



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** February 14, 2014  
**To:** Interested Person  
**From:** Kathy Harnden, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 13-166576 LDS AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** John Olson  
KDO Enterprises LLC  
PO Box 12761  
Portland, OR 97212

**Site Address:** 203 N Holland St

**Legal Description:** BLOCK 5 LOT 3, LOVEWOOD; BLOCK 5 LOT 4, LOVEWOOD  
**Tax Account No.:** R513001730, R513001750  
**State ID No.:** 1N1E15AB 14900, 1N1E15AB 14800  
**Quarter Section:** 2330

**Neighborhood:** Piedmont, contact Brian Borrello at 503-754-5595.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**Zoning:** Residential 2000 with the Aircraft Landing Overlay (R2h)  
**Case Type:** Land Division Subdivision and Adjustment (LDS AD)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant proposes to divide two adjacent parcels into 5 lots to be developed with single dwelling structures. The two existing parcels contain a total of 10,816 square feet and are located at the northwest corner of N. Holland Street and N. Vancouver Avenue. The proposed lots will vary from 1,750 square feet for Lot 4, to 2,778 square feet for Lot 1. Each of the 5 lots is to be developed with a single-dwelling residence, and Lots 3 – 5 will have attached dwelling units (ADU) for a total of eight units on the site. There are seven large trees on the site ranging in size from 17 inches in diameter to 60 inches. The applicants propose to remove six of these trees, leaving only a 56-inch diameter redwood in the northwest corner of the site.

The applicants also request an Adjustment to the front building setbacks for the three proposed houses that will front on N. Holland Street. The requisite front setback is 10 feet. The applicants request an 8-foot reduction of this setback in order to construct porches at the front of each of these houses. Each of the proposed 4-ft wide by 5-ft deep wooden staircases will be located 4 feet from the front property line. Each porch will be 5-feet deep by 20 feet wide with one-foot wide eaves (Ex. C.3).

This subdivision is reviewed through a Type IIX procedure because: the site is in a residential zone and 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:**

To be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant criteria are found in Sections: **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**, and **33.805.040, Approval Criteria for Adjustments**

## **FACTS**

**Site and Vicinity:** The site is composed of two lots on the corner of N. Holland Street and N. Vancouver Avenue. The front lot, facing N. Holland, contains the existing house, with the rear lot behind the house forming the back yard. The site contains 3 giant redwoods, one large Tulip Tree, a large Grand Fir, and two decaying or severely pruned cherry trees. The tree canopy covers the entire backyard/rear lot.

The area is composed of an older neighborhood built mostly in the 1930s. The lots are mostly 5,000 square feet or larger, with homes setback from front lot lines by 18 to 20 feet or more. Almost all of the lots contain large lawns with mature landscaping and individual driveways, most with garages.

### **Infrastructure:**

- **Streets** – The site is a corner lot and has approximately 106 feet of frontage on N. Holland Street and 50 feet along N. Vancouver Avenue. There is one driveway entering the site from N. Holland that serves the existing house. At this location, N. Vancouver Avenue is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway and a Local Service Street of all other modes in the Transportation System Plan (TSP). It has a 40-foot wide paved surface with a six-inch curb, a three-foot buffer between the curb and sidewalk, a 5-foot sidewalk and 2 feet behind the sidewalk (3-5-2). Based on the street classification, a 12-ft sidewalk corridor with a 4.5-6-1.5 configuration is required. Tri-Met provides frequent transit service approximately 450 feet from the site on N. Vancouver at N. Lombard via Bus No. 75.

N. Holland Street is classified as a Local Service Street for all modes, and is improved with a paved driving surface of 28 feet with a 10-ft sidewalk corridor that includes a 3-foot buffer between the curb and sidewalk, a 5-foot sidewalk and a 2-foot buffer behind the sidewalk (3-5-2 configuration). Based on the street classification, a 12-ft sidewalk corridor with a 4.5-6-1.5 configuration is required.

- **Water Service** – There is an existing 5/8-inch metered service from an 8-inch CI water main in N. Holland Street that served the existing house. This service may potentially be used to serve Lot 4. This main is also available to serve lots 3 and 5.

There is also a 6-inch DI water main in N. Vancouver Avenue that is available to provide water to Lots 1 and 2, as well as to Lot 3, the corner lot.

- **Sanitary Service** - There is an existing 27-inch concrete public sewer line in N. Vancouver Avenue and a 10" clay sewer in N. Holland Street available to provide service to these 5 lots.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant proposes on-site infiltration of storm water through individual drywells on each of the five lots.

**Zoning:** The Residential 2000 (R2) base zone is a low-density, multi-dwelling zone. Allowed housing is characterized by one to three story buildings that are intended to be compatible with adjacent houses, while creating and maintaining higher density residential neighborhoods. This zone implements the comprehensive plan policies and designations for multi-dwelling housing.

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

**Agency Review:** Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits "E" contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on November 19, 2013. A total of five written responses have been received from the Neighborhood Association and notified property owners in response to the proposal. The respondents expressed concern about removal of ancient trees from the site and the development of 5 houses on a site and in a neighborhood that is developed with large lots, each with a moderately-sized house. Tree preservation will be addressed under the land division review in this report. Comments related to the houses will be addressed under the Adjustment Review section of this report.

## 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.
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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections 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 5 single dwelling, detached housing lots.

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. Minimum density in the R2 zone is 1 unit per 2,500 square feet and maximum density is one unit per 2000 square feet. The total site area shown on the applicant's survey is approximately 10,816 square feet. Therefore, the site has a minimum density of 4 units and a maximum density of 5 units.

The lot dimensions required and proposed are shown in the following table:

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width</b>	<b>Minimum lot depth</b>	<b>Minimum front lot line</b>
<b>Detached Houses</b>	1,600	25	none	25
Lot 1	2778	25.05	110.32	25.05
Lot 2	2238	25.05	88.74	25.05
Lot 3	1858	37.0	50.0	35.58
Lot 4	1750	35.0	50.0	35.0
Lot 5	2250	35.0	75.0	35.0

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

As previously mentioned, Lots 3-5 will each contain a house with an accessory dwelling unit. Per 33.205.040, accessory dwelling units are not included in maximum density calculations.

