



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

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Date: December 9, 2010

To: Interested Person

**From:** Sue Donaldson, Land Use Services

503-823-7618 / sue.donaldson@portlandoregon.gov

## 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 10-169424 LDP AD

#### **GENERAL INFORMATION**

**Applicant:** Max Ritchie

Ritchie Development Corp 1900 SW River Dr Ste 1001

Portland OR 97201

**Representative:** Mark Person

W.B. Wells & Associates, Inc. 4230 NE Fremont Street Portland, OR 97213

**Site Address:** 5239 NE Garfield Avenue

**Legal Description:** BLOCK 11 LOT 11&12, WALNUT PK

**Tax Account No.:** R877302540 **State ID No.:** 1N1E22AA 09700

Quarter Section: 2530

**Neighborhood:** King, contact Trace Salmon at 503-460-2756.

**Business District:** North-Northeast Business Association, contact Joice Taylor at 503-445-

1321.

**District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-

823-4575.

**Plan District:** None

**Zoning:** R2.5ah High density single dwelling residential 2500 with Alternative

Design Density and Aircraft Landing overlays

**Case Type:** LDP AD Land Division Partition and Adjustment

**Procedure:** Type IIx, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide a 10,000 square foot lot into three parcels. The existing house will remain on Parcel 2, which will be 5,000 square feet. The other two parcels, one on each side of Parcel 2, will each be 2,500 square feet and measure 25 feet by 100 feet. These are designated as *narrow lots* in the *Zoning Code* and are subject to additional regulations and

development standards. All three parcels will have vehicle access from the alley on the west side of the site. An Adjustment review is required because the applicant wishes to reduce north side setbacks on Parcel 2 from 5 feet to 4.7 feet. The applicant's arborist report states that all the trees on the side are exempt for either health or location reasons so a tree protection plan is not proposed.

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent Adjustment review is 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 (3 parcels). Therefore this land division is considered a partition.

#### Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The approval relevant criteria are found in:

- Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones
- Section 33.805.040, Adjustment Approval Criteria, A. through F

#### **Facts**

**Site and Vicinity:** The site is almost flat and has a detached dwelling on it that will remain. Side additions on each side of the house will be removed in order to create space for the two new lots. Properties surrounding the site are developed with single detached dwellings, many in the craftsman style. The street grid in the area is regular made up of rectangular blocks that are 200 feet by 400 feet.

#### Infrastructure:

• **Streets** – The site has approximately 100 feet of frontage on NE Garfield Avenue. There is one driveway that serves the existing house. At this location, NE Garfield Avenue is classified as a local service street for all modes in the *TSP*. Parking is currently allowed on the west side of the street. At the rear of the site there is a 15-foot wide alley, paved with concrete.

Tri-Met provides transit service approximately 450 feet from the site at MLK Blvd and NE Sumner Street via Buses # 6 and #72.

NE Garfield Avenue has a 28-foot curb-to-curb paved surface within a 60-foot right-of-way with parking on the west side only. Along the site frontage the pedestrian corridor includes a 9-foot wide planter area, curb, 6-foot sidewalk and a 3-foot wide buffer at the back of the sidewalk (9-6-3 configuration).

- **Water Service** There is an existing 8-inch CI water main in NE Garfield Avenue. The existing house is served by a 1-inch metered service from the main.
- **Sanitary Service** There is an existing 10-nch concrete public combination sewer line west of this site in the alley. The sewer currently surcharges under certain conditions, so stormwater discharges to the line are restricted

**Zoning:** Zoning on the west side of NE Garfield is R.2.5 with blocks of multi-dwelling residential (R1) to the north, along NE Killingsworth Avenue. The R2.5 zone allows a maximum density of one dwelling unit per 2500 square feet. The site is with an Alternative Design Density (a) overlay zone, which is intended to allow increased density that meets design compatibility requirements. If focuses development on vacant sites, preserves existing housing stock and encourages new development that is compatible with the surrounding residential neighborhood. The applicant's proposal does not make use of these provisions. The site is also within an Aircraft Landing (h) overlay, which limits the height of structures and vegetation within the vicinity of Portland International Airport. The overlay height limit at this location is

more than the 35-foot building height limit allowed in the R2.5 zone, so the overlay standards do not apply to this development request.

