



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

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

Date: July 25, 2013

To: Interested Person

From: Rachel Whiteside, Land Use Services

503-823-7605 / Rachel.Whiteside@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 775 Summer St NE, Suite 330, Salem, OR 97301-1283. 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 13-144237 LDP

GENERAL INFORMATION

Applicant: Garner Moody,

Lloyd Development LLC

Po Box 11560 Portland, OR 97211

Owner: Joe Nielsen

7142 N Montana Ave Portland, OR 97217

Representative: Mike Coyle,

Faster Permits

14334 NW Eagleridge Lane

Portland, OR 97229

Site Address: 7142 N MONTANA AVE

Legal Description: BLOCK 15 N 1/2 OF LOT 12 LOT 13, GOOD MORNING ADD

 Tax Account No.:
 R332303160

 State ID No.:
 1N1E15BB 10200

Quarter Section: 2329

Neighborhood: Arbor Lodge, contact Nate Young at 503-679-9929.

Business District: North Portland Interstate Corridor

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at

503-823-4099.

Plan District: North Interstate

Zoning: RHd – High-Density Residential with a Design Overlay

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 5,500 square foot site into 3 lots. The existing house will remain on proposed Parcel 1, which is 2,954 square feet in size. The 6.5-inch dogwood tree on this lot will also be kept to meet tree preservation requirements. Proposed Parcels 2 and 3 will face N Buffalo Street and will be 1,272 square feet each. To meet minimum density requirements, each of these lots would be developed with a house and accessory dwelling unit (ADU). The applicant proposes to meet the Community Design Standards at the time the lots are developed.

Public water and sanitary sewer mains existing in N Buffalo Street. The applicant has already completed a Public Works Appeal (13-135677 PW) to maintain the existing sidewalk configuration along both public streets. This appeal required the sidewalk in N Buffalo to extend all the way to the alley at the east end of the site. Stormwater for the new parcels will be managed on site through drywells.

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 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 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 at the end of a narrow block abutting the I-5 Freeway corridor. A small home typical of the surrounding residential development exists on the west half of the lot. Most homes in the vicinity are smaller one- to one and a half story homes. There is large commercial retail and office development to the north along N Lombard Street and west along N Interstate Avenue. Portland Fire Station #8 is one block to the west.

Infrastructure:

• **Streets** – The site has approximately 50 feet of frontage on N Montana Avenue and 110 feet of frontage on N Buffalo Street. There is one driveway entering the site that serves the existing house on the site. At this location, N Montana and N Buffalo are classified as Local Service streets for all transportation modes in the City's Transportation System Plan (TSP). Public transit is available approximately 578 feet from the site by way of Tri-Met MAX line, which has stations along N Interstate Ave, or by two different bus routes that serve stops at the N Lombard Transit Center, located at the intersection of N Interstate Ave/N Lombard St. Tri-Met Bus Route #4, (Division/Fessenden) serves the N Lombard Transit Center as does Tri-Met Bus Route #75, (Cesar Chavez/Lombard).

According to City GIS database sources, at this location, N Montana is improved with 28 feet of paving and a 9-5-2 sidewalk corridor within a 60-foot right-of-way (r.o.w.). N Buffalo is improved with 26 feet of paving within a 50-foot r.o.w. This site frontage is also improved with a 5-5-2 sidewalk corridor, along a portion of the frontage (the sidewalk necks down to nothing approximately 16 feet from the eastern property line).

- **Water Service** There is an existing 8-inch CI water main in N Montana Avenue. The existing house is served by a 5/8-inch metered service from this main. There is also an existing 24-inch CI water main in N Buffalo.
- **Sanitary Service** There is a 12-inch public combined gravity sewer located in N Montana Avenue that currently serves the sanitary disposal needs of the existing house on proposed Parcel 1 (BES project # 1321). There is an 18-inch public combined gravity sewer located in N Buffalo Street that can serve the sanitary disposal needs of proposed Parcel 2 and Parcel 3 (BES project # 1097).
- **Stormwater Disposal** There is no public storm-only sewer currently available to this property. There is a public underground injection control (UIC) system located in the vicinity of this site that receives stormwater runoff from the public right-of-way.

Zoning: The RH zone is a high-density multi-dwelling residential zone. Certain retail sales and service and office uses are allowed as conditional uses to provide mixed-use development on larger sites that are close to light rail transit facilities.

The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

The North Interstate plan district provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density.

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

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits "E" contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 13**, **2013**. No written responses have been received from 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 addressed below the table.

Criterion	Code Chapter/Section	Findings: Not applicable because:	
	and Topic		
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	
	Landslide Hazard Area	hazard area.	
E	33.633 - Phased Land	Not applicable. These standards only apply to land	
	Division or Staged Final	divisions in the RF through R2.5 zones.	
	Plat		
F	33.634 - Recreation Area	Not applicable. The minimum required density is	
		less than 40 units.	

I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing parcels for single-family development (attached or detached).

