



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 24, 2014
To: Interested Person
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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 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 14-114449 LDP

GENERAL INFORMATION

Applicant: Craig Cowing
633 NE Graham / Portland OR 97212

Owner: Beth A Tarasawa
633 NE Graham St / Portland OR 97212-3105

Consultant: Mark Dane / Mark Dane Planning Inc.
13630 SW Butner Rd / Beaverton OR 97005

Site Address: 633 NE GRAHAM ST

Legal Description: BLOCK 8 LOT 16, ALBINA
Tax Account No.: R009602640
State ID No.: 1N1E26BC 07600
Quarter Section: 2731
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 Claire Adamsick at 503-388-9030

Plan District: Albina Community
Zoning: R2a – Residential 2 with the “a” Alternative Design Density overlay
Case Type: LDP – Land Division Partition
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA)

Proposal:

The applicants propose to partition this 6,353 square-foot site into 3 new lots, and retain the existing house on Parcel 1. Each parcel will have detached houses with individual drywells and driveways. Parcel 1 will be the largest of the three parcels at approximately 2,831 square feet. Parcels 2 and 3 will be approximately 1,902 and 1,619 square feet, respectively.

Of the 4 trees on the site, the applicant proposes to retain the 17-inch and 24-inch diameter

Ornamental Pear trees in the side yard of Parcel 1, although the 24-inch pear is considered a hazard tree due to structural deficiencies. An English holly, a designated nuisance species in Portland and a red maple located at the north property line will be removed. The applicant also proposes to retain the three right of way trees along NE 7th Avenue, although these trees are not subject to the land use review tree preservation requirements. New sanitary sewer and water lines are required for each of the 2 new houses to be constructed on Parcels 2 and 3.

This partition is reviewed through a Type 1x land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services is proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 3 units of land (i.e., 3 parcels). Therefore this land division is considered a partition.

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: This basically flat site, located in the northwest corner of the intersection of NE 7th and NE Graham Street, contains approximately 6,352 square feet. It also contains an existing house that will remain a garage that will be removed and 4 trees: 2 that will be removed and 2 that will remain. The site is located in a predominantly residential neighborhood which has lots that vary anywhere from 1,400 SF to 6,250 SF. NE Martin Luther King JR (MLK) Boulevard is located one block, approximately 645 feet, to the west.

Infrastructure:

- **Streets** – This site has approximately 50.8 feet of frontage on NE Graham Street and about 125 feet of frontage along NE 7th Avenue. At this location, both NE 7th and NE Graham streets are classified as Local Service Streets for all modes in the TSP, and NE 7th is also classified as a City Bikeway. The site is located within the Elliot Pedestrian District, and TriMet provides frequent transit service along NE MLK Boulevard via Tri-Met Route 6.

Also at this location, NE Graham is improved with 36.7 feet of pavement width with a 4-6-2 sidewalk corridor within a 60.7 foot wide right of way. NE 7th has 34 feet of pavement width with a 14-6-2 sidewalk corridor.

- **Water Service** – There is an existing 3/4” metered water service from a 6-inch CI water main in NE Graham Street that may potentially be used to provide continued service to the existing house located on Parcel 1. For development of Parcels 2 and 3, new water services and meters will be required from the existing 8-inch CI water main in NE 7th Avenue.
- **Sanitary Service** – There is a 14-inch VSP public combination sewer located at approximately the east right-of-way line of SE 7th; and there is an 8-inch CSP public combination sewer located in NE Graham that can serve the sanitary disposal needs of this project. An existing lateral is available to continue serving Parcel 1. New laterals to the service in SE 7th Avenue will be required to provide service to Parcels 2 and 3.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this

site. The existing house has downspouts that discharge to splash blocks. However, the applicant has proposed on-site infiltration by means of drywells for proposed development on all three parcels, which is acceptable to the Bureau of Development Services.

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

The “a” overlay is intended to allow increased density that meets design compatibility requirements. This land division proposal is not using any of the provisions of the “a” overlay.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **July 15, 2104**. Mike Warwick, Chair of the Eliot Land Use Committee, responded in opposition to the small size of the two new lots. Lot size is discussed below under Criterion A, Lots.

