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

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Date: November 22, 2010
To: Interested Person
From: Kate Green, Land Use Services
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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 this notice. 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 10-127956 LDP

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions
223 NE 56th Avenue
Portland OR 97213

Property Owners: Elizabeth G Farrell, Mark J Farrell, and Whitney Petersen
4772 N Lombard Street
Portland, OR 97203-4565

Site Address: 7541 N DWIGHT AVENUE

This lot was the subject of a recent Lot Validation case (LU 10-145725) and the new Legal Description, Tax Account Number, and State ID Number are pending. The former descriptions are listed at this time.

Legal Description: E 80' OF LOT 13-16 BLOCK 113 E 80' OF NLY 3' OF LOT 17 BLOCK 113, UNIVERSITY PK
Tax Account No.: R851313050
State ID No.: 1N1E08CD 02700
Quarter Section: 2225

Neighborhood: Portsmouth, contact Matthew Denton at 503-866-2185
Business District: North Portland Business Assoc, contact Jim Schaller at 503-517-9915
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

Zoning: Single Dwelling Residential 2500 (R2.5)
Multi Dwelling Residential 1000 (R1)
Main Street (m) overlay

Case Type: Land Division-Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: The applicants propose a **Land Division-Partition** to divide an 8,240 square foot property into two parcels. The property has two zoning designation and the property is proposed to be divided along the zoning line, so the proposal will create one, 4,000 square foot parcel in the R2.5 zone (Parcel 1) and one, 4,240 square foot parcel in the R1 zone (Parcel 2). An existing house is proposed to remain on Parcel 2.

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 two units of land (two lots and zero tracts). 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**.

ANALYSIS

Site: The 8,240 square foot subject site is a rectangular property with frontage on N Dwight Avenue. The south half of the property is developed with a 1-½ story house with a basement. An approximately 2-foot tall retaining wall is located along the front lot line. There is one driveway entering the site that provides access to recently constructed off-street parking space (Permit 10-100563 ZP) for the existing house.

The site has approximately 103 feet of frontage on N Dwight Avenue, which is classified as a Local Service Street for all modes in the Transportation Element of the Comprehensive Plan. N Dwight is improved with a paved roadway, curbs, planting strips, and sidewalks. Parking is currently allowed on both sides of the street.

Tri-Met provides transit service approximately 200 feet to the south along N Lombard Street via bus #75.

The site is situated in an established residential area. The size of the lots varies from 4,000 to 10,000 square feet or more, and nearby development includes single-dwelling and multi-dwelling units. A commercially zoned corridor is located along N Lombard Street, which is located approximately 150 feet south of the subject site. Columbia Park is located approximately 400 feet east of the site, and is in the Open Space zone.

Zoning: The subject property has two zoning designations. The north half of the property is in the **Single Dwelling Residential 2500 (R2.5)** zone; and the south half is in the **Multi-Dwelling Residential 1,000 (R1)** zone. The R1 portion of the property is also within the **Main Street Corridor Overlay (m)** zone for N Lombard Street.

The **R2.5 zone** is one of the City's single-dwelling zones that is intended to preserve land for housing and to promote housing opportunities for individual households. The zone allows a mix of housing types with a single dwelling character while allowing attached houses and somewhat higher densities.

The **R1 zone** is a medium density multi-dwelling zone. Allowed housing is characterized by one to four story buildings. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses.

The **m-overlay zone** regulations encourage higher density residential uses by allowing greater building heights, reducing required building coverage for residential development; and allowing more flexibility in site design. The intent of the zone is to provide transit-supportive levels of residential and mixed-use development along identified main streets.

Land Use History: City records indicate several prior completed land use review:
- LU 10-145725: Lot Validation Review to establish the subject site as a lawfully created unit of land. Approved.
- 95-012229 (LUR 95-00336 AD): Adjustment to lot area. Approved with conditions.
- 81-030071 (VZ 095-81): Variance to reduce lot area. Approved.
- 60-035269 (VZ 280-60): Variance to lot coverage. Approved.

Agency and Neighborhood Review: A *Notice of Proposal in your Neighborhood* was mailed on **October 12, 2010**.

