



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

FROM CONCEPT TO CONSTRUCTION

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Date: February 28, 2012
To: Interested Person
From: Kathy Harnden, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-129422 LDP

GENERAL INFORMATION

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

Dan Andrew
3439 NE Sandy Blvd #113
Portland, OR 97232-1959

Site Address: 5833 N ALBINA AVE

Legal Description: BLOCK 11 LOT 10, WEST PIEDMONT
Tax Account No.: R893902990
State ID No.: 1N1E15CD 06900
Quarter Section: 2429

Neighborhood: Humboldt, contact Brian Murtagh at 503-962-9194.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321. North Portland Business Assoc, contact Jim Schaller at 503-517-9915.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Plan District: None
Other Designations: None

Zoning: R1- Residential 1,000, a medium density, multi-dwelling zone
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 originally proposed to partition the subject property into three parcels and remove the Monkey Puzzle Tree that stands on the east end of the site. Due to the intense public interest aimed at preserving the tree, the applicant modified the proposal by reducing the number of lots to 2 and thereby, retaining the Monkey Puzzle Tree.

The two new rectangular parcels will run lengthwise along N. Simpson and each will be 100 feet long by 25 feet wide. Each parcel will contain 2,500 square feet. Attached houses will front on N. Simpson on Parcel 1 and on N. Albina, south of the Monkey Puzzle Tree, on Parcel 2. Stormwater management is proposed via individual drywells located on each parcel, and water and sewer services will be accessed for each parcel from N. Albina.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land. Therefore this land division is considered a partition.

Relevant Approval Criteria:

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 in the Humboldt Neighborhood of North Portland, approximately three blocks east of I-5 and one block south of Peninsula Park. Portland Community College is located a block south of the site, along N. Jessup Street. This corner lot sits at the crossing of N Albina Avenue and N. Simpson Street. The surrounding neighborhood is composed mainly of single-family dwellings, some of which have been converted to multi-dwellings, and there is a large, full-block multi-dwelling complex one block to the west of the site. The site contains 5,000 square feet and formerly contained one single dwelling and detached garage. Several small trees were removed during site preparation, and one Monkey Puzzle Tree (*Araucaria araucana*), an approximately 100-year old specimen, remains near the center of the east side of the site. The lot is elevated approximately four feet above the surrounding streets and sidewalks.

Infrastructure:

- **Streets** – The site has approximately 50 feet of frontage on N Albina Avenue and 100 feet of frontage on N Simpson Street. At this location, both streets are classified as local service streets for all modes in the Transportation System Plan (YSP). N Albina is also classified as a Transit Access street. Tri-Met provides *frequent* transit service approximately 422 feet south of the site N Albina and N Jessup, via Bus #4. Parking is currently allowed on both sides of both streets. At this location, N Simpson is improved with a 24 – 36 foot paved roadway surface and a pedestrian corridor that consists of an 11-foot planter, 6-foot sidewalk and 1-foot setback to private property. N Albina has a 36-foot wide paved roadway surface with a 5-foot planter, 6-foot sidewalk and 1-foot setback. Both streets have 60-foot rights of way.
- **Water Service** – There is an existing 8-inch CI water main in N. Albina Avenue. The site has one existing service via a 5/8-inch metered service from this main. There is no water service in N. Simpson Street along the frontage of the site.

- **Sanitary Service** – There is a 14-inch VSP public combination sewer located in N. Albina that can serve the sanitary disposal needs of this project (BES project # 21472).

Zoning: The R1 zone allows multi-dwelling residential development up to a maximum density of one unit per 1,000 square feet of site area, and requires a minimum density of one unit per 1,450 square feet of site area. The provisions of this zone allow this use.

