



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

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Date: December 1, 2011
To: Interested Person
From: Sue Donaldson, Land Use Services
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**NOTICE OF A TYPE II_x 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 and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-116463 LDS

GENERAL INFORMATION

Applicant: Old Seasons LLC
11575 SW Pacific Hwy #164
Tigard, OR 97223-8671

Representative: John Stromquist,
Steentrom Development, LLC
1420 NW Lovejoy, #210
Portland, OR 97209

Site Address: 1348 N Rosa Parks Way

Legal Description: BLOCK 2 W 1/2 OF W 1/2 OF N 100' OF LOT 1, PRINCIPLE ADD
Tax Account No.: R677300370
State ID No.: 1N1E15CB 04000
Quarter Section: 2429
Neighborhood: Arbor Lodge, contact Chris Duffy at 971-506-0541.
Business District: Interstate Corridor Business Association, contact Molly Paris at 503-283-1900.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.
Plan District: North Interstate
Zoning: RHd - Multi-dwelling High Density Residential with Design (d) overlay
Case Type: LDS - Land Division Subdivision
Procedure: Type II_x - Administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide a 4,875 square-foot site into five lots for attached housing. The existing house and garage on the site will be demolished. Four of the new lots will be 20 feet wide and 48.47 feet deep. Four of the houses will have garages. Lot 1, on the south end of the site will be 15 feet wide and will not have a garage or parking space. The stormwater system has been redesigned since the notice was mailed. All the stormwater from the five units will be captured in roof drains and directed to one drywell, to be located on Lot 5. The site is in a Design (d) overlay zone and the applicant has submitted plans and elevations of the proposed

units. The project must meet the Community Design Standards at the time of development. A Design Review will be required if any of the standards cannot be met. Specific development is *not* approved through this land division process. However, the applicant must demonstrate that the lot configuration will not prevent the standards from being met at the time of development.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; and (2) four to ten dwelling units are proposed, not including accessory dwelling units (*see 33.660.110*).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to *ORS 92.010*. *ORS 92.010* defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 5 units of land (5 lots). Therefore this land division is considered a subdivision.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in *Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones*.

FACTS

Site and Vicinity: The site is located at the corner of N Rosa Parks Way and N Maryland Avenue. There is a house on the property, built in 1924, according to City records. Surrounding development is primarily older single dwelling houses, with some multi-dwelling structures. The New Seasons grocery store parking lot is across from the site on N Maryland Avenue, but access to the store is from N Interstate Avenue and from the parking lot. The Max Yellow Line runs along the center of the N. Interstate Avenue right-of-way and development along that corridor in the vicinity is commercial. There is access to the I-5 freeway approximately 350 feet to the east of the site.

Infrastructure:

Streets – The City’s *Transportation System Plan (TSP)* classifies N Rosa Parks Way as a District Collector, Transit Access street, City Bikeway, City Walkway and a Community Corridor. N Maryland Avenue is a Local Service street for all modes in the *TSP*.

The site has approximately 49 feet of frontage on N Rosa Parks Way and 100 feet on N Maryland Avenue. There is one driveway entering the site from N Maryland Avenue. Tri-Met provides transit service approximately 230 feet from the site, near the east corners of N Rosa Parks Way and N Maryland Avenue via Bus 44. There are Max Yellow Line stations (going north and south) on N Interstate Avenue approximately 400 feet from the site. Parking is currently allowed on both sides of N Rosa Parks Way and N Maryland Avenue.

N Rosa Parks Way has a 60-foot wide roadway within a 100-foot right-of-way with parking on both sides. Along the site frontage the pedestrian corridor is 20 feet wide which includes a curb, 8-foot wide planter area, 6-foot sidewalk and a 6-foot wide buffer at the back of the sidewalk (8-6-6 configuration).

N Maryland Avenue has 50-foot right-of-way with a 28-foot paved roadway. The pedestrian corridor is improved with a 4-foot planter strip, 5-foot sidewalk and 2-foot buffer next to the property line (4-5-2 configuration).

