



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

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Date: May 11, 2011
To: Interested Person
From: Sue Donaldson, 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 11-105645 LDP

GENERAL INFORMATION

Applicant: Convergent Pacific LLC
8975 SW Center St
Tigard, OR 97223-6307

Representative: Mark Wilde,
Wilde Property Investments, Inc.
9415 SE Stark St #201
Portland, OR 97216

Site Address: 5533 NE 9TH AVE

Legal Description: BLOCK 15 LOT 14, CLOVERDALE EXTN & PLAT 2
Tax Account No.: R166401840
State ID No.: 1N1E14CC 16400
Quarter Section: 2431

Neighborhood: King, contact Trace Salmon at 503-460-2756.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Plan District: None

Zoning: R1ah Residential ,000 with Alternative Design Density overlay (a) and Aircraft Landing overlay (h).

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 is proposing to divide a 5,000 square foot lot into two parcels. Parcel 1, where the existing house will remain, will be 2,725 square feet. Parcel 2 will be 2,275 square feet. There is an existing 12.5-inch diameter Walnut tree on the site that will be removed because it is located within the proposed building footprint on Parcel 2. On site stormwater management is proposed using a drywell on Parcel 2 and retrofitting the existing house to meet current City requirements.

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 or Environmental Review) are requested or required (*see 33.660.110*).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (*See ORS 92.010*). *ORS 92.010* defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land. 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 approval criteria are in *Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones*.

FACTS

Site and Vicinity: The site is at the corner of NE Church Street and NE 9th Avenue. The existing house, to remain, is an older, 1½ storey structure with vehicle access of NE Church Street. The front door faces NE 9th Avenue. Houses in the vicinity are of similar age and style. The lot pattern nearby is regular, made up of 5,000 square foot lots. Blocks in the area west of NE 9th Avenue run east-west and are approximately 200 feet by 600 feet. Blocks on the east side are oriented north south and vary in size. The surrounding area is on an old river terrace that gradually slopes down to the south. Slight changes in elevation on the lots in this area are taken up by retaining walls that allow individual building lots to be relatively flat. Tree canopy is spotty with most trees on individual lots rather than in the right-of-way.

Infrastructure:

Streets – Streets in the vicinity are improved with curbs, sidewalks and planting strips, but there are few street trees.

The site has approximately 50 feet of frontage on NE Church Street and 100 feet on NE 9th Avenue. There is one driveway entering the site from NE Church Street that serves the house on the site. At this location, both NE Church Street and NE 9th Avenue are designated as Local Service streets for all classification. Tri-Met provides transit service approximately 1,250 feet from the site on NE Martin Luther King Blvd. via Bus #6.

NE 9th Avenue has a 36-foot wide- curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 100-foot wide site frontage the pedestrian corridor includes a curb, 5-foot wide planter area, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (5-6-1 configuration).

NE Church Street has a 24-foot wide curb to curb paved surface within a 40-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage the pedestrian corridor includes a curb, 2-foot wide planter area, 6-foot sidewalk and no buffer at the back of the sidewalk (2-6-0 configuration). Many houses in the vicinity have yards that are elevated above the sidewalk grade and retained with low walls right next to the sidewalk.

- **Water Service** – There is an existing 8-inch CI water main in NE 9th Avenue. A 5/8-inch metered service from the main serves the existing house.

- **Sanitary Service** - There is an existing 10-inch VSP public combination sewer line in NE Church Street and a 24-inch CSP public combination sewer in NE 9th Avenue.

Zoning: R1ah Multi-family Residential 1,000 with both an Alternative Design Density overlay (*a*) and an Airport Height overlay (*h*) zone. The base multi family zone allows both single dwelling and multi-dwelling residential development at densities of approximately 43 dwelling units per acre. Allowed housing may be one to four story buildings that may be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, or rowhouses. Generally, R1 zoning is applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The "a" **Alternate Design Density** overlay allows additional density in exchange for increased design review. (The applicant is not pursuing this option.)

The 'h' **Aircraft Landing** overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The allowed height limit for buildings and vegetation on the site per the 'h' overlay is 290 feet above the lowest base point at Portland International Airport. The airport low base point is at an elevation of 18.3 feet. Therefore, the topographical elevation of the site PLUS the proposed building cannot exceed 308.3 feet. The highest ground elevation on the site is approximately 205 feet. Therefore, buildings and vegetation on the site cannot be more than 105.3 feet in height (308.3-foot height limit minus the 205-foot site elevation). On this site, the base zone (R1) maximum height limit of 45 feet for structures is more restrictive and cannot be exceeded without a future adjustment review.