Zoning on the east of NE Garfield is EXd and CGd.

**Land Use History:** City records indicate that prior land use reviews include the following: LU 07-185180 LDS AD: This case was a 4-lot subdivision on the same site. The applicant proposed to remove the existing house. Two adjustments were requested. The first was to reduce the side setbacks from 5 feet to 3 feet for bump-outs on the outer side walls on Lots 1 and 4 and the second was to increase the overall building coverage for the site from 50 percent to 57 percent. The proposal was approved but the final plat was not recorded.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **October 11, 2010**. Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits "E" for details.

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

#### 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 discussed in the section below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
В	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site. The four trees on the site are exempt due to poor health or proximity to the existing house.
С	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.
Н.	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	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.
	33.654.120.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.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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The applicant is proposing 3 parcels for detached houses. Maximum density in the R2.5 zone is one unit per 2,500 square feet. The site is 10,000 square feet so the maximum density is 4 units. The minimum density is calculated as follows.

 $10,000 \times 0.8 \div 5000 = 1.6$  which is rounded up to 2.

The applicant is proposing 3 parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1	2,500	NA	25	100	25
Parcel 2	5,000	NA	50	100	50
Parcel 3	2,500	NA	25	100	25

As the above table shows, Parcel 2 meets the lot dimension regulations for the R2.5 zone but Parcels 1 and 3 are 25 feet wide, narrower than the allowed minimum of 36 feet.

#### Narrow Lots

The Zoning Code allows narrower lots if the future development can meet the regulations of Section 33.611.200.C.

#### Consistent with the Purpose of Lot Dimension Regulations

The purpose of Lot dimension regulations are as follows:

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant has demonstrated that the proposed Parcels 1 and 3 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements, with the approved side setback adjustment for Parcel 2, and is oriented towards the street (see Adjustment approval criteria, below, for more detail). Therefore, they have demonstrated that the proposed lot(s) can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- Parcel 2 is similar in size to the surrounding lots and larger than the minimum allowed in the zone. Parcels 1 and 3 are narrower than the standard in the R2.5 zone but can meet the additional standards required for narrow lots.

• The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street

## The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet

• The lots will be developed with detached houses and the proposed parcels are 25 feet wide.

#### If the lot abuts an alley, then vehicle access is allowed only from the alley

• The site abuts an improved public alley, and the applicant has proposed (and will be required) to provide vehicle access to all the lots from the alley.

## Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development

The applicant is proposing garages at the rear of the three parcels, so the garage limitation standard for the front façade will not apply.

#### 60 percent landscaping requirement for attached houses

This standard does not apply because only detached houses are proposed on the lots.

## If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.

All three parcels are exempt from minimum parking requirements due to their location within 500 feet of a transit street with 20-minute service. However, the applicant will provide parking at the rear of the lots, so a covenant prohibiting future development of the property with parking or curb cuts will not be necessary.

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

#### G. 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.

- 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 Garfield Avenue. Parcel 2 has 1-inch metered service from this main; Parcels 1 and 3 will also be required to have metered service from the same source.

#### 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 public combined sewer in the rear alley. Parcel 2 has service from this main. New service branches to the main line will be required at the time of development in order to serve Parcels 1 and 3.

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

The site is served by a combined sewer that currently surcharges. The applicant has proposed an on-site stormwater management system that will provide adequate capacity for the expected amount of stormwater, so BES will not allow disposal of stormwater runoff to the public combined sewer.

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

**Note:** the applicant has submitted results of infiltration testing that showed adequate infiltration rates for two locations, but not the third location. The results for that location must be submitted at the time of building permit review.

The applicant has proposed the following stormwater management methods:

- **Lots** According to the preliminary plan (*Exhibit C.1*), roof stormwater from all three lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.
- Stormwater runoff from the proposed driveways on Parcel 1 and Parcel 3 must be sloped towards vegetated areas at the time of building permit review.
- Lot 2 (the lot with the existing house): The applicant proposed to install a drywell for roof runoff on the west side of Parcel 2. BES has responded that a second drywell on the east side of the house may be necessary, based on the design of the roof. Therefore, a condition of final plat approval will require a finalized permit for the retrofit work to the existing stormwater system for the house.
- **Public Right-of-Way.** PBOT will not require street improvements along the site frontage, except for closing the existing curb cut. Therefore BES will not require any public drainage improvements for this project.
- These criteria are met with a condition of approval that a permit for retrofit work on the existing house (Parcel 2) must be finalized prior to Final Plat approval.