- **Water Service –** There is an existing 12-inch CI water main in N Rosa Parks Way. There is also a 6-inch DI main in n Maryland Avenue. Estimated water pressure range for this location is 62 psi to 77 psi (elevation 182 ft.).
- **Sanitary Service -** There is a 15-inch public combination sewer in N Maryland Avenue and an 18-inch public combination sewer in N Rosa Parks Way.

Zoning: *Multi-Dwelling High Density Residential (RH):* The RH zone is a high density multi-dwelling zone. Generally densities will range from 80 to 125 units per acre. Allowed housing is medium to high in height with a relatively high percentage of building coverage. The major type of new housing development will be low, medium, and high-rise apartments and condominiums. Attached houses, detached houses and duplexes are also allowed in the zone. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services. The zoning on the site changed from R2 to RH in 2008 with implementation of the North Interstate Plan District.

The Design Overlay Zone (d) promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. It also promotes quality development through the creation of design districts and applying the Design overlay zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The site is within the North Interstate Plan District which allows for an urban level of mixed-used development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities and services and successfully accommodates additional density.

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

Agency and Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on **June 24, 2011**.

Neighborhood Review: One written response has been received from notified property owners in response to the proposal. The property owner was very concerned about increased density on a small block, loss of parking, safety and increasing traffic as both transportation projects and re-zoning have intensified uses in this area. The Development Review section of the Bureau of Transportation Engineering and Development required a traffic study and prepared detailed findings addressing these issues and discussed in Findings, below. The site is zoned for high density multi-dwelling residential which allows between 80 and 125 units per acre. At 0.11 acres, the maximum density on the site could be 9 to 14 units. The site is also within the North Interstate Plan District (33.561). *Map 561-3* shows the site within an area where the FAR is 4:1, rather than 2:1. The applicant is proposing the minimum density (5 units) and single dwelling residences, rather than a multi-dwelling structure. The property owner also expressed concern about traffic management during construction. Construction activities cannot encroach into the public right-of-way without a land and street closure permit and a City of Portland Traffic Engineer approved traffic control plan (TCP). Lane, sidewalk and street closure permits also require liability insurance to be on file with the City of Portland, listing the City as additional insured. City ordinances limit the times during which construction activity can occur and allowed noise levels by zone and by time. The City noise standards are stated in *Title 18, Noise Control*.

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

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 *The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.*

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. ***The following table summarizes the criteria that are not applicable.*** Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section & Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable because fewer than 40 units is proposed.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required

Applicable Approval Criteria are:

A. Lots. *The standards and approval criteria of Chapters 33.605 through 33.612 must be met.*

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing five lots for attached housing.

Single-dwelling development is proposed for the entire site; therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3.

Although the site is within the *North Interstate Plan District*, which has special density standards for lots up to 5,000 square feet (33.561.240.B *Minimum Density in the RH Zone*), it does not apply to the site because it is a corner lot. Therefore, the base zone standard of one lot per 1,000 square feet applies and the site has a minimum required density of 5 units (4.87, rounded up to 5 units).

There are limitations on types of development allowed in multi-dwelling zones, based on lot dimensions (Table 612-1). Multi-dwelling structures are not allowed on lots that are less than 10,000 square feet. The table below shows the lot dimension requirements for attached houses, detached houses and duplexes in the RH zone and the proposed lot dimensions.

RH Zone	Minimum lot area (sq. ft)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
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Attached Houses; Detached Houses; Duplexes	none	none	none	10
Lot 1	731.25	15	48.75	15
Lot 2	975	20	48.75	20
Lot 3	975	20	48.75	20
Lot 4	975	20	48.75	20
Lot 5	975	20	48.75	20

As the table shows, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes in the RH zones. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal. Attached housing is the only type of development allowed on the lots that can meet development standards. The lots are too narrow to be developed with detached structures. Therefore, the minimum and maximum density for each of the five lots is one unit. A condition of approval will specify these densities.

The applicant has submitted a plan showing a housing configuration that demonstrates that the lots are of sufficient size and configuration that will allow them to be developed with attached units that meet the development standards, including the Community Design Standards. With the condition of approval noted above, this criterion can be met.