1. **Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.
2. **Neighborhood Review:** No written responses have been received.

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.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. 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 applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	**33.611** **33.612**	**Lots**	**Applicable - See findings below**
B	**33.630**	**Trees**	**Applicable - See findings below**
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required when the minimum density for the site is less than 40 units.
G	**33.635.100**	**Clearing and Grading**	**Applicable - See findings below.**
G	**33.635.200**	**Land Suitability**	**Applicable - See findings below.**
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.

Criterion	Code Chapter	Topic	Applicability Findings
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site outside of environmental zones.
K	**33.641**	**Transportation Impacts**	**Applicable - See findings below**
L	**33.651 - 33.654**	**Services and Utilities**	**Applicable - See findings below**

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, which will apply to proposed Parcel 1; and Chapter 33.612 contains the lot dimension requirements applicable in the Multi-dwelling zones, which will apply to proposed Parcel 2. These density and lot dimension requirements ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards: Density is generally based on the entire site area; however, in this situation, the site has two different zoning designations, so the density calculations will be based on the portion of the site area in each respective zone. Proposed Parcel 1 is in the R2.5 zone and is 4,000 square feet; proposed Parcel 2 is in the R1 zone and is 4,240 square feet.

Parcel 1 (R2.5 zone): The method used to calculate density in the Single-Dwelling zones 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, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for Parcel 1 is as follows:

Minimum = 1
(4,000 * .80) ÷ 5,000 = .64 (which rounds up to a minimum of 1 unit, per 33.930.020.A)

Maximum = 1
4,000 ÷ 2,500 = 1.6 (which rounds down to a maximum of 1 unit, per 33.930.020.B)

Based on these calculations, 1 unit is allowed on Parcel 1. As proposed, this density standard can be met.

Parcel 2 (R1m zone): In a Multi-Dwelling zone, when single-dwelling or duplex development is proposed for some or all of a site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3.

In this case, Parcel 2 is currently developed with a single-dwelling residence and is proposed for single dwelling and/or duplex development. Based on the R1 zoned area of the site, the density requirements for Parcel 2 are calculated as follows:

Minimum = 2
4,240 ÷ 2,000 = 2.14 (which rounds down to a minimum of 2 units, per 33.930.020.A).

Maximum = 4
4,240 ÷ 1,000 = 4.24 (which rounds down to a maximum of 4 units, per 33.930.020.B).

However, a maximum density for the site of 4 is not allowed, since, as outlined in more detail in the lot dimension findings, below, the lot area is not large enough to accommodate multi-dwelling development, which requires a minimum lot area of 10,000 square feet, and the applicant has not requested an Adjustment to allow multi-dwelling development or modify the density provisions. Therefore, a condition to limit the maximum density allowance on Parcel 2 to 2 units will be required to ensure new development or further division of the site does not result in non-compliance with the density requirements.

Additionally, because Parcel 2 is currently developed with a single-dwelling residence and the proposed area of Parcel 2 triggers a minimum density requirement of 2 units, a condition is needed to ensure that the minimum density requirements of the land division site will be met at time of new development or redevelopment on Parcel 2.

Further, as noted in the table below, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes, so these conditions to allocate minimum and maximum density must be applied to ensure compliance with the density requirements of the R1 portion of the site. Yet, since Parcel 2 is wide enough to be further divided for detached or attached houses or duplexes, this condition will also allow for the maximum density for Parcel 2 to be reallocated at the time a subsequent land division application is reviewed.

Lot Dimensions: The dimensions of the proposed lots as compared to the required lot dimension requirements are as follows (information for the R2.5 zone is found in Chapter 33.611 and requirements for the R1 zone are found in Chapter 33.612 of the Zoning Code):

	R2.5 Zone Standards	**Proposed Parcel 1**	**R1 Zone Standards [Lots with Detached Houses]**	**R1 Zone Standards [Lots with Attached Houses]**	**R1 Zone Standards (Duplexes)**	**Proposed Parcel 2 [existing house]**
Minimum Lot Area [square feet]	1,600	4,000	none	none	none	4,240
Maximum Lot Area [square feet]	NA					
Minimum Lot Width [feet]	36*	50	25**	15**	none	53
Minimum Lot Depth [feet]	40	80	none	none	none	80
Minimum Front Lot Line [feet]	30	50	25	15	10	53

* In the R2.5 zone, 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.

