Amanda Fritz, Commissioner
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Date: December 24, 2013
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / Sean.Williams@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 the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-146039 LDP AD

GENERAL INFORMATION

Applicant: Dave Spitzer / DMS Architects, Inc
2106 NE MLK Jr. Blvd. / Portland, OR 97212

Owner(s): David Spitzer & Laurie Garber
2325 NE 19th Avenue / Portland, OR 97212

Site Address: 629-633 NE Mason Street

Legal Description: BLOCK 12 E 1/2 OF LOT 9&10, LINCOLN PK ANX
Tax Account No.: R497301760, R497301760
State ID No.: 1N1E23CB 10500, 1N1E23CB 10500
Quarter Section: 2631
Neighborhood: King, contact Leigh Rappaport at 503-490-8388.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, Claire Adamsick at 503-388-9030.
Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Partition (LDP) w/ Adjustment (AD)
Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant is proposing to partition the subject property into two parcels. Proposed Parcel 1 is a corner lot of approximately 3,200 square feet that will retain the existing duplex and proposed Parcel 2 is 1,800 square feet. The applicant is using the Alternative Development Option of duplexes and attached houses on corners (33.110.240.E) in order to retain the duplex. A concurrent adjustment review is requested to eliminate parking for the parcel that will retain the existing duplex.

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 review (Adjustment) 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 2 units of land. 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.**
- **33.805.040 A.-F., Approval Criteria for Adjustments**

FACTS

Site and Vicinity: The site is located on the northwest corner of the intersection of NE Mason Street and NE 7th Avenue. An existing duplex is located on the southern portion of the site and will be retained within Parcel 1. The site is relatively flat and situated above the street grade by approximately 1.5 to 2 feet. No trees subject to preservation standards are located within the land division site. The surrounding vicinity is primarily composed of single family development with comparable zoning. The nearest commercial corridor is approximately 650-feet west of the site along NE Martin Luther King Jr. Boulevard.

Infrastructure:

- **Streets –**The site has approximately 50-feet of frontage on NE Mason Street and 100-feet of frontage on NE 7th Avenue. There is one driveway entering the site from NE 7th Avenue that serves the existing duplex. At this location, both NE Mason Street and NE 7th Avenue are classified as Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 650-feet west of the site on NE Martin Luther King Jr. Boulevard via Bus #6.

  At this location, both NE Mason Street and NE 7th Avenue are improved with a 30-foot paved roadway surface and pedestrian corridor that consists of a 3-foot planter strip, 6-foot sidewalk, and 1-foot setback (3-6-1) within a 50-foot wide right-of-way.

- **Water Service –** There is an existing 8-inch CI water main in NE 7th Avenue and a 4-inch CI water main in NE Mason Street. The existing house is served by a 5/8-inch metered service from the main in NE 7th Avenue.

- **Sanitary Service -** There is an existing 10-inch clay public combination sewer main in NE 7th Avenue. The existing house is served by a lateral from this main. There is no public sewer available in NE Mason Street along the site's frontage. A lateral serving adjacent property to the west (623 NE Mason Street) is connected to the main in NE 7th Avenue through the land division site.

Zoning: The R2.5 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 <u>not</u> 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. Exhibits "E" contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 17, 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 and Topic	Findings: Not applicable because:
B	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.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The applicant is proposing one duplex lot (Parcel 1) in conformance with the Alternative Development Option of duplexes and attached houses on corners (33.110.240.E) and one standard lot (Parcel 2) for a detached house. The minimum and maximum density for the site is as follows:

Minimum = (5,000 square feet * .80) ÷ 5000 square feet = 0.80 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 5,000 ÷ 2,500 square feet = 2

The applicant is proposing 2 parcels, which exceeds the maximum density normally allowed for the site due to the presence of an existing duplex. However, the applicant is proposing to retain the existing duplex on the corner lot (Parcel 1) and construct a new detached house on Parcel 2 under the provision in 33.110.240.E, which allows one extra unit in conjunction with duplexes or attached houses on corner lots. Therefore, an additional lot is allowed provided that the duplex on Parcel 1 meets applicable development standards. With a condition of approval requiring the duplex on Parcel 1 to meet applicable development standards, the density standards can be met.