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

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

The arborist report that inventories the trees within the land division site evaluates their condition and specifies root protection zones. The arborist report (Exhibit A.4) lists three trees on the site. One tree is in the right-of-way and the trunk of a 27-inch Port Orford cedar is located partially on an adjoining property that is not part of this land division site. Therefore, these two trees are exempt (*33.630.030*). The remaining tree on the site is a 6-inch apple tree. The applicant has stated that all of the trees will be removed because the whole site will be cleared and new development will occupy most of the site.

The proposal does not meet any of the tree preservation options in *66.630.100*. The applicant proposes instead to use the mitigation options of *33.630.300*. This option may be approved if the applicant has shown that the Criteria A, B and one of the criteria in C.

33.630.300 Mitigation Option

A. As many trees as possible are preserved;

Findings: The one non-exempt tree on the site is located in the side setback of the existing house, along N Maryland Avenue. All the units on the site have frontage on N Maryland Avenue and the tree will be located in the footprint of one of the units. Therefore, it is not possible to preserve the tree and this criterion is met.

B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees and explains how it equally or better meets the purpose of the chapter.

Findings: The applicant has submitted a mitigation plan proposing to pay into the City tree fund in the amount of 2 caliper inches, which would amount to \$600.00. This proposal provides for slightly less than the caliper inches that *Option 1* of *33.630.100* would require. *Option one* requires at least 35% of the total tree diameter on the site to be preserved, or 2.1 inches. The proposed amount is roughly equivalent to what is required. The RH zone allows

relatively high building coverage, so there are limited opportunities for tree planting on the site. Section 33.248.020.H, known as the *T1 tree planting standard*, requires trees to be planted on new lots as part of the approval of future building permits. This standard would require the planting of at least 3 caliper inches on each of the five lots (they are all less than 3,000 square feet). Because of the small size of the lots it is not practical for additional trees beyond the *T1* standard to be planted without jeopardizing the overall health of the new trees. Payment into the Tree Fund will contribute to the general beauty and natural heritage of the City, if not directly on the site. This criterion is met.

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

Findings: This criterion is met because the site is less than 15,000 square feet and five lots (the minimum density) for attached single dwellings are proposed. Attached houses are allowed in the RH zone and the proposed lot configuration could not meet minimum density while preserving the existing tree on the site. This criterion is met.

Summary: The proposed mitigation option meets the approval criteria, as discussed above, with the condition that the applicant pay into the City tree fund in the amount of 2 caliper-inches.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

Findings:

Clearing and Grading

The regulations of *Chapter 33.635* ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. The applicant has submitted a grading and demolition plan (Exhibit C.2) which shows that no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. Although the site was connected to the public sanitary sewer in 1935, the City has no record that septic system on the site 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 demolition of structures on the site and the decommissioning of the old septic system, including sewer capping. With these conditions, the new lots can be considered suitable for development, and this criterion is met.

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

Findings:

No tracts are proposed or required for this land division, so Criterion A does not apply.

The following easement is required for this land division:

- A Private Storm Sewer Easement is required across the relevant portions of Lots 1 to 5 for a shared drywell on Lot 5 and related facilities for stormwater disposal.

As stated in *Section 33.636.100* of the *Zoning Code*, a maintenance agreement will be required that states maintenance responsibilities for the easement described above and facilities within

that area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for the agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) 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,

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

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

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

The water standards of 33.651 have been verified as discussed above, under *Infrastructure*. The existing house is served by a 5/8-inch metered service from the main in N Rosa Parks Way. This line may be available to serve Lot 5. All five lots could also have service from the main in N Maryland Avenue. The applicant is proposing to use the existing line in N Rosa Parks Way for Lot 5 and the main in N Maryland Avenue for Lots 1 through 4. Each lot must have water service from the main and meters installed within the public right-of-way and within the frontage of each lot to be served. This criterion is met

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

The sanitary sewer standards of 33.652 have been verified as discussed under *Infrastructure* at the beginning of this report. There is a lateral serving the existing house that extends from the main (manhole) at the intersection of N Maryland Avenue and N Rosa Parks Way. Based on the applicant's site plan, this lateral should be available to serve Lot 3. It appears that the lateral is within one foot of the property line between Lots 3 and 4. The other four lots will be required to construct new laterals to the public main at the owner's expense at the time of development. As noted earlier in this report, under *Site Suitability*, the existing septic system on the site must be decommissioned prior to final plat approval. With this condition, this criterion can be met.