#### 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 meets the above criteria for adequate connectivity. NE Emerson Street provides east-west connectivity and is approximately 150 feet from the site. No additional connectivity is required.

For the reasons described above, this criterion is met.

33.641 - Transportation Impacts - 33.641.020 and 33.641.030

33.654.120.B & C Width and elements of the street right-of-way

33.654.130.D Partial Rights of way

Based on the available evidence, PBOT estimates that the increase in daily trips will be less

than 20 total trips per day, with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8<sup>th</sup> ed.). Other factors taken into consideration are two possible travel route directions to and from the site as well as transit service available less than 1000 feet from the site. PBOT staff has determined that there will be a minimal impact on existing facilities and capacity and that a traffic study is not required at this time (*see Exhibit E-2 for a detailed analysis*). Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

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. NE Garfield Avenue has a 24-foot wide paved roadway within a 60-foot right-of-way. The recommended City Standard for right-of-way width in the R2.5 zone is met, but the roadway width for streets with parking on one side is 28 feet. This standard is not met along the site frontage. The pedestrian corridor is 18 feet (9-6-3 configuration) and has a 6-foot sidewalk. This meets the *Pedestrian Design Guide* recommended standards.

#### **Dedication**

Dedication is not required because the existing right-of-way width meets the standard.

#### *Improvements*

As discussed above the pedestrian corridor meets the standard. Parking is allowed along one side of the street and the other side is posted for no parking. Given the level of development in the area, it would not be practical to realign the pedestrian corridor for this mid-block section. Therefore, additional improvements will not be required, with the exception of eliminating the existing curb cut. The single curb cut was for the driveway of the existing house. If a parking space or garage is constructed in the future it must have access from the public alley at the rear (see discussion of alleys, below). PBOT will require the applicant to close the curb along the site frontage to match the adjacent pedestrian corridor configuration. This will be required as a condition of development. The City Forester will require two street trees to be planted in front of the existing house on Parcel 2 (see Exhibit E.7).

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

33.654.120.F. Approval criterion for the width of alleys. 33.654.110.B.4 Approval criterion for alleys in all zones. 33.654.130.E Ownership of Alleys

The width of the alley right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity such as existing street and pedestrian system improvements, existing structures, and natural features.

There is an existing 15-foot wide public alley that runs between NE Sumner Street and NE Emerson Street. It is paved with concrete according to the City's GIS database. It will provide vehicle access to parking areas on each lot. In addition, it will provide a means for construction equipment and emergency vehicles to access the lots. Although parking is not required on the three parcels because the site meets the standards for access to frequent transit service, the applicant has proposed on site parking at the rear of the two narrow lots. As required by the narrow lot standards (discussed earlier in this report under Lots). The improvement plan does not show a parking space for the existing house to replace the one lost because the garage was demolished. One is not required because the site qualifies for frequent transit access, but if one is added in the future, the same alley access requirement will have to be met.

In lieu of requiring the applicant to dedicate additional alley width, PBOT has required that any future garages on the lots be set back at least 5 feet from the alley property line in order to accommodate adequate space for vehicle maneuvering and turning. With a condition of

approval requiring a five-foot garage setback from the rear property line, 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.

#### 33.805 Adjustments

The applicant requests and adjustment to reduce the north side setback on Parcel 2 from 5 feet to 4.7 feet. The main reason for the request is that the applicant wishes to retain the existing house on the site and to create two narrow lots on either side. Sections on each side of the house will be removed in order to create enough space for the new lots. The lots must be at least 25 feet wide in order to be developed with detached houses. The existing house after modifications will be approximately 4 inches too wide to meet the 5-foot side setback on the north side. The adjustment is requested to allow the setback to be reduced to 4.7 feet.

