



# 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

**Date:** November 20, 2009 **To:** Interested Person

**From:** Sue Donaldson, Land Use Services

503-823-7618 / pksued@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 09-151168 LDP

#### **GENERAL INFORMATION**

**Applicant:** Johnnie M Hastings Andre Koshuba 5033 NE 21st Ave 14237 Bridge Ct

Portland, OR 97211-5612 Lake Oswego, OR 97034-2177

**Representative:** Kevin Partain, Urban Visions

223 NE 56th Ave Portland OR 97213

**Site Address:** 5033 NE 21ST Ave

**Legal Description:** BLOCK 30 LOT 12, VERNON

**Tax Account No.:** R860705480 **State ID No.:** 1N1E23AA 17100

Quarter Section: 2532

**Neighborhood:** Vernon, contact John Fall at 503-3108264.

**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-

1321

**District Coalition:** Northeast Coalition of Neighborhoods, contact Lauren McCartney at

503-823-4135.

**Plan District:** None **Other Designations:** None

**Zoning:** R2.5ah Residential 2500 with Alternative Design Density (a) and

Aircraft Landing (h) Overlay Zones

**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 partition a 5,000 square foot site into two 2,500 square foot lots that will be 25 feet wide. In the Zoning Code these are defined as *new narrow lots*, which can be created where the minimum width standards of the zone cannot be met. The applicant must demonstrate that certain standards can be met before the lot is created. The existing house on the site will be demolished and will be replaced with two attached single dwelling units.

This partition is reviewed through a Type I land use review because: (1) fewer than four lots are proposed; (2) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area; (3) no other concurrent Type I, II, or IIx land use reviews, except Environmental Review, are requested or required; and (4) an Environmental Review is not required (see 33.660.662).

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).

#### Relevant Approval Criteria:

In order to be approved, this proposal must comply with the relevant approval criteria of Title 33, which are:

# • 33.660.120 Approval Criteria for Land Divisions in Open Space and Residential Zones

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. This application was submitted on August 14, 2009 and determined to be complete on September 21, 2009

#### **ANALYSIS**

#### Site and Vicinity:

This is a relatively flat rectangular site in the Vernon Neighborhood, located on the west side of NE 21st Avenue, approximately 150 feet north of NE Alberta Street. There is an existing house on the lot, set back toward the rear of the property. The immediate neighborhood consists of older single family residences on lots approximately the same size as the site (5000 sq. ft). NE. 21st Avenue is a local service street with curbs, sidewalk and a narrow planting strip with few street trees. Vernon school and Alberta Park are nearby to the north, at Killingsworth and NE 21st Avenue. There is commercial development on larger lots along NE Alberta Street. Alberta Street is a Neighborhood Collector, Community Transit Street, Community Main Street and City Walkway. TriMet Bus line 72 provides frequent service between Clackamas Town Center and Swan Island and to connecting bus routes to downtown.

#### Zoning:

The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The zone allows a mix of housing types with a single dwelling character while allowing attached houses and somewhat higher densities. Attached housing is allowed providing they meet development standards.

The area to the north, east and west of the site is zoned R2.5. More intense uses are clustered along NE Alberta Street, specifically Central Employment with Design and Airport Height Overlay zoning (EXdh) immediately to the south and Storefront Commercial (CS) east and west. The EX zone allows mixed uses and industrial and commercial uses which need a central location. The CS designation is intended to allow a full range of retail, service and business uses serving a local and larger market area, in areas served by transit and with strong orientation to pedestrians.

The Alternative Design Density (a) overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the "a" overlay.

The Aircraft Landing (h) overlay zone (33.400) 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 210 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 height cannot exceed 228.3 feet. The highest ground elevation on the site is approximately 226 feet and the base zone (R2.5) height limit for attached housing is 35 feet, which would exceed the height limit in the overlay zone by 33 feet. The applicant will be required to apply for an exception to the height limits to the Federal Aviation Administration who, in consultation with the Port of Portland, may approve, deny or approve with conditions requests for exemptions.