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

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

There is no public storm-only sewer available to serve this property. BES has reviewed the infiltration test submitted by the applicant (Presumptive Approach) and verified that the percolation rates are adequate for onsite infiltration and a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

The method used to determine the size and location of the stormwater tract is discussed below.

- **Lots 1-5:** Stormwater from these lots will be collected in foundation drains and directed to a drywell on Lot 5 that will treat the water and slowly infiltrate it into the ground. Based on the site plans submitted, the drywell will be able to meet all required setbacks. A private stormwater management easement for the foundation drains and the drywell will be required, for the benefit of Lots 1-4. Section 33.653.030.C states that private stormwater facility serving up to five dwelling units may be in an easement (rather than a tract) if there is a recorded maintenance agreement, or if the maintenance is addressed in the CC&R's. The

drywell will serve five units and therefore can be in an easement. The easement must be at least 10 feet wide and cover the area around the drywell, including required setback areas, and extend to the point where the stormwater from the roof drains is directed away from the buildings and deposited into the drywell. The applicant received approval of a Building Code Appeal to allow the easement to be as narrow as 3 feet (11-185475 BD, IVR #3118113). The gutter system cannot be in an easement, but a maintenance agreement for common building elements is required by Life Safety Plans Examiner at the building permit stage. That agreement must specify the purpose and function of the gutter system and specify responsibilities for ongoing maintenance and repair. The maintenance agreement for the private stormwater facility must reference the associated maintenance agreement for common buildings elements to ensure that the whole stormwater management system is maintained. This will be required as a condition of approval.

The easement for the private stormwater facilities must be shown and labeled on the final plat. The supplementary plan must show the easement, the location of the drywell and all setbacks. This will be required as a condition of approval. Because part of the stormwater system consists of the roof drains from all of the units, the easement must also include reference to the maintenance agreement for common building elements. This will be required at the building permit stage. The agreement for common building elements must define the gutter system as a component of the approved stormwater management plan for the site. The applicant will be required to submit the agreement prior to final plat approval in order to ensure that it satisfactorily describes the purpose of the drains and their connection to the shared drywell on Lot 5.

Lot 5 has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from five reasonably-sized homes. With conditions of approval stated above, this criterion can be met.

33.654.110.B.1 -Through streets and pedestrian connections

33.654.130.B - Extension of existing public dead-end streets & pedestrian connections

33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections

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.

No new street connections have been identified in the vicinity of this property in the Portland Master Street Plan and the spacing requirements for public through streets are met in this area. The spacing requirements for pedestrian connections are met in the north-south direction but not in the east-west direction. Theoretically, if an east-west pedestrian connections was required through the subject block, it would be better provide better service if it was further south, rather than running through the subject site. Therefore no additional connections are required at this location and these criteria are met.

33.654.130.B-D

There are no partial rights-of-way, nor are there any configurations that allow for the future extension of streets or pedestrian connections in the area. Therefore, this approval criterion does not apply.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030
33.654.120.C Width and Design of the street right-of-way
33.654.130.D Partial Rights of way

The applicant submitted a traffic impact study (Exhibit A.3, A.9). The Bureau of Transportation's response (Exhibit E.2) contains a detailed analysis of the information in the report as well as findings for each of the applicable approval criteria. The information below is a summary of PBOT's response.

Street capacity and level of service

Based on the available evidence, PBOT estimates that the increase in daily trips will be 20 total additional trips per day, with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 8th ed.). Other factors taken into consideration are two possible travel route directions to and from the site as well as transit service available less than 500 feet from the site.

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. Based on observations and analysis in the applicant's traffic study, PBOT has determined that the area streets and intersections are currently operating acceptable and will not be negatively impacted by the proposed development.