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

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **June 16, 2011**. The following Bureaus have responded with no issues or concerns about the proposal:

The Bureau of Environmental Services had responded that Parcel 1 of the 3-lot partition accessed from N. Simpson would require a new sewer service branch extended along Simpson from the main in N. Albina. Because the revised proposal has only 2 lots which will both access sewer from N. Albina, a new service branch on N Simpson will not be required. The site has an existing service that will be used by Parcel 1. Parcel 2 will require a new service from N. Albina. Exhibit E.1 in the case file contains additional details.

The Bureau of Transportation Engineering responded with general information about the adjacent street system, but had no conditions of approval. Exhibit E.2 in the case file contains additional details.

The Water Bureau had responded that Parcel 1 of the 3-lot partition accessed from N. Simpson would require a new water main extension along Simpson from the main in N. Albina. Since the application was revised to eliminate the proposed Parcel 1 fronting on N. Simpson and instead have just two lots fronting on Albina, the Water Bureau revised its response to address only the final proposal for 2 lots. The Bureau determined that the currently proposed Parcel 2 will require a new service and currently proposed Parcel 1 may use the existing service at the site from N. Albina. Exhibit E.3.b in the case file contains additional details.

The Fire Bureau responded that the applicant must verify that existing fire flow meets current requirements prior to final plat approval. Exhibit E.4 in the case file contains additional details.

The Site Development Section of BDS responded that because there is no record of the decommissioning of the existing septic system on the site, the applicant must obtain final approval of a decommissioning permit prior to final plat approval. Exhibit E.5 in the case file contains additional details.

The Urban Forestry Division of Portland Parks & Recreation responded that street trees are required along all public street frontages and that permits are required to remove trees 12 inches in diameter and larger. Exhibit E.6 in the case file contains additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 16, 2011**. A total of 23 written responses, several of them signed by more than one person, were received from the Neighborhood Association and notified property owners in response to the proposal during the legal comment period.

- Twenty-one letters, signed by 27 individuals, opposed the proposal and protested the proposed removal of the Monkey Puzzle Tree.
- Two letters favored the proposal and tree removal.
- Five letters were received after the close of the comment period and could not be included in the review.

Tree Preservation requirements are addressed below in Criterion B.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
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 two attached housing parcels.

For lots less than 10,000 square feet located in the R1 zone, minimum density is 1 unit per 2,000 square feet. This site contains 5,000 square feet, which equals 2.5 units, which rounds up to 3 units. Therefore, three units are required for development of this site. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development. Therefore, to ensure that the

minimum density standards are applied at the time of development of the individual lots, a condition of approval is required to ensure that one of the proposed parcels will be developed with both the proposed attached house plus an accessory dwelling unit. For access purposes, the accessory dwelling unit should be located on proposed Parcel 1.

Required and proposed lot dimensions are shown in the following table:

R1	Minimum lot area (square feet)	Minimum lot width (square feet)	Minimum lot depth (square feet)	Minimum front lot line (square feet)
Attached Houses	none	15	none	15
Parcel 1 – attached	2,500	25	100	15
Parcel 2 – attached	2,500	25	100	15

* 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.

The above findings show that the applicable density and lot dimension standards are met or will be met at the time of building permit review. Therefore this criterion is met.

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

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

The applicant submitted an Arborist Report and an Addendum to the Report that inventoried the tree on the land division site, evaluated its condition and specified a root protection zone (Exhibits A.2 and A.3). Only one tree existed on the site at the time of application. The sole, non-exempt tree is a 19.5-inch Monkey Puzzle Tree (*Araucaria araucana*) located near the center of the east end of the site. The applicant proposed to preserve this tree to meet Option 1 of the tree preservation standards, which require at least 35 percent of the total tree diameter on the site to be preserved. The applicant did not provide a separate Tree Preservation Plan, but does show the tree as being preserved with the arborist-recommended root protection zone on Exhibits C.1 and C.2.

The arborist determined that the root zone of this tree had been modified on the west side of the tree by the house which used to occupy the site. As the tree grew, its roots were stopped from spreading to the west by the basement foundation of the house. Therefore, the Arborist recommends a 4-foot reduction in the west root protection zone, subject to 4 conditions. The north and south root zones will each be 12 feet wide. The root zone to the east will remain as it is currently.

To ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat. The applicant's revised site plans show the root protection zone at 8 feet on the west side of the tree and 12 feet on both the north and south sides to the property line, which is consistent with the Arborist's modified tree report (see Exhibit A.3) and shown on the applicant's amended proposed development plan, Exhibit C.2.b. The site is elevated about 4 feet above the sidewalk along N. Albina on the east side of the tree, such that the sidewalk provides the eastward limit of the root protection zone.

This criterion is met, subject to the conditions that:

- 1) Development on Parcels 1 and 2 must be carried out in conformance with the recommended root protection zones specified by the Arborist and with the conditions contained in the Arborist's Addendum (Exhibits A.2 and A.3);

- 2) A Supplemental Plan shall be submitted with the Final Plat application which shows the measured root protection zones recommended in the arborist's original report and in the Addendum; and
- 2) An Acknowledgement of Tree Preservation requirements is recorded and submitted with the final plat.

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 a Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. However, the one tree on the site, the Monkey Puzzle Tree, must be preserved. No clearing or grading has been proposed within the root protection zone of this tree. With a condition that requires a 6-foot high, chain link fence, secured with 8-foot long metal posts, driven into the ground, to be installed along the required root protection zone prior to the initiation of any grading or construction activities on the site, and remaining in-place until all construction activity is completed, this criterion will be met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. The applicant removed an existing house from the site in order to redevelop the site. Although the site is currently connected to the public sanitary sewer, there is an old septic system/cesspool on the site. The City has no record that this facility was ever decommissioned. To ensure that the new lots are suitable for development, a permit must be obtained and finalized for sewer capping and decommissioning of the septic system prior to final plat approval. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary.

Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard - See Exhibits E for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in N. Albina Avenue. Parcel 1 has an existing water service from that main. Parcel 2 will be required to connect to the water main in N. Albina.</p>
<p>33.652 Sanitary Sewer Disposal Service standards - See Exhibit E-1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified. There is an existing 14-inch VSP public combination sewer located in N. Albina that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. Parcel 2 will be required to connect to the VSP public combination sewer located in N. Albina.</p>

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

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

- **Parcels 1 and 2:** Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells, currently shown located in the northeast corner of Parcel 1 and the southeast corner of Parcel 2.

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**

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal:

This is a corner lot location which meets the above criteria for adequate connectivity. Additional connectivity is not required at this location.

For the reasons described above, this criterion is met.

DEVELOPMENT STANDARDS

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regard to ensuring adequate fire flow from the nearest fire hydrant prior to final plat approval. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting. Street trees are required along all public street frontages and will be reviewed and approved by the City Forester during street plan review or building permit application. Street trees required for residential sites are to be 2 inch caliper in size.
- All existing trees, including the Monkey Puzzle Tree, on this property that are 12 inches in diameter and greater may not be removed unless specifically permitted through Title 33. However, the Monkey Puzzle Tree may not be removed without first amending this Land Use Decision.

CONCLUSIONS

The applicant proposed a three parcel partition that included one single dwelling structure and two attached houses. The proposal also included removal of a 19.5-inch Monkey Puzzle Tree that was scheduled for removal. There was no water or sewer service available to serve proposed Parcel 1, and the applicant would have been required to install, at his own expense, both a new sewer service branch and a new water main from N. Albina to the proposed parcel fronting N. Simpson.

In addition, the neighborhood was predominantly opposed to the removal of the Monkey Puzzle Tree, and staff had requested information that would illustrate how no other development could occur on the site while retaining the tree and meeting density. After some time, the applicant revised the proposal by eliminating one parcel and retaining the tree. Because the density required on the site is three units, one of the parcels must be developed with both the proposed attached dwelling unit plus an accessory dwelling unit. Therefore, Proposed Parcel 1, the new corner lot, will be required to have a second dwelling unit. Density will be enforced at the time of building permit application.