There is an area R1 zoning on blocks east of the site and south near the NE Killingsworth corridor. The blocks north of the site are zoned R2, which is a low density multi-dwelling zone allowing approximately 21.8 dwelling units per acre. Allowed housing is usually one to three story buildings that could be duplexes, townhouses, row houses or garden apartments.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **March 21, 2011**. 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:
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	Not applicable. A phased land division is not proposed.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less

		than 40 units.
H	33.636 - <i>Tracts and Easements</i>	No tracts or easements have been proposed or will be required.
I	33.639 - <i>Solar Access</i>	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - <i>Streams, Springs, and Seeps</i>	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - <i>Dead end streets</i>	No dead end streets are proposed.
	33.654.110.B.3 - <i>Pedestrian connections in the I zones</i>	The site is not located within an I zone.
	33.654.110.B.4 - <i>Alleys in all zones</i>	No alleys are proposed or required
	33.654.120.C.3.c - <i>Turnarounds</i>	No turnarounds are proposed or required
	33.654.120.D - <i>Common Greens</i>	No common greens are proposed or required
	33.654.120.E - <i>Pedestrian Connections</i>	There are no pedestrian connections proposed or required
	33.654.120.F - <i>Alleys</i>	No alleys are proposed or required
	33.654.120.G - <i>Shared Courts</i>	No shared courts are proposed or required
	33.654.130.D - <i>Partial rights-of-way</i>	No partial public streets are proposed or required

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 dwelling development. The proposed lots must meet minimum density and not exceed the maximum density stated in *Table 120-3* for the R1 zone. The site is less than 10,000 square feet. Therefore, the minimum density is 1 unit per 2,000 square feet (33.120.205.C) and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is 5,000 square feet. Therefore the minimum density is 3 (2.5, rounded up to 3) and the maximum density is 5.

The applicant is proposing two parcels with single dwelling development so the proposal does not meet minimum density at this time. Therefore, an additional unit of density must be assigned to Parcel 1, to apply when that parcel is redeveloped in the future. In this 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:

R1	Minimum lot area (s.f.)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Duplex	None	None	None	10
Detached Houses	none	25	none	25
Parcel 1 – detached	2,725	50	54.50	50
Parcel 2 - detached	2,725	45.50	50	45.50

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

The findings above show that the lot dimension standards are met for either detached or duplex development on Parcel 2 and for a duplex on Parcel 1. The density requirements are not met but can be met with conditions of approval stating the minimum and maximum density allowances for each parcel. A maximum density of 2 will be assigned to each parcel because that density

could be met without a land division in the future. The lot dimension standards are met and the minimum and maximum density standards can be met with conditions of approval that assign minimum and maximum densities for each parcel.

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*). One English Hawthorne tree on the site is exempt because it is listed as a nuisance species on the Portland Plant list. The applicant proposes to save this tree, but it cannot be counted in the tree preservation calculations. The only non-exempt tree is a 12.5-inch Black Walnut that will be removed because it is growing within the proposed building footprint on Parcel 2.

The proposal does not meet any of the tree preservation options in *66.630.100*. Instead the applicant proposes to use the mitigation options of *33.630.300*.

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

A. *As many trees as possible are preserved; and*

Findings: There is only one non-exempt tree on the site. It cannot be preserved because it would not be possible to build a reasonably sized dwelling unit on Parcel 2. This criterion is met.

B. *The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.*

Findings: The applicant has proposed a mitigation plan for planting approximately the same caliper inches as *Option 1* of the *Tree Preservation Chapter*. In this case, 35% of the existing tree diameter (12.5 inches) would be 4.4 inches of existing tree diameter. The addition of five caliper inches of new trees would be roughly equivalent to the amount that would be required to be preserved. This could be achieved by planting a combination of 1 ½-inch and 2-inch caliper trees on the site.

Section 33.248.020.H, known as the *T1 tree planting standard*, requires trees to be planted on new lots as part of the approval of future building permits. The *T1* tree standard requires the planting of at least 3 inches on new lots that are 3,000 square feet or smaller. This would bring the total tree diameter to 7.5 caliper inches. Because of the size of Parcel 2, it is not practical for both mitigation trees and *T1* trees to be planted without compromising the overall health of the new trees. However, at least one of the required trees could be planted on Parcel 1 to allow more space for tree planting on Parcel 2. Therefore, two 1 ½-inch caliper trees must be planted on Parcel 1. This would leave 4.5 inches to be planted on Parcel 2, which would amount to three 1 ½-inch caliper trees. In this case, reducing the number of trees to two is reasonable, given the size of the lot. Two 2-inch caliper trees on Parcel 2, if of sufficient height at maturity, would provide adequate mitigation over time for the tree to be removed.