#### 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 setback regulations for buildings and garage entrances serve several purposes. The ones relevant to the requested side setback adjustment are:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and

Most of the existing houses in the area are two stories with narrow setbacks, some of which appear to be less than 5 feet. The proposed adjustment would result in a setback that is 4 inches narrower than the required 5 feet. This is a minor amount that will not be readily apparent, especially since other houses in the area have narrow setbacks. Fire Bureau has reviewed the proposal and found the proposal to be acceptable. The house on the adjacent new lot will meet the setback requirements, resulting in a distance of 9 feet 8 inches between the two structures, which will provide light, air and a degree of privacy in keeping with the zone. Allowing the reduced setback will allow the existing house to remain on the property and will provide enough space for the required outdoor area.

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

**Findings:** Reducing the side setback by 4 inches will not detract significantly from the livability or appearance of the residential area and will be consistent with the purpose of the R2.5 zone which allows for high density single dwelling development as well as attached housing. 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:** This criterion is not applicable because only one adjustment is required.

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

**Findings:** This criterion is not applicable because there are no City-designated scenic resources or historic resources on the site.

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

**Findings**: The impact of reducing the side setback by four inches will not be readily apparent and will not be out of keeping with the surrounding development. Therefore, this criterion is met

**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**

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.

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

- *Narrow Lots--* development on Parcels 1 and 3 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1 ½ times the width of the structure, per 33.110.215.B.2;
  - Distance of main entrance to grade per 33.110.230.D; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. 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 R2.5 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, an adjustment to reduce the north side setback on Parcel 2 was requested and approved. Following are other Zoning Code standards that relate to existing development on the site:

• **Off-Street Parking** - The *Portland Zoning Code* does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. The garage for the house on Parcel 2 has been removed, but a replacement space is not required because the site qualifies for the transit exception (33.266.110.B.3. see Exhibit G.4). If a parking space is constructed in the future, access to it must be from the alley. A zoning permit will be required if a parking pad is to be constructed or a building permit if a garage is to be built.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

#### OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental	Title 17; 2008 Stormwater Manual	503-823-7740
Services	Sewer availability & Stormwater Management	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	503-823-5185
	Design of public street	www.portlandonline.com/transportation
Development	Titles 24 –27, Admin Rules for Private	503-823-7300
Services	Rights of Way	www.portlandonline.com/bds
	Building Code, Erosion Control, Flood	
	plain, Site Development & Private Streets	

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

- The applicant must meet the requirements of the Fire Bureau for aerial access if the buildings on any of the parcels are greater than 30 feet height, as measured to the eave of a sloped roof or the bottom of a parapet roof. This will be reviewed at the time of development on individual lots. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- Prior to final plat approval the applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 2. Two 2-inch caliper trees are required, to be chosen from the City's approved street tree list for the 8 ½ foot planting strip without overhead power lines. Tree placement locations are marked with white paint at the curb. This requirement is based on the standards of Title 20.
- A complete Life Safety plan review will be done at the time building permits are submitted. The following comments may affect existing development:
  - Building permit 10-153208-RS (to remove two additions from the existing house on Parcel 2) has been issued but not finalized. This permit must be completed and approved, including Final Inspection, in order to verify the size of the house is as shown on Exhibit C.1.
  - Additional requirements apply for portions of the house within 3 feet of a property line. Eaves that are between two and three feet from a property line must be protected on the underside as required for one-hour rated constructions (ORSC R302.1)
  - These comments are based on the *Oregon Structural Specialty Code*, the *Oregon Mechanical Specialty Code* or the *Oregon Residential Specialty Code*.

#### CONCLUSIONS

The applicant has proposed a 3-lot partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met or can be met with conditions. The primary issues identified with this proposal are required alley access for vehicles, narrow lot standards, approval of an adjustment for reducing one side setback on Parcel 2 and fire access.

#### ADMINISTRATIVE DECISION

Approval of an adjustment on Parcel 2 to reduce the north side setback from 5 feet to 4.7 feet, as shown on Exhibit C.1.

Approval of a three-lot partition with two narrow lots (*Parcels 1 and 3*), as shown on 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. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The footprint of the house to remain on Parcel 2, as completed and approved, including Final Inspection per *10-153208-RS*. In substantial conformance with Exhibit C.1.
- Any other information specifically noted in the conditions listed below.

