must state that the trees are to be protected and maintained to ensure long term survival.

This criterion is met, subject to the following conditions:

- 1) Development on Tract A must be carried out in conformance with the revised Tree Preservation Plan (Exhibit C.3, with staff annotations) and the applicant's Arborist Report (Exhibits A.3 and A.4). The applicant will be required to submit a letter from the arborist that states whether or not the Deodar cedar can be saved, given the proposed building footprints that were not originally considered. If the tree cannot be saved, the applicant must provide mitigation for 17 inches of tree diameter. Mitigation can take the form of additional tree planting, to be specified in the required Supplemental Arborist Report. The number, size and species to trees must be specified, with the remaining number of inches to be required as payment into the City Tree Fund.
- 2) The applicant must submit an Acknowledgement of Tree Preservation Requirements to be recorded with the final plat; and
- 3) The ownership and maintenance agreement for the common green (Tract A) must specify that the protected trees are to be retained and maintained to ensure their long term health and survival. The agreement must reference the Arborist Report and Addendum (Exhibits A.3 and A.4).

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.

The applicant did not submit a clearing and grading plan. 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. However, trees within the common green are required to be preserved, as discussed above, under Tree Preservation. Also, utilities will be installed within the common green tract. A sidewalk will be built on top of the utility corridor. The Arborist Report specifies procedures for minimizing impacts and protecting the trees during construction.. It is anticipated that the grading will primarily involve excavating for the foundations of the new houses and trenching for the utilities within the common green tract, but will not include mass grading of the site to alter the existing contours. The Arborist Report recommends using a boring machine to install the utilities. In addition, no clearing and grading will be permitted within the root protection zones of the trees on the site that are required to be preserved.

Stormwater runoff from the lots will be appropriately managed using a common drywell in the common green tract to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). Water from the sidewalk in the common green will shed into the vegetated area on the west side.

As shown above the ground disturbance and excavation anticipated to occur on the site can meet the approval criteria providing that development occurs in accordance with the annotated Tree Preservation Plan (Exhibit C.3) and the Arborist Report (Exhibits A.3 and A.4). When building permits are submitted for the houses on the individual lots a clearing, grading and erosion control plan must also be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan for compliance with the applicant's tree preservation plan and Arborist Report. With the conditions noted above requiring that the building permits for Lots 1-3 and the development in the common green tract comply with the recommendations of the Arborist Report, this criteria is met.

Land Suitability

The site is currently vacant 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: A private street tract (common green) is proposed. With a condition that the proposed tract be owned in common by the owners of lots 1 through 3, this criterion can be met.

The following easements are required for this land division:

- A Public Walkway Easement is required over the sidewalk portion of the private street (common green).

As stated in *Section 33.636.100 of the Zoning Code*, a maintenance agreement will be required describing maintenance responsibilities for the tract and easement described above and the trees 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 for each agreement, substantially similar to the following example:

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

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

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. A single-dwelling detached house is proposed for Lot 1.

The site fronts on NE Stanton Street, which is an east-west street. Lot 1 is on the south side of the street and is considered to be a corner lot because it has frontage on a public street and a private street (the common green). The *Solar Access Approval Criteria* are superseded by other conflicting requirements in the 600's chapters of the *Zoning Code*, per 33.639.020. In this case Lot 1 is 25 feet wide so that the common green tract, where there are trees to be preserved, can be the minimum width of 15 feet. The proposed layout has been dictated by tree preservation requirement, as discussed above (33.630), and by the standards for common greens (33.654.D). Therefore the solar access criteria do not apply.

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

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: The regulations of *Chapter 33.641* allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. *Chapters 33.651 through 33.654* address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.

The water standards of 33.651 have been verified. Water is available to serve the proposed development from the 8-inch CI water main in NE Stanton Street. There are no existing water lines to the site at this time. Service for Lot 1 will be from within the lot frontage. Water service lines for Lots 2 and 3 will be located within the common green tract with the meter installed within the NE Stanton Street right-of-way. As a condition of final plat approval, the maintenance agreement for the common green tract must include language to allow future access and maintenance of the water lines within the tract for future owners of Lots 1 and 2. Water Bureau review for new services will occur at the building permit stage.

33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.