Vehicle access and loading

Four of the five proposed lots have garages and driveways with access from N Maryland Avenue. PBOT has commented that this is preferable to having access from N Rosa Parks Way. The driveway for Lot 1 is close to the intersection of the two streets, but it is acceptable because visibility is adequate and there is enough space for vehicle maneuvering without causing obstructions.

Off-street parking impacts

PBOT has determined that even with extra parking demand created by the development and loss of parking spaces along N Maryland Avenue, there will be sufficient parking even during the evening peak hour.

Transit Service

As noted in at the beginning of the report, under Infrastructure, transit is available on N Rosa Parks Way (Tri-Met Route 44) within 240 feet ± of the site. This bus runs every hour, but is as frequent as 15 minutes during morning and evening peak hours. MAX stations are located on N Interstate Avenue, one block west of the site and run at 15 minute intervals during most of the day.

Neighborhood Impacts

PBOT has determined that after the site is developed, there will be sufficient on-street parking in the vicinity and that impacts to the neighborhood will be minimal.

Safety for all modes

There are no significant horizontal or vertical obstructions to sight distance along the site frontage or at nearby intersections. Existing parking spaces on N Maryland Avenue in front of the site will be removed to make room for four driveways, so it is expected that sight lines at the intersection of N Maryland Avenue and N Rosa Parks Way may be improved slightly. Roadways in the vicinity have existing sidewalks and there are 25 mph speed limits on N Maryland Avenue and n Holman Street. There are bike lanes on N Rosa Parks Way and on N Interstate Avenue. These conditions create continuous travel paths for all modes in the site vicinity. Therefore, PBOT has concluded that the transportation system is capable of safely supporting the proposed development.

33.654.120 Design of Rights-of-way

No frontage improvements will be required along the site frontage. The existing 20-foot wide sidewalk corridor along the N Rosa Parks Way frontage exceeds the recommended standard.

Along the N Maryland Avenue frontage the 11-foot pedestrian corridor meets the recommended width standard, but the 5-foot wide sidewalk does not meet the standard. The applicant proposes four driveways along this street frontage and the existing driveway and curb cut will be removed. POBT will require the applicant to rebuild this frontage to meet the Pedestrian Design Guide's recommended width and configuration as part of the driveway/curb-cut permit. This will be required as a condition of development on each lot.

With the condition of approval described above, this criterion is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the RH zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

Future Development

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

- **33.120.237 Trees** At the building permit stage, Trees must be planted on each lot. The proposed lots are less than 1000 square feet, so the T1 standard (33.248.020.H T1) requires at least 3 inches of tree diameter to be planted per lot.
- **Community Design Standards**
 - 218.015.C Neighborhood contact** Development on the site will be subject to the neighborhood contact requirement as specified in section 33.700.025, *Neighborhood Contact*. All of the steps in 33.700.025 must be completed before a building permit is requested'

The following applies to the proposed development:

33.218.140 Standards for All Structures in the RH, RX, C and E Zones

Note: the applicant may choose to use the alternative standards listed below:

*For proposals where all uses on the site are residential, the standards for the R3, R2, and R1 zones may be met instead of the standards of this section. Where new structures are proposed, the standards of **Section 33.218.110 Standards for R3, R2, and R1 Zones**, may be met instead of the standards of this section*

TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of

conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 www.portlandonline.com/bds

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

- The applicant must meet the requirements of Urban Forestry for street tree planting along N Maryland Avenue and N Rosa Parks Way during building permit application stage. Mitigation for the loss of existing right-of-way trees will be required if trees are removed due to construction. Tree removal within the right-of-way requires a permit from the City Forester. This requirement is based on the standards of *Title 20*. All trees regulated by City Code must be retained and protected unless pruning or removal permits are issued by the City Forester.
- The Life Safety Plans Examiner has commented that attached dwellings separated by a property line at a common wall must be constructed as rowhouses per *Oregon Residential Specialty Code, R317.2*. A Maintenance Agreement for common rowhouse elements, as approved by BDS, must be recorded on each property prior to issuance of building permits.
- The applicant must meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest fire hydrant (or obtaining an approved Fire Bureau appeal to this requirement); fire hydrant spacing, addressing of structures and aerial Fire Department access roads. These requirements are based on the technical standards of *Title 31* and Fire Bureau *Policy B-1*.
- Note that PBOT requirements for sidewalk reconstruction on N Maryland Avenue (in conjunction with driveway/ curb cut permits) will be a condition of building permit approval.

