



City of Portland, Oregon
Bureau of Development Services
Land Use Services
 FROM CONCEPT TO CONSTRUCTION

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Date: May 29, 2015
To: Interested Person
From: Diane Hale, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-218324 LDP AD

GENERAL INFORMATION

Applicant: Bill Mcmonagle / Harris-Mcmonagle, Inc
 12555 SW Hall Blvd / Tigard OR 97223 / (503) 639-1232

Owner: Kevin Hayes / 14320 SW 141st Ave / Tigard OR 97224

Site Address: 5432 NE 24th Ave

Legal Description: BLOCK 1 LOT 1 EXC PT IN ST LOT 2, INA PK
Tax Account No.: R168347
State ID No.: 1N1E24BB 07400
Quarter Section: 2533
Neighborhood: Concordia, contact Garlynn Woodsong at 503-936-9873.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: Northeast Coalition of Neighborhoods, contact info@necoalition.org
Zoning: R2ah [Multi-dewelling residential 2,000 with “a” alternative design density overlay and “h” aircraft landing zone (height) overlay].

Case Type: LDP AD (Land Division Partition with an Adjustment)
Procedure: Type Iix, an administrative decision with appeal to the Hearings Officer.

PROPOSAL:
 The applicant is proposing a 3-parcel land division for this 7,270 square foot site, resulting in 3 new parcels for detached single-family homes. The applicant has requested an Adjustment to the parking requirement for one the parcels, proposing to not provide off-street parking for the existing house that will remain on the corner parcel. The parking standard would normally require 1 spot for this house (see 33.266.110.B). Off street parking will be provided for the two new homes. There are no trees on the site. The applicant is not proposing to use any of the elements of the alternative design density overlay zone at this time.

This partition proposal is reviewed through a Type Iix procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is

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 3 units of land (3 parcels). Therefore this land division is considered a partition.

RELEVANT APPROVAL CRITERIA:

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

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met. The purpose statement to be addressed in Criterion A is listed in 33.266.100.A (Minimum Required Parking Spaces).

FACTS

Site and Vicinity: The 7,270 square foot site is a corner lot developed with a house built in 1922 that will remain on the site. There are no trees on the site that are subject to the Tree Preservation regulations. The site is generally surrounded by single family housing with some multi-family development scattered around the area. Alberta Park is ~2 blocks to the west, and mixed residential and commercial development along Alberta Street is located ~3 blocks to the south.

Infrastructure:

- **Streets** – The site has approximately 99.97 feet of frontage on NE Killingsworth Street, 72.28 feet of frontage on NE 24th Avenue, and 73.22 feet of frontage on an alley that runs N-S between NE 24th and NE 25th Avenues. There is one driveway entering the site from the alley that serves the existing house.

At this location the City’s Transportation System Plan (TSP) classifies NE Killingsworth St. as a District Collector, a Major Transit Priority, a City Walkway, a Major Emergency Response Route, a Community Corridor with respect to street design, and a Local Service street for all other modes. NE Killingsworth St. is improved with 36-ft of pavement and a 5-6-1 pedestrian corridor within a 60-ft right-of-way (ROW). For a City Walkway, abutting an R2-zoned site, the City’s Pedestrian Design Guide recommends a 12-ft wide pedestrian corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/1.5-ft frontage zone).

The TSP classifies NE 24th Ave as a Local Service street for all transportation modes. NE 24th is improved with 30-ft of paving and a 3-6-1 pedestrian corridor. For a Local Service street, abutting an R2 zoned site, the City’s Pedestrian Design Guide recommends an 11-ft wide pedestrian corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/0.5-frontage zone). There are existing transit facilities in the area with the closest bus line located along NE 27th approximately 550-ft to the east.

- **Water Service** – There is an existing 8-inch CI water main in NE 24th Avenue. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 12-inch public combination sewer line in NE Killingsworth St and an existing 10-inch public combination sewer line in NE 24th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning:

The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500

square feet of site area. Newly created lots in the R2 zone must be at least 4,000 square feet in area for multi-dwelling development, 1,600 square feet for development with attached or detached houses, and 2,000 square feet for development with duplexes. Minimum lot width and depth standards may apply.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

The “h” overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport. In this zone, structures are regulated by the base zone height limits rather than the height limits of Chapter 33.400.