The sanitary sewer standards of 33.652 have been verified. There is an existing 10-inch clay combined sewer in NE Stanton Street that can serve the sanitary needs of the proposed lots. Currently there is no existing service from the main. The unit on Lot 1 will have a direct connection to the main. Lots 2 and 3 will have individual sanitary laterals, to be located in the common green tract. BES has commented that this is acceptable, providing that the maintenance agreement language for the Tract A ensures future access and maintenance of the laterals within the tract. The Maintenance Agreement must be approved by BDS and the City Attorney and must be recorded with the Final Plat.

33.653.020 & .030 Stormwater Management criteria and standards - See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

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

The applicant has proposed the following stormwater management methods:

- **Lots 1-3:** Stormwater from the roofs of all three houses will be directed to a shared drywell in the common green tract. Incidental water from the driveway on Lot 1 will be shed to and infiltrated through adjacent vegetation.

The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed drywell can accommodate the expected volume of stormwater and infiltrate the water into the ground. There is sufficient area in the common green tract for a stormwater facility that can be located to meet setback standards and accommodate water from the three houses. Site Development has indicated conceptual approval of the drywell. The maintenance agreement for the common green tract must contain language specifying maintenance responsibilities for the stormwater facilities within the tract

- **Common Green:** The limited amount of stormwater runoff from the sidewalk within the common green will be directed to the landscape area on the west side of the sidewalk that is required as part of the common green. Site Development Section has indicated conceptual approval of this proposal.

These criteria can be met with conditions of approval requiring the maintenance agreement for the common green tract to contain language allowing for future access and maintenance responsibilities for the proposed shared stormwater facilities within the common green (Tract A), as approved by BDS and the City Attorney.

33.654.110.B.1 -Through streets and pedestrian connections**33.654.130.B - Extension of existing public dead-end streets & pedestrian connections****33.654.130.C - Future extension of proposed dead-end streets & 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 530-foot spacing goal for public through streets and the 330-foot spacing goal for pedestrian connections. However, given the diverse zoning and the varied development types on the subject block and surrounding blocks, no street or pedestrian connections are physically possible. Given the existing relatively consistent block pattern north, south and east of the subject block, new connections would not be beneficial. No new street connections have been identified in the vicinity of this property in the Portland Master Street Plan. Therefore PBOT has no concerns about connectivity or locations of rights-of-way related to this land division. Therefore this criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030**33.654.120.C Width and Design of the street right-of-way**

Transportation impacts: Based on the available evidence, PBOT estimates that there will be approximately 30 new daily trips with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.). The impacts of the new development to the area's intersections are estimated to be negligible. The nearest intersection at NE Stanton and NE Williams will continue operating at an acceptable level.

Parking impacts. Lots 2 and 3 have frontage on the common green tract which does not allow vehicle access. The front elevation submitted for the house on Lot 1 shows a single car garage. There is a church across the street from the site and a commercial development adjacent on the west side. The applicant has submitted a parking study that demonstrates that during the highest demand periods for on-street parking (*weekday evenings and church services on Sundays*) there will be a sufficient number of spaces, even assuming two vehicles for each of the three new lots. Exhibit E.2 contains a more detailed analysis of the parking study. PBOT staff found the parking study to be acceptable. Lack of on-site parking is also addressed below, under *33.654.120.D Approval criteria for common greens*.

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 not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that three additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. No street dedications or improvements will be required.

33.654.120.D. Approval criteria for common greens.

The applicant has proposed a common green (Tract A) to provide pedestrian access and street frontage for Lots 2 and 3. The common green is proposed to be within an L-shaped tract that is 15 feet wide at NE Stanton Street and 40 feet wide at the front lot lines of Lots 2 and 3. The common green will be 15 feet deep in the area between Lot 1 and Lots 2 and 3 and 75 feet long along the west side of the site. The total area of the tract is 1,471 square feet. The *Zoning Code* requires a minimum width of 15 feet and at least 400 square feet of outdoor area which must be 15 feet wide. The Tract A meets the width and size requirements.

Configuration of Elements

The *Administrative Rules for Private Rights of Way* contains requirements for access to lots and landscaping standards. A five-foot sidewalk is proposed to create a direct connection from the houses on Lots 2 and 3 to NE Stanton Street. The sidewalk will be distinguished from the public pedestrian corridor because the walkway will not be as wide as the public sidewalk at that location and the common green will be landscaped. In addition to providing street frontage for Lots 2 and 3, the common green will contain trees to be protected. Water

and sanitary sewer lines as well as stormwater facilities will also be constructed in the common green. The sidewalk will be placed over the utility lines in order to minimize additional disturbance to the roots of trees to be protected. The *Private Street Administrative Rule* requires concrete sidewalks. The Arborist Report recommends minimal excavation above the roots of trees to be preserved. In this case, the sidewalk may be raised above the ground to allow for tree protection. A condition of approval will be included that allows for this variation.