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

#### **Existing Development**

- 1. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 2 (the lot with the existing home), then the applicant must meet one of the following:
  - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
  - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
- 2. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 2. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
- 3. Prior to final plat approval the applicant must plant two street trees in the planter strip on NE Garfield Street adjacent to Parcel 2 (*marked with white paint on the curb*). Street trees will be chosen from the City's approved street tree list for the 8 ½-foot planting strip without overhead power lines. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.
- 4. The permit for modifying the existing house on Parcel 2 (#10-153208 RS) must be finaled prior to final plat approval.

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

- 1. Vehicular access to Parcels 1, 2 and 3 must be from the abutting public alley. Curb cuts are not permitted from NE Garfield Avenue.
- 2. If garages are constructed on Parcels 1, 2 or 3, they must be set back at least 5 feet from the property line abutting the alley.

3. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Sue Donaldson

Decision rendered by:

By authority of the Director of the Bureau of Development Services

On December 7, 2010

Decision mailed December 9, 2010.

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on August 24, 2010, and was determined to be complete on October 6, 2010.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on August 24, 2010.

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: February 3, 2011** 

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 23, 2010** 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part

may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 <a href="https://www.ci.portland.or.us">www.ci.portland.or.us</a>.

**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 on Parcel 2 to reduce side setbacks to 4.7 feet. These other concurrent approvals 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 these concurrent land use reviews. 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 reduce side setbacks on Parcel 2 from 5 feet to 4.7 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 reduce the side setback on the north side of Parcel 2 from 5 feet to 4.7 feet.

This approval expires if:

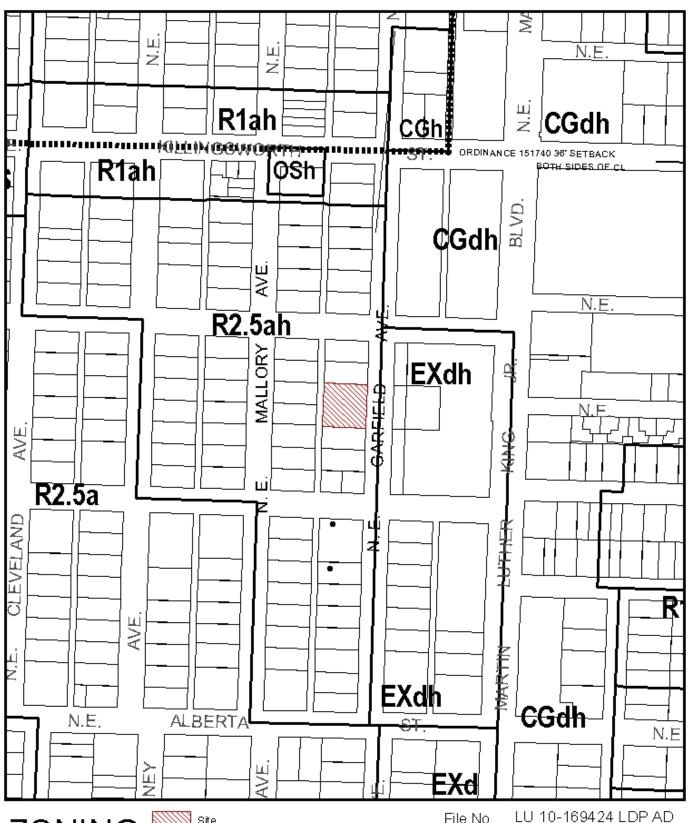
- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

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 addressing land division approval criteria
  - 2. Narrative addressing adjustment approval criteria
  - 3. Arborist Report, dated August 4, 2010 (2 pages)
  - 4. Neighborhood contact verification
  - 5. Soils information
  - 6. Stormwater Simplified Form
  - 7. Infiltration testing information
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Existing Conditions
  - 3. Improvement Plan (showing conceptual house footprints)
  - 4. Grading Erosion Control
  - 5. Tree Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: (none)
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete letter
  - 4. Peak Hour Service Line #6



**ZONING** 

Site

Historic Landmark

NORTH

File No.	LU 10-169424 LDP /	<u>A</u> [
1/4 Section	2530	_
	1 inch = 200 feet	_
	1N1E22AA 9700	_
Exhibit _	B (Aug 26,2010)	_