Therefore, the applicant currently proposes a 2-parcel partition, as shown on the attached preliminary plan and retention of the Monkey Puzzle Tree (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 issue identified with this proposal was tree preservation. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in two lots for attached housing in conformance with 33.110.240.E, as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review to 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 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 including an accessory dwelling unit on Parcel 1, driveways, parking areas and required outdoor areas;
- The location of the Monkey Puzzle Tree, with the correct diameter of the tree;

- The location and sizes of the required root protection zones on the north, south and west sides of the tree
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for the Acknowledgement of Tree Preservation Requirements as required by Condition C.5 below. The recording block shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Requirements 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 Water Bureau for providing water service to proposed Parcels 1 and 2 and to any additional dwelling units that are required to meet density on this 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 to final plat approval.
3. The applicant shall meet the requirements of the Bureau of Environmental Services for providing sanitary sewer service to proposed Parcels 1 and 2, and to any additional dwelling units that are required to meet density on this site.

Existing Development

4. A finalized permit must be obtained for decommissioning and capping the existing sanitary sewer system on the site per the requirements of the Site Development Section of the Bureau of Development Services. Note that Title 24 requires a 35-day demolition delay period for most residential structures.

Required Legal Documents


5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements, which discusses tree preservation requirements that apply to Parcels 1 and 2 for the Monkey Puzzle Tree. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The Acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist's reports (Exhibits A.2 and A.3). Specifically, the 19.5-inch Monkey Puzzle tree shall be preserved, with the root protection zones described in Exhibit A. 3, with the following conditions:
 - a) Tree protection fencing is required along the identified root protection zone of the Monkey Puzzle tree as identified in the Arborist Report and Tree Preservation Plan. The fence must be a 6-foot high, chain link, and be secured to the ground with 8-foot tall metal posts driven into the ground.
 - b) Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist.

- c) The Monkey Puzzle Tree may not be removed unless specifically permitted through Title 33 Land Use Review.
 - d) Planning and Zoning approval of development in the root protection zone is subject to receipt of a report from the arborist, explaining that the arborist has approved of the specified methods of construction, that the activity will not harm the tree, and that the activities will be performed under her supervision.
 - e) All underground construction and installation activities for utilities and driveways will be located outside the root protection zone. No pruning can be done without contacting the arborist as well as City Nature/Urban Forestry for a pruning inspection and a pruning permit.
2. Proposed Parcel 1, the new corner lot, shall be developed with both the proposed attached house and an accessory dwelling unit.
 3. The applicant must plant street trees in the planter strips per the requirements of Urban Forestry. Installation plans will be reviewed at the time of building permit application. Street trees must be chosen from the City's approved street tree list for the planting strips along the two street frontages. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.
 4. The applicant must provide a fire access way that meets the Fire Bureau requirements for 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: Kathy Harnden

Decision rendered by:  **on February 24, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed February 28, 2012

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

Procedural Information. The application for this land use review was submitted on April 14, 2011, and was determined to be complete on **June 13, 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 April 14, 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 requested a series of extensions that effectively waived the 120-day review period, for a total period of

281days (see Exhibit A.3). Unless further extended by the applicant, **the expanded review period will expire on: May 2, 2012.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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