The findings above show that the applicable density and lot dimension standards are met. 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. An arborist report was submitted that inventoried the trees within the land division site, evaluated their conditions and specified root protection zones (Exhibit A.2). Of the seven trees on the site, two are exempted because the arborist considers them to be hazard trees due to either significant decay or severe topping. These two trees comprise 47 inches of the 258 tree inches on the site. The arborist considers the remaining five trees on the site, containing 211 tree diameter inches, to be healthy trees, subject to tree preservation. Due to the trees' sizes, locations and required root protection zones, their preservation would severely limit development on this site. Root protection zones are based on a tree's diameter at the rate of one foot of protection, measured outward from the trunk, for each inch of tree diameter. The typical root protection zones for the trees on this site would cover all of lots 1 and 2, and extend southward into the middle of proposed lots 3-5, basically eliminating any development potential of the site.

The following table lists the inventoried trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
31	Redwood ( <i>Sequoia</i> )	44	No	No	
32	Tulip Tree ( <i>Liriodendron tulipifera</i> )	32	No	No	
33	Redwood ( <i>Sequoia</i> )	60	No	No	
34	Cherry ( <i>Prunus sp.</i> )	30	Yes	No	
35	Redwood ( <i>Sequoia</i> )	56	No	Yes	25 ft west and 40 ft south of the base of the tree
36	Grand Fir ( <i>Abies grandis</i> )	19	No	No	
37	Cherry ( <i>Prunus sp.</i> )	17	Yes	No	

The non-exempt tree diameter on the site is 211 inches. The applicant proposes to remove four of the non-exempt trees due to their locations relative to the proposed development on the relatively small parcels. The applicant also proposes using the mitigation options of 33.630.300 for their removal by paying into the City's Tree Fund.

In determining if the proposed mitigation is appropriate, issues such as the current condition of the tree(s) to be removed, lot size, and other planting requirements are factors that must be considered. In this case, the non-exempt trees are all relatively healthy trees. However, the proposed parcels are relatively small (between 1,750 and 2,778 square feet), and the applicant will be required to install 3 inches of tree caliper on each parcel (i.e., 15 inches of new tree diameter) at the time of new development, in order to comply with the T1 tree standard (Section 33.248.020.H).

The Tree Chapter requires applicants to preserve 35 percent of the total non-exempt tree diameter on a site. In this case, 35 percent preservation would result in preserving 73.85 inches of tree diameter. The applicant proposes to keep Tree 35, the 56-inch diameter redwood in the northeast corner, which comprises 26.5 percent of the site's non-exempt tree diameter. Therefore, an additional 18 inches of tree diameter must either be preserved or mitigated. Typical mitigation requires planting new trees to replace removed trees. To plant 18 inches of mitigation trees, combined with the 15 inches required by the T1 standard, would result in 33

inches of new trees on the site. This number of new trees in such a small planting area could result in severe overcrowding as the trees mature.

In a situation where meeting the Tree Chapter's planting requirements is not feasible, Chapter 33.630.300 provides mitigation options. The Tree Chapter allows mitigation when (A) the applicant has shown that as many trees as possible will be preserved; (B) the applicant has submitted a mitigation plan that adequately mitigates for the loss of trees and shows how the mitigation plan equally or better meets the purpose of this chapter; and (C) it is not possible under any reasonable scenario to meet the tree preservation requirements and one of 7 minimum requirements.

To preserve the additional inches of existing tree diameter, the applicant would not be able to meet C.1, which is to "Meet minimum density"; or C.4, "On sites 15,000 square feet or less in area, (to) provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot." The applicant has shown that it is not possible to meet density on the site, preserve more trees than just Tree 35 and plant the required number of mitigation and T1 standard trees as required.

Therefore, in addition to retaining Tree 35, the applicant proposes to pay into the City's Tree Fund to mitigate for the 18 inches of tree diameter that will not be replanted on the site. Trees, regardless of where they're planted, help absorb air pollutants and contamination, provide buffering from noise, wind and storms; reduce urban heat island effects; and contribute to the general beauty and natural heritage of the City as a whole, if not directly on the site. Also, payments into the Tree Fund will go towards planting trees within the same watershed as the site. At \$300 per inch of tree diameter, the applicant will pay approximately \$5,400 into the tree fund.

The requirement to plant 3 new trees on Lots 2-5 to meet the T1 standard will apply at the time of building permit for new development on the lots. Lot 1 can use preserved Tree 35 to meet the T1 standard.

The two drywells proposed for Lots 1 and 2 appear to be located within the minimum 25-foot root protection zone (RPZ) of Tree 35 and within the 40-foot RPZ on Lot 5. In addition, the existing plan shows that the RPZ is apparently reduced to only 10 feet at the northeast corner of Lot 2. The arborist report did not indicate that the root protection zone would follow the north property line of Lot 2. A Supplemental Plan must be prepared, and submitted with the Final Plat, to show the accurate location of the arborist-required RPZs in relation to the proposed drywell locations on Lots 1, 2 and 5. The Supplemental Plan must show the transition of the full 25-foot to 40-foot root protection zone in an arc that maximizes root protection. The full tree diameter of 56 inches must also be shown on this plan along with the required RPZ. If the proposed drywells are to be located within any portion of the required RPZs, a revised arborist report must be submitted with the final plat application to address the impacts of the drywell excavation within an already substantially reduced root protection zone for Tree 35. Or, if the drywell locations are to be moved, the new locations must also be shown on a Supplemental Plan and be approved by BES prior to Final Plat Approval.

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.