** In the R1 zone, width is measured from the midpoints of the side lot lines.

Overall, Parcel 1 is of sufficient size and area to allow for a density of 1 unit; and with a condition to allocate density requirements for proposed Parcel 2 to a minimum and maximum of 2 units, as described above, this criterion will be 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.

At the time of the land division review, one 22-inch diameter tree (Cherry) has been identified on the site, behind (west of) the existing house, and this tree is noted for preservation. 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 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report

(Exhibit A.1) and an acknowledgement of tree preservation requirements is recorded with the final plat.

The applicant's narrative also indicates a 25-inch diameter fir tree and a 40-inch diameter oak tree had been located on the north half of the property, within the area of proposed Parcel 1, and were removed prior to submittal of the land division application. The Urban Forester notes that a 2009 Tree Cutting Ordinance violation resulted in the owners being required to pay a mitigation fee and replant trees to resolve the unauthorized removal of the fir and oak trees. This tree removal matter is further addressed in the section below, *Other Technical Requirements* (page 11).

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.
The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;
B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;
C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;
D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and
E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.

Findings: 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 approximately 2 to 3 feet above the grade of the abutting sidewalk and a short (less than 3 feet in height) retaining wall borders the site frontage; otherwise the site is generally flat. The site is not located within the Potential Landslide Hazard Area. No significant clearing or grading is expected to be necessary 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. Therefore, these criteria are met.

33.635.200 – Land Suitability
Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

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,
The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

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

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

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. 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.

As noted previously, N Dwight Avenue is fully improved with a paved roadway, curbs, planting strips, and sidewalks. As outlined in the response from Portland Transportation, given the existing street improvements, no dedications or street improvements are necessary.

Additionally, Portland Transportation notes that the one potential unit on the R2.5 vacant parcel can be expected to generate 10 vehicle trips per day with one of those trips occurring the each AM and PM peak hour. Portland Transportation also notes there are no known transportation deficiencies in the area, so the transportation system is capable of safely supporting the very limited increase in traffic in addition to existing uses in the area. As such, this criterion is met.

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. As shown by the findings below, the Services and Utilities criteria are met.

Water: The water standards of 33.651 have been verified. An existing 8-inch CI water main is available in N Dwight Avenue. There is an existing 5/8" metered service which provides water to this location. This service may potentially be used to provide water to Parcel 2.

Due to the high water pressure range (above 80 psi) at this location, a PRV (Pressure Regulating Valve) will be required to be installed on the private property side of the Water Meter, per State of Oregon and City of Portland plumbing code, by a licensed plumber. See Exhibit E.3 for more details.

Sanitary Sewer: The sanitary sewer standards of 33.652 have been verified. The Bureau of Environmental Services (BES) notes there is an existing 15-inch combined public sanitary sewer located in N Dwight; city records show the existing house is connected to this line, and the proposed lateral location for Parcel 1 is acceptable. See Exhibit E.1 for more details.

Stormwater Management: The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and

B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

Findings: No stormwater tract is proposed or required, so criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed a drywell for new development on Parcel 1 and splash blocks for the existing house on Parcel 2. BES notes a sufficient infiltration rate has been documented by the applicant, and BES finds these methods are acceptable at this location (Exhibit E.1).

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	**Through streets and pedestrian connections**	**Applicable - See findings below**
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	**Width of the street right-of-way**	**Applicable - See findings below.**
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	**Utilities**	**Applicable - See findings below.**
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.

Code Section	Topic	Applicability Findings
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.
33.654.130.E	Ownership of Alleys	Not applicable- No alleys are proposed or required.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

a. **Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
b. **Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
c. **Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
d. **Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
e. **Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: The site is located between N Lombard and N Winchell, which have a distance between them of approximately 580 feet. This distance exceeds the optimum spacing requirement of 200-530 feet; however, the spacing is due, in part, to the angled configuration of N Lombard, and the fact that through streets are not anticipated in Columbia Park, which is located one block to the east of the subject site. As outlined in the findings for Criterion L, above, Portland Transportation has found that the existing street frontage and street pattern is sufficient and no through street or additional frontage improvements are warranted at this location. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For these reasons, this criterion is met.

