



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** May 11, 2009  
**To:** Interested Person  
**From:** John Cole, Land Use Services  
503-823-3475 / [ColeJA@ci.portland.or.us](mailto:ColeJA@ci.portland.or.us)

## **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 08-190452 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Hoang Thanh Vu  
14711 NE San Rafael  
Portland, OR 97230

**Representative:** Tony Ryan  
Weddle Surveying, Inc.  
6950 SW Hampton Street, Ste. 170  
Tigard, Oregon 97223

**Site Address:** 4306 NE 102ND AVE

**Legal Description:** EXC PT IN RD LOT E BLOCK 30, PARKROSE & RPLT  
**Tax Account No.:** R647305970  
**State ID No.:** 1N2E22CB 02000  
**Quarter Section:** 2641

**Neighborhood:** Parkrose Association of Neighbors, contact Mary Walker at 503-252-2146.

**Business District:** Parkrose Business Association, contact Mike Taylor at 503-546-9928.  
**District Coalition:** E Portland Neighborhood, contact Richard Bixby at 503-823-4550.  
**Zoning:** R7h – Single Family Residential 7,000 with an “h” Aircraft Landing overlay.

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

**Proposal:** The applicant proposes to divide this property into two parcels. Parcel 1 will be 5,456 square feet in size and will be made available for development meeting the R7h zoning district standards. Parcel 2 will be 8,433 square feet and accommodate the existing residence and detached garage.

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).

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33.

The relevant approval criteria are:

**33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

**ANALYSIS**

**Site and Vicinity:** This is a flat rectangular site located on the northeast corner of NE 102<sup>nd</sup> Avenue and NE Skidmore St. It is occupied by a vacant single family residence and detached outbuilding as well as a number of small trees and large shrubs. The immediate neighborhood consists of single family residences located on R7 zoned lots within the City of Portland and comparable single-family residences located within the City of Maywood Park located west across NE 102<sup>nd</sup> Avenue. Additional institutional, multi-family and commercial activity occurs north and south of this site along NE 102<sup>nd</sup>.

**Zoning:** The R7 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 Aircraft Landing ("h") 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 190 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 208.3 feet. The highest ground elevation on the site is approximately 132 feet. Therefore, buildings and vegetation on the site cannot exceed 76.3 feet in height. On this site, however, the base zone (R5) height limit of 30 feet is more restrictive than the 'h' overlay allows and cannot be exceeded without a future adjustment review.

**Land Use History:** An earlier application for a similar partition of this site (LU 07-104483) was denied by the City in February of 2008 due to a lack of submitted documentation that Tree Preservation requirements were met. The current application addresses the outstanding issues from this earlier application.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on December 30, 2008.

**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 from either 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.**

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.

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
A	33.610	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 where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Not applicable - There is no record of any previous land uses or conditions that would create a hazard.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
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 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards 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 standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards

promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, 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 this site is as follows:

Minimum = 13,889 square feet \* .80) ÷ 7,000 square feet = 1.58 (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = 13,889 square feet ÷ 7,000 square feet = 1.98 (which rounds up to a maximum of 2 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1.

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

#### Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The proposed lots meet the lot dimension standards as shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	<b>R7 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>
Minimum Lot Area	4,200 sq. ft.	5,456 sf	8,433 sf
Maximum Lot Area	12,000 sq. ft.		
Minimum Lot Width*	40 ft.	70	80
Minimum Lot Depth	55 ft.	92	92
Minimum Front Lot Line	30 ft.	70	80

\* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met.

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). The inventory identifies the following tree on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Apple	11"	no	no	yes	8'
2	English Walnut	n/a		yes	no	
3	Lilac	n/a		yes	no	
4	Oregon Myrtle	n/a		yes	no	
5	English Walnut	8"		no	optional	(11')

The total non-exempt tree diameter on the site is 19 inches. The applicant proposes to preserve Tree #1 an Apple tree that is 11 inches in diameter, or 58% percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit A-2). 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.**

*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 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, the root protection zone is identified for the single tree required to be preserved. This root protection zone is located towards the rear of proposed Parcel 2 where it is not in conflict with anticipated construction. This criterion is 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. Although the site is currently connected to the public sanitary sewer, there is an old septic system/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 this condition, the new lots can be considered suitable for new development, and this criterion is met.