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 **February 13, 2015**. Three written responses have been received from the Neighborhood Association or notified property owners in response to the proposal. The comments expressed the following concerns:

- The narrow lots and proposed density are undesired in the neighborhood – the development will not look good and the new lots are too small.
- The added density will make Killingsworth St. dangerous by having cars parking along the street and adding more traffic, and it will negatively impact on-street parking capacity. Infrastructure improvements such as bike lanes should be constructed to mitigate the negative impacts of the added density.
- The Adjustment to allow Parcel 1 to be developed without parking should not be approved due to lack of on-street parking capacity.

Staff response: While staff understands the neighborhood concerns, staff finds that the proposal meets the lot dimension and density standards of the Zoning Code, and the impacts from the proposed development will not critically impact the surrounding transportation network, on-street parking capacity and livability of the area. These items are addressed in more detail below. See Lots, Criterion A, for a detailed analysis of the proposed density and parcel size; see Transportation Impacts, Criterion K, for information related to transportation impacts of the proposed development; and see Approval Criteria for Adjustment, 33.805.040, for more discussion about the Adjustment request.

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:
B	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site.
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.B - Non-local street standard	N Concord is a Local Street.
	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 3 single family parcels.

Single-dwelling development is proposed for some or the entire site, therefore the proposed parcels must meet minimum density and not exceed the maximum density stated in Table 120-3. Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 7,270 square feet. The site has a minimum required density of 3 units and a maximum density of 3 units.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Parcel 1	3,243	46.46	70.90	46.46
Parcel 2	1,644	29.07	55.22	29.07

Parcel 3	2,383	26.36	99.91	26.36
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* Width is measured from the midpoints of opposite lot lines.

The findings above show that the applicable density and lot dimension standards are met. Therefore this criterion is met.

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

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 parcels developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new parcels can be considered suitable for new development, and 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 parcels to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

The site is located on a corner. All of the proposed parcels are on the south side of an east-west oriented street or on the east side of a north-south oriented street. Parcel 1 will be on the corner, and will be wider than the other parcels on both streets. This criterion is therefore met.

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.

PBOT has provided the following findings (see Exhibit E.2):

The following approval criterion applies to all land divisions in all zones: 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 submitted a written narrative and a parking study in response to the approval criteria.

The proposed project will divide the property into three parcels, with each parcel to contain a single-family dwelling. The existing home on Parcel 1 will be retained. Therefore, the project will

result in a net addition of two new single-family homes. Based upon trip generation estimates, ITE Trip Generation Manual, 9th Edition, each new parcel is projected to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day) for a total of 2 new peak hour trips and 20 additional trips each day. The small number of trips that will be added as a result of the proposed development will not adversely impact the operations of area intersections.

To address on-street parking impacts associated with the proposed partition as well as the associated adjustment request to reduce required parking for Parcel 1, the applicant conducted a survey of on-street parking in the vicinity of the site (see Ex. A.6). The applicant's study area included both sides of NE 24th between NE Killingsworth & NE Emerson as well as both sides of NE Killingsworth between NE 23rd & NE 25th. The applicant afforded 25-ft per parking space and accounted for any parking restricted areas such as in front of a driveway or fire hydrant. The survey was conducted at two time periods, 6:00am and 10:00pm on a weekday, to capture the residential peak demand. Based upon the applicant's survey, there are approximately 39 on-street parking spaces available within the study area. During the 6:00am survey period, 46% of the on-street parking spaces within the study area were observed to be occupied. Likewise, during the 10:00pm survey period 53% of the parking spaces were occupied. PBOT does not consider an area heavily parked and in need of active parking management until the availability rate reaches 20% or less.

It should be noted that the survey indicates that this segment of NE 24th is heavily parked. However, less than 20% of the available spaces on NE Killingsworth were being utilized during the observation periods. NE Killingsworth is improved with sufficient pavement width to accommodate on-street parking along both sides and there are no parking restrictions in the area. Thus, these spaces must be included in any evaluation of the area's parking supply.

Based upon the results of the applicant's parking study, there is a sufficient supply of on-street parking to accommodate existing uses in the area in addition to the demand generated by the proposed development. However, realizing the high demand for on-street parking on NE 24th, the applicant revised the site design to eliminate the proposed curb-cut on NE 24th which would have reduced the parking supply by one space. Access to on-site parking for Parcels 2 & 3 will be via the NE 24th Ave-25th Ave Alley along the site's eastern boundary.

There are existing transit facilities in the area with the closest stop located at NE 27th & NE Killingsworth approximately 633-ft to the east. Transit facilities can easily and safely be accessed via pedestrian corridors that meet or exceed City standards. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are 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: 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:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.
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.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.
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.