33.654.120.C.1 Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

Findings: As outlined above, and in the findings for Criterion L, Portland Transportation has determined that the existing street improvements are sufficient for the anticipated additional trips from the proposed new unit of the new parcels. As such, this criterion is met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way has been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. 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.

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

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 R1 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 is pertinent:

- 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 house will be 10 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	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2008 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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 aerial access and addressing. 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 strip adjacent to Parcel 2 prior to final plat approval. This requirement is based on the standards of Title 20.

- The Urban Forester also noted that a Tree Cutting Ordinance violation occurred in 2009. One fir, one oak and a Norway maple tree were removed. The Norway maple is on the nuisance list so a permit was not needed. To resolve the unpermitted removal of the fir and oak, the property owner(s) are required to pay a mitigation fee and replant trees, per the *Tree Cutting Permit Violation Notice of Decision*.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Tree Preservation
- Supplemental Plan
- Minimum and Maximum Density
- Fire Bureau aerial access and addressing

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition, that will result in one standard parcel in the R2.5 zone, and one parcel for single-dwelling or duplex development in the R1 zone, 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 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;
- Tree(s) required to be preserved on Parcel 2;
- Any other information specifically noted in the conditions listed below.

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

Existing Development

1. The applicant must plant 2 street trees in the planter strip on N Dwight Avenue, adjacent to Parcel 2. Street trees will be chosen from the City's approved street tree list. 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

2. The applicant must execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

1. The minimum and maximum density for the lots in this land division are as follows:

Parcel	Minimum Density	Maximum Density
1 (R2.5 zone)	1	1
2 (R1 zone with existing house)	2	2

   - The minimum density requirement for Parcel 1 must be met at time of new development.
   - The minimum density requirement for Parcel 2 must be met at the time of new development or redevelopment.
   - The maximum density for Parcel 2 may be changed if a subsequent land division approves an alternate housing type or distribution of units.

2. The applicant must provide a fire accessway and addressing to the satisfaction of the Fire Bureau.

Staff Planner: Kate Green

Decision rendered by: Mahael Hayak **on November 18, 2010.**
By authority of the Director of the Bureau of Development Services

Decision mailed November 22, 2010.

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

Procedural Information. The application for this land use review was submitted on April 15, 2010, and was determined to be complete on October 8, 2010.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on April 15, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: February 5, 2010.**