The required and proposed lot dimensions 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	N/A	36	40	30
Duplex lot in the R2.5 Zone	3,000	N/A	N/A	N/A	N/A
Parcel 1	3,200		50	64	50
Parcel 2	1,800		36	50	36

* 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.

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. Although the site is currently connected to the public sanitary sewer, there is an old cesspool on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and 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. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

> *Based on the R2.5 zoning and street classifications, a 1-ft dedication sidewalk reconstruction to provide an 11-ft corridor with a 4.5-6-0.5 configuration would have been conditions of final plat approval. The applicant received approval of an Administrative Public Works Appeal to not require any dedications and to leave the existing sidewalk corridors in their current configuration on both frontages (PW 13-232770). No dedications or frontage improvements will be required.*
>
> *The addition of one single-family residence can be expected to generate 10 daily vehicle trips, with 1 trip occurring in the AM and PM Peak Hours. This minimal amount of vehicle trips is not anticipated to create any significant impact on local intersections LOS or street capacity. Tri-Met bus service is available from the Numbers 44 and 6 lines in close proximity to the site. Because the site is a corner lot, connectivity requirements for new through street or pedestrian connections do not apply. The applicant has requested an adjustment to eliminate the one existing on-site parking space for the existing duplex. The new residence is proposed to have one on-site parking space. The applicant submitted a on-street parking survey documenting the approximate availability of on-street parking spaces during peak demand times for a residential neighborhood. The survey provided by the applicant found that NE 7th Ave has a relatively high utilization rate of approximately 70% of on-street parking during peak demand periods. This high rate of use may also be found to be caused in part by the limit of on-street parking to only one side of NE 7th Ave. The utilization rate on NE Mason was found to be about 50% during the same peak demand periods. The site has 50-ft of frontage on NE Mason where the main entrance to the duplex is located. At least two vehicles could park along the NE Mason frontage without impacting on-street parking supplies in front of any other residences. On-street parking is open to the public and cannot be reserved for any individual residence. The applicant states that tenants of the duplex rarely used the on-site parking space since it was on the north side of the lot away from the main entrance on NE Mason. Waiving the requirement to replace the on-site parking for the duplex should not result in any significant impact on the availability of on-street parking for area residents. PBOT has no objection to granting this adjustment.*
>
> *PBOT finds the transportation system can safely support the addition of one single-family residence in addition to the existing uses in the area.*

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by the existing streets without having any significant impact on the level of service provided.

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
The Water Bureau has indicated that service is available to the site from the 8-inch CI water main in NE 7th Avenue, as noted on page 2 of this report. The water service standards of 33.651 have been verified. Therefore, this criterion is met.
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 from the 10-inch clay public combination sewer main in NE 7th Avenue, as noted on page 2 of this report. For Parcel 2, the applicant proposes to use an existing branch that currently serves neighboring property to the west (623 NE Mason Street) after it is capped. Because that lateral is serving existing development through this site without an easement, the applicant was able to apply for a plumbing permit to cap the branch (13-203788 PT). However, the sewer cannot be capped until BES determines that several conditions have been met. Prior to final plat approval, the applicant must show that all those conditions have been met and the cap of the sewer serving 623 NE Mason Street has been completed and all required permits have received final inspection approval. The sanitary sewer service standards of 33.652 have been verified. Therefore, this criterion is met.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Simplified Approach stormwater report to address this approval criterion (Exhibit A.4) and has proposed the following stormwater management methods: • **Parcel 1 (the lot with the existing duplex):** The existing duplex has downspouts that drain into underground pipes. The Bureau of Environmental Services has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must show on a Supplemental Plan the existing stormwater system, including an ultimate disposal point. If the stormwater system is not located entirely within the lot that it serves modifications will be required, which will necessitate final inspection approval of plumbing permits prior to final plat approval. • **Parcel 2:** Stormwater from this lot will be directed to an individual soakage trench 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. The Bureau of Environmental Services has indicated conceptual approval of the soakage trench.