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

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

The applicant has proposed the following stormwater management methods

- **Parcels 2 and 3:** Stormwater from these parcels will be directed to individual soakage trenches that will treat the water and slowly infiltrate it into the ground. Each of these parcels 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. BES has indicated conceptual approval of the soakage trenches.
- **Parcel 1 (the lot with the existing house):** The stormwater system for the existing house will need to be modified to meet the standards of the Stormwater Management Manual. The applicant has proposed an individual soakage trench for the existing house. The applicant will be required to finalize plumbing permits prior to final plat approval to comply with the Stormwater Management Manual, including a 5-foot setback to all property lines and 10-foot setback to any structures.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Pedestrian connections should be provided at least 330 feet apart. The site is located on a corner and the block on which the subject property is located meets spacing requirements. Therefore, this criterion is met.

33.654.120.C.1 and C.2 Local Service Streets width & elements of the right-of-way – See Exhibit E.2 for bureau comment

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 two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

At this location the City's Transportation System Plan (TSP) Classifies NE Killingsworth St. as a District Collector, a Major Transit Priority, a City Walkway, a Major Emergency Response Route, a Community Corridor with respect to street design, and a Local Service street for all other modes. NE 24th Ave is classified as a Local Service street for all transportation modes.

According to City GIS, NE Killingsworth St. is improved with 36-ft of pavement and a 5-6-1 pedestrian corridor within a 60-ft right-of-way (ROW). For a City Walkway, abutting an R2-zoned site, the City's Pedestrian Design Guide recommends a 12-ft wide pedestrian corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/1.5-ft frontage zone). NE 24th is improved with 30-ft of paving and a 3-6-1 pedestrian corridor. For a Local Service street, abutting an R2 zoned site, the City's Pedestrian Design Guide recommends an 11-ft wide pedestrian corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/0.5-frontage zone).

While the NE Killingsworth and NE 24th frontages do not specifically meet the standards of the Pedestrian Design Guide, they qualify for an exception under TRN 1.22 "Infill Development on Streets with an Existing Sidewalk Corridor" and the applicant will only be required to make repairs as needed.

The alley abutting the east edge of the site is developed with a mixture of concrete and gravel. PBOT required a 5-foot property dedication be made to increase the width of the alley ROW. The applicant successfully appealed this requirement (Public Works Alternative #14-235220). Dedication will not be required along the NE 24th Avenue-NE 25th Avenue Alley. Garages must be set back a minimum of 10-ft from the alley ROW in order to accommodate vehicle

turning movements. As a condition of Final Plat approval, the applicant will also be required to reconstruct the alley approach to meet City/ADA standards (maintaining the existing curb returns), replace the first 10-ft of alley surface, and repair any asphalt patching with concrete to the southern project boundary.

With the conditions described above, this criterion is met.

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

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

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

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 Approval Criteria

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

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

Findings:

33.266.110 Minimum Required Parking Spaces - A. Purpose. The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

The proposed Adjustment would allow the existing house on Parcel 1 to remove the existing parking space and not provide replacement parking. Parcels 2 and 3 will be required to provide off-street parking for at least one vehicle on each parcel. Transit is available in a variety of locations around the site, including NE 27th (~550 feet away), NE Alberta (~1100 feet away, frequent service) and NE 15th (~2,250 feet away, frequent service). Although this level of service does not meet the standard to exempt the site from parking requirements (frequent service transit within 500 feet of the site), it provides good quality transit service to the site. As noted by PBOT, the area has an established grid of connecting streets with extensive pedestrian facilities. Therefore, this criterion is 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: Neighbors expressed concern about the potential impacts to off-street parking in the vicinity of the site. The applicant completed a parking study to evaluate the existing on-street parking capacity (see Ex. A.6). PBOT evaluated the parking study and offered the following summary and conclusion:

The applicant's study area included both sides of NE 24th between NE Killingsworth & NE Emerson as well as both sides of NE Killingsworth between NE 23rd & NE 25th. The applicant afforded 25-ft per parking space and accounted for any parking restricted areas such as in front of a driveway or fire hydrant. The survey was conducted at two time periods, 6:00am and 10:00pm on a weekday, to capture the residential peak demand. Based upon the applicant's survey, there are approximately 39 on-street parking spaces available within the study area. During the 6:00am survey period, 46% of the on-street parking spaces within the study area were observed to be occupied. Likewise, during the 10:00pm survey period 53% of the parking spaces were occupied. PBOT does not consider an area heavily parked and in need of active parking management until the availability rate reaches 20% or less.