Therefore, Criterion B is met with conditions of approval that include:

- The applicant must make payment into the Tree Fund for 18 inches of tree diameter, and provide a dated receipt of the transaction to submit with the final plat application;
- An "Acknowledgement of Tree Preservation Requirements," a legal document, must be prepared and submitted with the Final Plat application, and be recorded prior to Final Plat approval;

- The root protection zone of Tree 35 must be fenced with 6-foot tall metal fencing prior to any tree removal or construction activity on the site and the fencing must remain on the site until all construction activity is completed;
- The root protection zone must be clearly shown on all development site plans for building permits on lots 1, 2 and 5;
- The proposed drywell for Lot 2 shall be placed on the south side of Lot 2 instead of the north side, if approved by BES;
- A notarized and signed Acknowledgement of Tree Preservation Requirements must be submitted with the Final Plat review for the review and approval by the City Attorney's Office;
- A Supplemental Plan must be submitted with the Final Plat to show the accurate location of the arborist-required RPZs in relation to the proposed drywell locations on Lots 1, 2 and 5;
- A Supplemental Plan must show the transition of the full 25-foot to 40-foot root protection zone in an arc that maximizes root protection;
- The 25-foot and 40-foot RPZs shall be measured from the trunk of the tree;
- The full tree diameter of 56 inches must be shown on the Supplemental Plan;
- A revised arborist report must be submitted with the final plat application to address the impacts of the drywell excavation within an already substantially reduced root protection zone for Tree 35;
- If the drywell locations are to be relocated outside of the root protection zones, the new locations must be shown on the Supplemental Plan and be approved by BES prior to Final Plat Approval.

With the conditions noted above for tree preservation, mitigation, and legal documentation, this criterion can be met.

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

**Findings:**

***Clearing and Grading***

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. Trees are required to be preserved in areas where new development on the site is anticipated. Tree No. 35, a 56-inch redwood, which typically would have a root protection zone of 56 feet, instead has an RPZ of 25 feet to the west and 40 feet to the south as identified in the arborist report. (Note: the arborist report incorrectly states that the RPZ will be 25 feet to the east of the tree. However, the tree is located only 7 feet from the east property line and neither the applicant nor the City has jurisdiction to extend tree protection onto non-owned property. Therefore staff determined that the arborist simply made a typographical error, and meant to say, 25 feet to the west.)

Therefore, all excavation activities must be in accordance with the requirements of the arborist in order to ensure the health of this tree. The 25-foot RPZ shall be measured from the trunk of the tree, not from its center as it appears to be as shown on the existing Proposed Development Plan. In addition, the RPZ shall be maintained in an arc measured from the tree trunk to the north property line on Lot 1, then southerly across lots 1, 2 and 5, until the 25-foot radius intercepts the 40-foot RPZ to the south. The RPZ shall not follow any interior property lines.

Further, the existing house contained a basement. The Site Development section of the Bureau of Development Services noted that the excavated basement area cannot be used, as this area is located on more than one lot and new single-family residential permits cannot be issued

until the final plat has received approval. Site Development further requires that the basement be filled as part of the demolition permit for the existing house. The demolition permit must receive final inspection approval prior to final plat to be sure that the site is ready for the proposed future development of the site.

The applicant did not submit a proposed clearing and grading plan, although five large trees (No.s. 32, 33, 34, 36, and 37) will be removed, leaving large excavated areas where their roots were located. Therefore a condition is required that, prior to any tree removal, fill or excavation on the site, the applicant shall provide a revised Arborist Report to be submitted with the Final Plat application, which shows the location of the required root protection zone and details the measures that must be in place in order to protect Tree 35. This information shall include requirements regarding tree felling, excavation of root-wads, refill of excavated root holes, equipment movement across the site, grading, soil stockpiling, and any other construction activity that could impact the required root protection zone of Tree 35.

Therefore, with the following conditions, this criterion can be met:

- All excavation activities must be in accordance with the requirements of the arborist;
- The 25-foot RPZ shall be measured from the trunk of the tree, not from its center;;
- The RPZ shall be maintained in an arc measured from the tree trunk to the north property line on Lot 1, then southerly across lots 1, 2 and 5, until the 25-foot radius intercepts the 40-foot RPZ to the south
- The RPZ shall not follow any interior property lines.

#### ***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

#### **I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties. These regulations state that the narrowest lots on streets that are within 30 degrees of a true east-west axis, the narrowest lot should be corner lots on the north side of the street.

At this location, two of the lots will front on a north/south oriented street, and three of the lots will front on an east/west oriented street. Lot 3 will be on the northwest corner of an east-west oriented street, but is proposed to be wider than the other lots. This corner lot is the widest of all the lots in the proposal, being slightly over a half-foot wider at the front lot line than the other proposed lots on N. Holland Street, the east-west street of concern.

However, in interpreting diagram 639-3 of the Code, the assumption is that the narrow corner lot should front on a north/south street, whereas in this case, it fronts on the east/west street. To make the corner lot the narrowest along N. Vancouver, the lot would be reduced to below minimum lot size, and due to the orientation of lot's 4 and 5, the area added to Lot 2 couldn't be utilized for the proposed house. Therefore, the lot dimension requirements preclude meeting these approval criteria per 33.639.020.

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

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts



regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

*Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.*

*At this location, N Vancouver is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, and a Local Service Street for all other modes. It is improved with a 10-ft sidewalk corridor with a 3-5-2 configuration. Based on the street classification, a 12-ft sidewalk corridor with a 4.5-6-1.5 configuration is required.*

*N Holland is classified as a Local Service Street for all modes. It is improved with a 10-ft sidewalk corridor with a 3-5-2 configuration. Based on the street classification, a 12-ft sidewalk corridor with a 4.5-6-1.5 configuration is required.*

*In order to provide adequate ROW width for the sidewalk widening, a 2-ft dedication along both frontages will be a condition of final plat approval.*

*In addition, the corner ramp must be reconstructed to meet current ADA standards.*

*The applicant filed a public works appeal (13-182696 PW) to request the above dedications and sidewalk improvements be waived. That appeal was denied. The dedications shall be conditions of final plat approval. The sidewalk improvements must be constructed under a separate public works permit. A bond and contract ensuring the improvement will be completed shall also be a condition of final plat approval.*

### **33.641.020 Approval Criterion**

*The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.*

*The applicant has provided a limited traffic study prepared by Lancaster Engineering.*

### **Street Capacity and Levels of Service**

*The proposal will result in a net increase of 4 single-family residences. These residences can be expected to generate 40 daily vehicle trips with 3 trips occurring in the AM Peak Hours and 4 trips in the PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.*

### **Connectivity**

*The site is a corner lot. Connectivity requirements do not apply.*

Therefore, with conditions for street dedication and sidewalk improvements, this criterion can be met.