ZONING CODE APPROVAL CRITERIA

To be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

■ 33.660.120 APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 *The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.*

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639). All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.

L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the R2 zone. The applicant is proposing three parcels for detached houses. Single-dwelling development is proposed for the entire site; therefore the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3.

Minimum density in the R2 zone is one unit per 2,500 square feet of site area, and the maximum density is one unit per 2,000 square feet. No street dedications are required for this development. The total site area shown on the applicant's survey is 6,352 square feet, which is used for calculating density. Therefore, the site has a minimum required density of 2 units and a maximum density of 3 units.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)*	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Parcel 1 – Existing House	2,831	50.8		50.8
Parcel 2 – detached	1,902	27.0		41.6
Parcel 3 – detached	1,619	31.0		33.5

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

Two of the new lots, Parcels 2 and 3, have unconventional shapes with Lot 3 being trapezoidal and Lot 2 having 5 sides. Minimum lot width in the R1 zone is 25 feet. The depth of the site north of proposed Parcel 1 is 60.1 feet, which allows each of the other 2 lots, which front on NE 7th Avenue, to have a width of at least 27 feet. In order to retain the existing house on Lot 1 and for Lots 2 and 3 to meet the minimum lot size and setback requirements, these lots were given unconventional lot configurations.

The Eliot Land Use Committee expressed concerns that the proposed lot sizes do not meet code requirements because two of the lots are less than 2,000 square feet. However, as shown above, the R2 zone allows lots to be a minimum of 1,600 square feet. Therefore, the proposed lot sizes do meet the minimum code requirements.

In addition, the Committee expressed dislike for the shapes of Parcels 2 and 3. The Code is silent regarding the shape of lots as long as they meet minimum dimensional requirements for width, depth and area. As shown above, the proposed, odd-shaped lots do meet these requirements.

Therefore, the findings above show that the applicable density and lot dimension standards are met, and 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 inventoried the trees within the land division site, evaluated their conditions and specified root protection zones for trees to be preserved (Exhibit A.2). Although the report included three trees in the right-of-way, these trees are exempt from these regulations and are instead regulated by Urban Forestry. In addition, one of the on-site trees, the English holly, is considered a nuisance species and the 24-inch pear has structural damage and is considered a hazard tree, so it too is exempt from preservation requirements.

The remaining two trees are regulated trees that are subject to review, and include the following: one 17-inch ornamental pear and one 16-inch red maple, with a total diameter of 33 inches. The applicant proposes to preserve the 17-inch ornamental pear for a total preservation of 17 tree inches located on Parcel 1, the parcel with the existing house. This proposal complies with Option 1 of the tree preservation standards, which requires a minimum of 35 percent of the total non-exempt tree diameter on the site to be preserved, which would be 11.5 inches. Preservation of 17 inches results in almost 68 percent of the regulated tree diameter being preserved on the site (Exhibit C.2).

To ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must provide a Supplemental Plan that shows the size and location of the tree to be preserved on Parcel 1, and also provide an Acknowledgement of Tree Preservation Requirements which must be recorded at the time of final plat.

This criterion is met, subject to the above two conditions.

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

Findings:

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

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

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

Portland Transportation has reviewed the application and provided the following comments:

Street Capacity and Levels of Service:

Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

- 1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.*
- 2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.*

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

To estimate the trips generated by the addition of a single-family dwelling to the subject property, trip rates from the manual Trip Generation are referred to. The data for land use #210, Single-Family Detached Housing are used to calculate trip rates for the additional 2 homes. In relation to the proposed land division partition request, the existing home on the site will be retained on Proposed Parcel 1 and 2 new detached homes will be constructed. Accordingly, in relation to the impacts from the 2 additional homes on the site, there will be 2 new vehicle trips generated during each of the AM and PM peak hours of travel and an additional 20 total daily trips.