CONCLUSIONS

The applicant has proposed a 5-lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: transportation and traffic impacts; stormwater management; demolition of structures; decommissioning old septic system and Fire Bureau requirements. One neighbor submitted a letter stating concerns about traffic, density and livability. The site is in a high density residential zone that allows more density than the applicant is proposing. PBOT required a detailed traffic study and prepared detailed findings on traffic impacts, safety and carrying capacity. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of five lots for attached housing, as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Four copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES, Site Development, Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each lot.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A private storm sewer easement, for the benefit of Lots 1, 2, 3, and 4, shall be shown and labeled over the relevant portions of Lots 1- 5.
2. A recording block for the maintenance agreement, acknowledgement of special land use conditions,) as required by Condition 6, below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Utilities

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the septic system on the site.
2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that *Appendix B* of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Existing Development

3. A finalized permit must be obtained for demolishing the existing residence on the site and capping the existing sanitary sewer connection. Note that *Title 24* requires a 35-day demolition delay period for most residential structures.

Required Legal Documents

4. A Maintenance Agreement shall be executed for the Private Stormwater Management Easement on Lot 1 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 maintenance agreement must reference the maintenance agreement for common building elements that will be required at the time of building permits (*Maintenance Agreement and Easements for Common Building Elements*). The agreement for the Private Stormwater Management easement must state that the roof drains will convey stormwater from each of the units to the common drywell on Lot 1 and that the roof drains are part of the stormwater management system for the site. 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

5. The maintenance agreement for common building elements must be submitted prior to final plat approval. It must include a description the roof drain system as an integral part of the private stormwater management system for the site and provisions for connecting to the shared drywell and its continuing maintenance. This agreement is a requirement of the Oregon Residential Specialty Code and must be approved by BDS Life Safety group at the building permit stage.

Other requirements

6. The applicant must pay into the City Tree Fund the amount equivalent to 2 inches of trees. Payment must be made to the Bureau of Development Services, which administers the fund for the Portland Parks and Recreation.

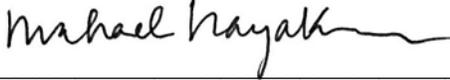
D. The following conditions are applicable to site preparation and the development of individual lots:

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

	Minimum Density	Maximum Density
Lots 1-5	one unit per lot	one unit per lot

2. The applicant must meet the addressing requirements of the Fire Bureau for Lots 1 - 5. The location of addresses must be shown on the building permit.
3. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Sue Donaldson

Decision rendered by:  **on November 28, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed December 1, 2011.

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

Procedural Information. The application for this land use review was submitted on February 25, 2011, and was determined to be complete on **June 21, 2011**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 25, 2011.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: February 16, 2012**

Note: some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this

information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 15, 2011** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

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

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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement

1. Narrative
2. Stormwater Report
3. Traffic Study, dated May 11, 2011-
4. Arborist Report
5. Neighborhood Contact verification
6. Articles of Organization (Old Seasons LLC)
7. Summary of Neighborhood meeting
8. Stormwater Report, revision, dated March 23, 2011
9. Traffic Study addendum, dated July 27, 2011