### **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><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified. The Water Bureau also requires that demolition of the existing house must occur prior to Final Plat Approval.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1 &amp; E.5</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management method:</p> <ul style="list-style-type: none"> <li>• <b>Lots:</b> 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 individual drywells for each lot that will treat runoff 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.</li> </ul>
<p><b>33.654.110.B.1 Through streets and pedestrian connections</b>  <b>33.654.130.B Extension of existing public dead-end streets &amp; pedestrian connections</b>  <b>33.654.130.C Future extension of proposed dead-end streets &amp; pedestrian connections</b></p>
<p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located meets these spacing requirements, as it is 198 feet wide by 502 long. In addition, this site is a corner lot, and a through street in this location would not be appropriate.</p> <p>Therefore, this criterion is not applicable.</p>
<p><b>33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.</b></p>
<p>No dead-end streets are proposed. Therefore, this criterion is not applicable.</p>
<p><b>33.654.110.B.4 Approval criterion for alleys in all zones.</b>  <b>33.654.130.E Ownership of Alleys</b></p>
<p>Alleys are not proposed with this development. Therefore, this criterion is not applicable.</p>
<p><b>33.641 – Transportation Impacts – 33.641.020 and 33.641.030</b>  <b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment  <b>33.654.130.D Partial Rights of way</b></p>
<p>In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that four additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.</p> <p>Both N. Vancouver and N. Holland are improved with paved roadways. 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. In this case, Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. Both streets are improved with 10-foot sidewalk corridors that have a 3-5-2</p>

configuration. Based on the street classifications for both streets, 12-foot wide sidewalk corridors are required that will have a 4.5-6-1.5 configuration.

PBOT will require the applicant to reconstruct the pedestrian corridors along the site's two frontages to City standards with a 4.5-foot-wide planting strip between the curb and 6-foot wide sidewalk with a 1.5-foot buffer at the back of the sidewalk next to the property line. To accommodate these improvements, two feet of additional right-of-way must be dedicated along both frontages of the site as a condition of final plat and the applicant must provide a bond and contract under a public works permit prior to Final Plat approval.

Therefore, this criterion is met with conditions that curb and sidewalk improvements are made and the required right-of-way dedication is shown on the Final Plat.

### **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.

### **Future Development**

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

- **Detached Houses-** Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**
- **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 R2 zone. A condition of approval will require that all existing development is demolished prior to Final Plat approval. Therefore, this land division proposal can meet the requirements of 33.700.015.

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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185	Title 17 – Public Right-of-Way Improvements

<a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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 addressing; fire hydrant installation; ensuring adequate hydrant flow from the nearest fire hydrant; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

### **APPROVAL CRITERIA FOR ADJUSTMENT REVIEW**

#### **33.805.010 Purpose of Adjustment Reviews**

**The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.**

#### **33.805.040 Adjustment Approval Criteria**

**Adjustment requests will be approved if the review body finds that the applicant has shown that criteria A through F, below, have been met.**

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The applicant requests an Adjustment to the front setback requirement in the R2 zone from 10 feet to 5 feet for proposed covered porches on detached houses in relation to the south property lines. The purposes of setback standards in multi-dwelling zones (Section 33.120.220) are as follows:

- *“maintain light, air, separation for fire protection, and access for fire fighting;*
- *reflect the general building scale and placement of development in the City’s neighborhoods;*
- *promote a reasonable physical relationship between residences and privacy options for neighboring properties;*
- *require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *provide flexibility in siting buildings so they may be compatible with the neighborhood, fit the site’s topography, and allow for outdoor areas and architectural diversity;*
- *and provide room for a car to park in front of a garage door without overhanging the street or sidewalk.”*

The applicant proposes to develop three 2.5-story houses within an approximate 5,250-square-foot area. In the Residential 2,000 zone, the required front building setback is 10 feet. The applicants are requesting a 5-foot adjustment to this requirement for each of the three houses that will face N. Holland. Although the houses will be 10 feet from the property line, which meets the setback requirement, the applicant proposes covered front porches at the front of each house, to be located within the front setbacks. The proposed porches would be located within only 5 feet from the new property lines, with stairways that will begin at the property

lines adjacent to N. Holland. Each of the stairways would be fairly steep, rising one foot for each foot into the site in order to reach the porch floor, located only 5 feet from the property line.

Chapter 33.120.280.C.3.b(2) of the Planning and Zoning Code allows stairways that lead to one entrance on the street-facing façade of a building to be located within the street setback. Therefore, the proposed stairway location is consistent with the Code and is not subject to this Adjustment Review.

The proposed porches, however, will extend 5 feet into each 10-foot front setback. Each porch will have a roof that extends the width of the porch. The roofs of the porches will be approximately 15 feet above grade. Covered porches are not allowed to be located within front building setbacks per Chapter 33.120.280.C.4.b. Therefore, an Adjustment of this standard must be approved through the Adjustment Review process in order for proposed covered porches to be allowed in front setbacks.

The size and massing of the proposed houses on these lots will create far denser development than that of existing development in the neighborhood. The surrounding neighborhood is composed of 5,000 to 6,000 square-foot lots, developed primarily with single-story houses that are set back 13 to 20 feet from the sidewalks on lots that are about 50 feet wide.

The proposed 25-foot wide lots will be developed with 2.5-story houses that will include outdoor stairwells leading to basement ADUs (attached dwelling units) and garages that will take up the entire area outside of the setbacks on each lot. The proposed porches will be setback only 5 feet from the public sidewalks. Usually, porches would be constructed behind the 10-foot setback, and the main structure of the house would be further back, creating a slightly more open feeling on these small lots.