It should be noted that the survey indicates that this segment of NE 24th is heavily parked. However, less than 20% of the available spaces on NE Killingsworth were being utilized during the observation periods. NE Killingsworth is improved with sufficient pavement width to accommodate on-street parking along both sides and there are no parking restrictions in the area. Thus, these spaces must be included in any evaluation of the area's parking supply.

Based upon the results of the applicant's parking study, there is a sufficient supply of on-street parking to accommodate existing uses in the area in addition to the demand generated by the proposed development. However, realizing the high demand for on-street parking on NE 24th, the applicant revised the site design to eliminate the proposed curb-cut on NE 24th which would have reduced the parking supply by one space. Access to on-site parking for Parcels 2 & 3 will be via the NE 24th Ave-25th Ave Alley along the site's eastern boundary.

Therefore, for the reasons listed above, staff finds that the proposal to waive Parcel 1 from the on-site parking requirement will not significantly detract from the livability or appearance of the area. Criterion B is 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 has requested only one Adjustment, therefore, this criterion is not applicable.

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

Findings: There are no City-designated scenic or historic resources on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. This criterion is 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 within an environmental zone, therefore this criterion is not applicable.

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.**
- Required Outdoor Area – Section 33.120.240 of the Zoning Code requires that 48 square feet of outdoor area (minimum 6 by 6 feet box within area) be provided for each unit.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 10 feet from the new property line, but a deck extends across the proposed property line. Decks less than 2.5 feet off the ground are allowed to fully project into the setback, but they cannot cross the property line. The deck will need to be modified prior to final plat to meet the standard. To ensure this standard is met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building and deck relative to the adjacent new lot lines. The applicant must also submit before and after photos showing the modification.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. The applicant must submit before and after photos to document removal of the structure (shed). To ensure that this standard is met, a condition of approval is necessary.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use

actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	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 regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and fire apparatus access, including aerial access. 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 in the existing planter strip adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3-parcel partition, as shown on the attached proposed site plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.266.110 for Parcel 1 to reduce the required number of parking spaces from 1 to 0.

Approval of a Preliminary Plan for a 3-parcel partition, that will result in 3 single dwelling parcels as illustrated with Exhibit C.1, subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application;
- The modified deck to remain on Parcel 1;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The reduced side setbacks allowed under 33.120.270.D;
- The location of the new stormwater facility for the existing house on Parcel 1; and
- Any other information specifically noted in the conditions listed below.

B. The following must occur prior to Final Plat approval:**Streets and Alleys**

1. The applicant must reconstruct the alley approach to meet City/ADA standards (maintaining the existing curb returns), replace the first 10-ft of alley surface, and repair any asphalt patching with concrete to the southern project boundary as required by Portland Bureau of Transportation.

Utilities

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

Existing Development

4. The applicant must remove the shed on Parcel 2. The applicant must submit before and after photos of the removal (with the same perspective).
5. The applicant must modify the deck attached to the existing house so that it is completely located on Parcel 1. The modified deck must be shown on a supplemental plan to demonstrate compliance with the proposed new lot lines. The applicant must also submit before and after photos showing the modification.
6. The applicant must meet the requirements of BES for the stormwater system for the existing house to remain on Parcel 1. The applicant must obtain a finalized Development Review permit for the new stormwater facility prior to final plat approval and show the location of the new facility on the supplemental plan.
7. The applicant must plant 2 street trees in the planter strips on NE 24th Avenue and NE Killingsworth Street adjacent to parcel 1 prior to final plat approval. Street trees will be chosen from the City's approved street tree list for the 2.5/4.5 foot planting strips. 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.

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

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

Parcel	Minimum Density	Maximum Density
1	1	1
2	1	1
3	1	1

2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. Vehicular access to Parcels 2 and 3 must be from the abutting public alley and garages must be set back a minimum of 10-ft from the alley ROW in order to accommodate vehicle

turning movements. Curb cuts are not permitted from NE Killingsworth Street or NE 24th Avenue.

Staff Planner: Diane Hale

Decision rendered by: Kimberly Tallant **on May 27, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed May 29, 2015

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 September 26, 2014, and was determined to be complete on **February 9, 2015**.

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 September 26, 2014.

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 by 67 days, as stated with Exhibit G.3. Unless further extended by the applicant, **the 120 days will expire on: August 14, 2015**.