#### Land Use History:

City records indicate there are no prior land use reviews for this site.

#### **Agency Review:**

Several Bureaus and agencies have responded to this proposal. The comments are addressed under the appropriate criteria for review of the proposal. Please see Exhibits E for details.

#### Neighborhood Review:

A Notice of Proposal in Your Neighborhood was mailed on **September 24, 2009**. One written response in support of the proposal has been received from a notified property owner in support of the proposal (exhibit F-1). In addition Larry Holmes of the Vernon Neighborhood Association commented on the proposals to planners in the Bureau of Planning and Sustainability about the case. Mr. Holmes expressed concerns about requirements for demolition of the existing house and also about ensuring that the building height and setback requirements will be met at the time of development. Mr. Holmes did not contact BDS, but was copied on the emails. As a courtesy, the email exchange is included as Exhibit F.2.

#### ZONING CODE APPROVAL CRITERIA

## 33.660.120. A-L Approval Criteria For Land Divisions in Open Space and Residential Zones

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that the approval criteria, A through L, have been met. Some of the criteria do not apply due to the location of this site and the nature of the proposal. The following table summarizes the applicability of each criterion.

| Criterion | Chapter | Topic  | Applicability Findings  |
|-----------|---------|--|---|
| A         | 33.611  | Lots   | Applicable-see findings below   |
| В         | 33.630  | Trees  | Not applicable - No significant trees or trees over 6 inches in diameter are located fully on the site. |
| С         | 33.631  | Flood Hazard Area                            | Not applicable - The site is not within the flood hazard area.  |
| D         | 33.632  | Potential Landslide<br>Hazard Area           | Not applicable - The site is not within the potential landslide hazard area.                            |
| Е         | 33.633  | Phased Land Division<br>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  | Clearing and Grading                         | Applicable - See findings below.  |
| G         |         | Land Suitability                             | Applicable - See findings below.  |
| Н         | 33.636  | Tracts and Easements                         | Not applicable - No tracts or easements have been proposed or will be required.                         |

| Criterion | Chapter       | Topic                          | Applicability Findings  |
|-----------|---------------|--------------------------------|---|
| I         | 33.639        | Solar Access                   | Not applicable - The proposed development is for something other than single-dwelling detached homes. |
| J         | 33.640        | Streams, Springs, and<br>Seeps | Not applicable - No streams, springs, or seeps are evident on the site.                               |
| K         | 33.641        | Transportation<br>Impacts      | Applicable - See findings below   |
| L         | 33.651-<br>54 | Services and Utilities         | Applicable - See findings below   |

#### **Applicable Approval Criteria:**

## 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

#### 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 <u>not</u> within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is calculated as follows:

Minimum =  $(5,000 \text{ square feet x } .80 \div 2,500 \text{ square feet = } 1.6 \text{ (which rounds down to a minimum of 1 lot, per } 33.930.020.A)$ 

Maximum = 5,000 square feet  $\div 2,500$  square feet = 2 lots

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

#### Lot Dimensions

In the R2.5 zone the lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't

(6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9)lots are compatible with existing lots while also considering the purpose of this chapter.

The dimensions of the proposed lots as compared to the required lot dimension requirements are shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

|                                    | R2.5 Zone<br>Requirement | Proposed<br>Lot 1 | Proposed Lot<br>2 |
|------------------------------------|--------------------------|-------------------|-------------------|
| Minimum Lot Area                   | 1,600 sq. ft.            | 2,500 sq ft.      | 2,500 sq. ft.     |
| Minimum Lot Width*                 | 36 ft.                   | 25 ft.**          | 25 ft.**          |
| Minimum Lot Depth                  | 40 ft.                   | 100 ft            | 100 ft            |
| Minimum Front Lot Line (or = to    | 30 ft.                   | 25 ft.**          | 25 ft. **         |
| minimum lot width for Narrow Lots) |                          | (= to width)      | (= to width)      |

<sup>\*</sup> 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.