Stormwater from the sidewalk will shed toward the vegetated area on the west side. This amount of runoff from the sidewalk is anticipated to be minimal, so this is acceptable. No other amenities are proposed. The common green must meet the landscaping requirements of the *Private Street Administrative Rule*. This requires landscaping for the length of the common green. One tree is required for every 30 feet of street length. The common green is 75 feet long, so 3 trees would be required. In this case, there are existing trees in the common green area, at least three of which will be saved. Existing trees can substitute for one required street tree (*I.1 Trees and Landscaping Planning Rule*). Also, trees planted in the front yard of lots facing the common green can substitute for street trees. Permanent vegetative cover must be established on all exposed ground surfaces, excluding walkways. The applicant has not submitted detailed drawings showing details of the common green. A condition of approval will require submission of a detailed plan of the common green showing location, materials and size of the pedestrian walkway, as well as any additional trees to be planted and the type of groundcover proposed.

To assure that the improvements in the common green tract (the sidewalk and landscaping) are constructed a Site Development permit must to be submitted prior to final plat approval. The applicant has requested approval to construct the common green improvements after the houses are constructed to prevent damage to soil and vegetation. Tree protection fencing in the common green will limit access to the rear of the site during construction. Access to the parcels during the construction of the houses will come from NE Stanton Street through proposed Lot 1 and through the south portion of the common green where no trees are being preserved. The houses on Lots 2 and 3 will be constructed first. Installation of utilities within the common green tract will be occur during construction of the houses, but final improvements in the common green will not be completed until the houses are built. Construction of the house on Lot 1 can proceed when access through the lot is no longer required for construction of the attached houses on Lots 2 and 3. The common green must be completed before the house on Lot 1 can receive final inspection approval. The common green, along with protective fencing for trees to be preserved, must be shown on the site plans for all permits. A condition of approval will a construction management plan, subject to BDS Site Development approval, that reflects the sequencing of construction discussed above.

Fire Access: The Fire Bureau requires fire apparatus access from NE Stanton Street to the rear of the attached houses on Lots 2 and 3. If the distance exceeds 150 feet, the distance can be increased to 250 feet if residential sprinklers are installed – unless a Fire Code Appeal is granted. The distance from NE Stanton Street to the rear of Lot 2 is 147 feet. However, the distance from the street to the farthest point of the house on Lot 3 appears to exceed the maximum distance. If the exception is taken, the applicant must submit an Acknowledgement of Special Land Use Conditions (ASLUC) that must be recorded and noted on the plat. Alternatively, the applicant may apply for a Fire Code appeal to this standard. Therefore, prior to final plat approval the applicant must submit an approved Fire Code appeal, or a supplemental plan showing that this requirement can be met, as approved by the Fire Bureau. Otherwise the applicant must submit an ASLUC. The ASLUC must be recorded and a recording block shown on the final plat.

Parking: As discussed above under parking impacts, there will be no on-site parking for Lots 2 and 3. Single dwelling development on lots with front lot lines facing a common green must meet *Section 33.266.110 Minimum Required Parking Spaces*. This regulation is superseded by the Albina Community Plan provision (33.505.220.C) which allows projects to be developed without on-street parking on sites that are 7,500 square feet or smaller and

have no more than 5 dwelling units. Per 33.50 5.240 projects taking advantage of this provision must meet the Community Design Standards (33.218) or be approved through a Design Review. As discussed later in the report, under Development Standards, it is not clear whether or not the Community Design Standards can be met. If they cannot be met, the applicant will be required to obtain an approved Design Review for the proposed houses on all three lots prior to final plat approval.

As discussed above, with conditions of approval the common green can meet the requirements and serve the expected users.

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

Findings: Pedestrian connections must be wide enough to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity. The *Private Street Administrative Rule* requires a minimum pathway width of 5 feet within the common green, which is what the applicant is proposing. In this case the width and location of the connection is constrained by the need to preserve trees within the common green. The path runs from NE Stanton Street south 75 feet to the house on Lot 2 and jogs slightly to the east to reach the house on Lot 2. This will provide a convenient and direct connection to the public street. The Arborist Report recommends raising the sidewalk above the surrounding grade in order to minimize excavation close to the trees. As discussed above, this will be required as a condition of approval, as approved by BDS Site Development Services. 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.