Required trees should, at maturity, provide a reasonable amount of shade and canopy. Therefore, required trees must be selected from the list of medium trees listed in the City's *Tree and Landscaping Manual*. Planting trees on both lots allows more areas of the site to reap the benefits of trees that are described in the purpose statement for the Tree Preservation Chapter. In addition, the trees will grow over time to provide additional benefits such as absorbing air pollutants and contamination, provide buffering from noise and wind, and provide visual screening from the adjacent properties.

Criterion B is met with a condition of approval requiring a total of 7 caliper inches of tree diameter to be planted, distributed between Parcel 1 and Parcel 2 as follows: two 2-inch caliper trees must be planted on Parcel 2 and two 2-inch caliper trees shall be planted on Parcel 1, the lot with the existing house. Trees must be chosen from the list of medium trees found in the City of Portland, *Tree and Landscaping Manual – Plant Materials* (trees are categorized based on height, crown spread at maturity and growth rate). A Zoning Permit must be obtained, and receive final inspection approval verifying that these trees have been planted. On Parcel 1, the zoning permit must be finalized prior to final plat approval. On Parcel 2, the zoning permit must be finalized prior to final building permit approval.

- C. *It is not possible under any reasonable scenario to meet Section 33.630.100 and one of the following:*

Findings:

The site is less than 15,000 square feet in area. The existing detached house will remain and the new parcel will also be developed with detached housing, which is an allowed housing type in the R1 zone. The location of the existing tree on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R1 zone. Criterion C.4 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 relatively 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 lot developable, as shown on the applicant's preliminary grading plan, Exhibit C.2. 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

Findings: The criteria have been met because:

The site is primarily flat and there is no record of any other use in the past. There are no known geological hazards and no significant clearing or grading will be required on the site to alter contours and drainage patterns or to make the site developable. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

K. *Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,*

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

Findings: The regulations of *Chapter 33.641* allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. *Chapters 33.651 through 33.654* address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

The criteria and standards are met as shown in the following table:

33.651 Water Service standard - See Exhibit E-3 for detailed bureau comments.

The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in NE 9th Avenue. Parcel 1 has water service within its street frontage and service for Parcel 2 is available from the same main. Appropriate service and meter size will be determined at the building permit stage.

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

The sanitary sewer standards of 33.652 have been verified. There is an existing 10-inch VSP public combination sewer located in NE Church Street and a 24-inch CSP public combination sewer in NE 9th Avenue that can serve the sanitary needs of the proposed parcels. Parcel 1 has an existing sewer service from the main in NE church Street. However, the lateral appears to be located on the proposed Parcel 2. This line cannot be retained within an easement because service is available on both frontages of Parcel 1. The applicant must obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1. All plumbing permits for this work must receive final inspection approval prior to Final Plat approval. BES requires a supplemental plan, to be submitted at final plat, showing the location of existing and proposed sanitary laterals for both parcels. This will be required as a condition of approval.

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

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

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

There is no public storm-only sewer available to serve the site. There is a public underground injection control system (UIC) in NE 9th Avenue, consisting of an inlet, sedimentation manhole and infiltration sump, that receives stormwater runoff from the public right-of-way. Private stormwater cannot be directed to the public sump.

The applicant has proposed the following stormwater management methods:

- **Parcel 1** (*the lot with the existing house*): The applicant proposes splash blocks for the existing house at the northeast, northwest and southwest (*approximately*) corners of the existing house. BES requires the applicant to construct a gutter and downspout system for the house with discharge points meeting the City *Stormwater Management Manual* standards prior to final plat approval. If the applicant proposes to use the existing standpipes (at the north and west side of the house) and subsurface stormwater facility on the north side, the stand pipes must be scoped prior to reconnection. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks.

As a condition of approval, the applicant must submit a supplemental plan showing the as-built locations of existing stormwater facilities serving the existing house on Parcel 1. The plan must show that required setbacks can be met.

Parcel 2 Stormwater from the new structure will be directed to a 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 determined that the infiltration rate is adequate for the proposed drywell. BES has requested a supplemental plan, to be submitted at the time of final plat, showing that the proposed drywell meets setback standards.