#### **Narrow Lots**

Both lots are 25 feet wide – narrower than the minim width for the R2.5 zone, as shown in the table above. Section 33.611.200.C of the Zoning Code, however, allows narrower lots if the future development can meet certain regulations:

- a. On balance the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.
- b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet.
- c. If the lot abuts an alley, then vehicle access is allowed only from the alley. This requirement will be imposed as a condition of approval of the land division.
- d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development
- e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;
- f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of code section 33.610.200D or 33.611.200.C, subparagraph 2.c and 2.d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:
  - (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;
  - (2) Meet the requirements of Section 33.700.060, Covenants with the City; and
  - (3) Be attached to and recorded with the deed for the new lot.

#### a. Consistent with the Purpose of Lot Dimension Regulations

The lot dimension requirements in the R2.5 zone ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9)lots are compatible with existing lots while also considering the purpose of this chapter.

<sup>\*\*</sup> In this case Parcels 1 and 2 do not meet minimum front lot line or lot width requirements and are considered narrow lots, see findings below

The applicant has demonstrated that the proposed lots are consistent with the purpose of lot dimension regulations for the following reasons:

• The size and configuration of the lots could also accommodate two detached houses. The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street. There is sufficient space for the required outdoor area either in front of or behind proposed units. Parking requirements are discussed below. With conditions of approval noted below the applicant has demonstrated that the proposed lot(s) can accommodate a reasonably sized house while meeting the development standards of the zoning code.

#### **Garage Wall Limitation**

- The base zone standards for narrow lots (33.110.253.E) does not allow an attached garage as part of the street-facing façade if it is less than 22 feet long. Since the proposed lots are 25 feet wide and will be developed with attached housing, it will not be possible for the street facing façade to be more than 20 feet wide because there is a five foot side setback requirement long the unattached wall. Therefore the attached units cannot meet the standard for an attached garage and the proposed units will have to either designed to allow driveway access to the rear , parking pads provided outside of the front setback, or a parking exemption must be obtained, as discussed under *Parking not required*, below.
- Alternatively, if the lots are developed with detached houses, a shared driveway between the two houses straddling the lot lines could provide access to a parking area for each unit at the rear. This shared access is considered a private driveway and can be located in a reciprocal access easement. Compliance with this standard can be demonstrated if a reciprocal access easement is shown and labeled on the final plat, and with a condition that Parcels 1 and 2 must take vehicle access from this easement. This will not be required as a condition of approval if the required parking exemption covenant is executed.

#### Parking not required:

• The property is located in a parking exempt area per 33.266.11.B.3 due to their location within 500 feet proximity of a bus stop on a transit street with frequent transit service (Route #72). As a condition of approval for the final plat, the applicant must show the location and dimensions of the required parking area on the supplementary plan or must execute a covenant with the City meeting the requirements of 33.611.200.C, subparagraph 2.f., which prohibits future development of the property with parking or cub cuts

#### Alley access

- The site does not have access from an alley so this standard does not apply.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services.

#### 60% landscaping

This requirement (33.110.240C.2.d Alternative Development Options – Attached Housing) for landscaping between front property line and front building line applies to attached housing, which the applicant has proposed. The applicant's site plan does not show how this requirement will be met. If attached housing is proposed garages will not be allowed in the front facade, and the landscaping requirement can be met. If the attached units have parking pads located outside of the front setback with a 9 ft. wide driveway, there would still be enough room remaining on the lots for the applicant to meet the 60% landscaping requirement between the front lot line and front building line. This criterion is met.

**Summary of Findings:** The applicant has demonstrated that the two lots proposed can meet the regulations for new narrow lots. The proposed lots will have dimensions

- consistent with the purpose of the Lot Dimension Regulations; and the development standards for new narrow lots can be met with conditions. 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. These approval criteria are organized into two groups (1) clearing and grading and (2) 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. 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.