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

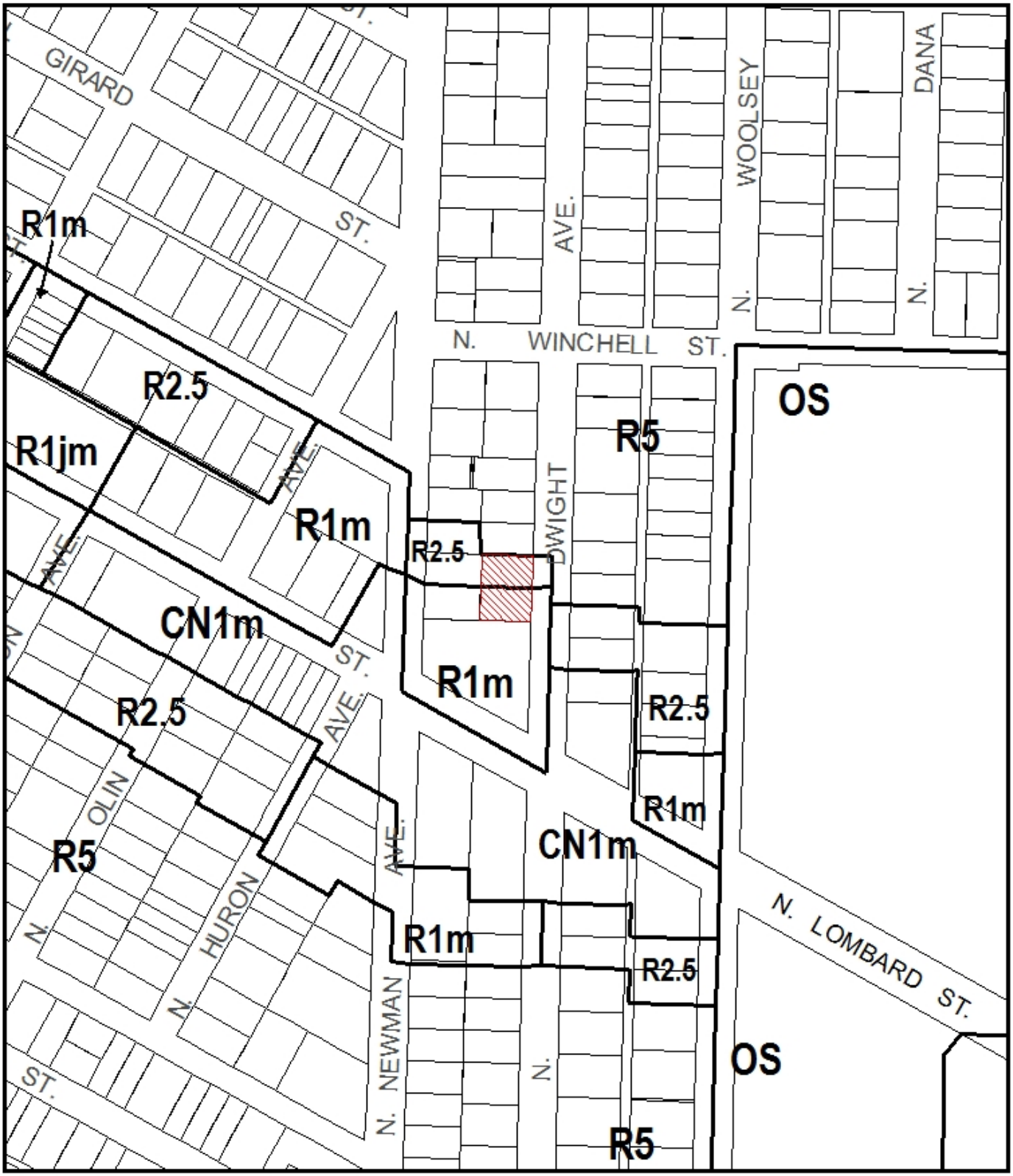
plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Arborist Report
   2. Simplified Infiltration Test: Form 1
   3. Supplemental Narrative
   4. Deed History
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site Plan/Tree Mitigation Plan (reduced copy attached, full size copy in file)
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Portland Transportation
   3. Water Bureau
   4. Fire Bureau
   5. Site Development-BDS
   6. Bureau of Parks, Forestry Division
   7. Life Safety-BDS
F. Correspondence (none)
G. Other:
   1. Original LU Application
   2. Site History Research
   3. Letter to applicant re: incomplete application
   4. Email from applicant re: completeness timeline

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 10-127956 LDP
1/4 Section	2225
Scale	1 inch = 200 feet
State_Id	1N1E08CD 2700
Exhibit	B (Apr 20,2010)

SITE PLAN

THE EAST 80' OF LOTS 13, 14, 16 AND 16 AND THE EAST 80' OF THE NORTH 3' OF LOT 17, BLOCK 113, "UNIVERSITY PARK", SITUATED IN THE SE 1/4 SW1/4 OF SECTION 8, T.1N., R.1E., W.M., IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
DATE: FEBRUARY 22, 2010