Single-dwelling development is proposed for some or the entire site, therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3. Minimum density in the RH zone is one unit per 1,000 square feet and the maximum density is a 4:1 floor area ratio. The total site area shown on the applicant's survey is 5,500 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required that totals approximately 31 square feet. Therefore the resulting lot size for calculating density is 5,469 square feet. The site has a minimum required density of 5 units.

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

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

RH	Minimum	Minimum	Minimum	Minimum
	lot area	lot width	lot depth	front lot line

	(square feet)	(square feet)	(square feet)	(square feet)
Multi Dwelling	10,000	70	100	70
Attached	none	none	none	10
Houses/Detached Houses/				
Duplexes				
Parcel 1 -	2,954	50.0	59.09	50.0
detached/attached/duplex				
Parcel 2 –	1,265	25.45	50.0	25.45
detached/attached/duplex				
Parcel 3 -	1,248	25.45	48.0	25.45
detached/attached/duplex				

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

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.

The arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.3). Two trees have been exempted because they are too small or a nuisance species, leaving one tree subject to the preservation requirements of this chapter.

The total non-exempt tree diameter on the site is 6.5 inches. The applicant proposes to preserve tree #1 or 100 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 non-exempt tree diameter on the site to be preserved. The tree to be preserved and the required root protection zones are shown in the arborist report (Exhibit A.3).

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

This criterion is met, subject to the condition that development on Parcel 1 be carried out in conformance with the applicant's arborist report (Exhibit A.3) 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 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 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,

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. In relation to this project and to address the transportation-related approval criteria, the applicant has had a Traffic Impact Study prepared by a professional traffic consultant. PBOT provided the following comments in response to the evaluation factors and applicant's transportation analysis (Exhibit A.5):

To estimate the trips generated by the proposed partition and construction of two additional single-family homes, trip rates from the manual TRIP GENERATION, 9th Edition, published by the Institute of Transportation Engineers (ITE) were used. Since the subject property currently contains one single-family home, the result of the proposed partition will be the construction of two additional dwellings. The trip generation calculations show that future development within the subject property will generate a net increase of 2 trips during each of the morning and evening peak hours. A weekday total of 20 additional trips are expected to be generated by the proposed development.

A site visit was performed in both the AM and PM peak periods to observe the current performance of the nearby intersections. The intersection of N Montana Ave/N Buffalo St currently operates at LOS A during both peak hours. Due to the cul-de-sac east of the intersection, vehicles turning from N Montana Ave onto N Buffalo rarely need to wait on any through traffic. No queue or significant delay was observed at this intersection during any of the site visits. The intersection of N Interstate Ave/N Buffalo St currently operates at LOS C or better during both the morning and evening peak hours. Due to the small number of trips generated by this development, the proposed development will not result in changes to the current operation of nearby transportation facilities.

Vehicle Access and Loading

The existing structure on the property is accessed by a driveway on N Montana Avenue, which will remain unchanged with the land division. With the proposed land division, the two new properties, located behind the current house, have been planned to take access via a shared access on N Buffalo Street from the adjacent cul-de-sac. Most site trips are expected to utilize the driveways for site access and loading; however, on-street parking is also adequate to serve for access and loading, as described in the next section.

On-street parking impacts

A site visit was performed at midnight to observe available parking in the area since onstreet parking is available along N Buffalo St and N Montana Ave. Out of the approximately 22 possible spaces to park along Buffalo St, only eight spaces were occupied. For Montana Ave, of the approximately 25 possible spaces to park, only eleven vehicles were parked on the street. The future development within the subject property is projected to result in an increased parking demand of approximately four vehicles during peak times. This parking demand can be accommodated by the proposed shared-driveway being constructed with the new development, or by existing available on-street parking in the site vicinity. On-street parking is adequate to serve the proposed uses in addition to the existing uses in the site vicinity.

Availability of transit service and facilities and connections to transit

Public transit is available near to the site by way of Tri-Met MAX line, which has stations along N Interstate Ave, or by two different bus routes that serve stops at the N Lombard Transit Center, located at the intersection of N Interstate Ave/N Lombard St. Tri-Met Bus

Route #4, (Division/Fessenden) serves the N Lombard Transit Center as does Tri-Met Bus Route #75, (Cesar Chavez/Lombard).

Impacts on the immediate and adjacent neighborhoods

The land division is not expected to cause a significant impact on the immediate neighborhood. The traffic utilizing the subject property can conveniently access N Interstate Ave, N Lombard St, and Interstate 5. As noted previously in this response, the proposed land division will not result in impacts to area intersections and a sufficient number of onstreet parking are available to serve the existing uses in the area as well as the demand by the proposed new development.

Safety for all modes

volumes on existing residential streets within the immediate site vicinity are very low with travel speeds limited by the statutory residential speed limit of 25 mph as well as speed bumps along N Montana Ave. Cyclists can safely share the roadway with motorized vehicles in the site vicinity. Existing sidewalks are in place on both sides along N Montana Ave, N Buffalo St, and N Interstate Ave. The existing pedestrian facilities in the site vicinity are adequate to safely serve the needs of the proposed development in addition to the existing uses in the site vicinity.