The applicant's traffic consultant conducted observations of the weekday evening peak hour traffic conditions to ensure the study intersections can adequately accommodate future trips from the proposed development. The studied (stop controlled) intersections included those at NE 7th Ave/NE Graham, NE 7th Ave/NE Knott and NE MLK JR Blvd/NE Graham. The observations made by the applicant's traffic consultant included vehicle queues and amount of delay. Accordingly, the existing operating conditions of the above referenced intersections are LOS A, LOS B and LOS D, respectively. With only 2 (max) potential additional site generated trips expected from the proposed development, the performance of the studied intersections will not be adversely impacted. The new peak hour trips will have minimal impacts to the areas nearby intersections and do not warrant any mitigation to said intersections. The intersections will continue to operate at current levels without further degradation from the vehicle trips generated by the proposed project factored into the analysis. The site is situated in an area made up of a robust and gridded street network that will allow vehicle distribution from the new partition to disburse throughout the network, thereby minimizing impacts to any one intersection.

The applicant's traffic consultant obtained the most recent crash history data (2008-2012) available from ODOT to help determine if there are any significant crash patterns or safety hazards in the area. The obtained data was for the studied intersections noted above. None of the intersections had crash rates of (even close to) 1.0 CMEV [crashes per million entering vehicles], which is the industry standard that would suggest the existence of a safety hazard wherein safety mitigation would be necessary.

Connectivity:

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. There is an existing pattern of block sizes and orientation between NE MLK JR Blvd and NE 7th Ave and between NE Fremont and NE San Rafael (13 blocks); said block pattern is approx 260-ft x 700-ft in size. The blocks satisfy the prescribed spacing goals noted above in the east-west

direction. The development pattern on all of these blocks precludes any further connectivity in the north-south direction without the demolition of many homes/structures through all of the blocks in question. The large network of existing sidewalk facilities throughout the area adequately accommodates pedestrian passage for area residents. Further, as the subject site is situated as a corner lot, it is not an ideal location for furthering any connectivity goals. PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associated with the proposed land division partition.

On-Street Parking Impacts:

With regard to impacts to on-street parking, the new residences that will be constructed on each of the new lots are shown on the submitted plans to include on-site parking opportunities for at least one vehicle on each lot, with access via individual curb cuts/driveways. In association with the proposed development on the site, there will be an increase in on-street parking demand that needs to be factored. The parking demand that is expected to be generated as a result of the proposed project is estimated using rates from the Institute of Transportation Engineers (ITE), *Parking Generation Manual, 4th Edition, 2010*. The data utilized to determine the parking demand for the 2 additional dwelling units on the site is for land use #210, Single-Family Detached Housing. Based upon this data, the 85th percentile peak parking demand for the 2 additional dwelling units is 4 parking spaces.

The proposed individual curb cuts/driveways proposed to serve the new homes will reduce the availability of current on-street parking opportunities along the site frontages. An accounting of the homes throughout the vicinity of the subject site reveals driveways and garages associated with these homes that will accommodate at least one car on most of the nearby lots.

The applicant's traffic consultant conducted a weekday site visit during the late evening hours to observe existing parking supply/demand in the area at a time of peak residential parking demand. The parking survey area included NE Graham for a distance west of NE 7th Ave as well as NE 7th between NE Graham/NE Stanton (to the north) and NE Graham/NE Knott (to the south). Along the segment of NE Graham that was observed, there were 2 out of 13 spaces available; NE 7th Ave between NE Graham/NE Stanton had 8 out of 12 spaces available, and, NE 7th Ave between NE Graham/NE Knott had 7 out of 11 spaces available. With on-site parking opportunities for at least one vehicle on each of the proposed lots, on-street parking impacts will be minimized, even with the expected increase in parking demand.

Availability of Transit:

The site is served by nearby transit service along NE MLK JR Blvd, west of the subject site via Tri-Met route #6 [Martin Luther King JR Blvd]; additional Tri-Met service is available via other bus routes further distanced from the subject site. There are existing sidewalk corridors throughout the vicinity that facilitate pedestrian travel. There are identified bike facilities (Portland Bike/Walk Map) in the area including a Neighborhood Greenway/Signed-Marked route along NE Morris (north of the site) and a Shared Roadway along NE 9th Ave (east of the site).

Overall, Portland Transportation determined that there will be a minimal impact on existing facilities and capacity and no mitigation is required (see Exhibit E.2 for a detailed analysis). Based on these factors, this criterion is met.