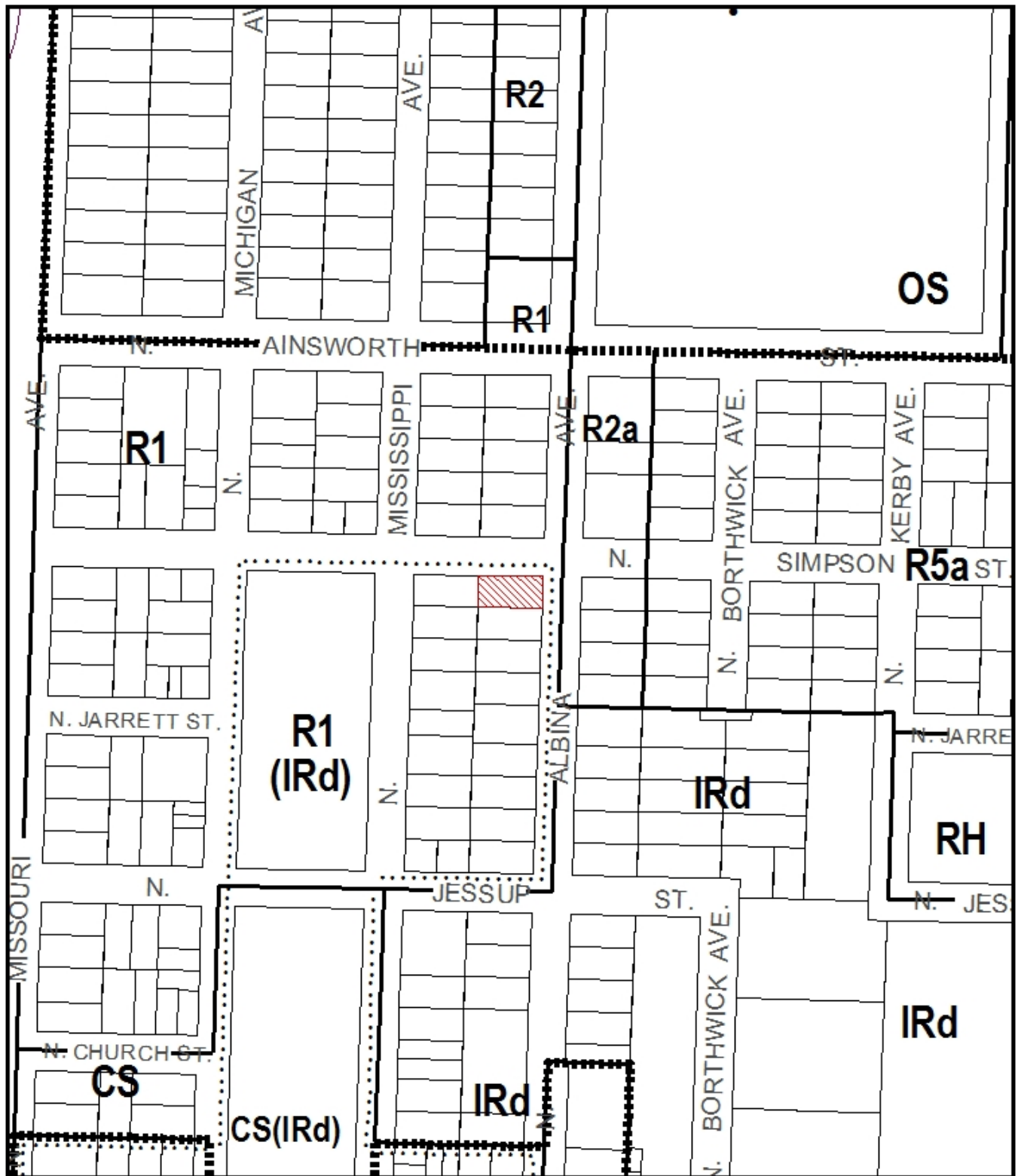
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1.a. Applicant’s narrative
 - b. Applicant’s narrative, revised
 - c. Applicant’s narrative, 2nd revision
 - 2.a. Arborist Report
 - b. Amended Arborist Report; Tree Protection Addendum
 - 3.a. Two-week review period extension, dated 7/18/2011
 - b. One-month review period extension, dated 8/24/2011
 - c. Two-month review period extension, dated 9/26/2011