The 10-foot front setback Code requirement in this zone is intended to promote open, visually pleasing front yards. The applicant stated that the porches will “create a more socially inviting main entrance, therefore increasing the livability of the developments.” It is not clear how having porches within the setback will be “more socially inviting” than porches located outside the setback, i.e., 10 feet from the sidewalk. For example, if the porches aren’t allowed in the setback, will the houses simply have staircases up to the front doors without any landings? The applicant did not provide any other options for the front porch locations, or for other entrance designs.

However, the proposed houses must have some sort of access entrance, and because the doors will be 5 feet above grade, some kind of stair and entrance area is required in order to access the houses. The stairs would be more inviting if they weren’t constructed at a 1 to 1 grade, and the porches would be more inviting if they weren’t looming over the public sidewalk area, but instead were located within the developable area of the lots.

Maintaining a 10-foot wide front setback is even more important in this case where the proposed structures will be much taller and blockier than other development in the neighborhood. These houses will take up all of the developable area of each lot, whereas development on other lots in the neighborhood consumes only about half of their respective lots. Therefore, an open, visually pleasing front yard is not proved by the proposed adjustment, is not compatible with the neighborhood, and does not reflect the building scale and placement in the neighborhood.

The applicant has not demonstrated that locating porches in the front setbacks of each lot has met the purpose statement for setbacks in the multi-dwelling zones. Therefore, this criterion is not met.

**B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

**Findings:** This site is located within a multi-dwelling residential zone and the residential area is defined as the area shown on the attached Zone Map, Exhibit B. Several neighbors wrote letters of opposition to this proposal based on the fact that the proposed development is not consistent with the appearance of the neighborhood and that it will negatively impact the neighborhood's livability. However, the proposed lot sizes and main structures proposed for development are not subject to this review. It is only the location of the proposed porches that is subject to this review. The applicant stated that the porches will create a "more socially inviting main entrance," but the fact that the main entrances are so close to the sidewalk and property lines, has just the opposite effect. Front porches located just five feet from the sidewalk and elevated five feet above the sidewalk are likely to make passersby feel as though they are intruding on their neighbor's property rather than creating a "socially inviting main entrance."

If the proposed porches were set back the entire 10-foot width of the setback, a larger outdoor area would be created to provide space between the structures and the public right of way, and thereby would help reduce the sense that pedestrians might have of being dwarfed by these tall, imposing structures. This additional space would help create a more visually pleasing front yard and entrance that would be somewhat more characteristic of the much deeper front yards of the surrounding neighborhood.

Therefore, the proposal to locate the front porches within the 10-foot front setback will significantly detract from the livability and appearance of this residential area, and this criterion is not met.

**C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**

**Findings:** The applicant is requesting only one adjustment, i.e., to the front setback. However, the adjustment request is applied to the proposed development of three new lots. The cumulative effect of a reduced front setback on three lots in a row in a neighborhood that has houses set back 18 to 20 feet is not consistent with the overall purpose of the R2 zone. The major type of new development proposed for the R2 zone includes: duplexes, townhouses, rowhouses and garden apartments, that "are compatible with adjacent houses." As discussed above, the proposed porch locations within the 10-foot setback are not compatible with the existing development pattern in the neighborhood. Therefore, this criterion is not met.

**D. City-designated scenic resources and historic resources are preserved; and**

**Findings:** There are no City-designated scenic or historic resources to be preserved on this site. *Therefore, this criterion does not apply.*

**E. Any impacts resulting from the adjustment are mitigated to the extent practical; and**

**Findings:** As discussed above, there are both visual and physical impacts that would be created by constructing elevated porches within the designated 10-foot front setbacks. The porches would be elevated five feet above grade at only five feet from the sidewalk. They, and the structures behind them, would be imposing and not compatible with other developments in the neighborhood, which are setback 18 to 20 feet from public sidewalks and consist primarily of single story development.

The proposed development, with houses, driveways, garages and outside entrances to ADUs, has been designed to maximize every inch of developable area outside of the required setbacks, with the intent of placing entrance access within the front setbacks. Other designs could have been developed that included room for access to the structures within the developable area of the lots. It appears that the porches themselves were designed to provide mitigation for the large, blocky houses rather than designing development that would fit within the site area.

Because the houses have been designed to be located at the setback line, it is not clear how entrances could be accessed at 5 feet above grade without stairs and some sort of landing in the setback. Nor is it clear how the location of the porches in the front setback would create a “more socially inviting main entrance” five feet from the sidewalks and five feet above grade, than porches located outside the setback with less steep stairs and less crowding at the sidewalk. The smaller sized lots in the R2 zone were envisioned to contain smaller development that could fully fit within the required setbacks. Otherwise, there would be no setback requirements. It was not the purpose of this zone to enable large development that is only accessible through adjustments to setback requirements. Further, it is not consistent with the Zone Characteristics to design a proposal on vacant land that cannot meet setback requirements and is not compatible with the neighborhood.

The following impacts were identified above: reduced outdoor areas between the houses and sidewalk; a less pleasing front yard and entrance into the proposed houses than if the setbacks were met; reduced compatibility with surrounding development; and non-compliance with the characteristics of the R2 zone. The applicant did not provide any mitigation to reduce these impacts and, further, stated that, “The Adjustment does not result in any apparent conflicting impacts that would require mitigation. This criterion is not applicable.” This criterion is applicable, however, because the proposed development design on vacant land should have included entrances that meet the front setback requirements. Adjustments should be reserved for situations where existing conditions do not allow conformance with the requirements, or where the design meets the purpose statement. There were no physical impediments to developing houses on this vacant site that could meet all of the required setbacks, and again, the design does not meet the setback purpose statement.