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

Findings: 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 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 3 of this report. The sanitary sewer service standards of 33.652 have been

verified.

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

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

The applicant has proposed the following stormwater management methods:

- **Parcel 1 (existing house):** The existing house has rain drains that collect roof runoff and convey it to the ground. Because discharge from these drains did not meet setback standards, the applicant will provide a drywell to accommodate stormwater on this site.
- **Parcels 2 and 3:** Stormwater from these lots will be directed to individual drywells on each lot that will treat the water and slowly infiltrate it into the ground.

The applicant has proposed to direct stormwater from the lots to drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES reviewed the Simplified Approach infiltration test results of 3 inches per hour on the site, and has no objections to the on-site infiltration system using drywells for the purposes of land use review.

However, BES is requiring the applicant to **construct** a stormwater management system for the retained house on Parcel 1 that meets the current SWMM, with all permits finalized, prior to Final Plat approval.

With the implementation of that condition, this criterion will be met.

33.654.110.B.1 Through streets and pedestrian connections – See Exhibits E.2

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart.

This section requires street and pedestrian connections where appropriate and practical, taking a number of factors into consideration. The following discussion is based on Portland Transportation's assessment of the connectivity potential in the area. The City's spacing requirements for public through streets and public pedestrian connections is a maximum of 530-ft and 330-ft, respectively.

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. There is an existing pattern of block sizes and orientation between NE MLK JR Blvd and NE 7th Ave and between NE Fremont and NE San Rafael (13 blocks); said block pattern is approx 260-ft x 700-ft in size. The blocks satisfy the prescribed spacing goals noted above in the east-west direction. The development pattern on all of these blocks precludes any further connectivity in the north-south direction without the demolition of many homes/structures through all of the blocks in question. The large network of existing sidewalk facilities throughout the area adequately accommodates pedestrian passage for area residents. Further, as the subject site is situated as a corner lot, it is not an ideal location for furthering any connectivity goals.

There are existing sidewalk corridors throughout the vicinity that facilitate pedestrian travel. There are identified bike facilities (Portland Bike/Walk Map) in the area including a Neighborhood Greenway/Signed-Marked route along NE Morris (north of the site) and a Shared Roadway along NE 9th Ave (east of the site).

PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associated with the proposed land division partition.

For the reasons described above, this criterion is met.

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

Findings: Portland Transportation provided the following response:

Frontage improvements will not be required along the site's frontage nor will a dedication of property be required.

However, Minor Improvement Permits will be required for the new curb cuts/driveways that will serve the new lots; said permit for Proposed Parcel 1 must be obtained prior to Final Plat approval. These permits may be obtained in relation to the Building Permit reviews for the new homes expected to be constructed on Parcels 2 and 3. In relation to the new driveway for Proposed Parcel 1, PBOT approved a Design Exception for the driveway to be located at least 13-ft from the intersection of the site's NE Graham/NE 7th Ave property lines. This driveway cannot be located any closer to this intersection.

The applicant is advised that if the sidewalk corridors are damaged during the course of construction of the proposed development, they will need to be reconstructed to the satisfaction of the City Engineer.

Based on these factors, this criterion will be met with the noted condition.

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

At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. 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. As such, this criterion is met.

DEVELOPMENT STANDARDS

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 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.

- **Detached Houses** - Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site remain that of the base zone. This proposal is eligible to use these provisions. *To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.*
- **Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, the proposed land division does not appear to cause existing development to move out of conformance with development standards applicable in the R2 zone. However, a supplemental plan, drawn to scale, that shows the existing house and all setbacks is required to document that the existing development will remain in conformance with required setbacks.

In addition, the required parking space on Parcel 1 must also be shown on the Supplemental Plan to verify that it meets the setback requirements of the Portland Bureau of Transportation.

- **Proposed development.** New development must meet applicable setback standards or request adjustment through a land use review.

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 20 – Street Trees and other Public 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.