**H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;**

**33.636.100 Requirements for Tracts and Easements**

**A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:**

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply.

**B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.**

**Findings:** The following easements are proposed and/or required for this land division:

- A Private Stormwater Facility Easement is required across the relevant portion of Parcel 1 for an infiltration facility that will provide stormwater disposal for Parcel 1.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and the facilities within. This criterion can be met with the condition that a maintenance agreement be prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement) with a recording block substantially similar to the following example:

*"A Declaration of Maintenance agreement for a private stormwater management facility has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

With the conditions of approval discussed above, 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. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 150 feet of frontage on NE 102<sup>nd</sup> Ave is classified as a Major City Traffic Street, Major Transit Priority street, City Bikeway and Walkway, Minor Truck Street and as a Community Corridor in the Transportation Element of the Comprehensive Plan. NE Skidmore is a local service street for all modes of Transportation.

Tri-Met provides transit service approximately adjacent to the site on 102<sup>nd</sup> Ave via bus #15. Parking is not allowed on NE 102<sup>nd</sup> Avenue], and is not permitted on NE Skidmore adjacent to this site. There is one driveway entering the site that provides access to off-street parking for the existing house.

NE 102<sup>nd</sup> Avenue is improved with a paved roadway and curbs only. 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. In this case Portland Transportation has determined that a 6' sidewalk separated from the curb by a planter strip must be installed in order to ensure that safe pedestrian travel is possible adjacent to the proposed development. To accommodate these improvements, additional right-of-way must be dedicated along the NE 102<sup>nd</sup> Avenue frontage of the site. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

NE Skidmore Street is improved with a paved roadway, and a gravel parking lane on both sides. There are no curbs, planter strips, or sidewalks. 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. Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. No improvements or dedications are required.

This criterion is met, with the condition that sidewalk and planter strip improvements are made along NE 102<sup>nd</sup> Avenue, and that the required right-of-way dedication is shown on the Final Plat. (See exhibit E-2 for more detail.)

**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.

- The water standards of 33.651 have been verified. An existing 8-inch water main is available in NE 102<sup>nd</sup> Ave. to serve new development on proposed parcel 1. Proposed Parcel 2 (the existing house) has an existing water service from a water main located on the north side of NE Skidmore St. that can continue to serve this residence. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8" public sanitary sewer located in NE Skidmore that can continue to serve the sanitary needs of proposed Parcel 2. A 12" public sewer is also located within NE 102<sup>nd</sup> Avenue that is available to serve new development on proposed parcel 1. See Exhibit E-1 for more details.
- 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.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. Through streets are generally required no more than 530 feet apart and pedestrians are generally required no further than 330 feet apart. Through streets and pedestrian connections should generally be no closer than 200-feet apart. This is a corner lot that meets the above criteria. No new street is proposed or required. As result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

### **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. Therefore, 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.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

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 not proposed a specific stormwater management method at this time. The Bureaus have submitted comments as follows (Exhibits E-1 and E-5)

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the NE 102<sup>nd</sup> Avenue frontage of the site to City standards, with a new sidewalk and planter. Stormwater from this new impervious sidewalk can be directed to the planter strip where it can infiltrate into the ground. This is acceptable to BES.
- **Parcel 1:** Stormwater from this lot can 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 trench that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of on-site infiltration at this site.
- **Parcel 2:** The existing house and detached structure have gutters and downspouts that are in disrepair and therefore must be repaired to meet City standards prior to final plat approval to ensure that the stormwater from the house and garage can get to the disposal points. Specific instruction has been provided by the Site Development Section to the applicant regarding the treatment of stormwater from the detached garage that will result in the stormwater being directed to an infiltration facility located within an easement on Parcel 1. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house and the detached garage that will result in properly functioning gutters, downspouts, and disposal points that comply with the stormwater manual and specific direction provided to the applicant.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are 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.