#### 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.

**Findings:** The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house. A demo permit has been applied for but has not yet been finaled (09-154062 RS). In addition, available plumbing records are insufficient to determine where the rain drain system for the existing house discharges (the system is not currently in use – downspouts on the house are directed to splash blocks). At the time of demolition, the applicant is advised to investigate and confirm that there are no drywells on the site. If any drywells are found, then a decommissioning permit and inspection is required. Failure to properly decommission subsurface facilities may result in a hazard to life and property.

Prior to final plat approval, in order to ensure new lots are suitable for development, the demo permit and sewer capping must be final. In addition the applicant must provide evidence that no drywells are located on the site, or a final decommissioning permit for an drywells will be required prior to final plat approval. With these condition, this criterion can be 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; onstreet 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).

Bureau of Transportation has responded that NE 21<sup>st</sup> Avenue is designated as a local street in all categories in the City's Transportation System Plan. It is currently improved with a 30-foot paved roadway with curbs within a 50-foot right-of-way. There is a 6-foot sidewalk within a 10-foot wide corridor between the face of curb and the property line. City Standards require a 6-foot sidewalk within an 11-foot corridor. Therefore, the applicant will be required to dedicate 1-foot of right-of-way along the property frontage to accommodate an 11-foot pedestrian corridor. If significant portions of the sidewalk will be reconstructed due to changes in driveway access, the applicant will be required to rebuild the frontage in the standard configuration of 6" curb, 4' planter, 6' sidewalk, 6" buffer strip.

This criterion can be met with a condition of approval requiring a dedication of right-of-way along NE 21<sup>st</sup> Avenue to be shown on the final plat.

# 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. There is an existing 5/8-inch metered service that provides water to the existing house from the 8-inch water main in the east side of NE 21st Avenue. This may be kept for use in proposed Lot 2, as it enters the property within the 25-foot frontage proposed in the applicant's information. Lot 1 will require new water service from the main in NE 21st Avenue. See Exhibit E-3 for more details about technical requirements.
- The sanitary sewer standards of 33.652 have been verified. There is a public 12 inch concrete combined sewer located in NE 21st Avenue. A new service lateral to the sewer in NE 21st Avenue must be constructed to serve the proposed development at the applicant's or owner's expense. The submitted site utility plan shows that the existing lateral serving the house that will be demolished will serve Parcel 1 and that a new lateral will be constructed to serve Parcel 2. This is acceptable to BES for the purpose of determining whether the sanitary sewer disposal service standards can be met. See Exhibit E-1 for more details.

#### 33.653 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;
- 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:

A stormwater tract is not 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 <u>Stormwater Management Manual</u>. 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 <u>Stormwater Management Manual</u> 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 <u>Stormwater Management Manual</u>, 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 the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

• **Parcels 1-2:** Stormwater from these lots will be directed to individual drywells on each lot that will treat the water and slowly infiltrate it into the ground. Site Development has indicated conceptual approval of the drywells.

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.

#### 33.654 Right of Way Approval Criteria

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

| <b>Code Section</b>  | 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 Industrial 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 Right-of-way                      | Not applicable – No new street is proposed.                         |
| 33.654.120.C.3<br>.c | Turnarounds                                | Not applicable – No turnarounds are proposed or required.           |

| Code Section | Topic  | Applicability Findings  |
|--------------|--|---|
| 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 deadend streets and pedestrian connections  | Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site. |
| 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.  |

#### **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:** This site is located between NE Alberta and NE Sumner Streets, the closed eastwest running street which are approximately 407 feet apart. The site is within the Portland Master Street Plan for the Northeast District, no streets are shown in this vicinity, therefore this proposal is consistent with that plan. The existing sidewalk in front of the site provides pedestrian connections as needed. 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. 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**