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and meet fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and the 2010 Oregon Fire Code.
- **Urban Forestry:** “Every effort must be made to preserve” three large Oak trees in the City right-of-way. Tree protection measures will be reviewed during building permit application. Trees must be protected and preserved and any proposed disturbance to street trees must be reviewed and approved during permit application. **A written permit from Urban Forestry is required** prior to any disturbance. The applicant must meet the requirements of Urban Forestry for street tree planting at time of development. These requirements are based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3 parcel partition, as shown on the attached preliminary plat (Exhibit C.1). Neighborhood concerns about lot size and shape were addressed in the findings for lot standards (33.660.120.A). The applicant has also been provided with copies of the neighborhood letter which may help foster communication between all interested parties about other issues that are outside the scope of this review.

Overall, 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:

- Lot configuration
- Tree protection
- Fire Bureau requirements
- Replacement parking and new curb cut for Parcel 1

With conditions of approval that address these requirements the proposed Land Division review can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in three standard lots, as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for BDS review and approval. This 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:

- The location of Tree 5 to be preserved, relative to the existing house and proposed lot lines;
- All buildings or accessory structures on the site at the time of the final plat application;
- The setbacks on Parcel 1;
- The required replacement parking on Parcel 1;
- The reduced side setbacks allowed under 33.120.270.D, if eligible;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for the Acknowledgement of Tree Preservation Requirements as required by Condition C.3 below. The recording block shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Requirements has been recorded as document no. _____, Multnomah County Deed Records."

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


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.
2. The applicant must meet the requirements of BES for the stormwater system for the existing house to remain on Parcel 1. Specifically, the applicant must construct a stormwater management system for the retained house on Parcel 1 that meets the current SWMM, with all permits finalized.
3. The applicant shall obtain a Minor Improvement Permit from Portland Transportation for the new curb cut/driveway on Parcel 1.
4. The applicant shall obtain a Zoning Permit for the new parking space on Parcel 1.
5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1 and 2. 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.

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

1. Development on Parcel 1 shall be in conformance with the Preliminary Land Division Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, tree #5 (the 17" Ornamental Pear) is required to be preserved, with the root protection zone indicated on Exhibit C.1. 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 applicant must meet the Fire Bureau requirements related to addressing, fire flow, and 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.
3. Minor Improvement Permit will be required for new curb cuts/driveways that will serve the new parcels.

Staff Planner: Kathy Harnden

Decision rendered by:  on September 19, 2014
By authority of the Director of the Bureau of Development Services

Decision mailed: September 24, 2014

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 February 6, 2014, and was determined to be complete on **July 14, 2014**.

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 February 14, 2014.

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 waived the 120-day review period.

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. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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.