- d. Six-month review period extension, dated 11/02/2011
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Existing Conditions Site Plan with conceptual development (attached)
 2. a. Proposed Development
 - b. Proposed Development with Tree Preservation Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. a. Water Bureau
 - b. Water Bureau, Revised Comments
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Portland Parks & Recreation, Urban Forestry
 7. Life Safety
- F. Correspondence:
 1. Maureen Canterbury, 6/23/11, opposed to Monkey Puzzle Tree removal
 2. Dr. Marina Sprinker, 6/29/11, opposed to Monkey Puzzle Tree removal
 3. Stephen Sunnes & Linda Wojtowick, 6/29/11, opposed to Monkey Puzzle Tree removal
 4. Megan Dahlgren, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 5. Phaedra Malmquist, Emerald Peargin, & Letitia Tucker 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 6. Derek Smith, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 7. Jean M. Thomas, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 8. Lara Sheets, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 9. Lynn Makau & Jeff Jaeckle, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 10. Maranda Bish, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 11. Mary Locke, 6/29/11, opposed to proposed Monkey Puzzle Tree removal
 12. Deborah Mastrangelo, 7/13/11, opposed to proposed Monkey Puzzle Tree removal
 13. Andi Crews, 7/14/11, opposed to proposed Monkey Puzzle Tree removal
 14. Marcy Feibelman, 7/12/11, opposed to proposed Monkey Puzzle Tree removal
 15. Gordon J. & Marsha H. Parks, 7/12/11, opposed to proposed Monkey Puzzle Tree removal
 16. Dane Lawson, 7/14/11, opposed to proposed Monkey Puzzle Tree removal
 17. Brian Murtagh, Humboldt Neighborhood Association, 7/14/11, opposed to proposed Monkey Puzzle Tree removal
 18. Gretchen M. Brask, 7/14/11, opposed to proposed Monkey Puzzle Tree removal
 19. Tim Flanagan & Robin Bloomgarden, 6/29/11 (rcv'd 7/14/11), opposed to proposed Monkey Puzzle Tree removal
 20. Tom Orzechowski, 7/15/11, opposed to proposed Monkey Puzzle Tree removal
 21. Jean Margaret Thomas, 7/15/11, opposed to proposed Monkey Puzzle Tree removal
 22. Debbi Jackson, 7/13/11, in favor of the proposed development and of tree removal
 23. Rich Bailey, 7/13/11, in favor of the proposed development and of tree removal
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Incomplete Letter
 4. Staff written summary of on-site neighborhood meeting

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



File No. LU 11-129422 LDP
 1/4 Section 2429
 Scale 1 inch = 200 feet
 State_Id 1N1E15CD 6900
 Exhibit B (Apr 19,2011)