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 June 12, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing

the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or

- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

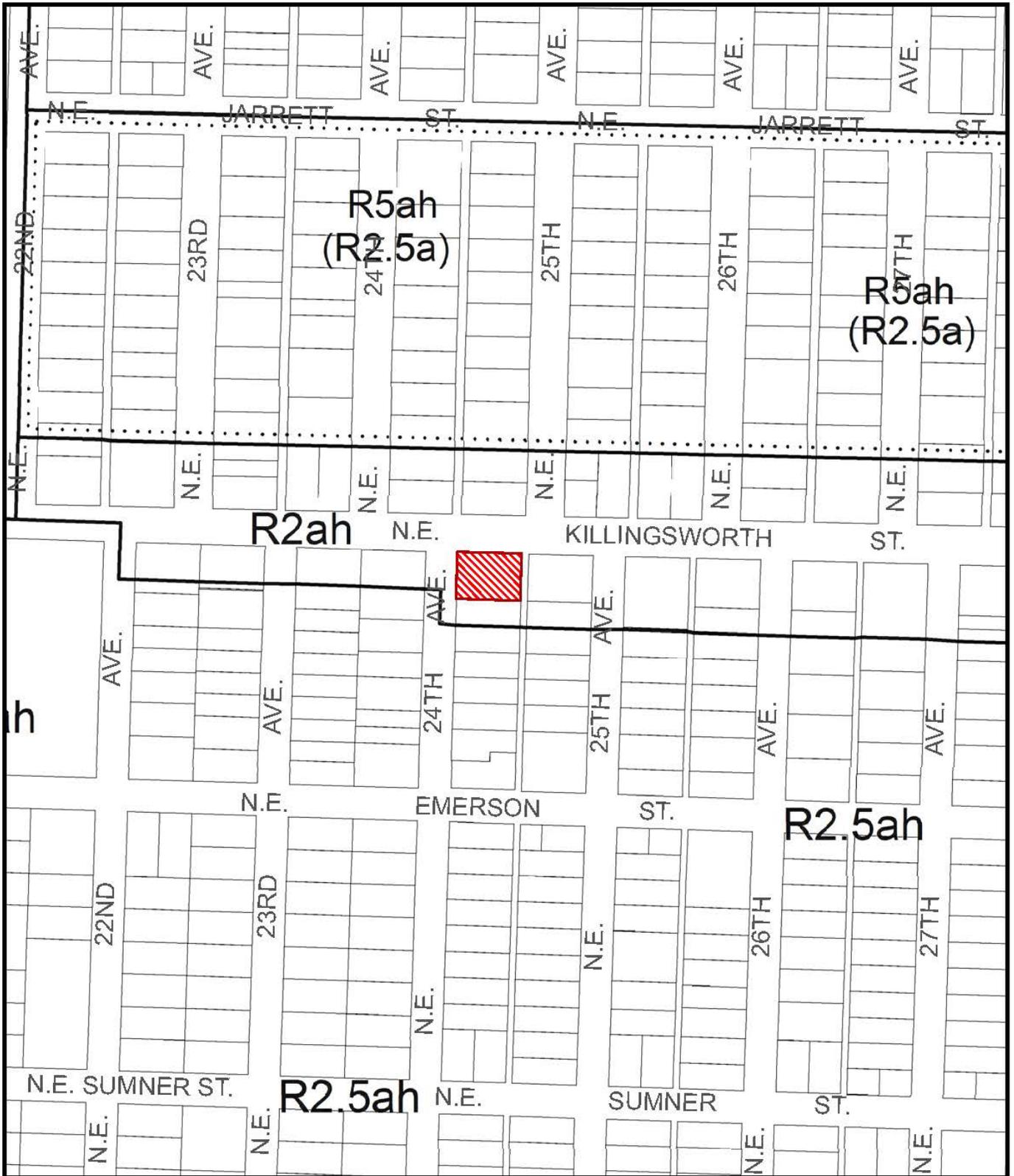
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Applicants original submittal and plans
 2. Applicants response, February 5, 2015
 3. Applicants response, February 9, 2015
 4. Applicants response, Draft site plans, various dates between 10/28/14 and 5/12/15
 5. Stormwater management report
 6. Parking study
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Proposed Site Plan (attached)
 2. Preliminary Partition Plat
 3. Existing Conditions
- 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 Section of BDS
 7. Parks Urban Forestry
- F. Correspondence:
 1. Kylyn Whitaker, March 16, 2015
 2. Darlene Ireland, March 16, 2015
 3. Ryan Tapp, March 16, 2015
- G. Other:
 1. Original LU Application
 2. Incomplete Letter
 3. Extension Requests

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 14-218324 LDP AD

1/4 Section 2533

Scale 1 inch = 200 feet

State_Id 1N1E24BB 7400

Exhibit B (Feb 06, 2015)