RECEIVED
APR 15 2010
By

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SCALE 1"=20'
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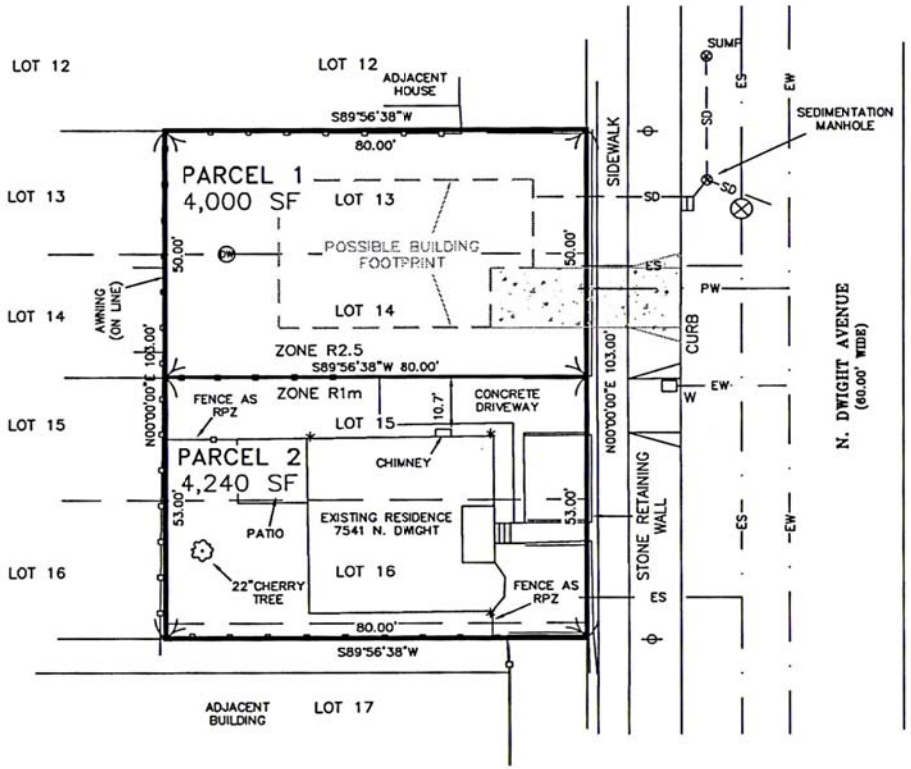


NOTES:

ZONE IS R1m AND R2.5

FOR TREE INFORMATION SEE TREE REPORT BY JOHN O'SHEA, CONSULTING ARBORIST

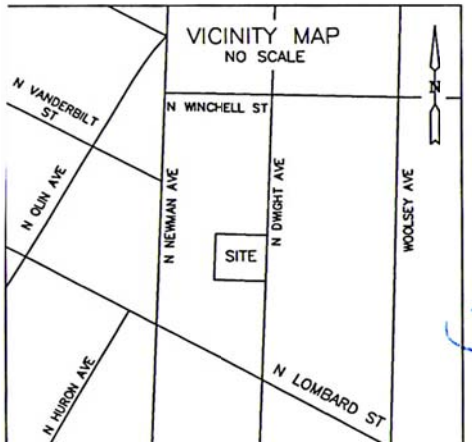
DRYWELL AND OTHER UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.

DOWNSPOUTS ON EXISTING HOUSE WILL DISCHARGE TO GROUND SURFACE

UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY

DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION

DISTANCES SHOWN FOR EXISTING HOUSE ON PARCEL 1 ARE PERPENDICULAR TO THE PROPOSED PARCEL LINES FROM THE FOUNDATION CORNERS.



CASE NO.
EXHIBIT C.1
reduced copy

SYMBOLS

- POWER POLE
- W = WATER METER
- MANHOLE
- CATCH BASIN
- PW = PROPOSED DRY WELL
- SD = STORM DRAIN
- EW = WATER LINE
- ES = SANITARY SEWER
- PW = PROPOSED WATER LINE
- FENCE
- CHERRY TREE
- * = DOWNSPOUT – DISCHARGE TO GROUND SURFACE
- RPZ = ROOT PROTECTION ZONE

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 13, 1999
JOHN A. McCOY
54657
RENEWAL DATE 12/31/10

LU 10-127956 LDP

CLIENT: PETERSEN	*Ferguson Land Surveying, Inc.*	SHEET NO. 1 OF 1
7541 N DWIGHT AVENUE	646 SE 106TH AVE., PORTLAND, OR 97216	JOB NO. 10-026
PORTLAND, OR	Phone (503) 408-0601 Fax (503) 408-0602	DRAFTED 2/22/2010 JM