



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: October 2, 2012 **To:** Interested Person

From: Marisol Caron, Land Use Services

503-823-7670 / marisol.caron@portlandoregon.gov

NOTICE OF A TYPE I 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 it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 12-165316 LDP

GENERAL INFORMATION

Applicant: Kevin Partain / Urban Visions /503-421-2967

223 NE 56th Avenue / Portland, OR 97213

Owner: Ionel Hij / HIJ Construction

16933 SE Foster Road / Portland, OR 97080

Site Address: 3638 SE 73rd Avenue

Legal Description: W 136' OF N 1/2 OF LOT 28, MIDDLESEX

Tax Account No.: R567203750 **State ID No.:** 1S2E08DB 10200

Quarter Section: 3438

Neighborhood: Foster-Powell, contact Li Alligood at 503-449-7709.

Business District: Eighty-Second Avenue, contact Frank Harris at <u>info@82ndave.org</u>.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Zoning: R5a: Single-dwelling Residential 5,000 (R5)

Alternative Design Density Overlay Zone (a)

Case Type: LDP: Land Division (Partition)

Procedure: Type I, an administrative decision with appeal to the Oregon Land Use

Board of Appeals (LUBA).

Proposal: The applicant proposes to divide the 10,536 square foot site into two parcels for development of detached, single-family homes. Both proposed parcels are 5,268 square feet in area and are 38.75-feet wide and 136-feet deep. Stormwater from individual lots will be treated and disposed of via on-site drywells. A tree preservation plan has been provided in which the applicant proposes to preserve a 4-stem Plum tree at the north of the land division site to comply with the land division tree preservation standards.

This partition is reviewed through a Type I 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 are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no

other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

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 2 units of land (2 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 relevant criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

FACTS

Site and Vicinity: The site is located mid-block on SE 73rd Avenue. An existing single family residence was recently demolished and a new house is currently under construction on the south side of the lot on what will be Parcel 2 of the proposed land division. The block on which the site is located is directly south of SE Powell Boulevard and is approximately 1,250 long in the north-south orientation. Development in the near vicinity consists of primarily detached, single-family homes.

Infrastructure:

• **Streets** – The site has approximately 77.5 feet of frontage on SE 73rd Avenue. At this location, SE 73rd Avenue is classified as a Local Service Street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 560 feet from the site at SE Powell Boulevard via Bus #9.

SE 73rd Avenue has a 30-foot curb to curb paved surface within a 50-foot right-of-way with parking on both sides of the street. Along the 77.5-foot wide site frontage, the pedestrian corridor includes a curb and 3-foot wide planter area, 5-foot wide sidewalk and a 2-foot wide buffer at the back of the sidewalk (3-5-2 configuration).

- **Water Service** There is an existing 8-inch CI water main in SE 73rd Avenue. There is an existing 3/4-inch metered service from the main that can potentially be used to provide water to the proposed Parcel 2.
- **Sanitary Service** There is an existing 12-inch VSP public combination sewer line in SE 73rd Avenue.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 21, 2012**. One written response has been received from a notified property owner in response to the proposal. The comments expressed concerns about loss of privacy,

proximity of future development and posed questions regarding development standards, such as building setbacks and height limits. Staff notes that the land division review criteria do not evaluate specific building proposals. Future development of a house on proposed Parcel 1 will be subject to City review through the building permit process to ensure that all development standards are met.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
С	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential	The site is not within the potential landslide
D	Landslide Hazard Area	hazard area.
E	33.633 - Phased Land	A phased land division or staged final plat has not
<u>ت</u>	Division or Staged Final	been proposed.
	Plat	been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and	No tracts or easements have been proposed or will
11	Easements	be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on
1	Solds Ficeess	a corner). In this context, solar access standards
		express no lot configuration preference.
J	33.640 - Streams, Springs,	No streams, springs, or seeps are evident on the
G	and Seeps	site outside of environmental zones.
L	33.654.110.B.2 - Dead end	No dead end streets are proposed.
IJ	streets	The dead one streets are proposed.
	33.654.110.B.3 -	The site is not located within an I zone.
	Pedestrian connections in	
	the I zones	
	33.654.110.B.4 - Alleys in	No alleys are proposed or required
	all zones	
	33.654.120.C.3.c -	No turnarounds are proposed or required
	Turnarounds	
	33.654.120.D - Common	No common greens are proposed or required
	Greens	
	33.654.120.E - Pedestrian	There are no pedestrian connections proposed or
	Connections	required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared	No shared courts are proposed or required
	Courts	
	33.654.130.B - Existing	There are no existing dead-end streets or
	dead-end streets &	pedestrian connections adjacent to the site that
	pedestrian connections	must be extended onto the site.
	33.654.130.C - Future	No dead-end street or pedestrian connections are
	dead-end streets &	proposed or required.
	pedestrian connections	
	33.654.130.D - Partial	No partial public streets are proposed or required
	rights-of-way	

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 RF through R5 zones. The applicant is proposing 2 single family parcels.