The applicant has not adequately addressed this criterion or explained why the front access could not have been designed to be within the developable area on the site, as envisioned by the Code. *Therefore, this criterion is not met.*

**F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.**

**Findings:** The site is not in an environmental overlay zone. *Therefore, this criterion does not apply.*

## 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.

### Future Development

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

- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

**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 R.2 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## CONCLUSIONS

The applicant has proposed a 5-lot subdivision and an Adjustment to the front setbacks on proposed lots 3, 4 and 5, as shown on the attached and the Proposed Development Plan (Exhibit C.2). As discussed in this report, all of the relevant standards or approval criteria have been met, or can be met with conditions, for the proposed land division. The proposed land division can be approved subject to conditions.

As described above, however, not all of the relevant standards or approval criteria have been met, or can be met with conditions, for the proposed Adjustment. Therefore, the Adjustment request has been denied.

The primary issues identified with this proposal include: tree protection and tree removal activities; fill of an existing basement; sidewalk improvements and right of way dedications; design of proposed development on vacant land that has no access to proposed structures; and no mitigation for impacts that would be caused by the Adjustment.

## ADMINISTRATIVE DECISION

Denial of the proposed Adjustment to place porches in the front setbacks of Lots 3, 4, and 5 as shown on the Proposed Development Plan.

Approval of a Preliminary Plan for a five-lot subdivision that will result in 5 single-dwelling lots, as illustrated with Exhibit C.2 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, BES, Transportation, Water, and Fire review and approval. This 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:
- The complete building footprints on each lot, in compliance with all required building setbacks;
  - This plan must reflect all agency comments and show the arborist approved locations of the proposed drywells on Lots 1, 2 and 5;
  - 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 location and the full, 56-inch diameter of Tree #35, the 56" Redwood located in the Northeast corner of the site;
  - The 25-foot and 40-foot root protection zones (RPZ) must be measured from the trunk of Tree 35;
  - The location of the RPZs and required tree protection fencing for Tree #35 that shows the transition of the full 25-foot to 40-foot root protection zone in an arc measured from the base of the tree westward 25 feet and southward that maximizes root protection as described above on page 6 of this report and in Condition D.10 below;
  - Or, if the drywell locations are to be relocated to areas outside the RPZs, the new locations must also be shown on a Supplemental Plan and be approved by BES prior to Final Plat Approval;
  - The root protection zone shall not follow any internal lot lines;
  - The proposed locations of future building footprints and development, meeting all required setbacks;
  - If eligible, the reduced side setbacks allowed under 33.120.270.D;
  - Drywells locations for all five lots;
  - Any other information specifically noted in the conditions listed below.

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



1. The applicant shall meet the street dedication requirements of the City Engineer for both N. Vancouver Avenue and N. Holland Street. The required right-of-way dedications must be shown on the final plat.
2. A recording block for each of the legal documents such as an acknowledgement of special land use conditions, as required by Condition C.10 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Special Land Use Conditions for Tree Preservation has been recorded as Document No. \_\_\_\_\_, Multnomah County Deed Records

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

**Streets**

1. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation for required street frontage improvements, including reconstruction of the corner ramp to current ADA standards.

**Utilities**

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. If the proposed drywells are to be located within any portion of the required RPZs on any of the lots, a revised arborist report must be submitted with the final plat application to address the impacts of drywell excavation within an already substantially reduced root protection zone for Tree 35.

**Existing Development**

4. A finalized permit must be obtained for demolition of the existing residence and garage on the site and for capping the existing sanitary sewer connection, and a copy of the finalized permit must be provided with the Final Plat application. Note that Title 24 requires a 35-day demolition delay period for most residential structures.
5. The applicant must make payment into the City of Portland Tree Fund for 18 inches of tree diameter and submit a dated receipt of the Transaction;
6. The demolition permit for the existing house shall include fill of the basement excavation.
7. The basement excavation area may not be re-used as the excavation will be located on more than one of the proposed lots, and new single-family residential permits cannot be issued until the final plat has received approval.
8. The applicant must make payment into the Tree Fund for 18 inches of tree diameter, and provide a dated receipt of the transaction.


**Required Legal Documents**

9. A notarized and signed "Acknowledgement of Tree Preservation Requirements," a legal document, must be prepared and submitted with the Final Plat application for review and approval by the City Attorney's Office, and be recorded prior to Final Plat approval.

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

10. Development on Lots 1, 2 and 5 shall be in conformance with the Tree Preservation Plan (Exhibit C.2 and the applicant's arborist report (Exhibit A.2). Specifically, Tree 35 is required to be preserved, with the root protection zone indicated on Exhibit C.2.
11. Tree protection fencing must be placed along the root protection zone of Tree 35. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground.
12. The root protection zone must be clearly shown on all development site plans for building permits on lots 1, 2 and 5.
13. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
14. The proposed drywell for Lot 2 shall be placed on the south side of Lot 2 instead of the north side unless BES does not approve of this location;
15. 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.
16. The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements.

**Staff Planner: Kathy Harnden**

Decision rendered by:  on (February 11, 2014.)  
By authority of the Director of the Bureau of Development Services

**Decision mailed: February 14, 2014**

**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 June 11, 2013, and was determined to be complete on November 18, 2013.

*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 June 11, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended twice. The first extension was for 4 weeks, from

December 30, 21013 through January 28, 2014; the 2<sup>nd</sup> extension was from January 28, 2014 through February 28 for a total of 59 days. Unless further extended by the applicant, **the 120 days will expire on: April 28, 2014.**

**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 February 28, 2014** 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](http://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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 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