B. Zoning Map (attached)

C. Plans/Drawings:

1. Preliminary Plan (attached)
2. Grading and Erosion Control Plan
3. Proposed building elevations

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division

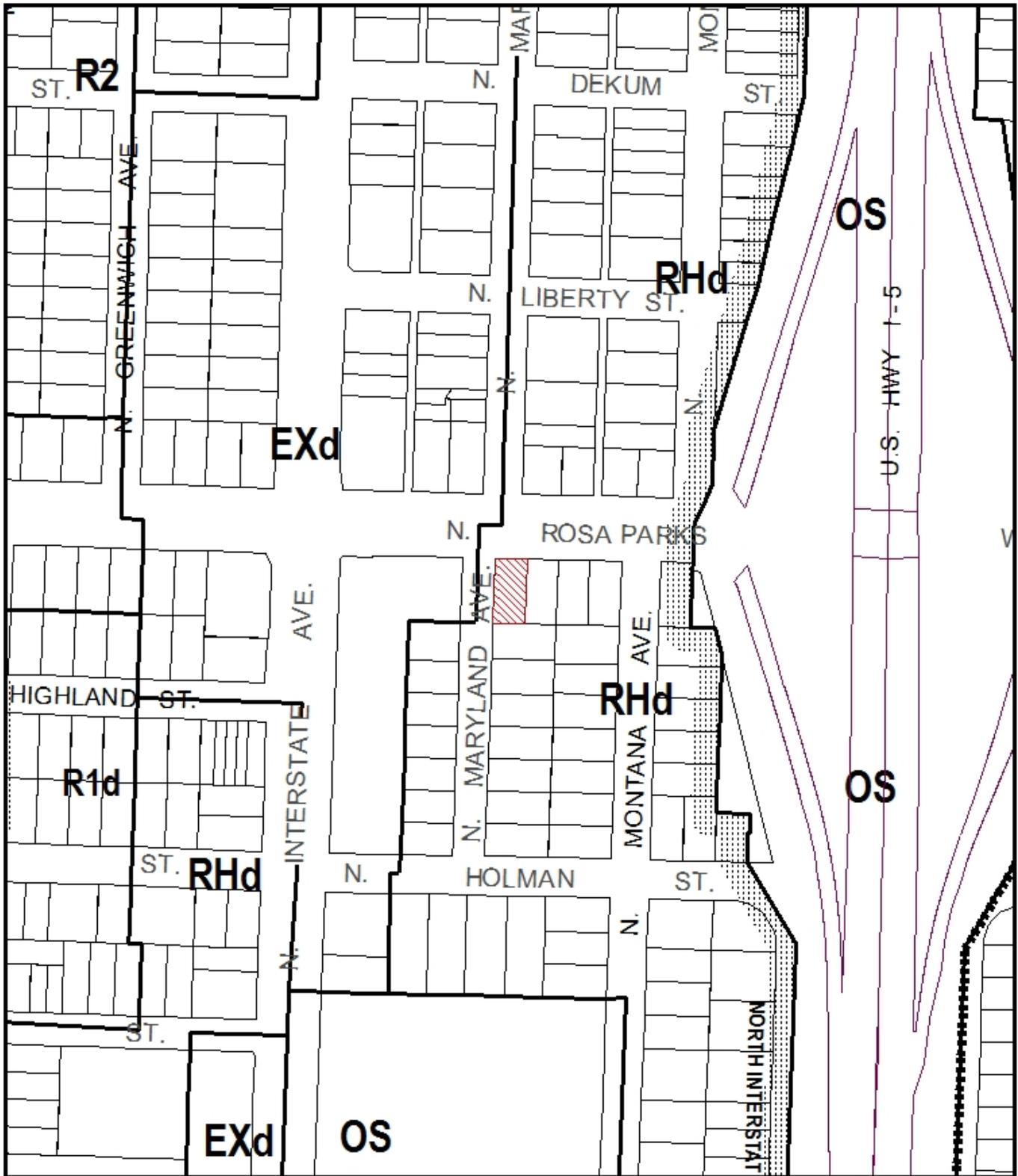
F. Correspondence:

1. Melanie Farnsworth, dated July 21, 2011; traffic, parking and livability issues

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete letter
4. 120-day waiver
5. Building Code Appeal Approval

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



ZONING

 Site



This site lies within the:
NORTH INTERSTATE PLAN DISTRICT

File No.	<u>LU 11-116463 LDS</u>
1/4 Section	<u>2429</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E15CB 4000</u>
Exhibit	<u>B (Mar 04,2011)</u>