The supplemental plan must shown the existing and proposed building locations, including locations of buildings on adjacent properties that are relevant to determining whether stormwater facilities meet setback requirements on both parcels. This will be required as a condition of approval.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030

33.654.120.C Width and Design of the street right-of-way**33.654.130.D Partial Rights of way**

Impacts: Based on the available evidence, PBOT estimates that the increase in daily trips will be less than 10 total trips per day (based on the addition of one new single dwelling unit), with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.). Other factors taken into consideration are four possible travel route directions to and from the site and the area, overall, is improved with sidewalks in all directions. Tri-Met bus service is available approximately 1,250 feet from the site. PBOT staff has determined that there will be a minimal impact on existing facilities and capacity and that a traffic study is not required at this time (see *Exhibit E-2* for a detailed analysis).

Right-of-Way: 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 this existing streets without having any significant impact on the level of service provided.

On NE 9th Avenue, the existing configuration is consistent with development in this area and meets the City's recommended standard. Improvements are not required along the NE 9th Avenue frontage. Along NE Church Street, the existing sidewalk is consistent with development on both sides of the street, up to NE Martin Luther King Blvd. PBOT will not require improvements as part of this partition review because the existing house on Parcel 1 will remain. However, if the structure is demolished and/or significantly altered in the future, dedication and frontage improvement requirements will be re-assessed and may be required at that time. If the existing sidewalk and/or curb is damaged, the applicant will be required to render repairs to the City Engineer's satisfaction at the time of development.

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.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

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 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 *Other Technical Standards*, below, for Building Code standards).

The existing structure on Parcel 1 will be 5 feet from the new property line. The rear setback standard in the R1 zone is based on the area of the plane of the building wall. In this case, the wall plane is less than 1,000 square feet so a 5-foot setback meets the standard.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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.

- PBOT will require the applicant to reconstruct the pedestrian corridor along the site frontages to City standards (per Title 17) if the existing sidewalks and/or curbs are found to be in poor condition.
- The applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: density, tree mitigation, utility connections and stormwater management. With conditions of approval that address these requirements, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in 2 lots 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 BES and Land Use 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 proposed general location of future building footprint and stormwater facilities for Parcel 2. Include dimensions as well as the locations of buildings on adjacent properties where these are relevant to determining whether stormwater facilities can meet setback requirements.
- Topography
- Property lines
- As-built location of the sanitary facilities serving the existing house on Parcel 1.
- Any other information specifically noted in the conditions listed below.

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

Utilities

1. The location of existing and proposed sanitary laterals for both Parcel 1 and Parcel 2 must be shown on the supplemental plan. The applicant must establish a new sanitary service branch for the existing structure on Parcel 1. Permits for all required work must be obtained and finalized prior to final plat approval.
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 meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. Dimensions to structures and property lines must be included. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
4. A finalized zoning permit must be obtained for tree planting on Parcel 1. At least two 2-inch caliper trees must be planted, chosen from the City’s *Tree and Landscaping Manual* medium trees list. Alternatively, the applicant may pay into the City’s Tree Fund for 4 inches of tree diameter.

D. 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	2	2
2	1	2

When Parcel 1 redevelops it must meet minimum density as outline above.

2. At least two trees, minimum 2-inch caliper, chosen from the City’s *Tree and Landscaping Manual* medium trees list, must be planted on Parcel 2. Prior to final building permit approval for new house on Parcel 2, a Zoning Permit must be obtained verifying that these trees have been planted as required. Alternatively, the applicant may pay into the City’s Tree Fund to cover the cost of purchasing and planting at least 4 inches of tree diameter.
3. If the sidewalk and/or curb is damaged, repairs must be remedied by the applicant to the City Engineer’s satisfaction.
4. The applicant must provide an aerial fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

Staff Planner: Sue Donaldson

Decision rendered by: Michael Nayak **on May 9, 2011.**
By authority of the Director of the Bureau of Development Services

Decision mailed May 12, 2011

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 January 21, 2011, and was determined to be complete on **March 16, 2011.**

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 January 21, 2011.

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: July 15, 2011.**

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. Narrative
 - 2. Stormwater report
 - 3. Arborist report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division – no concerns
 - 7. Life Safety Plans Examiner
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter

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



ZONING



Site



NORTH

File No.	<u>LU 11-105645 LDP</u>
1/4 Section	<u>2431</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E14CC 16400</u>
Exhibit	<u>B (Jan 27, 2011)</u>