Based on the information supplied, the methodology, assumptions and conclusions made by the applicant's traffic consultant, which PBOT concurs with, the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

33.653.020 & .030 Stormwater Management criteria and standards - See 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

- **Public Street Improvements:** There is a public underground injection control (UIC) system located in the vicinity of this site that receives stormwater runoff from the public right-of-way. When PBOT requires new sidewalk construction in a pedestrian corridor where a curb and paved street already exist, constructing the sidewalk so that it slopes toward a vegetated area and/or planting street trees is a viable alternative to constructing stormwater management facilities, and will be reviewed with the public works permit.
- **Parcels 2 and 3:** Stormwater from these lots will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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 drywell.

• **Parcel 1 (the lot with the existing house):** The existing house has downspouts that discharge to splashblocks. There is adequate space available from the proposed propertyline for onsite stormwater management.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Connectivity goals are generally satisfied within the vicinity of the subject site. The site and block patterns are well established throughout the local area. Given the location of the subject site, there are no further connectivity opportunities. PBOT has no concerns regarding connectivity in relation to the proposed subdivision. For these reasons, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment For sites zoned R2 and abutting a Local Service (classified) street, the City's Pedestrian Design Guide recommends an 11-foot wide sidewalk corridor comprised of a 0.5-foot curb, 4-foot wide furnishing zone, 6-foot wide sidewalk and 0.5-foot wide frontage zone. The site's existing 12-foot wide sidewalk corridor does not comply with the referenced sidewalk corridor recommendation along the eastern end of the site at the cul-de-sac. Recognizing the existing conditions at the terminus of N Buffalo, PBOT has directed the applicant to provide a 5-foot wide curb-tight sidewalk along the eastern portion of the frontage of Parcel 2 and the western portion of Parcel 3.

To accommodate the above referenced frontage improvement requirements along the site's frontage, a dedication of property (to be confirmed by the applicant with a survey) for right-of-way purposes will be necessary. The dedication will parallel the cul-de-sac orientation. The dedication can be processed in relation to the Final Plat stage of the subject land division proposal. Plans, fees, a contract (called the application for permit) and a performance guarantee for the estimated value of the improvement must be submitted prior to (Final Plat approval).

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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.

Future Development

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

• <u>Detached Houses</u>- 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 are 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 RH 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 existing development on the site:

• <u>Minimum Setbacks</u> – The existing house identified to remain 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 5 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 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	
Development Services/503-823-7300	Title 24 – Building Code, Flood plain	
www.portlandonline.com/bds	Title 10 – Erosion Control, Site Development	
	Administrative Rules for Private Rights-of-Way	
Environmental Services/503-823-7740	Title 17 – Sewer Improvements	
www.portlandonline.com/bes	2008 Stormwater Management Manual	
Fire Bureau/503-823-3700	Title 31 Policy B-1 – Emergency Access	
www.portlandonline.com/fire		
Transportation/503-823-5185	Title 17 – Public Right-of-Way Improvements	
www.portlandonline.com/transportation	Transportation System Plan	
Urban Forestry (Parks)/503-823-4489	Title 20 – Street Trees and other Public Trees	
www.portlandonline.com/parks		
Water Bureau/503-823-7404	Title 21 – Water availability	
www.portlandonline.com/water		

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

• The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; hydrant spacing; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

• The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strips adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3-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: frontage improvements, tree preservation, existing development, future density, and fire bureau standards.

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

ADMINISTRATIVE DECISION

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

- **A. Supplemental Plan**Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use and Fire 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;
- Spacing and number of fire hydrants meeting Appendix C of the Portland Fire Code; and
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for N Buffalo Street. The required right-of-way dedication must be shown on the final plat.

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities

2. 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.

Existing Development

3. The applicant must plant 2 street trees in the planter strip on N Montana Avenue and 2 street trees in the planter strip on N Buffalo Street adjacent to parcel 1. Street trees will be chosen from the City's approved street tree list for the size planting strip. 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.

Required Legal Documents

4. 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 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 arborist report (Exhibit A.3). Specifically, tree number 1 is required to be preserved, with the root protection zones indicated on Exhibit A.3. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
- 2. The minimum and maximum density for the lots in this land division are as follows:

Lot	Minimum Density	Maximum Density
1	1	2
2	2	2
3	2	2

- 3. The applicant must meet the addressing requirements of the Fire Bureau for Parcels 2 and 3. The location of the sign must be shown on the building permit.
- 4. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal. Please refer to the final plat approval report for details on whether or not this requirement applies.
- 5. 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:	Rachel	Whiteside
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Decision rendered by: ______ on July 22, 2013.

By authority of the Director of the Bureau of Development Services

Decision mailed July 25, 2013.

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 April 26, 2013, and was determined to be complete on June 10, 2013.

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 April 26, 2013.

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: October 8, 2013.**

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. Original Narrative
 - 2. Simplified Approach Form
 - 3. Arborist Report
 - 4. Response to Incomplete Letter, received June 7, 2013
 - 5. Transportation Analysis
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- 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 Review Section of BDS
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application
 - 2. Neighborhood Contact
 - 3. Public Works Inquiry Summary (13-111209 WI)
 - 4. Incomplete Letter, sent May 9, 2013

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).