<u>Density Standards</u>: The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints. In this case, no street is proposed or required and the site is <u>not</u> within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = 1 unit based on the following:

10,536 square feet (site area) * $(.68) \div 1$ unit/5,000 square feet = 1.43 units (which rounds down to a minimum of 1 lot, per 33.930.020.A)

Maximum = 2 units; based on the following:

10,536 square feet (site area) ÷ 1 unit/5,000 square feet = 2.10 (which rounds down to a maximum of 2 lots, per 33.930.020.B)

The applicant is proposing 2 parcels. The density standards are therefore met.

The dimensions of the proposed parcels as compared to the required lot dimension requirements are shown in the following table:

Required Lot Size and Dimensions							
	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)		
R5 Zone	3,000	8,500	36	50	30		
Proposed Lot Size and Dimensions							
		Area re feet)	Lot Width (feet)	Lot Depth (feet)	Front Lot Line (feet)		
Parcel 1	5,	268	38.75	136	38.75		
Parcel 2	5,	268	38.75	136	38.75		

^{*} Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

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

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

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

An arborist report has been submitted that inventories the trees within the land division site. The report evaluates the condition of the trees and specifies root protection zones for trees to be preserved (Exhibit A.2). Five trees have been identified in the arborist report. Two of these trees have been exempted because one is listed as a nuisance tree in the Portland Plant List and the other is partially located on an adjoining site that is not part of the land division site.

The total non-exempt tree diameter on the site is 45 inches. The applicant proposes to preserve tree number 244, which, at 18-inches in diameter, comprises 40 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved tree and the required root protection zone (Exhibit C.1).

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Parcel 1 be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2) and an Acknowledgement of Tree Preservation Requirements is recorded with the final plat.

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 parcels 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 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; 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 water main in SE 73rd Avenue.

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

The sanitary sewer standards of 33.652 have been verified. There is an existing 12-inch CSP public combination sewer located in SE 73rd Avenue that can serve the sanitary needs of the proposed parcel.

33.653.020 & .030 Stormwater Management criteria and standards– See Exhibit E.1 for detailed bureau comments

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

Stormwater from Parcels 1 and 2 will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.

33.654.110.B.1 -Through streets and pedestrian connections

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

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. Neither the 530-ft spacing goal for public through streets nor the 330-ft spacing goal for pedestrian connections is satisfied in the east-west direction within the subject or surrounding area blocks. However, the subject block is representative of the block pattern in the general area in terms of orientation and length. Further, as with other blocks in the area, the subject block is primarily built out with the type and density of the expected housing for the area's zoning. No further street or pedestrian connections are physically possible without impacting existing development on the subject block and beyond. Providing any further connectivity elsewhere on the subject block would lead to no other connection points, again, given the existing, long established development pattern throughout this area. Portland Transportation has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

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 - See Exhibit E.2 for detailed bureau comments

Transportation Impacts

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. The proposed land division will create one new parcel which will accommodate a new detached residential unit. It is PBOT's understanding that there is a new single-family residence currently under construction on the southern-half of the site on what will be Parcel 2. This new home will replace the original home that was on the site. Accordingly, the estimated 1 new AM peak hour and 1 additional PM peak hour trips (10 total daily trips) that potentially may result from the development proposal on the site, are an insignificant number of trips that do not warrant any mitigation to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The stop controlled intersections at SE 73rd/SE Powell (north of the subject site), SE 73rd/SE Center (south of the subject site) and at SE 73rd/SE Holgate (further south of the site) all appear to be currently operating at acceptable levels related to the City's performance measures and will continue to operate at acceptable levels with the vehicle trips generated by the proposed project factored into the analysis. Given the opportunities north and south of the site for trips that will be generated by the proposed partition to be disbursed throughout the broader transportation system, impacts to one intersection in particular will be minimized.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service along SE Powell north of the site (via Tri-Met route #9 Powell). There are existing sidewalk corridors throughout the vicinity, including along the site frontage that facilitate pedestrian travel. There are

identified bike facilities (Portland Bike/Walk Map) in the area including shared roadways along SE 72nd Ave to the west and along SE Center to the south of the subject site.

With regard to impacts to on-street parking, according to the applicant's submitted narrative, the residences that will be developed on the site will include driveways and garages that will offer (at least) two on-site parking spaces on each parcel. Although an additional curb cut/driveway will be necessary to access the proposed parcel(s), there will remain ample curb length along the subject site frontage to accommodate some on-street parking. Based on review of Google-Street view, the homes north and south of the subject site and along both sides of SE 73rd Ave appear to be served by lengthy individual driveways and garages to accommodate at least 2 vehicles on each respective lot along the street. Further, it does not appear that there is a high demand for on-street parking based on the lack of vehicles shown along the street (on either side). With an on-site parking spaces being provided on both proposed parcels, the impacts to on-street parking should be negligible.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the streets within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

Width and Elements of the Street Right-of-Way

At this location, based on City GIS resources, SE 73rd Ave is improved with 30-ft of paving and a 3-5-2 sidewalk corridor within a 50-ft right-of-way. For sites zoned R5 and abutting Local Service streets, the City's Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor comprised of a 0.5-ft curb, 4-ft wide furnishing zone, 6-ft wide sidewalk and 0.5-ft wide frontage zone. The site's existing 10-ft wide sidewalk corridor therefore does not conform to the above referenced recommendation.