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. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2): *Because the site is a corner lot, connectivity requirements for new through street or pedestrian connections do not apply.* For the reasons described above, 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.

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose
The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

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

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

Findings: The applicant is requesting an adjustment to waive the minimum parking requirements for the existing duplex that will be retained within proposed Parcel 1 of this review. The purpose of Minimum Required Parking Spaces (33.266.110.A) is as follows:

The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multi dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

The existing duplex is currently served by a paved parking space located in the northeast corner of the land division site that is nonconforming in size and does not accommodate the required two vehicles. As a result of this land division, the parking space for the existing duplex

will be located on Parcel 2, and will no longer be available to Parcel 1. The applicant has submitted a parking study (Exhibit A.3) to address the desire to waive parking requirements for the new lot to retain the existing duplex. PBOT has provided the following analysis (Exhibit E.2) based on the submitted study:

> *The applicant submitted a on-street parking survey documenting the approximate availability of on-street parking spaces during peak demand times for a residential neighborhood. The survey provided by the applicant found that NE 7th Ave has a relatively high utilization rate of approximately 70% of on-street parking during peak demand periods. This high rate of use may also be found to be caused in part by the limit of on-street parking to only one side of NE 7th Ave. The utilization rate on NE Mason was found to be about 50% during the same peak demand periods. The site has 50-ft of frontage on NE Mason where the main entrance to the duplex is located. At least two vehicles could park along the NE Mason frontage without impacting on-street parking supplies in front of any other residences. On-street parking is open to the public and cannot be reserved for any individual residence. The applicant states that tenants of the duplex rarely used the on-site parking space since it was on the north side of the lot away from the main entrance on NE Mason. Waiving the requirement to replace the on-site parking for the duplex should not result in any significant impact on the availability of on-street parking for area residents. PBOT has no objection to granting this adjustment.*

In addition to PBOT's findings, the subject property is located approximately 650-feet east of NE Martin Luther King Jr Boulevard, which amounts to two blocks. On this street, Tri-Met provides transit service via the #6 bus, which meets the City's peak hour service definition. In addition, this street is also classified as a City Walkway in the Transportation System Plan (TSP). Further, the block pattern within the vicinity of the site is ideally spaced and meets desired connectivity requirements.

In reviewing this proposal the Bureau of Transportation has determined that there will be no on-street parking impacts as a result of the request to waive the parking requirements for the existing duplex to remain on Parcel 1. Additionally, the findings above demonstrate the site is located in close proximity to frequent transit service, has good street connectivity, and good pedestrian facilities. Therefore, the applicants request equally or better meets the purpose of Minimum Required Parking Spaces.

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: The subject property is in a residential zone and is located within the King Neighborhood. A significant amount of older housing stock in the vicinity of the site does not have on-site parking. In addition, the applicant has indicated that the existing nonconforming parking space is rarely used by tenants. Further, the Portland Bureau of Transportation does not anticipate any significant impact on the availability of on-street parking for area residents. Therefore, the applicants request to not provide replacement parking for the existing duplex will not detract from the livability or appearance of the neighborhood.

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: Only one adjustment is being requested. Therefore, this criterion is not applicable.

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

Findings: The site is not located within a scenic or historic overlay zone. Therefore, this criterion is not applicable.

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

Findings: As addressed in the preceding findings, there are no discernable impacts that will result from the proposed adjustment. This criterion is satisfied.

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: The site is not located within an environmental overlay zone. Therefore, this criterion is not applicable.

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 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 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, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks: The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new 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 duplex 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.