**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 R7 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house and outbuilding 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 22 feet from the new property line and the outbuilding will be setback 5 feet. 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 buildings 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 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
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 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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 Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 2 prior to final plat approval. Street tree(s) will be planted adjacent to Parcel 2 at time of development of this Parcel. This requirement is based on the standards of Title 20.

## 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 relate to required street and stormwater improvements. 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 2 standard parcels 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 . 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;
- As-built location of the new drywell system required by site development serving the detached garage.

**B. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for NE 102<sup>nd</sup> Ave. The required right-of-way dedication must be shown on the final plat.
2. A private stormwater management facility easement, for the benefit of Parcel 2 shall be shown and labeled over the relevant portions of Parcel 1.
3. A recording block for the maintenance agreement as required by Condition C-5 below. The recording block shall, at a minimum, include language substantially similar to the following example:

“A Declaration of Maintenance Agreement for private stormwater management facility has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

**Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of NE 102<sup>nd</sup> Ave. The applicant must obtain an approved Right of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip. The improvements along the frontage of Parcel 2, where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of the Parcel 1 may be constructed with new development on that Parcel.

**Utilities**

2. 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.

**Existing Development**

3. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 2. Specifically, the gutters and downspouts of the residence must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

Approval of a plumbing permit to complete the detached garage stormwater retrofit requirements specified in alert folder 09-125843-AL and in accordance with the stormwater retrofit plan approved by Mike Ebeling on 5/01/09 will be required unless otherwise approved by Site Development. (see exhibit E-5)

4. The applicant must plant street tree(s) in the planter strip on NE 102<sup>nd</sup> Avenue as required by the City Forester. Street trees adjacent to Parcel 2 must be planted along with sidewalk improvements prior to final plat approval. Street trees adjacent to Parcel 1 will be required at time of building permit and sidewalk improvements on that parcel. Street trees will be chosen from the City's approved street tree list for the 4- foot planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

#### **Required Legal Documents**

5. A Maintenance Agreement shall be executed for the Private Stormwater Management Facility Easement area described in Condition B-2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. Development on Parcel shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-2). Specifically, tree #1 is required to be preserved, with the root protection zones indicated on Exhibit C-1. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision. The report from an arborist and any revisions to permit plans reflecting new root protection zones must be submitted and approved by Planning and Zoning prior to any working occurring in the root protection zone. If work is conducted in the RPZ and Planning & Zoning approval is not obtained before the work begins and the tree subsequently falls, it may result in a violation.

**Staff Planner: John Cole**

**Decision rendered by:**  **on May 6, 2009**  
**By authority of the Director of the Bureau of Development Services**

**Decision mailed May 11, 2009**

**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 December 16, 2008, and was determined to be complete on December 23, 2008.

*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 December 16, 2008.

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 to submit supplemental materials.