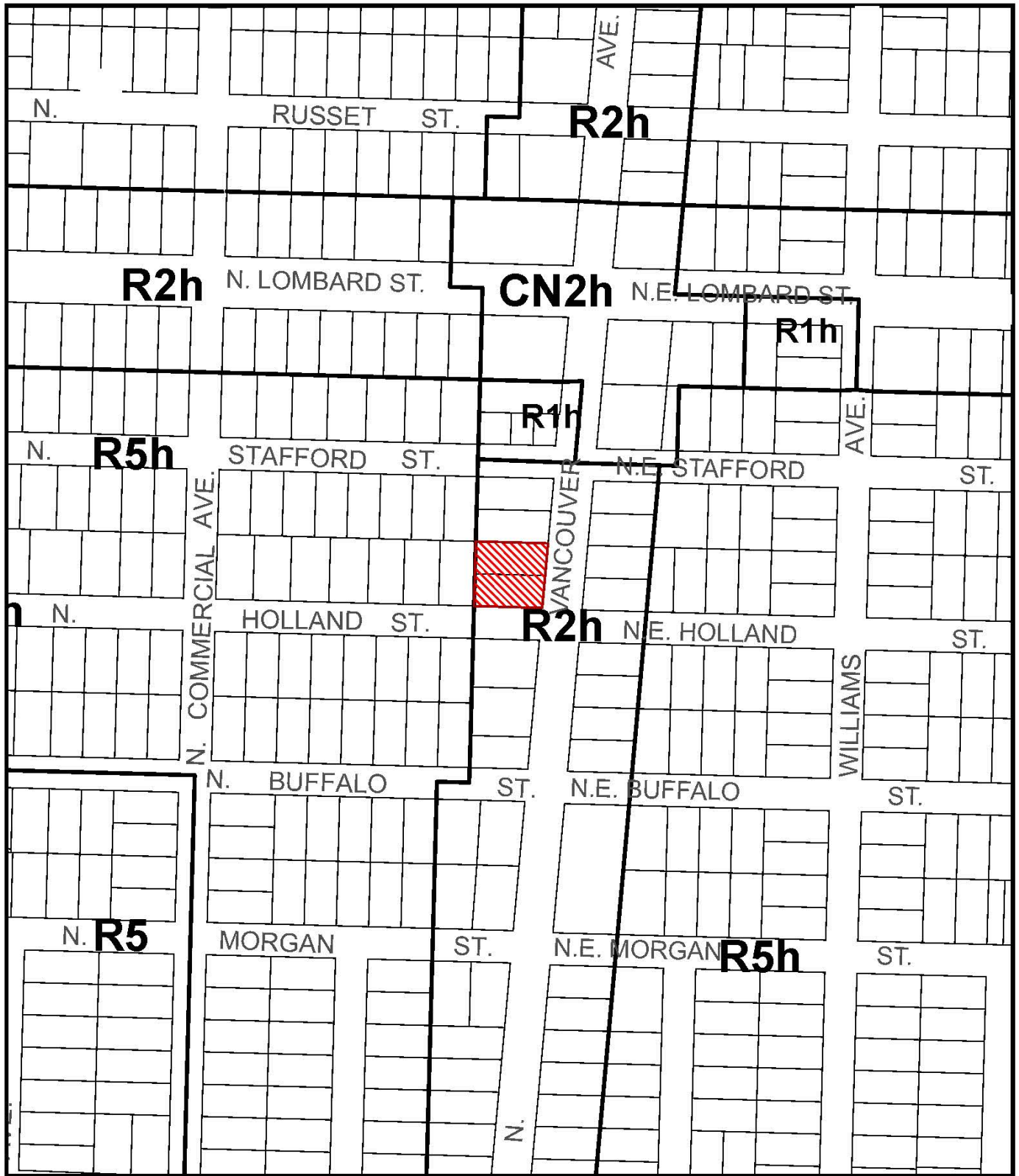
approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Narrative
  - 2. Arborist Report, dated 4/8/13
  - 3. Tree Mitigation Plan, dated 11/03/13
  - 4. Simplified Approach Form
  - 5. Lancaster Engineering Transportation Analysis
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Site Plan
  - 2. Proposed Development Site Plan (attached)
  - 3. East Elevation
- 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. Life/Safety
- F. Correspondence:
  - 1. Piedmont Neighborhood Association, Brian Borrello, 12/14/13, opposed to proposal because it does not fit the character or existing development pattern of the neighborhood and excessive tree removal
  - 2. Donna and Barb Lockett-Galloway, 12/04/13, opposed to development that is not consistent with the existing development patter of the neighborhood and tree removal
  - 3. Brett Williams and Adam Hart, 12-18/13, opposed to massive, multi-unit structures that are inappropriately sized for the lots they will be build on
  - 4. Allen R. Brown, 12/18/13, opposed to putting 5 dwellings on a corner lot and adjustments that conflict with the 1930s style neighborhood
  - 5. Richard M. Rickel, 12/06/13, opposed to putting 5 dwellings on a corner lot and adjustments that conflict with 1930s style neighborhood
- G. Other:
  - 1. Original LDS LU Application
  - 2. Original AD Application
  - 3. Certified Mail Receipt for letter requesting neighborhood meeting
  - 4. Incomplete Letter w/Bureau Comments sent 7/2/13
  - 5. Extension request for 4 weeks
  - 6. Extension request through February 28, 2014

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



# ZONING



Site



NORTH

File No. LU 13-166576 LDS  
 1/4 Section 2330  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E15AB 14800  
 Exhibit B (Jun 13, 2013)

# PROPOSED DEVELOPMENT PLAN

TAX LOTS 14800 AND 14900  
 N.W. 1/4 NE. 1/4 SECTION 15AB, T.1N., R.1E., W.M.,  
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
 JUNE 4, 2013 SCALE 1"=20'

THE BASIS FOR THIS SURVEY IS BASED UPON CITY OF PORTLAND RECORD NUMBER 2744348 AND A BRASS JOCK ON THE SOUTHWEST CORNER OF NORTH HOLLAND STREET AND NORTH VANCOUVER STREET.  
 A TRIMBLE 56-SERIES ROBOTIC INSTRUMENT WAS USED TO COMPLETE A CLOSED LOOP FIELD TRAVERSE.

AREA OF SUBJECT PARCEL: 10,874 S.F. OR 0.25 ACRES

THE BASIS OF BEARINGS FOR THIS SURVEY IS PER MONUMENTS FOUND AND HELD PER RECORD NUMBER 14800 AND 14900 RECORDED UNDER PRIVATE SURVEY NUMBER 0034, RECORD OF MULTNOMAH COUNTY.