**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:

- **Required Parking** The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 100 feet from the site on NE Alberta Street via bus number 72. Bus number 72 provides peak-hour service meeting this requirement. As a result, no parking is required for the proposed lots. If on-site parking is provided a paved parking pad could be provided outside of the front setback with no garages if attached housing is proposed. As noted above, if a street-facing façade is less than 22 feet wide, an attached garage is not allowed. In addition, if detached homes are proposed, a detached garage could be proposed in the rear to be accessed via an easement between the two structures.
- For attached housing, all street facing facades must have landscaping along the foundation (33.110.240.C.1.d)
- Height of structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2
- 60 percent of the area between the front lot line and the front building line must be landscaped (33.110.240. C.2.d) if attached houses are proposed.

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<br>http://www.water.ci.portland.or.us/ |
| Environmental<br>Services | Title 17; 2002<br>Stormwater                                  | Sewer availability  | 503-823-7740  |
| Services                  | Manual  | Stormwater<br>Management  | http://www.bes.ci.portland.or.us/                   |
| Fire Bureau               | Title 31  | Emergency Access  | 503-823-3700  |
|                           | Policy B-1  |   | http://www.fire.ci.portland.or.us/                  |
| Transportation            | Title 17,<br>Transportation<br>System Plan                    | Design of public street   | 503-823-5185<br>http://www.trans.ci.portland.or.us/ |
| Development<br>Services   | Titles 24 –27,<br>Admin Rules for<br>Private Rights of<br>Way | Building Code,<br>Erosion Control,<br>Flood plain, Site<br>Development &<br>Private Streets | 503-823-7300<br>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 requirements that apply to buildings higher than 30 feet measured to the eave of the structure. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1 and must be met at the building permit stage.

#### 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 a public street dedication of one foot to increase the width of the pedestrian corridor on NE 21st Ave, provision of services, including stormwater management and development standards for new narrow lots. 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 two new narrow lots (25 feet wide) for attached or detached housing 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 must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- The building footprints proposed (attached or detached housing)
- Parking proposed on the site in relation to the type of housing proposed, if parking standards cannot be met, condition C.3 below may apply.

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

#### Streets

1. The applicant shall meet the street dedication requirements of the City Engineer for NE 21st Avenue. The required right-of-way must be shown on the final plat.

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

#### **Existing Development**

1. A finalized permit must be obtained for demolition of the existing residence on the site and shall include capping of the existing building sewer. If drywells are found on the site, then a decommissioning permit and inspection is required.

#### New Development

2. The supplemental plan must show building footprints for two attached or detached units that meet the development standards for narrow lots, specifically, front facades without attached garage, vehicle access and parking areas if information required for a parking exemption is not submitted, space for the required minimum outdoor area and 60 percent front setback landscaping (if attached housing is proposed).

#### Legal Documents

3. If required per condition A above, the applicant shall execute a covenant with the city that prohibits the development of an off-street parking space or curb cut on the Parcels 1 and 2. Such covenant must meet the requirements of section 33.700.060 and must be attached to and recorded with the deed for the new lots.

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

1. The applicant must provide fire apparatus access roads 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 V miluly Tallant

Decision rendered by:

By authority of the Director of the Bureau of Development Services

#### Decision mailed November 20, 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 August 14, 2009, and was determined to be complete on September 21, 2009.

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 August 14, 2009.

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: January 19, 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 <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

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.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permitees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