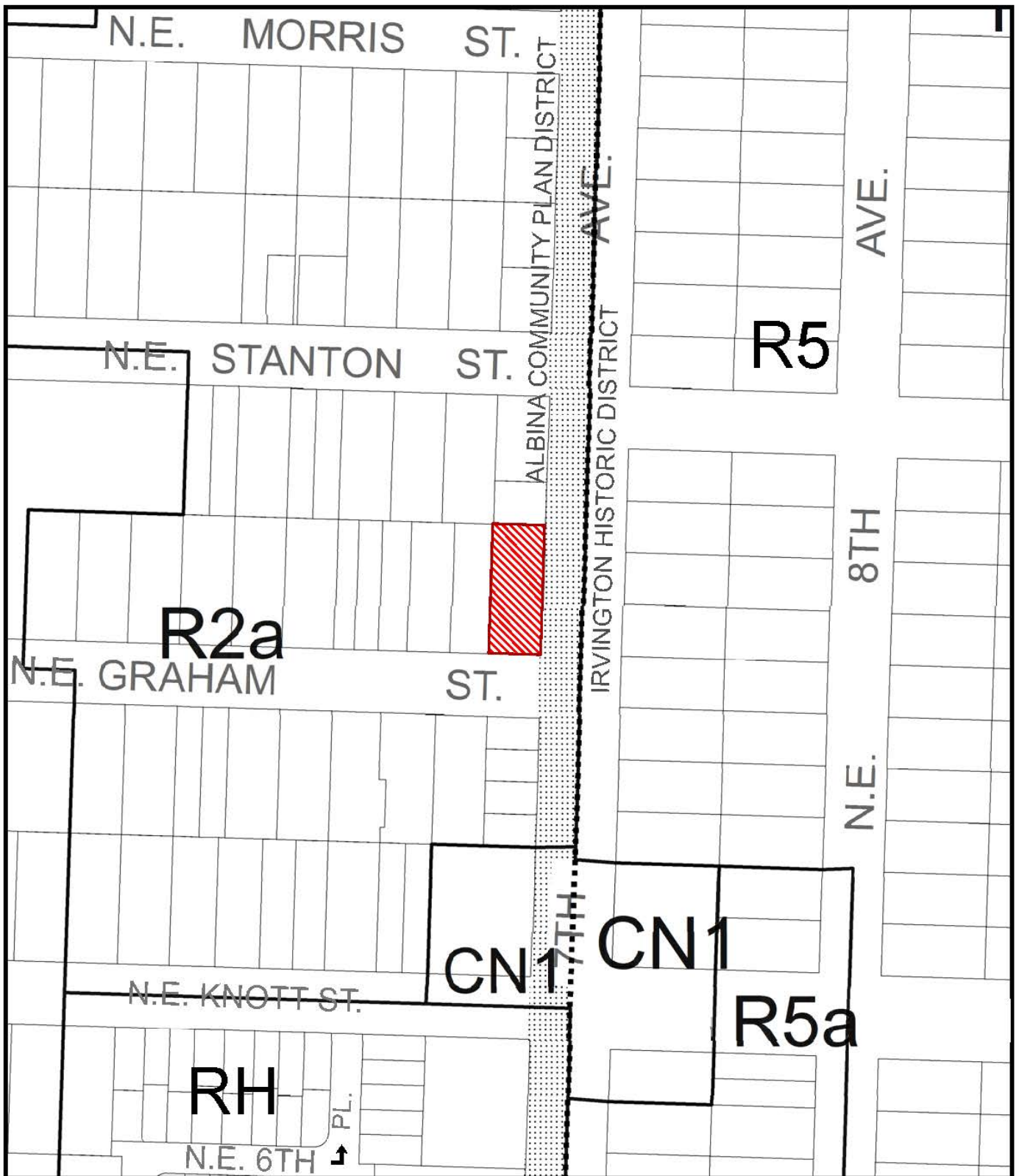
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicant's Initial Submittal, 2/6/2014
 - 2. Arborist Report
 - 3. Simplified Approach Form
 - 4. Applicant's Response to Incomplete Letter, no date
 - 5. 120-Day Waiver, 9/11/2014
 - 6. Transportation Impact Study, 7/08/2014
 - 7. Parking pad location, Parcel 1
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat/Development Plan (reduced copy attached)
 - 2. Proposed Tree Preservation Plan (reduced copy attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development/BDS
 - 6. Urban Forestry
 - 7. Life Safety/BDS
- F. Correspondence:
 - Mike Warwick, Chair, Eliot Land Use Committee in opposition to lot shapes
- G. Other:
 - 1. Original LU Application
 - 2. Letter to applicant re: incomplete application

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



This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT

File No. LU 14-114449 LDP
 1/4 Section 2731
 Scale 1 inch = 125 feet
 State_Id 1N1E26BC 7600
 Exhibit B (Feb 12, 2014)