THE PURPOSE OF THIS SURVEY IS TO RESOLVE AND DETERMINE THE BOUNDARY OF THE SUBJECT PROPERTY, TO SHOW ALL PERTINENT BOUNDARY ISSUES AND ENCROACHMENTS, NO PROPERTY CORNERS WERE SET IN THIS SURVEY.

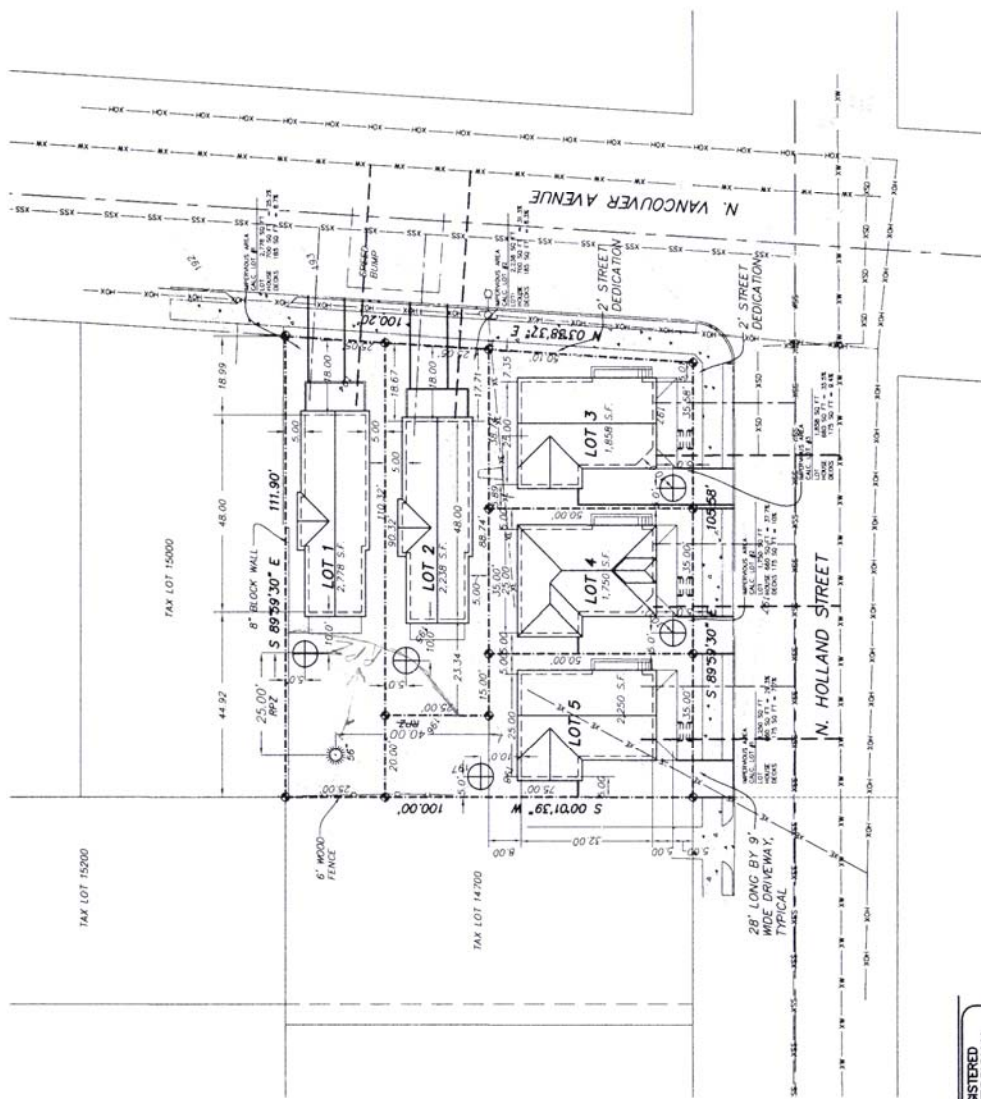
NO WARRANTIES ARE MADE AS TO MATTERS OF UNWRITTEN TITLE, SUCH AS ADVERSE POSSESSION, ESTOPPEL, ACCQUESCENCE, ETC.

## LEGEND

Some Symbols shown may not be used on map

- (E) EVERGREEN TREE TO REMAIN
- DECIDUOUS TREE
- SANITARY SEWER MANHOLE
- CATCH BASIN
- WATER VALVE
- FIRE HYDRANT
- BOLLARD
- GAS VALVE
- GAS METER
- SIEN
- MALIBOX
- UTILITY POLE
- UTILITY POLE
- ELECTRIC METER
- UTILITY AND LIGHT POLE
- GUY WIRE
- TRAFFIC SIGNAL POLE
- ELECTRICAL POWER PEDESTAL
- COMMUNICATIONS PEDESTAL
- COMMUNICATIONS MANHOLE
- OVERHEAD LINE
- GAS LINE
- ELECTRICAL LINE
- COMMUNICATIONS LINE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- WATER LINE
- FENCELINE
- ELECTRIC RISER
- UTILITY RISER

- ⊕ PROPOSED DRYWELL
- PROPOSED SANITARY LATERAL
- PROPOSED WATER CONNECTION



SIGNED ON  
**REGISTERED PROFESSIONAL LAND SURVEYOR**

NOVEMBER 14, 2007  
**JAMES BURTON BROWN**  
 80379

VALID THROUGH DECEMBER 31, 2013

**CENTERLINE CONCEPTS**  
 LAND SURVEYING, INC.  
 10000 N. VANCOUVER STREET, SUITE 200  
 PORTLAND, OREGON 97228  
 PHONE 503.650.0188 FAX 503.650.0189  
 DRAWN BY: MPW CHECKED BY: JRB CLIENT NAME: ALMEJEDHECH  
 M:\PROJECTS\VALMESCHED-HOLLAND

66113-166576 LAS HD  
 Exhibit C.2