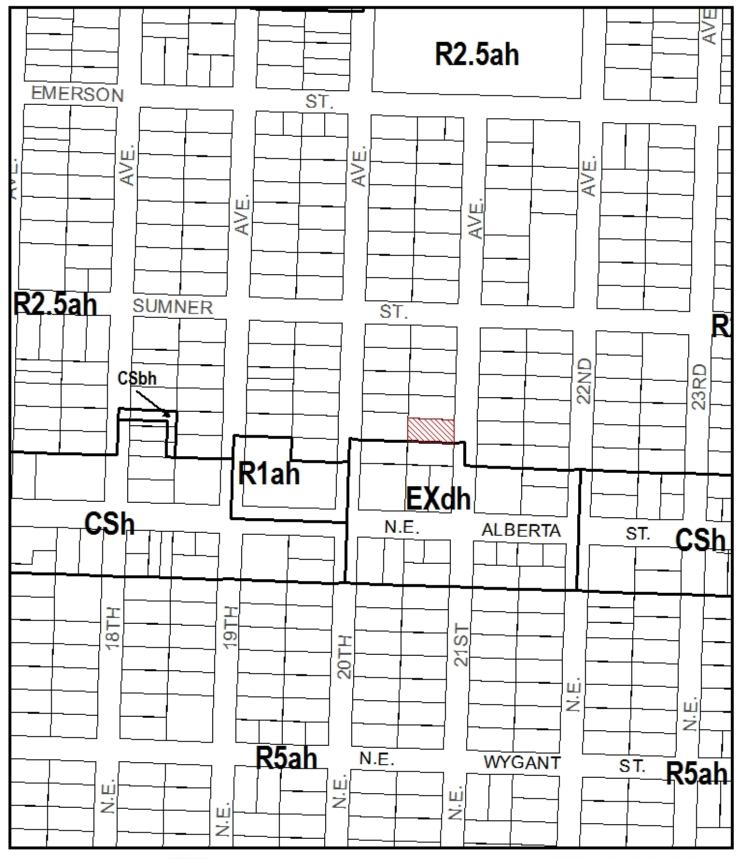
#### **EXHIBITS**

Not attached unless noted

- A. Applicant's Statement
  - 1. August 21, 2009 Narrative and Plans
  - 2. September 22, 2009, Utilities and Stormwater information
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan proposed (attached)
  - 2. Site Plan existing
- 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
- F. Correspondence:
  - 1. Leif Youngberg, 9/30/09, Approve.
  - 2. Larry Holmes, 9/9/09, concerns about demolition code and development standards enforcement
- 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** 





Mined H Hours ORECON JULY 11, 2000 MICHAEL H. HARRIS 57863 RENEWAL: JUNE 30, 201

REGISTERED PROFESSIONAL LAND SURVEYOR

SITE PLAN

LOT 12, BLOCK 30 OF "VERNON", LOCATED IN THE NORTHEAST

ONE-QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 EAST,

MILLAMETIE MERIDIAN,

CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON.

SSSMH RILL 224 50'
IE, NORTH 216.20'
IE SOUTH 216.28'
(THIS MANHOLE SHOWN
AT TRUE LOCATION) © SSMH RIM 223.16" FE NORTH 212.76" IE SOUTH 212.82" IE WEST 213.23" NE 21ST AVENUE

TO ALBERTA STREET 1 225. > 55 Hinos . . WATER METER (TYPICAL) VIULY POLE (TYPICAL) 100.001 N89'59'05"E 100.00' CONCRETE PILLAR LOT 11 LOT 10 PANCEL 2 PANCE L CONCRETE WALL LOT 13 LOT 14 S89.59,05"W 125, 06 HOUSE D.7 FROM PROPERTY LINE 0 12/ NORTH 50.00' MITH FENCE ON TOP CONCRETE PILLAR. LOT 7 LOT 5 4 107 9 107 LOT 3 NE 20TH AVENUE

NOTE: his drawing dees not constitute a boundary slavey numerous syrrey unalphots aree recovered and utilized to kerey the deed describing however. ELEVATIONS SHOWN ON THIS DRAWING ARE BASED ON CITY OF POPIL, AND ELEVATION OF 229,34"

HERITAGE SURVEYING 8413 N.F. HUBBODT ST PORTLAND, OFFGON 97220 (503) 255-6558 SURVEYED: AUGUST 4, 2009 AT THE REQUEST OF

SCALE I'=20'

EXISTING ASPHALT PAVEMENT EXISTING CONCRETE SURFACE

LEGEND

EXISTING FENCE