- Duplexes and attached houses on corners: special requirements apply to development on new lots created using the provisions of Section 33.110.240.E.

  a. Entrances. Each of the units must have its address and main entrance oriented towards a separate street frontage. Where an existing house is being converted to two units, one main entrance with internal access to both units is allowed;
  b. Height. If attached housing is proposed, the height of the two units must be within four feet of each other; and
  c. On both units:
     (1) Exterior finish materials. The exterior finish material must be the same, or visually match in type, size and placement.
     (2) Roof pitch. The predominant roof pitch must be the same.
     (3) Eaves. Roof eaves must project the same distance from the building wall.
     (4) Trim. Trim must be the same in type, size and location.
     (5) Windows. Windows must match in proportion and orientation.

  The existing duplex to be retained within the corner lot (Parcel 1) meets the above development standards with the exception of the main entrance requirement. Currently, there are two main entrances on the duplex's southern elevation, which faces NE Mason Street. In order to meet this requirement the applicant must modify the location of the duplex's main entrances to face separate street frontages or create one main entrance with

internal access to both units. Therefore, prior to final plat approval, the applicant must finalize a building permit to make modifications to the duplex that will remain on Parcel 1 to demonstrate continued compliance with 33.110.240.E after the land division is recorded.

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire flow/water supply, addressing of structures and aerial Fire Department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.2), in conjunction with an Adjustment to waive the minimum parking requirements for the existing duplex that will remain on Parcel 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: services/utilities, minimum parking adjustment, and duplexes on corners.

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

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the minimum parking requirements for an existing duplex that will remain on Parcel 1.

Approval of a Preliminary Plan for a 2-parcel partition that will result in two standard lots, as illustrated with Exhibit C.2, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for BES 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 existing storm drainage system serving the duplex; and
- Any other information specifically noted in the conditions listed below.

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

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.

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.

3. The applicant must show that all applicable conditions for capping the sewer for neighboring property at 623 NE Mason Street have been met to the satisfaction of BES, and that all applicable permits for that work have been completed and received final inspection approval.

4. The applicant must obtain a finalized building permit for modifications to the existing duplex that will remain on proposed Parcel 1 that demonstrates compliance with Development standards for Duplexes and attached houses on corners (33.110.240.E.4).

5. Documentation of the location of the stormwater disposal system for the existing duplex shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the duplex must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing duplex will extend beyond the boundaries of Parcel 1 (the lot with the existing duplex), then the applicant must provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

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

1. 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.
2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 1. The location of the sign must be shown on the building permit.

Staff Planner: Sean Williams

Decision rendered by: _____ **on December 20, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 24, 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 May 1, 2013, and was determined to be complete on September 13, 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 May 1, 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 requested that the 120-day review period be extended, as stated with Exhibit A.6. Unless further extended by the applicant, **the 120 days will expire on: April 21, 2014.**

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 January 7, 2014** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of $250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us .

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

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

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with 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. 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 concurrent Adjustment review was voluntarily included with this application. Therefore, this concurrent approval expires 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. Land Division Approval Criteria Narrative
   2. Adjustment Approval Criteria Narrative
   3. Parking Study
   4. Simplified Approach Stormwater Report
   5. Neighborhood Contact