ADJUSTMENTS

The applicant has requested an adjustment to reduce the west side setback on Lot 1 from 3 feet to 2 feet. In multi-dwelling zones, the front and side minimum building setbacks next to a common green are reduced to 3 feet and minor architectural features such as eaves are allowed in this setback (33.120.270 *Alternative Development Options*).

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

A. *Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and*

Findings: The *Alternative Development Options* in multi-dwelling zones include special standards for attached and detached houses accessed by common greens. The ones that are relevant to this proposal are:

- *Encourage the preservation of open and natural areas*
- *Allow for greater flexibility within a development site while limiting impacts to the surrounding neighborhood;*
- *Reduce the impact that new development may have on surrounding residential development*

Lot 1 is 25 feet wide, with west side facing the common green, which is 15 feet wide along that lot line. The lot is narrow for a detached house. Reducing the setback by one foot next to the common green will allow a relatively narrow house to be built on the lot while allowing for 5-foot setback on the east side of the lot. The common green itself is being used to protect existing trees and to preserve open area. Moving the house closer to the west property line will not impinge on the common green because trees will be protected and the house will not affect placing utilities and a sidewalk. For the above reasons, this criterion is satisfied.

- B.** *If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a C, E, or I zone, the proposal will be consistent with the desired character of the area; and*

Findings: The site is in the Residential 1,000 zone, which intended for medium density multi-dwelling development. As discussed in the findings above, the reduced setback is adjacent to the common green, so it will not have an impact on the adjacent lot to the east. Even with the one foot narrower setback from the common green, there will still be more open space that the R1 zone requires. The reduced setback will not affect the setback on the east side, which is adjacent to an existing detached house. There is an institutional use and rear parking lot on the property to the west. Moving the house to within 2 feet of the 15-foot wide common green will have negligible impact on that use. This criterion is met because the adjustment will not change the character of the residential area. It will not affect livability because the common green will provide more open space for residents' use than is typical for multi-dwelling zones. Therefore, this criterion is met.

- C.** *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and*

Findings: One Adjustment is requested, so this criterion does not apply.

- D.** *City-designated scenic resources and historic resources are preserved; and*

Findings: There are no such resources present on the site. Therefore, this criterion is not applicable.

- E.** *Any impacts resulting from the adjustment are mitigated to the extent practical; and*

Findings: As discussed in previous findings, the impacts of the adjustment are minimal, so no mitigation is needed.

- F.** *If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;*

Findings: This criterion is not applicable because the site is not in an environmental zone.

DEVELOPMENT STANDARDS

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

Future Development

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

- *Houses, detached houses and duplexes accessed by common greens, shared courts, or alleys - special requirements apply to this type of development per Section 33.120.270.E.*
 1. When a land division proposal includes common greens, shared courts, or private alleys, maximum building coverage is calculated based on the entire land division site, rather than for each lot.
- *Community Design Standards (33.218)*
 - 33.218.110.C* requires a 10-foot wide landscaped buffer (L3 standard) on lots in the R1 zone abutting a lower density residential zone. Based on the building plan submitted, this standard may not be met.
 - 33-218.110 H* limits the location and size of vehicle areas: This applies to Lot 1
 - 22.218.110.J* specifies acceptable materials for exterior finishes
 - 33.218.110.K* specifies standards for window design and detailing

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	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 www.portlandonline.com/bds

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 and financial assurances, 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 for adequate hydrant flow from the nearest fire hydrant, obtaining an approved Fire Bureau appeal to this requirement, or applying the exception and recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1, 2 and 3. These requirements are based on the technical standards of *Title 31* and Fire Bureau *Policy B-1*.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to the common green (Tract A) and Lot 1 prior to final plat approval. This requirement is based on the standards of *Title 20*.

CONCLUSIONS

The applicant has proposed a 3-lot subdivision with common green, as shown on the attached preliminary plan (Exhibit C1 and 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: tree protection within the common green, location of utilities, timing of common green improvements and Community Design standards.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision, that will result in 1 single dwelling lot, two lots for attached houses and a common green (Tract A) as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, Site Development and Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Measurements showing required Fire Department apparatus access distances for the houses on Lots 2 and 3.
- Any other information specifically noted in the conditions listed below.