An application for a new single-family residence has already been submitted for review for the subject site (12-141926 RS). PBOT Plan Review staff noted the above referenced existing frontage conditions and identified the need to re-construct the sidewalk corridor to conform with the 11-ft wide recommended sidewalk corridor (which also necessitated a 1-ft dedication of property to accommodate said widening).

As an option, the applicant appealed the required frontage improvements and property dedication through the City's Public Works Appeal process. Said appeal (12-152465 PW) was approved in June of this year, relieving the applicant of the frontage improvements and property dedication (with the condition that street trees are planted as recommended by the City Forrester). Accordingly, there won't be any frontage improvements or property dedication associated with the proposed partition request. Depending on the location of the access point to serve Proposed Parcel 1, the existing curb cut/driveway along the north side of the site's SE 73rd Ave frontage may/may not need to be closed.

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

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

DEVELOPMENT STANDARDS

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

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 R5 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, there is one Zoning Code standard that relates to development on the site:

• <u>Minimum Setbacks</u> – The house and detached garage currently under construction on the site must meet the required Zoning Code setbacks from the proposed <u>new</u> lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 10.42-feet from the new property line and the detached garage will be 3-feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

With the condition 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 in regards to addressing, ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement, and aerial fire department access. These

requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. See Exhibit E.4 for detailed bureau comments.

CONCLUSIONS

The applicant has proposed a 2 parcel 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 tree preservation, fire hydrant flow, and ensuring that the new development under construction will meet setbacks from the new property lines.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, 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 Land Use Services 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 location of the tree to be preserved, with Root Protection Zone indicated;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for Acknowledgement of Tree Preservation Requirements, as required by Condition C.2 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. ______, Multnomath County Deed Records."

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

Utilities

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Required Legal Documents

- 2. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2) must be included as Exhibits to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.
- 3. If an appeal or exception is used to meet Condition C.1, above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on affected parcels to contain internal fire suppression sprinklers. The acknowledgement 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 Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, tree number 244 is required to be preserved with a 10-foot radius root protection zone, as indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone. 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 addressing requirements of the Fire Bureau for Parcels 1 and 2. The location of the sign must be shown on the building permit.
- 3. If required by Condition C.1, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
- 4. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Marisol Caron

Decision rendered by: on September 28, 2012

By authority of the Director of the Bureau of Development Services

Decision mailed: October 2, 2012

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

Procedural Information. The application for this land use review was submitted on July 24, 2012, and was determined to be complete on **August 14, 2012**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on July 24, 2012.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: December 12, 2012.**

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.

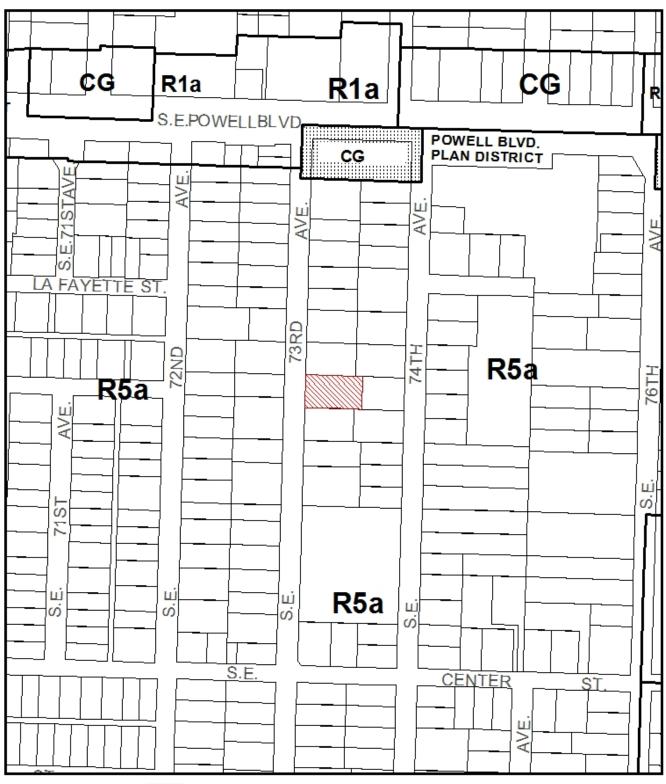
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Land Division Approval Criteria
 - 2. Arborist Report
 - 3. Stormwater Report
 - 4. Additional Information, dated August 14, 2012
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Utility 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
- 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Matthew and Marlene Hayes, received September 6, 2012. Concerns regarding proximity of development and potential loss of privacy with development of a new house.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

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



ZONING Ste



LU 12-165316 LDP File No.

3438 1/4 Section _

1 inch = 200 feet Scale.

1S2E08DB 10200 State_Id .

NORTH

В (Jul 31,2012) Exhibit _