6. Request for Extension of 120-Day Review Period

B. Zoning Map (attached)

C. Plans/Drawings:
   1. Topographic Site Survey
   2. Preliminary Plat (attached)

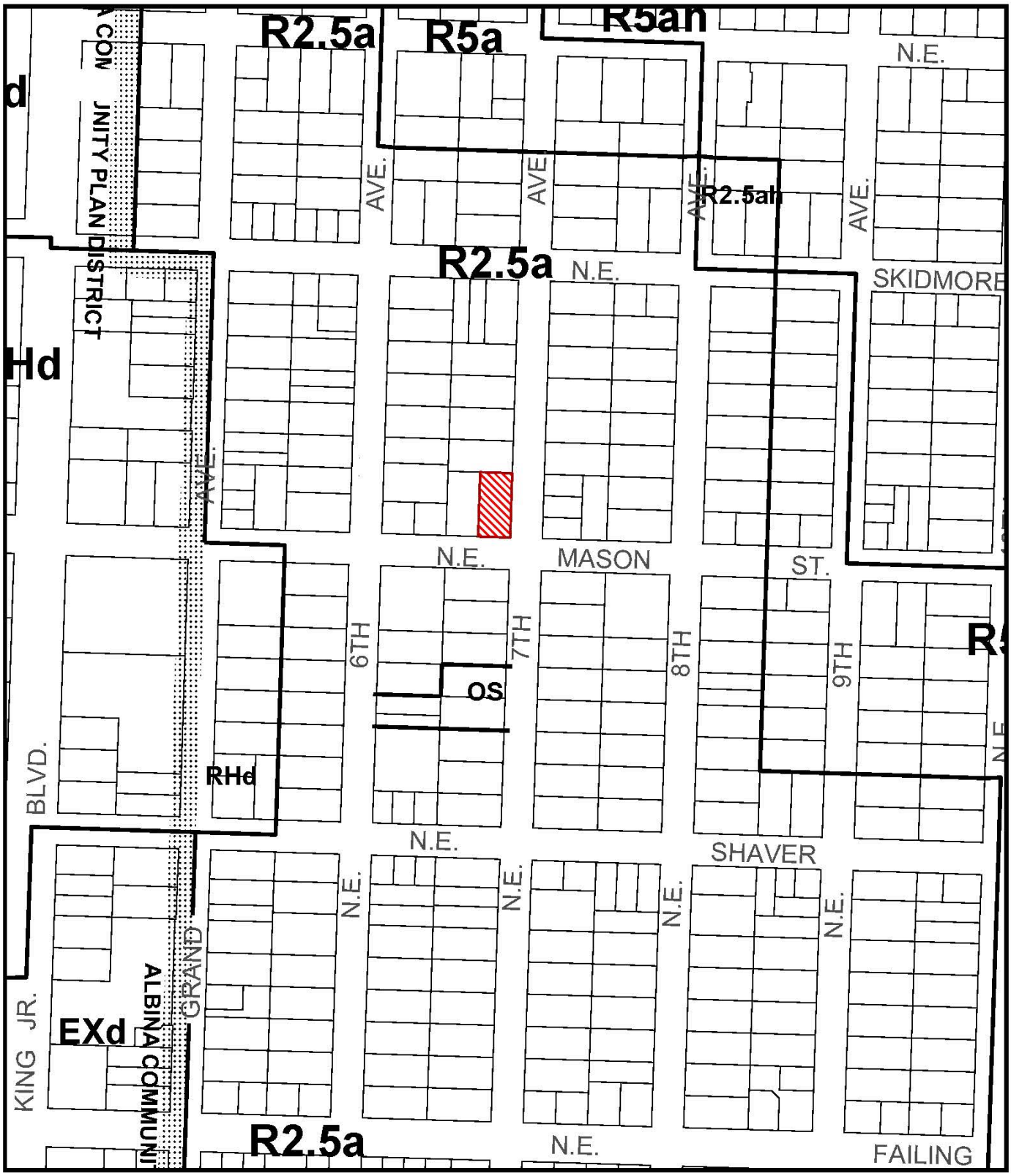
D. Notification information:
   1. Mailing list
   2. Mailed notice