B. 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 Lot 2 and 3. Motorized vehicles are not permitted on Tract A.”
2. A public walkway easement must be shown over the sidewalk portion(s) of the common green tract.
3. A recording block for each of the legal documents such as maintenance agreement(s) or acknowledgement of special land use conditions, as required by Conditions B.1 and B.2, above and Conditions C. 7, 8 and 9, below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document No. ___, Multnomah County Deed Records.”

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

Streets

1. The applicant shall submit an application for a Site Development Permit for construction of the common green 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 Exhibit C.1, C.3 and the *Private Street Administrative Rule*. The application must contain the following information:
 - The exact location of the 5-foot wide paved pathway connecting Lots 2 and 3 to the public street, including dimensions and materials. The pathway must be located as close as possible to the west property boundary of Lot 1.
 - The location of utility lines, which must be located as close as possible to the west property line of Lot 1.
 - A construction management plan showing conformance with the recommendations of the Arborist Report and Addendum (Exhibits A.3 and A.4) as well as the revised Tree Protection Plan (Exhibit C.3), including boring for utility lines and minimizing excavation for pathway construction.
 - Ground cover treatments for the common green area.
2. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.1.
 - It must show root protection zones of the trees to be preserved on the Tree Preservation Plan (Exhibit C.3);
 - It must show sequencing of construction on the Lots. The common green shall not be used for vehicle access during construction. Activities will be limited to installation of utilities, construction of the sidewalk and required landscaping treatments
 - It must show stockpile areas;

- It must note that topsoil must be stockpiled on site and re-used to the extent practicable.
- 3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street (common green) and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
- 4. The applicant must submit a supplementary Arborist Report showing the proposed building footprints and a recommendation about the possibility of preserving the Deodar cedar (tree #271). If the tree cannot be protected well enough to ensure survival, the report must include tree planting on the site as mitigation, including species, size and location. The amount of tree diameter remaining after subtracting the caliper inches of new trees, must be calculated and an equivalent payment made to the City's Tree Fund.

Utilities

- 5. 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.
- 6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 2 and 3, as required in *Chapter 5* of the *Oregon Fire Code*. If these requirements are not met and the exception is used, the applicant will be required to install residential sprinklers in the new houses on these lots. See Condition C.8, below for required legal documentation. Alternatively, the applicant may apply for a Fire Code appeal, which the Fire Bureau must approve prior to final plat approval.

Required Legal Documents

- 7. 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, 2 and 3 and include provisions assigning maintenance responsibilities for the tract and any trees and shared facilities within that area. The agreement must include provisions for the continuing maintenance and protection of the trees to be preserved. 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.
- 8. If necessary in order to meet Fire Bureau requirements, the applicant shall execute an *Acknowledgement of Special Land Use Conditions* (ASLUC) requiring residential development on Lots 2 and 3 to contain internal fire suppression sprinklers. The ASLUC shall be recorded with Multnomah County and referenced on the final plat.
- 9. The applicant shall execute an *Acknowledgement of Tree Preservation Requirements* that notes tree preservation requirements that apply to the site. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

Other requirements

- 10. The applicant must install protective fencing around the root protection zones of trees to be preserved as shown on Exhibit C.3 and as required by Condition C.1. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Prior to final plat the applicant must receive final inspection approval of a Zoning Permit verifying that the fencing has been installed.

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

1. Development on Tract A, the common green, shall be in conformance with the Tree Preservation Plan (Exhibit C.3) and the applicant's Arborist Report (Exhibits A.3 and 4). Specifically, trees numbered 189, 190, 271, 272, and 429 are required to be preserved, with the root protection zones indicated on Exhibit C.3. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The minimum and maximum density for the lots in this land division are as follows:

<i>Lot</i>	<i>Minimum Density</i>	<i>Maximum Density</i>
1	1	2
2	1	2
3	1	2

3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the sidewalk of the new street (common green – Tract A).
4. The applicant must meet the addressing requirements of the Fire Bureau for the private street. The location of the sign must be shown on the building permit.
5. The applicant will be required to meet any requirements related to fire equipment access. Please refer to the final plat approval report for details on whether or not this requirement applies.
6. The applicant must meet the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
7. The Site Development Permit for the construction of the common green must receive final inspection approval before the permits for the house on the lots can receive final inspection approval. In addition, the improvements in the common green must be shown on the site plan for the permits for the house on Lots 1, 2 and 3.