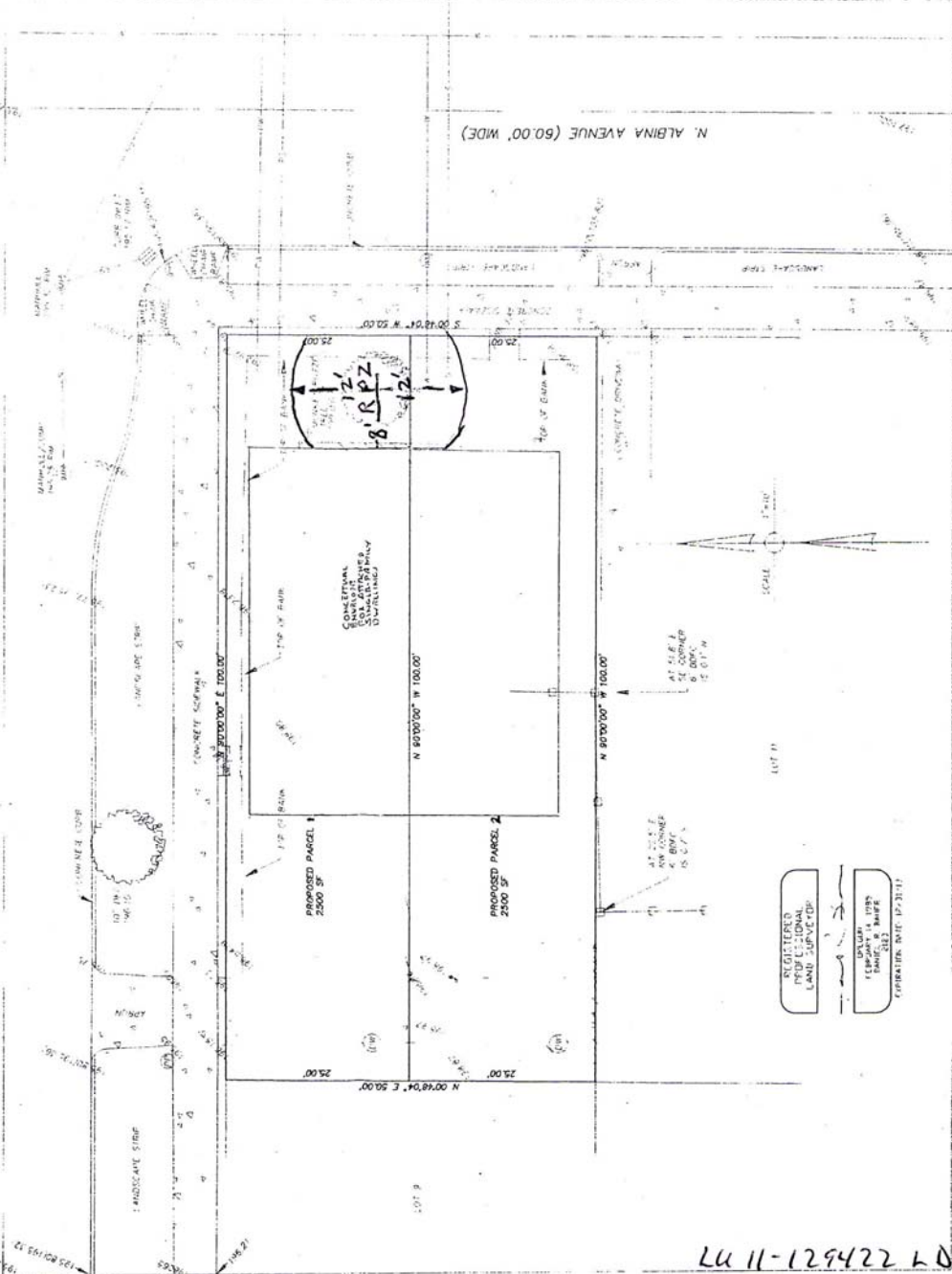
**EXISTING CONDITIONS, TREE SURVEY & TENTATIVE PLAN
FOR PROPOSED PARTITION PLAT
LOT 10, BLOCK 11, "WEST PIEDMONT"**

SITUATED IN THE SW 1/4 of Section 10, T11N, R1E, W1E, WPM
City of Portland, Oregon

MARY ASSOCIATES
3815 E. BROADWAY, SUITE 200
PORTLAND, OR 97214
TEL: 503.281.1111
FAX: 503.281.1112

DATE: MARCH 12, 2011
PROJECT: LOT 10, BLOCK 11, "WEST PIEDMONT"
DRAWN BY: J. HARRIS

Parcel 1 to have accessory dwelling unit.



- ZONING:**
R-5
- SITE SIZE:**
80.00' x 100.00'
- PARCEL DATA:**
TOTAL AREA: 8,000.00 SQ. FT.
TOTAL AREA: 8,000.00 SQ. FT.
- BENCH MARK:**
BENCH MARK: 10.00' x 10.00' x 10.00'
- NOTES & LEGEND:**
- 1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
 - 2. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE DRIVEWAY.
 - 3. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE SIDEWALK.
 - 4. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE DRIVEWAY AND SIDEWALK.
 - 5. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE DRIVEWAY AND SIDEWALK.
 - 6. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE DRIVEWAY AND SIDEWALK.
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 - 20. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE DRIVEWAY AND SIDEWALK.

LU 11-129422 LDP
Exhibit: C.2.b