**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.

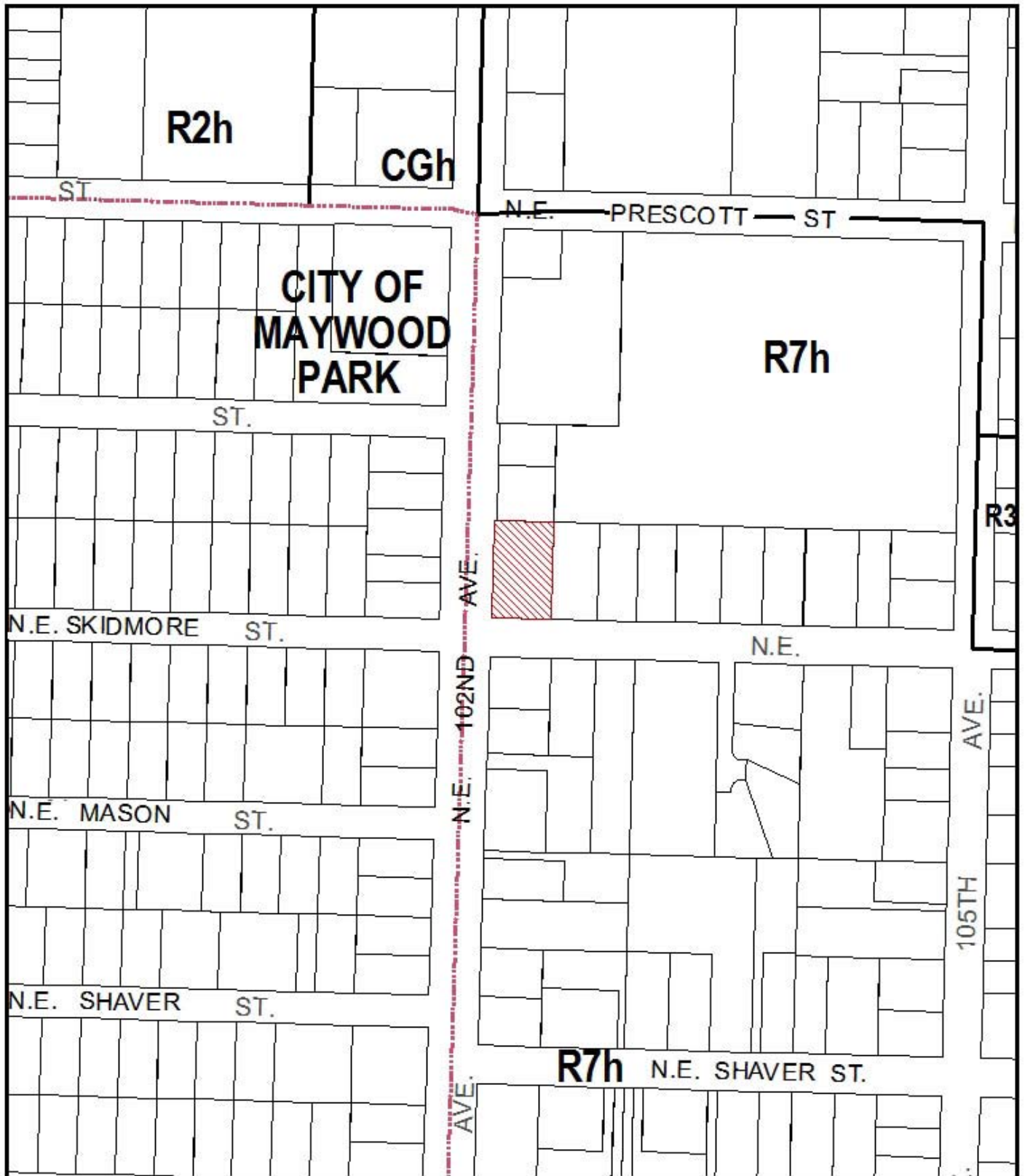
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at [www.portlandonline.com](http://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 Submittal
  - 1. Applicant's statement
  - 2. Arborist Report
  - 3. Infiltration Study
  - 4. 120 day extension letter
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan w/ root protection zone (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services w/ addendum
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS w/ addendum and attached alert folder 09-125843-AL and stormwater plan.
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None submitted
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Staff correspondence to applicant dated February 6, 2009

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**



# ZONING

 Site



NORTH

File No. LU 08-190452 LDP  
 1/4 Section 2641  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E22CB 2000  
 Exhibit B (Dec 17, 2008)

**EXISTING CONDITIONS MAP  
PRELIMINARY PLAN  
PROPOSED UTILITY MAP  
TREE PRESERVATION MAP**

FOR HOANG VU  
IN LOT E, BLOCK 29, "PARKROSE"  
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22,  
TOWNSHIP 1 NORTH, RANGE 2 EAST,  
WILLAMETTE MERIDIAN, CITY OF PORTLAND,  
MULTNOMAH COUNTY, OREGON.

DATE: NOVEMBER 26, 2008

**LEGEND**

- = FOUND SURVEY MONUMENT AS NOTED
- = ASPHALTIC CONCRETE PAVEMENT
- = CATCH BASIN
- = CAST IRON
- = CLEANOUT
- = CONCRETE SEWER PIPE
- = FIRE HYDRANT
- = IRON ROD WITH ORANGE PLASTIC CAP
- = IRON ROD WITH YELLOW PLASTIC CAP
- = IRON PIPE
- = NATURAL GROUND
- = OVERHEAD
- = POWER POLE
- = STORM DRAINAGE MANHOLE
- = STORM SEWER MANHOLE
- = UNDERGROUND
- = WATER METER
- = WATER VALVE
- = COMMUNICATIONS LINE
- = ELECTRIC LINE
- = FENCE LINE
- = SANITARY SEWER LINE
- = STORM SEWER LINE
- = TELEPHONE LINE
- = WATER LINE