Staff Planner: Sue Donaldson

Decision rendered by: _____ **on May 9, 2012.**

By authority of the Director of the Bureau of Development Services

Decision mailed May 11, 2012

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 4, 2012, and was determined to be complete on March 6, 2012.

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 4, 2012.

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: July 5, 2012.**

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 June 4, 2012** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 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.

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment review. This other concurrent approval must be recorded by the Multnomah County Recorder ***before any building or zoning permits can be issued.***

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with the concurrent land use review. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

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

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment to the west side setback on Lot 1, from 3 feet to 2 feet]. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment to west side setback on Lot 3. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

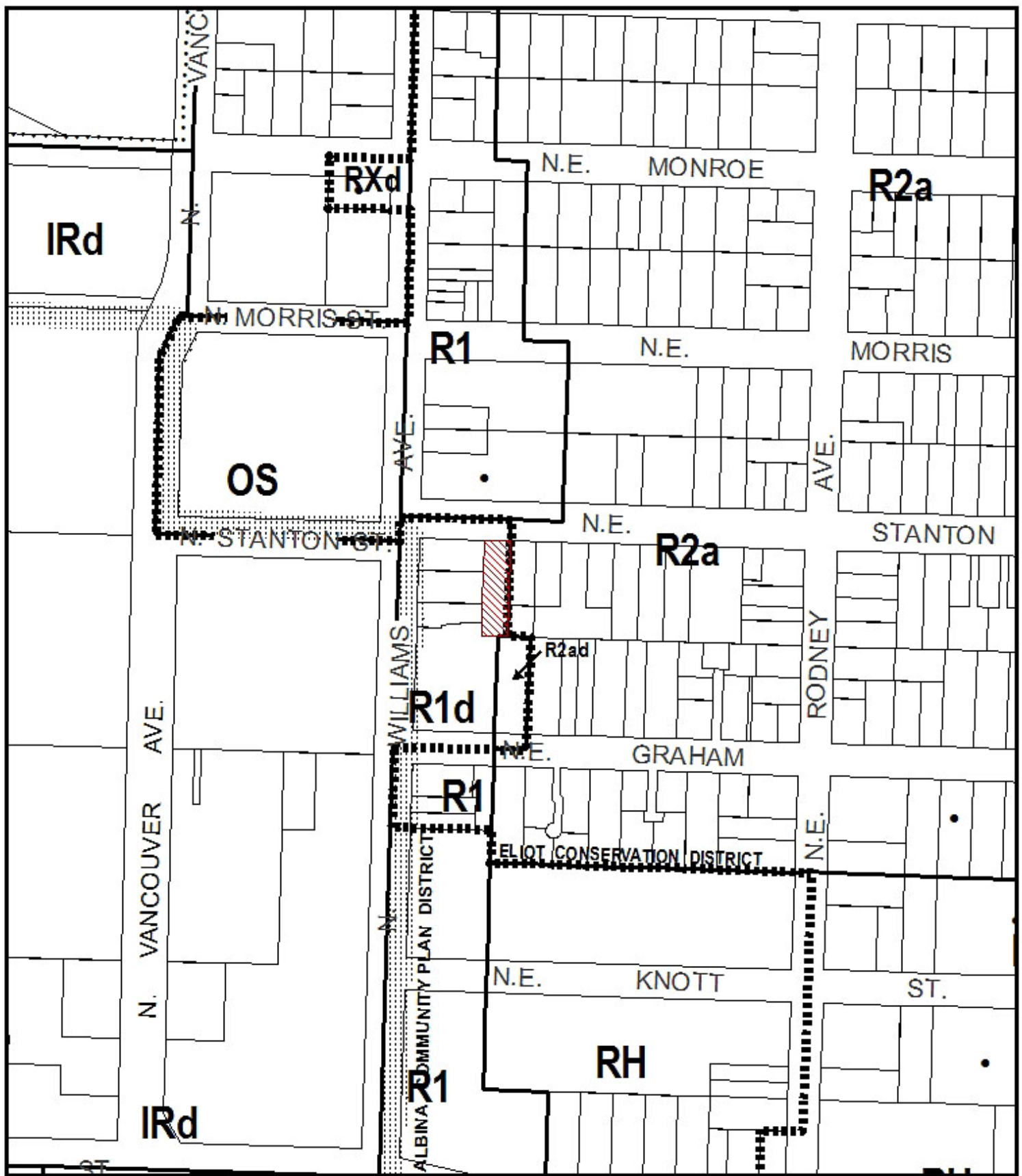
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Neighborhood notification verification
 - 3. Arborist Report
 - 4. Tree Protection Plan Addendum
 - 5. Stormwater Report
 - 6. Parking Impact Analysis
 - 7. Memo re: additional information, dated 02/16/12
 - 8. Memo re: additional information, dated 03/06/12
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Tree Protection Plan