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 Plans Examiner

F. Correspondence: None

G. Other:
   1. Original LU Application
   2. Incomplete Letter w/ RFC Responses

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

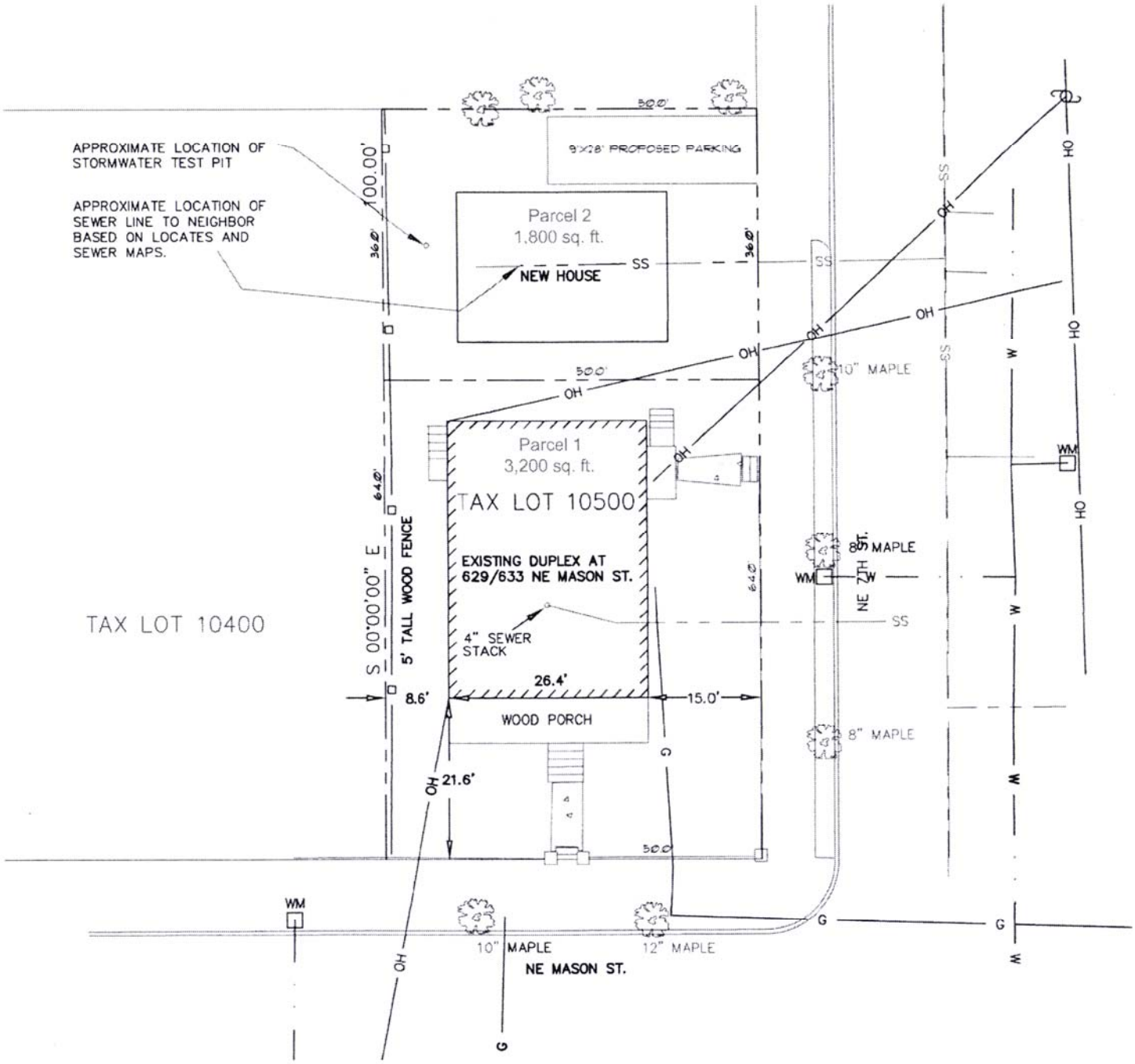


ZONING

Site

NORTH

File No. LU 13-146039 LDP,AD
1/4 Section 2631
Scale 1 inch = 200 feet
State_Id 1N1E23CB 10500
Exhibit B (May 02,2013)



CASE NO. 13-146039
EXHIBIT C.2