③ = TREE NUMBER

**SURVEYOR'S NOTES**

- CITY OF PORTLAND ZONING FOR THIS PROPERTY IS R-7, 1 UNIT PER 7,000 SQUARE FEET OF LAND AREA. NO STREET IS BEING CREATED BY THIS PROPOSAL. TOTAL SITE AREA IS 13,889 SQUARE FEET. THE MAXIMUM NUMBER OF LOTS PERMITTED BY THE CITY OF PORTLAND DEVELOPMENT CODE IS DETERMINED AS FOLLOWS: TOTAL SITE AREA/MINIMUM LOT SIZE=MAXIMUM NUMBER OF LOTS = 13,889/7,000=1.98. ROUNDING UP IS PERMITTED OVER 0.90, THEREFORE 2 LOTS ARE ALLOWED.
- IN THE R-7 ZONE, THE FOLLOWING DEVELOPMENT RESTRICTIONS APPLY:
  - MAXIMUM HEIGHT = 30'
  - MINIMUM SETBACKS: FRONT = 15', SIDE = 5', REAR = 5', GARAGE ENTRANCE = 18'
  - MINIMUM OUTDOOR AREA = 250 SQUARE FEET. (12'X12' MINIMUM DIMENSION)
  - MAXIMUM BUILDING COVERAGE: PARCEL 1 - 2,324 SQUARE FEET, PARCEL 2 - 3,172 SQUARE FEET.
  - MINIMUM LOT AREA: 4,200 SQUARE FEET.
  - MAXIMUM LOT AREA: 12,000 SQUARE FEET.
  - MINIMUM LOT WIDTH: 40 FEET.
  - MINIMUM FRONT LOT LINE: 30 FEET.
  - MINIMUM LOT DEPTH: 55 FEET.
- THERE ARE NO EASEMENTS OF RECORD FOR THE PROPERTY SHOWN HEREON.
- THE BASIS OF BEARINGS AND BOUNDARY RESOLUTION IS PER PARTITION PLAT NO. 2008-208 MULTNOMAH COUNTY PLAT RECORDS.
- UNDERGROUND UTILITIES SHOWN HEREON ARE PER SURFACE FEATURES. LOCATE PAINT BY OTHERS AND "AS BUILT" INFORMATION PROVIDED BY THE CITY OF PORTLAND. THE SURVEYOR MAKES NO GUARANTEE AS TO THE EXACT LOCATION OR EXTENT OF UNDERGROUND UTILITIES SERVING OR ADJOINING THE PROPERTY SHOWN HEREON.

**BENCHMARK**

CITY OF PORTLAND BENCHMARK NO. 4547. A BRASS DISK IN TOP OF CURB ON THE SOUTH SIDE OF N.E. PRESCOTT STREET AT THE EAST RIGHT-OF-WAY LINE OF N.E. 98TH AVENUE.

ELEVATION = 123.487' (CITY OF PORTLAND DATUM)

REGISTERED PROFESSIONAL LAND SURVEYOR  
ANTHONY B. RYAN  
58833

RENEWAL DATE: DECEMBER 31, 2008



**WEDDLE SURVEYING INC.**  
Excellence is our benchmark.  
8550 SW HAMPTON ST., STE 170, TIGARD, OR 97223  
PH: (503) 595-8702 FAX: (503) 595-8705  
www.weddlesurveying.net

**SITE INFORMATION**

SITUS: 4306 N.E. 102ND AVENUE  
TAX LOT 2000, MAP 1N 2E 22CB  
TOTAL SITE AREA = 13,889 SQ. FT.  
ZONING = R-7  
PROPOSED PARCEL 1 AREA = 5,456 SQ. FT.  
PROPOSED PARCEL 2 AREA = 8,433 SQ. FT.

NOT TO SCALE  
SCALE 1" = 40'  
CONTOUR INTERVAL = 2'