3. Revised Tree Protection Plan with staff annotations (attached)
 4. Utility Plan
 5. Proposed building plan and elevation – Lot 1
 6. Proposed building plan and elevation – Lots 2 and 3
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
Amended – dated April 25, 2012
 6. Bureau of Parks, Forestry Division
- F. Correspondence: None
- G. Other:
1. Original LU Application
 2. Site History Research
 3. Incomplete letter

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



ZONING



Site



Historic Landmark



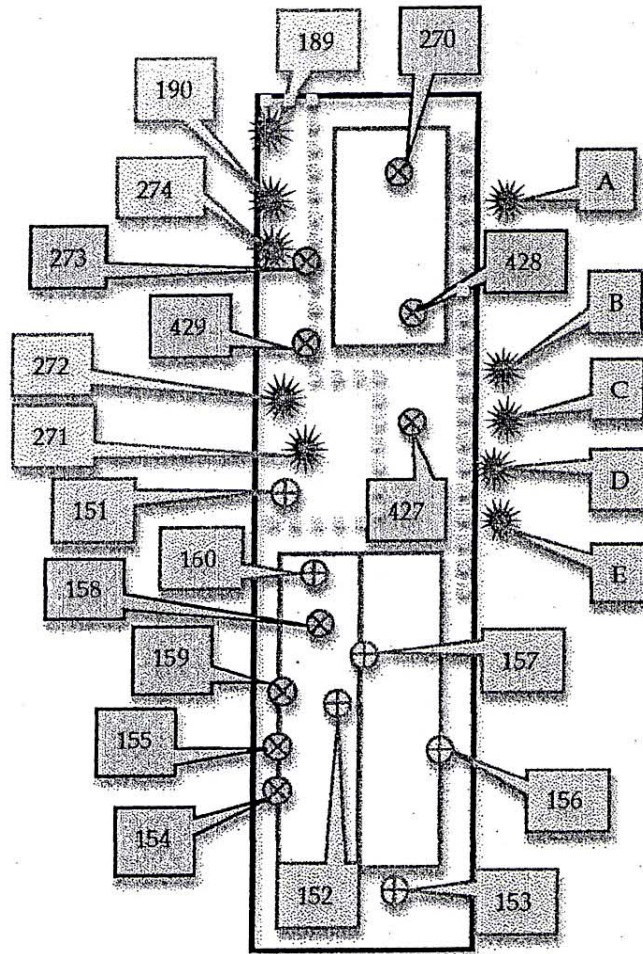
NORTH

This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT

File No.	LU 12-100953 LDP AD
1/4 Section	2730
Scale	1 inch = 200 feet
State_Id	1N1E27AD 7700
Exhibit	B (Jan 06, 2012)

ATTACHMENT C - ARBORIST SITE MAP

- Tree protection fencing: place along Lot 1 property line, around Deodar cedar (#271) & extend S to Lot 2.
- No equipment access through Tract A, common green.
- Arborist to be on site during utility work & sidewalk construction.
- Boring machine to be used for utility installation to minimize impacts to the protected trees. "... boring shall be conducted from 10 ft to the north and 15 ft to the south of the SW boundary corner of Parcel 1 (total boring length at least 25 feet)."
- Pathway to be constructed at a grade requiring the least possible excavation
- Any excavation within 10 ft of trees #271 and #272 should be done by hand.
- Cut roots less than 2 in. diameter to be cut cleanly back to sound wood
- Arborist to be on site if roots over 2 in. encountered.
- Layer landscape fabric & 6 in. of wood chips over root protection areas.



 RETAINED TREE

 REMOVE FOR CONSTRUCTION

 PROTECTED TREE (NEIGHBOR'S)

 HAZARD

 ROOT PROTECTION ZONE FENCING