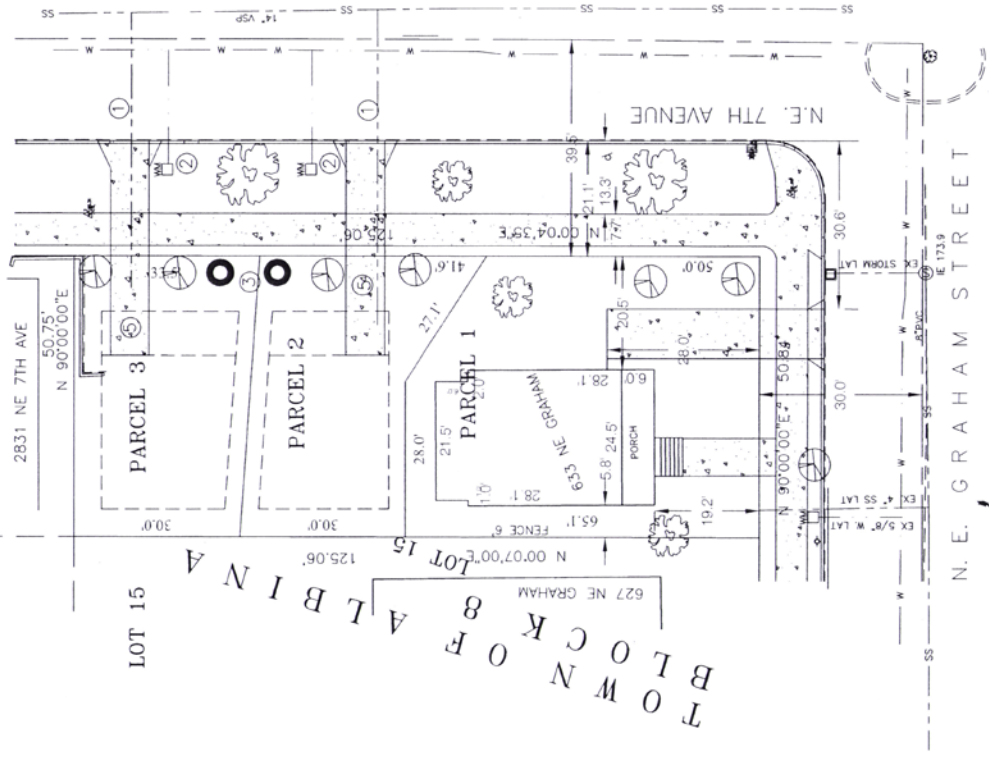
PROPOSED IMPROVEMENTS PLAN
 633 NE GRAHAM STREET

PROJECT NO. ZONING
 COW-001 R2
 DATE: 12/1/12 SHEET TITLE
 DESIGNED: MD SITE PLAN
 DRAWN: MD

633 NE GRAHAM STREET PARTITION

NOTES
 PROPERTY ID: R101946 MIN AREA: 3,000 SF MAX DEN. 1/2000 SF
 STATE ID/ROLL: 1N1E26BC 7600 MAX AREA: 8500 SF MIN DEN. 1/2500 SF
 ACCOUNT NO: R009602640 MIN FRONT: 30FT MAX HEIGHT: 40 FT
 ZONING: R2g MIN WIDTH: 36 FT SETBACKS: 10/5/18
 PARCEL SIZE: .14AC (6,250 SF) MIN DEPTH: 50 FT MAX COVERAGE: 50%
 MIN LANDSCAPE: 30%

- ① PROPOSED 4" SANITARY LATERAL FOR FUTURE PARCEL
- ② PROPOSED 3/4" WATER LATERAL AND METER FOR FUTURE PARCEL
- ③ PROPOSED DRYWELLS - 3-FT FROM R/W & 5-FT FROM SIDELINE
- ④ 9X28-FT DRIVEWAY FOR EX. HOUSE 30'+ FROM INTERSECTION
- ⑤ 9X18-FT DRIVEWAY TO ACCESS PARKING SPACE IN GARAGE



LEGEND:

- ☉ 2" SUNSET MAPLE TO BE PLANTED TO STANDARD
- 4' x 5' DRYWELL
- ⊗ WATER METER
- ⊕ WATER VALVE
- ⊙ SAN SWR MANHOLE
- ⊖ STORM MANHOLE
- ⊘ GAS VALVE
- ⊚ UTILITY POLE
- ⊛ ELECTRIC METER
- ⊜ GUY ANCHOR
- ⊝ HEAT PUMP
- ⊞ WATER LINE
- ⊟ NATURAL GAS LINE
- ⊠ SANITARY SEWER LINE
- ⊡ STORM DRAINAGE LINE
- ⊣ OVERHEAD UTILITY LINES
- ⊤ AIR CONDITIONER
- ⊥ TRAFFIC SIGN
- ⊦ MAIL BOX
- ⊧ EX. TREE

GRAPHIC SCALE
 1 inch = 20ft.

SCALE
 0' 20' 40'
 IN FEET

NORTH

Proposed Improvements Exhibit C.2